



HOW TO SPOT A VICTIM OF FORCED LABOR/TRAFFICKING IN PERSONS ON FISHING VESSELS

A Compendium of International and Philippine Laws,
and Indicators of Forced Labor/Trafficking
in Persons on Fishing Vessels



The Safeguarding Against and Addressing Fishers' Exploitation at Sea (SAFE Seas) Project works with the Philippine government to strengthen regulations and policies to address labor exploitation, forced labor and trafficking in persons on fishing vessels. It's a four-year project being implemented in Palawan, Sarangani and General Santos City by Plan International Philippines with funding from the United States Department of Labor (USDOL) under cooperative agreement IL-31472-17-75-K.

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INTERNATIONAL CONVENTIONS

ILO CONVENTION NO. 29: FORCED LABOR CONVENTION, 1930

Ratified by the Philippines on July 15, 2005

ILO Forced Labour Convention, 1930 (No. 29)

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fourteenth Session on 10 June 1930, and

Having decided upon the adoption of certain proposals with regard to forced or compulsory labour, which is included in the first item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty the following Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

(Article 1(2) was a transitional provision and is no longer applicable.)

3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include--

- a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
- b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
- c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
- d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

- e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

(Articles 3-24 were transitional provisions and are no longer applicable.)

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

Article 26

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction; provided that, if such Member may desire to take advantage of the provisions of article 35 of the Constitution of the International Labour Organisation, it shall append to its ratification a declaration stating--

- 1) the territories to which it intends to apply the provisions of this Convention without modification;
- 2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;
- 3) the territories in respect of which it reserves its decision.

2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of subparagraphs (2) and (3) of this Article, in the original declaration.

(Final provisions)

ILO CONVENTION NO. 105: ABOLITION OF FORCED LABOR CONVENTION, 1957

Ratified by the Philippines on November 17, 1960

Abolition of Forced Labour Convention, 1957 (No. 105)

Adopted on 25 June 1957 by the General Conference of the International Labour Organisation at its fortieth session

Entry into force: 17 January 1959, in accordance with article 4

The General Conference of the International Labour Organisation ,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its fortieth session on 5 June 1957, and

Having considered the question of forced labour, which is the fourth item on the agenda of the session, and

Having noted the provisions of the Forced Labour Convention, 1930, and

Having noted that the Slavery Convention, 1926, provides that all necessary measures shall be taken to prevent compulsory or forced labour from developing into conditions analogous to slavery and that the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, provides for the complete abolition of debt bondage and serfdom, and

Having noted that the Protection of Wages Convention, 1949, provides that wages shall be paid regularly and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his employment, and

Having decided upon the adoption of further proposals with regard to the abolition of certain forms of forced or compulsory labour constituting a violation of the rights of man referred to in the Charter of the United Nations and enunciated by the Universal Declaration of Human Rights, and

Having determined that these proposals shall take the form of an international Convention,

Adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-seven the following Convention, which may be cited as the Abolition of Forced Labour Convention, 1957:

Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour:

- (a) As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) As a method of mobilising and using labour for purposes of economic development;
- (c) As a means of labour discipline;
- (d) As a punishment for having participated in strikes;
- (e) As a means of racial, social, national or religious discrimination.

Article 2

Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in article 1 of this Convention.

Article 3

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 4

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 5

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this article.

Article 6

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 7

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 8

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of the Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 9

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(a) The ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of article 5 above, if and when the new revising Convention shall have come into force;

(b) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 10

The English and French versions of the text of this Convention are equally authoritative.

The foregoing is the authentic text of the Convention duly adopted by the General Conference of the International Labour Organisation during its fortieth session which was held at Geneva and declared closed the twenty-seventh day of June 1957.

In faith where of we have appended our signatures this fourth day of July 1957.

ILO CONVENTION NO. 138: MINIMUM AGE CONVENTION, 1973

Ratified by the Philippines on June 4, 1998

ILO Convention No. 138 Minimum Age Convention, 1973

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and

Having determined that these proposals shall take the form of an international Convention, adopts the twenty-sixth day of June of the year one thousand nine hundred and seventy-three, the following Convention, which may be cited as the Minimum Age Convention, 1973:

Article 1

1. Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

Article 2

2. (1) Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

2. (2) Each Member which has ratified this Convention may subsequently notify the Director-

General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.

2. (3) The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

2. (4) Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

2. (5) Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the constitution of the International Labour Organisation, a statement--

(a) that its reason for doing so subsists; or

(b) that it renounces its right to avail itself of the provisions in question as from a stated date.

Article 3

3. (1) The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.

3. (2) The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

3. (3) Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 4

4. (1) In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of

employment or work in respect of which special and substantial problems of application arise.

4. (2) Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

4. (3) Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

Article 5

5. (1) A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.

5. (2) Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

5. (3) The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

5. (4) Any Member which has limited the scope of application of this Convention in pursuance of this Article:

(a) shall indicate in its reports under article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;

(b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

Article 6

6. This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organizations of employers and workers concerned, where such exist, and is an integral part of:

- (a) a course of education or training for which a school or training institution is primarily responsible;
- (b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- (c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

Article 7

7. (1) National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is:

- (a) not likely to be harmful to their health or development; and
- (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

7. (2) National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

7. (3) The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

7. (4) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the

ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

Article 8

8. (1) After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

8. (2) Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

Article 9

9. (1) All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

9. (2) National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.

9. (3) National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

ILO CONVENTION NO. 182: WORST FORMS OF CHILD LABOR CONVENTION, 1999

Ratified by the Philippines on November 28, 2000

ILO Convention No. 182 Worst Forms of Child Labour Convention, 1999

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and

Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and

Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention; adopts this seventeenth day of June of the year one thousand nine

hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

Article 1

1. Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

ARTICLE 2

2. For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

ARTICLE 3

3. For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

ARTICLE 4

4. (1) The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.

4. (2) The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.

4. (3) The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

ARTICLE 5

5. Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

ARTICLE 6

6. (1) Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.

6. (2) Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

ARTICLE 7

7. (1) Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.

7. (2) Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:

- (a) prevent the engagement of children in the worst forms of child labour;
- (b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
- (c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
- (d) identify and reach out to children at special risk; and
- (e) take account of the special situation of girls.

7. (3) Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

ARTICLE 8

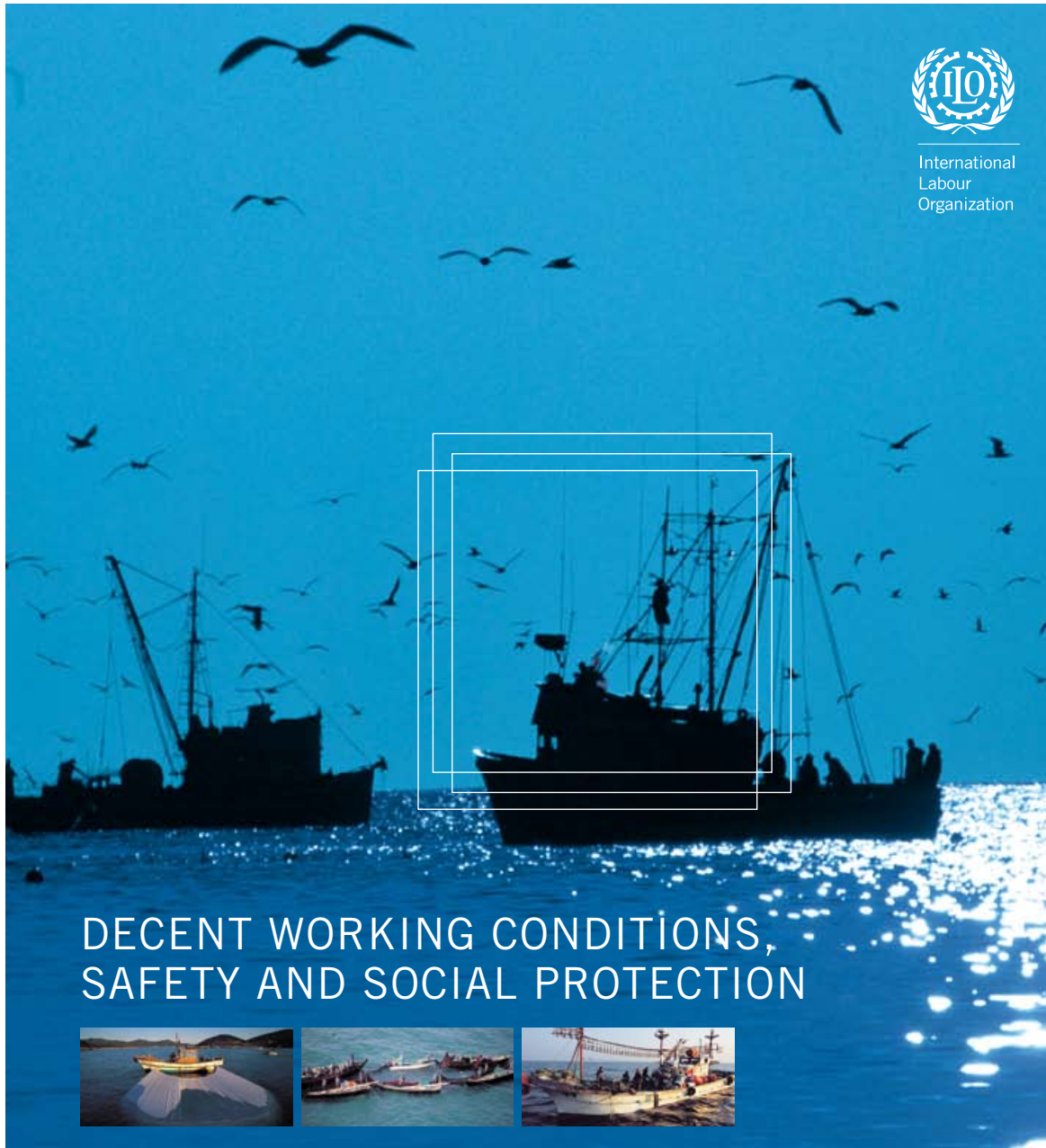
8. Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

ILO WORK IN FISHING CONVENTION NO. 188, RECOMMENDATION 199

The Philippines has not yet ratified ILO Convention 188



International
Labour
Organization



DECENT WORKING CONDITIONS,
SAFETY AND SOCIAL PROTECTION



WORK IN FISHING **Convention No. 188** **Recommendation No. 199**

WORK IN FISHING CONVENTION AND RECOMMENDATION

Recent years have seen both fishing itself and the market for caught fish becoming increasingly globalized. Technology in the fishing industry has been changing rapidly as well, often transforming the way that fishing is carried out. These changes call for a global labour standard that is relevant to all fishers (fishermen, both male and female), whether on large vessels on international voyages or in small boats operating in domestic waters close to shore.

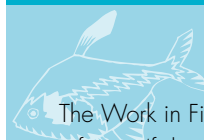
The new ILO Work in Fishing Convention, with the Recommendation that accompanies it, provides this standard. The Convention, passed with overwhelming support in June 2007, addresses the particular working situations and conditions faced in the fishing industry. The Convention is flexible, so that it is relevant to all types of commercial fishing and can be implemented by governments around the world, whatever their particular circumstances.

The next stage is for the worldwide support that the Convention has received to be translated by governments into national laws, regulations or other measures. The Convention will enter into force twelve months after the first ten countries (eight with coastlines) ratify it.

This booklet gives more information on an important legal tool that has the potential to transform the working conditions of fishers throughout the world.

“In the fishing sector, many people face extraordinary and unpredictable hazards, often working long hours in harsh conditions to bring food to our markets. This new instrument will help protect them against exploitation”

- Juan Somavia,
ILO Director-General



The Work in Fishing Convention refers to ‘fishers’. This term means everyone who works on a fishing vessel (although certain people, for example pilots and fishery observers, are excluded from the definition).



Worldwide, there are more than fifteen million people who work full-time on board fishing vessels.



Increasingly, fish which was once locally consumed is now being processed and shipped to consumers and restaurants on the other side of the world.



Declining fish stocks mean that some fishers have to venture much further offshore than in the past, creating additional risks.

“Fishing is a unique way of life. This new Convention reflects not only this uniqueness but the demands of globalization in an ever expanding sector that exposes men and women to considerable hardships and danger”

- Captain Nigel Campbell,
South African Maritime Safety
Authority, Chairperson of the
Committee on the Fishing Sector at
the 96th Session of the International
Labour Conference.

WHY DO FISHERS NEED PARTICULAR PROTECTION?

The Work in Fishing Convention has been tailored to reflect the particular characteristics of the fishing industry and the situations fishers face during their day-to-day working lives.

Fishers have conditions of work that are different from those experienced by workers in other sectors. The fatality rate of fishers is typically several times higher than for other workers. Fishing is hazardous even compared with such occupations as fire-fighting and mining.

There is not the clear separation between working time and personal time found in many jobs. Many fishers live as well as work in their vessels, in conditions that can be cramped and congested. There may be long periods away from home and very long working hours. Access to adequate food and drinking water – as well as to recreational facilities when fishers are off-duty – can be an issue. Fatigue, linked to long hours, has been identified as a serious problem.

There are other features that make the fishing sector different. For example, fishers are often paid on the basis of a share of the value of fish caught by the vessel, rather than receiving a fixed wage. Fishers may not be employees in the conventional sense, for a great number are owner-operators or considered to be self-employed. All this means that the sorts of procedures and safeguards which may be in place for workers working in shore-based occupations and industries may not be appropriate or effective, thus contributing to a “decent work deficit” for fishers.

WHO IS COVERED BY THE WORK IN FISHING CONVENTION?

The way in which fishing is carried out varies enormously from fishery to fishery, and country to country. At one extreme are very large commercial vessels: perhaps 150,000 fishers work on 2,500 or so vessels of over 1,000 tons, some as big as cargo ships. However the majority are on smaller (sometimes, very small) boats. One survey estimated that five and a half million fishers work on small vessels of under 100 tons, another four million work on open (undecked) boats equipped with engines, and a further five million or so earn their livelihood in open boats without even mechanical power. Looking at it another way, over 90% work on vessels under 24 metres in length.

All these different types of commercial fishing are covered by the Work in Fishing Convention. Only subsistence fishing and recreational fishing are specifically excluded.

It is partly because of the wide range of situations in which fishers work that the Convention is flexible. For example, some provisions of the Convention apply only to vessels over 24 metres long or those that remain out at sea for three days or more.

Asia is particularly important in the global fishing industry: 80% of the world's fishers come from Asia.



3

THE BACKGROUND TO THE WORK IN FISHING CONVENTION

The Work in Fishing Convention (ILO Convention 188) was passed on 14 June 2007 at the annual conference of the International Labour Organization (ILO) in Geneva. The voting was overwhelmingly in favour: 437 for, 2 against and 22 abstentions.

The vote represented the culmination of a process of debate and agreement among those directly concerned about the fishing industry. In line with the ILO's tripartite structure, the discussions included representatives of governments (the ILO has over 180 member States), of employers (fishing vessel owners) and of the fishers themselves. The 2007 vote rounded off a lengthy period of research and reflection which began in 2001 and which included debates at previous ILO annual conferences.

As mentioned above, the Work in Fishing Convention will enter into force a year after it is ratified by ten member states, eight of whom have coastlines. The Convention will be legally binding on member States that choose to ratify it.

The 2007 Conference also agreed a complementary Work in Fishing Recommendation (Recommendation 199). The Recommendation provides guidance to States on how to implement the provisions of the Convention. The Conference also adopted several non-binding resolutions to further guide ILO's activities in the sector.





The Convention and Recommendation replace a number of earlier ILO instruments (from 1920, 1959 and 1966) covering labour conditions in the fishing sector. These were considered to be outdated, no longer reflecting the modern, globalized nature of commercial fishing. Countries that have ratified the old Conventions will continue to be bound by their terms until they ratify the new Convention. (Those countries that did not ratify the old Conventions will only be able to ratify the 2007 Work in Fishing Convention.)

The objective of the Convention is to ensure that fishers worldwide have decent work through a modern legal instrument that can be widely ratified.

WHAT PROTECTION IS PROVIDED UNDER THE WORK IN FISHING CONVENTION?

The ILO is devoted to advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Decent work means productive work in which rights are protected, which generates an adequate income, with adequate social protection. Fishers, like all workers, are entitled to decent work.



The Convention addresses issues essential to ensuring decent work on fishing vessels. For example, it:

- establishes the responsibilities of fishing vessel owners and skippers for the safety of fishers on board and for the safety of the vessels (Article 8);
- sets a minimum age for work on board fishing boats and requires special protection for young fishers (Article 9);
- requires fishers to undergo periodic examinations of their medical fitness for work on fishing vessels (Articles 10-12);
- requires that fishing vessels are sufficiently and efficiently manned (crewed), are under the control of a competent skipper, and that the fishers on board are provided sufficient rest periods (Articles 13-14);
- requires fishing vessels to have a crew list and fishers to have the protection of a signed work agreement, setting out the terms of the work they are performing (Articles 15-20, and Annex II);
- entitles fishers to be repatriated when their agreements expire – and for other reasons, and prohibits making fishers pay to obtain their jobs, or blacklisting them (Articles 21-22);
- addresses how fishers are paid and that they shall have the means to send money home to their families at no cost (Article 23-24);
- sets standards for living accommodation and food on board (Articles 25-28, and Annex III);
- establishes requirements for occupational safety and health, as well as a basic level of medical care on fishing vessels; (Articles 31-33);
- ensures that fishers benefit from social security protection no less favourable than that provided to other workers in their country; and, at a minimum, provides protection in cases of their work-related sickness, injury or death (Articles 34-39).

These are of course only some of the main ideas, with the details provided in the Articles noted above. The Convention provides for higher requirements for certain vessels (e.g., larger vessels at sea for longer periods) and exceptions for other vessels (e.g., smaller vessels operating closer to port or at sea for short periods). It also sets out how the requirements of the Convention are to be complied with and enforced (Articles 40-44).

This brochure will look at some of these points in more detail in the following pages.



In many countries laws and regulations that address the conditions of work of seafarers also address conditions of work of marine fishers, at least in part. However, the issues faced by the fishers often differ from those faced by seafarers working on cargo or passenger ships. For this reason, the ILO's Maritime Labour Convention, 2006 (MLC), which concerns conditions of work on ships, excludes fishing vessels from its application. Therefore, States making changes to national laws and regulations for seafarers may wish to consider the MLC and the Work in Fishing Convention together, so as to ensure that both seafarers and fishers, including fishers working in coastal and inland waters, have updated and comprehensive legal protection.

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A CLOSER LOOK AT THE CONVENTION

The Convention makes it clear that the owner of the fishing vessel is ultimately responsible for conditions of work on board the vessel. It provides that:

✓ **The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention.**

The skipper (the person in charge of a vessel) has his or her own responsibilities. The Convention provides that:

✓ **The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel.**

These responsibilities are spelled out in more detail in Article 8.



The Work in Fishing Convention is consistent with other ILO standards concerning minimum age for work and protecting young persons, including the Minimum Age Convention, 1973 and the Worst Forms of Child Labour Convention, 1999.



Finally, it is recognized that the fishers themselves have responsibilities:

- ✓ **Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.**



A CLOSER LOOK AT THE CONVENTION

WHO CAN BECOME A FISHER?

The Convention establishes a standard minimum age for fishers. This principle is spelled out in the text as follows:

✓ **The minimum age for work on board a fishing vessel shall be 16 years.**

The Convention permits the possibility of fifteen year olds working as fishers, but only in certain circumstances.


There are also some situations, for example relating to safety and health concerns, where fishers must be at least 18 to be assigned to certain activities. These activities are to be determined at national level, after consultation with fishing vessel owners and fishers' representatives, taking into account the risks concerned.





THE NEED FOR A MEDICAL EXAMINATION

Because a certain level of fitness is needed on board fishing boats, normally fishers must have a valid medical certificate. Medical examinations help protect not only the fisher who has undergone the examination but also other fishers on board. The Convention provides that:

 **No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duty.**

This requirement can in some circumstances be relaxed for fishers working on fishing less than 24 metres in length or which remain at sea for less than three days.

The Work in Fishing Recommendation, which complements the Convention, offers more detailed advice on good practice. It provides that the medical examination should take into account the individual's age and the sort of work he or she will undertake. It draws attention to guidance developed by the ILO and the World Health Organization concerning medical fitness examinations of people working at sea.



A CLOSER LOOK AT THE CONVENTION

MANNING AND HOURS OF WORK

The Convention addresses the serious problem of fatigue, which results from long working hours and insufficient rest periods at sea. It provides that:

- ✓ **Fishing vessels are to be sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper.**

It also provides that:


- ✓ **Fishers are given regular periods of rest of sufficient length to ensure safety and health.**

The Convention requires large vessels to carry a sufficient number of qualified fishers. It sets more stringent requirements for vessels that remain at sea for longer periods. Yet in doing so, it also allows skippers to require fishers to work extra hours for the immediate safety of the vessels, persons on board or the catch, or for helping other vessels in distress, as long as afterwards fishers receive more rest. Furthermore, the Convention allows for different arrangements of working hours, rest time and manning, as long as representatives of fishing vessel owners and fishers are consulted and the arrangements do not undermine health and safety.



WORK AGREEMENTS AND REPATRIATION

Since it is important for any worker to understand clearly the nature of the employment relationship they have entered into, the Convention also stipulates that:

 **Fishers working on vessels... have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention.**

An Annex to the Convention specifies the minimum particulars of such an agreement.

In this increasingly globalized sector, fishers may find themselves working far from home when their agreement expires, or may need to return home for justifiable reasons. The Convention lays down the right to repatriation and under what circumstances, and that repatriation is normally to be at the expense of the fishing vessel owner. It sets out the duty of the flag State to intervene if the owner fails in his or her duties, and the right of the State to recover costs from the owner.

The Convention accounts for the increasing use of private employment agencies employing fishers in the fishing sector, among other things clarifying that in such arrangements, the fishing vessel owner is ultimately responsible for the duties and responsibilities set out in the Convention (e.g., paying fishers, repatriating them, providing medical care), and that fishers involved should not be precluded from asserting a lien against the vessel.



Annex II of the Convention sets out the particulars to be included in the Fisher's Work Agreement, including such matters as how the fisher is to be paid (whether or not the payment will be in the form of wages, share of catch, or some combination of the two), the conditions for termination, the amount of annual leave, the protection against sickness, injury and death, and other essential matters.



Annex III of the Convention addresses such issues related to accommodation as: planning and control, design and construction, headroom, insulation, ventilation, heating, lighting, noise and vibration, and facilities for sick and injured fishers. It takes into account that some countries regulate fishing vessels using gross tonnage (internal capacity) rather than length.

The Work in Fishing Recommendation provides additional guidance on accommodation.

A CLOSER LOOK AT THE CONVENTION

ACCOMMODATION AND FOOD

For many fishers, the vessel is not only where they work but also where they live for extended periods – not only while at sea but sometimes also while in port. Pressures to reduce accommodation space – often as the result of efforts to carry as much equipment and as many fish possible for the size of the vessel – can lead to unsustainable conditions on board. This can affect recruitment and retention of fishers.

Fishing vessels must have sufficient room for the crew's living space. Fishers must have adequate sanitary facilities. Proper accommodation has a direct effect on safety and health.

The Convention however recognises that what is appropriate for large vessels will not be so relevant for smaller boats or those which do not stay at sea for long periods of time. The Convention therefore is flexible: it sets dimensions for such areas as sleeping rooms for large vessels, but is less specific for small boats. The requirements for specific dimensions of rooms apply to newly built vessels, but not those already in service.

Food is an important issue for attention, too. The Convention provides that:



The food carried and served on board [is of] a sufficient nutritional value, quality and quantity.

The Convention also provides that drinking water must be of sufficient quality and quantity, and addresses the issue of who is to pay for food.

SAFETY AND HEALTH

Fishers face particular dangers as a consequence of their work. Risks include: the possibility of the fishing vessels being wrecked or capsized; fires and explosions on board; being washed overboard, or tripping and falling due to the motion of the vessel or slippery surfaces, or both; injury from working with heavy, dangerous or unguarded equipment (e.g., unguarded winches); asphyxiation from working in confined spaces; and many other hazards.


Fishers also suffer from special health problems, such as: skin complaints and respiratory diseases, or the effects of noise and vibration. Salt-water boils and the allergic effects of handling fish and marine life can be common.

The Convention therefore aims to ensure that States have in place laws, regulations or other measures to address health and safety issues and, ultimately, to promote a safety culture on fishing vessels.

Among the measures, it sets out the requirement for adequate instruction and training for fishers in such things as handling fishing gear. Accidents are to be reported and investigated. Fishing boats are to carry medical equipment, and have at least one person on board trained in first aid. Fishers have the right to be taken ashore promptly for medical treatment when they suffer serious injuries and illnesses.

There are additional measures for larger vessels and for those staying at sea for more than three days.

The Convention also recognizes the important role that fishers can play in ensuring their own safety. This includes their part in identifying the severity and frequency of risks in order to take steps to reduce these risks. It provides that:

 **Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.**

The Work in Fishing Recommendation provides additional guidance on health and safety issues in the fishing sector. This guidance covers such issues as risk evaluation, occupational safety and health management systems, and technical specifications concerning safety and health to be addressed by States. The guidance also makes links to other publications developed by the ILO, and also by the ILO together with the Food and Agriculture Organization of the United Nations (FAO), the International Maritime Organization (IMO) and the World Health Organization (WHO).



States are to take measures to provide fishers with protection for work-related sickness, injury or death. Fishers are to have access to appropriate medical care and appropriate compensation. Protection may be ensured through a system of fishing vessel owners' liability, or compulsory insurance, workers' compensation or other schemes. Some flexibility is provided for countries with insufficient institutions or infrastructure.

In the absence of such national provisions, the responsibility for health protection and medical care of fishers working on a vessel is to rest with the fishing vessel owner.



A CLOSER LOOK AT THE CONVENTION

SOCIAL SECURITY PROTECTION

Because of the particular nature of their work, fishers in many countries often do not have the social security protection available to other workers. The lack of such protection may contribute to impoverishment of fishers and their families. Fishers who do not have the benefit of social security protection may feel they must continue to fish in the face of declining fish stocks.

The globalized nature of the fishing sector can create difficulties for fishers working on vessels that fly flags of countries other than their own. Often these fishers cannot contribute to, or benefit from, their own social security system or the system of the flag State. The Convention tackles this point, with a requirement for governments to ensure that:

 **Fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers...**

Furthermore, countries are to work together, through bilateral and multilateral agreements, towards a situation where fishers have comprehensive social security protection, irrespective of their nationality or residence.

RATIFICATION AND IMPLEMENTATION

In keeping with the ILO's Constitution, member States are required to bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action, and to inform the Director-General of the International Labour Office of the measures taken. Ratification itself is voluntary.

The Work in Fishing Convention is deliberately designed to be flexible, in order to ensure that the maximum number of countries are able to ratify it. Implementation can be through national laws and regulations, or through other measures (such as collective agreements).

Throughout the Convention there are provisions that apply only to larger vessels or for those at sea for long periods. Less demanding provisions are made for smaller vessels and for boats on short fishing trips.

Countries can choose to initially exclude some types of boats or fishing craft (for example, those fishing in inland waters like lakes, rivers and canals).

The Work in Fishing Convention also takes account of the fact that some States might have difficulty – perhaps because their institutions and infrastructure are not yet sufficiently developed – in implementing all of its requirements. Article 4 allows States to implement some provisions of the Convention progressively.

As with other ILO Conventions, States which choose to ratify the Work in Fishing Convention will need to review their own laws, regulations and other measures, particularly those affecting the fishing industry, to ensure that they are in line with the Convention.

The Convention calls for systems to be in place to ensure compliance. These take the form of inspections, reporting requirements, monitoring, complaint procedures, penalties and corrective measures.

The ILO, in particular the International Labour Standards Department and its International Labour Standards Specialists in ILO offices around the world, can assist in the drafting of legislation to implement the Convention and Recommendation.



IMPLEMENTATION THROUGH CONSULTATION

ILO member States may wish to consider holding seminars or workshops to discuss the Convention and Recommendation, and how their provisions could be implemented. These forms of social dialogue can take place straight away, without necessarily having to wait for the formal ratification process to get under way.

The Work in Fishing Convention is not simply for the concern of government officials or legislators.

Throughout the text of the Convention there is a stress on the importance of governments undertaking consultation, to ensure that those people most directly affected by the Convention have the opportunity to discuss its implementation. The Convention defines this process of consultation as involving employer and worker organizations, particularly the representative organizations of fishing vessel owners and the fishers themselves where these organizations exist.

The Convention also calls for governments to designate the competent authority or authorities which will have the task of coordinating the consultation and implementation processes. A mechanism is to be established to coordinate the relevant authorities in the fishing sector at the national and local levels. This could include the agencies responsible for labour, for fisheries and for maritime safety, among others.



HOW THE CONVENTION WILL BE EFFECTIVE



States that ratify the Work in Fishing Convention undertake to ensure that fishing vessels flying their flag abide by the Convention provisions. This will require appropriate inspection systems, though “recognized organizations” may assist in the task. There also will need to be procedures for following up complaints about conditions, for example from fishers themselves.

The Convention also provides that States that ratify it may inspect foreign fishing vessels (even those from countries that have not ratified the Convention) visiting their ports and detain those with conditions on board that are hazardous to the safety and health of the fishers (“port State control”).

The Convention will work to the benefit of fishing vessel owners. Larger fishing vessels will carry a document demonstrating that they have been inspected for compliance with the terms of the Convention. Having this document will make procedures more straightforward when they visit foreign ports: an advantage to owners of vessels flying the flag of States that have ratified the Convention.

WHERE TO GET MORE INFORMATION

This brochure has been prepared by the Sectoral Activities Branch of the ILO, which focuses on all aspects of work in various sectors of economic activity (e.g., fishing, mining, agriculture, construction).

There is more information readily available on the ILO web pages:

<http://www.ilo.org/public/english/dialogue/sector/sectors/mariti/fishing-iloact.htm>

or, more easily use: www.ilo.org/sector (then click on “Shipping; ports; fisheries; inland waterways” in the left column).

Details of staff at the ILO’s head office with particular responsibilities for fishing are available here. These officials can help you directly or put you in contact with experts on specific issues addressed in the Convention and Recommendation.

The text of the Convention and Recommendation are also available at: www.ilo.org/normes.

The ILO has field offices in all the regions of the world, with specialist technical staff that can assist you. A full list of regional offices is available at:

http://www.ilo.org/global/Departments_Offices/lang-en/index.htm

UNITED NATIONS SLAVERY CONVENTION, 1926

Ratified by the Philippines on July 12, 1955

Slavery Convention

Signed at Geneva on 25 September 1926

Entry into force: 9 March 1927, in accordance with article 12. The Convention was amended by the Protocol done at the Headquarters of the United Nations, New York, on 7 December 1953; the amended Convention entered into force on 7 July 1955, the date on which the amendments, set forth in the annex to the Protocol of 7 December 1953, entered into force in accordance with article III of the Protocol.

Whereas the signatories of the General Act of the Brussels Conference of 1889-90 declared that they were equally animated by the firm intention of putting an end to the traffic in African slaves,

Whereas the signatories of the Convention of Saint-Germain-en-Laye of 1919, to revise the General Act of Berlin of 1885 and the General Act and Declaration of Brussels of 1890, affirmed their intention of securing the complete suppression of slavery in all its forms and of the slave trade by land and sea,

Taking into consideration the report of the Temporary Slavery Commission appointed by the Council of the League of Nations on June 12th, 1924,

Desiring to complete and extend the work accomplished under the Brussels Act and to find a means of giving practical effect throughout the world to such intentions as were expressed in regard to slave trade and slavery by the signatories of the Convention of Saint-Germain-en-Laye, and recognising that it is necessary to conclude to that end more detailed arrangements than are contained in that Convention,

Considering , moreover, that it is necessary to prevent forced labour from developing into conditions analogous to slavery,

Have decided to conclude a Convention and have accordingly appointed as their Plenipotentiaries [names omitted]

... have agreed as follows:

Article 1

For the purpose of the present Convention, the following definitions are agreed upon:

(1) Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

(2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.

Article 2

The High Contracting Parties undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, so far as they have not already taken the necessary steps:

(a) To prevent and suppress the slave trade;

(b) To bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms.

Article 3

The High Contracting Parties undertake to adopt all appropriate measures with a view to preventing and suppressing the embarkation, disembarkation and transport of slaves in their territorial waters and upon all vessels flying their respective flags.

The High Contracting Parties undertake to negotiate as soon as possible a general Convention with regard to the slave trade which will give them rights and impose upon them duties of the same nature as those provided for in the Convention of June 17th, 1925, relative to the International Trade in Arms (Articles 12, 20, 21, 22, 23, 24 and paragraphs 3, 4 and 5 of Section II of Annex II), with the necessary adaptations, it being understood that this general Convention will not place the ships (even of small tonnage) of any High Contracting Parties in a position different from that of the other High Contracting Parties.

It is also understood that, before or after the coming into force of this general Convention, the High Contracting Parties are entirely free to conclude between themselves, without, however, derogating from the principles laid down in the preceding paragraph, such special agreements as, by reason of their peculiar situation, might appear to be suitable in order to bring about as soon as possible the complete disappearance of the slave trade.

Article 4

The High Contracting Parties shall give to one another every assistance with the object of securing the abolition of slavery and the slave trade.

Article 5

The High Contracting Parties recognise that recourse to compulsory or forced labour may have grave consequences and undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, to take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery.

It is agreed that:

(1) Subject to the transitional provisions laid down in paragraph (2) below, compulsory or forced labour may only be exacted for public purposes.

(2) In territories in which compulsory or forced labour for other than public purposes still survives, the High Contracting Parties shall endeavour progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labour exists, this labour shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the labourers from their usual place of residence.

(3) In all cases, the responsibility for any recourse to compulsory or forced labour shall rest with the competent central authorities of the territory concerned.

Article 6

Those of the High Contracting Parties whose laws do not at present make adequate provision for the punishment of infractions of laws and regulations enacted with a view to giving effect to the purposes of the present Convention undertake to adopt the necessary measures in order that severe penalties may be imposed in respect of such infractions.

Article 7

The High Contracting Parties undertake to communicate to each other and to the Secretary-General of the League of Nations any laws and regulations which they may enact with a view to the application of the provisions of the present Convention.

Article 8

The High Contracting Parties agree that disputes arising between them relating to the interpretation or application of this Convention shall, if they cannot be settled by direct negotiation, be referred for decision to the Permanent Court of International Justice. In case either or both of the States Parties to such a dispute should not be Parties to the Protocol of December 16th, 1920, relating to the Permanent Court of International Justice, the dispute shall be referred, at the choice of the Parties and in accordance with the constitutional procedure of each State, either to the Permanent Court of International Justice or to a court of arbitration constituted in accordance with the Convention of October 18th, 1907, for the Pacific Settlement of International Disputes, or to some other court of arbitration.

Article 9

At the time of signature or of ratification or of accession, any High Contracting Party may declare that its acceptance of the present Convention does not bind some or all of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage in respect of all or any provisions of the Convention; it may subsequently accede separately on behalf of any one of them or in respect of any provision to which any one of them is not a Party.

Article 10

In the event of a High Contracting Party wishing to denounce the present Convention, the denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will at once communicate a certified true copy of the notification to all the other High Contracting Parties, informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying State, and one year after the notification has reached the Secretary-General of the League of Nations.

Denunciation may also be made separately in respect of any territory placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage.

Article 11

The present Convention, which will bear this day's date and of which the French and English texts are both authentic, will remain open for signature by the States Members of the League of Nations until April 1st, 1927.

The Secretary-General of the League of Nations will subsequently bring the present Convention to the notice of States which have not signed it, including States which are not Members of the League of Nations, and invite them to accede thereto.

A State desiring to accede to the Convention shall notify its intention in writing to the Secretary-General of the League of Nations and transmit to him the instrument of accession, which shall be deposited in the archives of the League.

The Secretary-General shall immediately transmit to all the other High Contracting Parties a certified true copy of the notification and of the instrument of accession, informing them of the date on which he received them.

Article 12

The present Convention will be ratified and the instruments of ratification shall be deposited in the office of the Secretary-General of the League of Nations. The Secretary-General will inform all the High Contracting Parties of such deposit.

The Convention will come into operation for each State on the date of the deposit of its ratification or of its accession.

In faith whereof the Plenipotentiaries signed the present Convention.

Done at Geneva the twenty-fifth day of September, one thousand nine hundred and twenty-six, in one copy, which will be deposited in the archives of the League of Nations. A certified copy shall be forwarded to each signatory State.

UN PROTOCOL TO PREVENT, SUPPRESS AND PUNISH TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN, SUPPLEMENTING THE UNITED NATIONS CONVENTION AGAINST TRANS-NATIONAL ORGANIZED CRIME, 2000

Ratified by the Philippines on May 28, 2002

**PROTOCOL TO PREVENT, SUPPRESS AND PUNISH
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN
AND CHILDREN, SUPPLEMENTING THE UNITED
NATIONS CONVENTION AGAINST
TRANSNATIONAL ORGANIZED CRIME**

Advance copy of the authentic text. The copy certified
by the Secretary-General will be issued at a later time.



**UNITED NATIONS
2000**

**PROTOCOL TO PREVENT, SUPPRESS AND PUNISH
TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND
CHILDREN, SUPPLEMENTING THE UNITED NATIONS
CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME**

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1

*Relation with the United Nations Convention
against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.

2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.

3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2
Statement of purpose

The purposes of this Protocol are:

(a) To prevent and combat trafficking in persons, paying particular attention to women and children;

(b) To protect and assist the victims of such trafficking, with full respect for their human rights; and

(c) To promote cooperation among States Parties in order to meet those objectives.

Article 3
Use of terms

For the purposes of this Protocol:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

Article 4
Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5
Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6
Assistance to and protection of victims of
trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of

trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- (a) Appropriate housing;
- (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and
- (d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7
Status of victims of trafficking in persons
in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8
Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of

that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.

3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.

5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.

6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:

- (a) To prevent and combat trafficking in persons; and
- (b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10

Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent

possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12

Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported

to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14 *Saving clause*

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15 *Settlement of disputes*

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16
Signature, ratification, acceptance,
approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17
Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of

the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18
Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19
Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.

2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20
Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.

2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.



NATIONAL LAWS

Republic Act No 9208 - Anti-Trafficking in Persons act

TWELFTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

AN ACT
TO INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS
ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY
INSTITUTIONAL MECHANISMS FOR THE PROTECTION AND SUPPORT OF
TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS, AND
FOR OTHER PURPOSES

Be it enacted by -the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Title. - This Act shall be known as the "Anti-Trafficking in Persons Act of 2003".

SEC. 2. Declaration of Policy. - It is hereby declared that the State values the dignity of every human person and guarantees the respect of individual rights. In pursuit of this policy, the State shall give highest priority to the enactment of measures and development of programs that will promote human dignity, protect the people from any threat of violence and exploitation, eliminate trafficking in persons, and mitigate pressures for involuntary migration and servitude of persons, not only to support trafficked persons but more importantly, to ensure their recovery, rehabilitation and reintegration into the mainstream of society.

It shall be a State policy to recognize the equal rights and inherent human dignity of women and men as enshrined in the United Nations Universal Declaration on Human Rights, United Nations Convention on the Rights of the Child, United Nations Convention on the Protection of Migrant Workers and their Families, United Nations Convention Against Transnational Organized Crime Including its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and all other relevant and universally accepted human rights instruments and other international conventions to which the Philippines is a signatory.

SEC. 3. Definition of Terms - As used in this Act

(a) Trafficking in Persons - refers to the recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as "trafficking in persons" even if it does not involve any of the means set forth in the preceding paragraph.

(b) Child - refers to a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.

(c) Prostitution - refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

(d) Forced Labor and Slavery - refer to the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception.

(e) Sex Tourism - refers to a program organized by travel and tourism-related establishments and individuals which consists of tourism packages or activities utilizing and offering escort and sexual services as enticement for tourists. This includes sexual services and practices offered during rest and recreation periods for members of the military.

(f) Sexual Exploitation - refers to participation by a person in prostitution or the production of pornographic materials as a result of being subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt bondage, fraud or through abuse of a victim's vulnerability.

(g) Debt Bondage - refers to the pledging by the debtor of his/her personal services or labor or those of a person under his/her control as security or payment for a debt, when the length and nature of services is not clearly defined or when the value of the services as reasonably assessed is not applied toward the liquidation of the debt.

(h) Pornography - refers to any representation, through publication, exhibition, cinematography, indecent shows, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual purposes.

(i) Council - shall mean the Inter-Agency Council Against Trafficking created under Section 20 of this Act.

SEC. 4. Acts of Trafficking in Persons. - It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, transport, transfer, harbor, provide, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 69585, any Filipino woman to a foreign national, for marriage for the purpose of acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) To offer or contract marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading them to engage in prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage.

(d) To undertake or organize tours and travel plans consisting of tourism packages or activities for the purpose of utilizing and offering persons for prostitution, pornography or sexual exploitation;

(e) To maintain or hire a person to engage in prostitution or pornography;

(f) To adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced-labor, slavery, involuntary servitude or debt bondage;

(g) To recruit, hire, adopt, transport or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person;

(h) To recruit, transport or adopt a child to engage in armed activities in the Philippines or abroad.

SEC. 5. Acts that Promote Trafficking in Persons. - The following acts which promote or facilitate trafficking in persons, shall be unlawful:

(a) To knowingly lease or sublease, use or allow to be used any house, building or establishment for the purpose of promoting trafficking in persons;

(b) To produce, print and issue or distribute unissued, tampered or fake counseling certificates, registration stickers and certificates of any government agency which issues these certificates and stickers as proof of compliance with government regulatory and pre-departure requirement for the purpose of promoting trafficking in persons;

(c) To advertise, publish, print, broadcast or distribute, or cause the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology and the internet, of any brochure, flyer, or any propaganda material that promotes trafficking in persons;

(d) To assist in the conduct of misrepresentation or fraud for purposes of facilitating the acquisition of clearances and necessary exit documents from government agencies that are mandated to provide pre-departure registration and services for departing persons for the purpose of promoting trafficking in persons;

(e) To facilitate, assist or help in the exit and entry of persons from/to the country at international and local airports, territorial boundaries and seaports who are in possession of unissued, tampered or fraudulent travel documents for the purpose of promoting trafficking in persons;

(f) To confiscate, conceal, or destroy the passport, travel documents, or personal documents or belongings of trafficked persons in furtherance of trafficking or to prevent them from leaving the country or seeking redress from the government or appropriate agencies; and

(g) To knowingly benefit from, financial or otherwise, or make use of, the labor or services of a person held to a condition of involuntary servitude, forced labor, or slavery.

SEC. 6. Qualified Trafficking in Persons. - The following are considered as qualified trafficking:

(a) When the trafficked person is a child;

(b) When the adoption is effected through Republic Act No. 8043, otherwise known as the "Inter-Country Adoption Act of 1995" and said adoption is for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) When the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group;

(d) When the offender is an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee;

(e) When the trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;

(f) When the offender is a member of the military or law enforcement agencies; and

(g) When by reason or on occasion of the act of trafficking in persons the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (HIV) or the Acquired Immune Deficiency Syndrome (AIDS).

EC. 7. Confidentiality. - At any stage of the investigation, prosecution and trial of an offense under this Act, law enforcement officers, prosecutors, judges, court personnel and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the trafficked person and the accused. Towards this end, law enforcement officers, prosecutors and judges to whom the complaint has been referred may, whenever necessary to ensure a fair and impartial proceeding, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial. The name and personal circumstances of the trafficked person or of the accused, or any other information tending to establish their identities and such circumstances or information shall not be disclosed to the public.

In cases when prosecution or trial is conducted behind closed-doors, it shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing tri-media facilities or information technology to cause publicity of any case of trafficking in persons.

SEC. 8. Prosecution of Cases. - Any person who has personal knowledge of the commission of any offense under this Act, the trafficked person, the parents, spouse, siblings, children or legal guardian may file a complaint for trafficking.

SEC. 9. Venue.- A criminal action arising from violation of this Act shall be filed where the offense was committed, or where any of its elements occurred, or where the trafficked person actually resides at the time of the commission of the offense: Provided, That the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts.

SEC. 10. Penalties and Sanctions. - The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

(a) Any person found guilty of committing any of the acts enumerated in Section 4 shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00);

(b) Any person found guilty of committing any of the acts enumerated in Section 5 shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

(c) Any person found guilty of qualified trafficking under Section 6 shall suffer the penalty of life imprisonment and a fine of not less than Two million (P2,000,000.00) but not more than five million pesos (P5,000,000.00);

(d) Any person who violates Section 7 hereof shall suffer the penalty of imprisonment of six (6) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

(e) If the offender is a corporation, partnership, association, club, establishment or any juridical person, the penalty shall be imposed upon the owner, president, partner, manager, and/or any responsible officer who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission;

(f) The registration with the Securities and Exchange Commission (SEC) and license to operate of the erring agency, corporation, association, religious group, tour or travel agent, club or establishment, or any place of entertainment shall be cancelled and revoked permanently. The owner, president, partner or manager thereof shall not be allowed to operate similar establishment in a different name;

(g) If the offender is a foreigner, he shall be immediately deported after serving his sentence and be barred permanently from entering the country;

(h) Any employee or official of government agencies who shall issue or approve the issuance of travel exit clearances, passports, registration certificates, counseling certificates, marriage license, and other similar documents to persons, whether juridical or natural, recruitment agencies, establishments or other individuals or groups, who fail to observe the prescribed procedures and the requirement as provided for by laws, rules and regulations, shall be held administratively liable, without prejudice to criminal liability under this Act. The concerned government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. His/her retirement and other benefits shall likewise be forfeited and

(i) Conviction by final judgment of the adopter for any offense under this Act shall result in the immediate rescission of the decree of adoption.

SEC. 11. Use of Trafficked Persons. - Any person who bays or engages the services of trafficked persons for prostitution shall be penalized as follows:

(a) First offense - six (6) months of community service as may be determined by the court and a fine of Fifty thousand pesos (P50,000.00); and

(b) Second and subsequent offenses - imprisonment of one (1) year and a fine of One hundred thousand pesos (P100,000.00).

SEC. 12. Prescriptive Period. - Trafficking cases under this Act shall prescribe in ten (10) years: Provided, however, That trafficking cases committed by a syndicate or in a large scale as defined under Section 6 shall prescribe in twenty (20) years. *Provided, however;* That trafficking cases committed by a syndicate or in a large scale as defined under Section 6 shall prescribe in twenty (20) years.

The prescriptive period shall commence to run from the day on which the trafficked person is delivered or released from the conditions of bondage and shall be interrupted by the filing of the complaint or information and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to the accused.

SEC. 13. Exemption from Filing Fees. - When the trafficked person institutes a separate civil action for the recovery of civil damages, he/she shall be exempt from the payment of filing fees.

SEC. 14. Confiscation and Forfeiture of the Proceeds and Instruments Derived from Trafficking in Persons. - In addition to the penalty imposed for the violation of this Act, the court shall order the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from the commission of the crime, unless they are the property of a third person not liable for the unlawful act: *Provided, however.* That all awards for damages shall be taken from the personal and separate properties of the offender; *Provided, further;* That if such properties are insufficient, the balance shall be taken from the confiscated and forfeited properties.

When the proceeds, properties and instruments of the offense have been destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly, of the offender, or it has been concealed, removed, converted or transferred to prevent the same from being found or to avoid forfeiture or confiscation, the offender shall be ordered to pay the amount equal to the value of the proceeds, property or instruments of the offense.

SEC. 15. Trust Fund. - All fines imposed under this Act and the proceeds and properties forfeited and confiscated pursuant to Section 14 hereof shall accrue to a Trust Fund to be administered and managed by the Council to be used exclusively for programs that will prevent acts of trafficking and protect, rehabilitate, reintegrate trafficked persons into the mainstream of society. Such programs shall include, but not limited to, the following:

(a) Provision for mandatory services set forth in Section 23 of this Act;

(b) Sponsorship of a national research program on trafficking and establishment of a data collection system for monitoring and evaluation purposes;

(c) Provision of necessary technical and material support services to appropriate government agencies and non-government organizations (NGOs);

(d) Sponsorship of conferences and seminars to provide venue for consensus building amongst the public, the academe, government, NGO and international organizations; and

(e) Promotion of information and education campaign on trafficking.

SEC. 16. Programs that Address Trafficking in Persons. – The government shall establish and implement preventive, protective and rehabilitative programs for trafficked persons. For this purpose, the following agencies are hereby mandated to implement the following programs:

(a) Department of Foreign Affairs (DFA) - shall make available its resources and facilities overseas for trafficked persons regardless of their manner of entry to the receiving country, and explore means to further enhance its assistance in eliminating trafficking activities through closer networking with government agencies in the country and overseas, particularly in the formulation of policies and implementation of relevant programs.

The DFA shall take necessary measures for the efficient implementation of the Machine Readable Passports to protect the integrity of Philippine passports, visas and other travel documents to reduce the incidence of trafficking through the use of fraudulent identification documents.

It shall establish and implement a pre-marriage, on-site and pre-departure counseling program on intermarriages.

(b) Department of Social Welfare and Development (DSWD) shall implement rehabilitative and protective programs for trafficked persons. It shall provide counseling and temporary shelter to trafficked persons and develop a system for accreditation among NGOs for purposes of establishing centers and programs for intervention in various levels of the community.

(c) Department of Labor and Employment (DOLE) - shall ensure the strict implementation and compliance with the rules and guidelines relative to the employment of persons locally and overseas. It shall likewise monitor, document and report cases of trafficking in persons involving employers and labor recruiters.

(d) Department of Justice (DOJ) - shall ensure the prosecution of persons accused of trafficking and designate and train special prosecutors who shall handle and prosecute cases of trafficking. It shall also establish a mechanism for free legal assistance for trafficked persons in coordination with the DSWD, Integrated Bar of the Philippines (IBP) and other NGOs and volunteer groups.

(e) National Commission on the Role of Filipino Women (NCRFW) shall actively participate and coordinate in the formulation and monitoring of policies addressing the issue of trafficking in persons in coordination with relevant government agencies. It shall likewise advocate for the inclusion of the issue of trafficking in persons in both its local and international advocacy for women's issues.

(f) Bureau of Immigration (BI) - shall strictly administer and enforce immigration and alien administration laws. It shall adopt measures for the apprehension of suspected traffickers both at the place of arrival and departure and shall ensure compliance by the Filipino fiancés/fiancées and spouses of foreign nationals with the guidance and counseling requirement as provided for in this Act.

(g) Philippine National Police (PNP) – shall be the primary law enforcement agency to undertake surveillance, investigation and arrest of individuals or persons suspected to be engaged in trafficking.

It shall closely coordinate with various law enforcement agencies to secure concerted efforts for effective investigation and apprehension of suspected traffickers. It shall also establish a system to receive complaints and calls to assist trafficked persons and conduct rescue operations.

(h) Philippine Overseas Employment Administration (POEA) - shall implement an effective pre-employment orientation seminars and pre-departure counseling programs to applicants for overseas employment. It shall likewise formulate a system of providing free legal assistance to trafficked persons.

(i) Department of the Interior and Local Government (DILG) - shall institute a systematic information and prevention campaign and likewise maintain a databank for the effective monitoring, documentation and prosecution of cases on trafficking in persons.

(j) Local government units (LGUs) - shall monitor and document cases of trafficking in persons in their areas of jurisdiction, effect the cancellation of Incenses of establishments which violate the provisions of this Act and ensure effective prosecution of such cases. They shall also undertake an information campaign against trafficking in persons through the establishment of the Migrants Advisory and Information Network (MAIN) desks in municipalities or provinces in coordination with DILG, Philippine Information Agency (PIA), Commission On Filipinos Overseas (CFO), NGOs and other concerned agencies. They shall encourage and support community based initiatives which address the trafficking in persons.

In implementing this Act, the agencies concerned may seek and enlist the assistance of NGOs, people's organizations (POs), civic organizations and other volunteer groups.

SEC. 17. Legal Protection to Trafficked Persons. - Trafficked persons shall be recognized as victims of the act or acts of trafficking and as such shall not be penalized for crimes directly related to the acts of trafficking enumerated in this Act or in obedience to the order made by the trafficker in relation thereto. In this regard, the consent of a trafficked person to the intended exploitation set forth in this Act shall be irrelevant.

SEC. 18. Preferential Entitlement Under the Witness Protection Program. - Any provision of Republic Act No. 6981 to the contrary notwithstanding, any trafficked person shall be entitled to the witness protection program provided therein.

SEC. 19. Trafficked Persons Who Are Foreign Nationals. - Subject to the guidelines issued by the Council, trafficked persons in the Philippines who are nationals of a foreign country shall also be entitled to appropriate protection, assistance and services available to trafficked persons under this Act; *Provided*, That they shall be permitted continued in the Philippines for a length of time prescribed by the Council as necessary to effect the prosecution of offenders.

SEC. 20. Inter-Agency Council Against Trafficking. - There is hereby established an Inter-Agency Council Against Trafficking, to be composed of the Secretary of the Department of Justice as Chairperson and the Secretary of the Department of Social Welfare and Development as Co-Chairperson and shall have the following as members:

- (a) Secretary, Department of Foreign Affairs;
- (b) Secretary, Department of Labor and Employment;
- (c) Administrator, Philippine Overseas Employment Administration;
- (d) Commissioner, Bureau of Immigration;
- (e) Director-General, Philippine National Police;
- (f) Chairperson, National Commission on the Role of Filipino Women;
- (g) Three (3) representatives from NGOs, who shall be composed of one (1) representative each from among the sectors representing women, overseas Filipino workers (OFWs) and children, with a proven record of involvement in the prevention and suppression of trafficking in persons. These representatives shall be nominated by the government agency representatives of the Council, for appointment by the President for a term of three (3) years.

The members of the Council may designate their permanent representatives who shall have a rank not lower than an assistant secretary on its equivalent to meetings, and shall receive emoluments as

may be determined by the Council in accordance with existing budget and accounting rules and regulations.

SEC. 21. Functions of the Council. - The Council shall have the following powers and functions:

- (a) Formulate a comprehensive and integrated program to prevent and suppress the trafficking in persons;
- (b) Promulgate rules and regulations as may be necessary for the effective implementation of this Act;
- (c) Monitor and oversee the strict implementation of this Act;
- (d) Coordinate the programs and projects of the various member agencies to effectively address the issues and problems attendant to trafficking in persons;
- (e) Coordinate the conduct of massive information dissemination and campaign on the existence of the law and the various issues and problems attendant to trafficking through the local government units (LGUs), concerned agencies, and NGOs;
- (f) Direct other agencies to immediately respond to the problems brought to their attention and report to the Council on action taken;
- (g) Assist in filing of cases against individuals, agencies, institutions or establishments that violate the provisions of this Act;
- (h) Formulate a program for the reintegration of trafficked persons in cooperation with DOLE, DSWD, Technical Education and Skills Development Authority (TESDA), Commission on Higher Education (CHED), LGUs and NGOs;
- (i) Secure from any department, bureau, office, agency, or instrumentality of the government or from NGOs and other civic organizations such assistance as may be needed to effectively implement this Act;
- (j) Complement the shared government information system for migration established under Republic Act No. 8042, otherwise known as the "Migrant Workers And Overseas Filipinos Act of 1995" with data on cases of trafficking in persons, and ensure that the proper agencies conduct a continuing research and study on the patterns and scheme of trafficking in persons which shall form the basis for policy formulation and program direction;
- (k) Develop the mechanism to ensure the timely, coordinated and effective response to cases of trafficking in persons;
- (l) Recommend measures to enhance cooperative efforts and mutual assistance among foreign countries through bilateral and/or multilateral arrangements to prevent and suppress international trafficking in persons;
- (m) Coordinate with the Department of Transportation and Communications (DOTC), Department of Trade and Industry (DTI), and other NGOs in monitoring the promotion of advertisement of trafficking in the internet;
- (n) Adopt measures and policies to protect the rights and needs of trafficked persons who are foreign nationals in the Philippines;
- (o) Initiate training programs in identifying and providing the necessary intervention or assistance to trafficked persons; and
- (p) Exercise all the powers and perform such other functions necessary to attain the purposes and objectives of this Act.

SEC. 22. Secretariat to the Council. - The Department of Justice shall establish the necessary Secretariat for the Council.

SEC. 23. Mandatory Services to Trafficked Persons. - To ensure recovery, rehabilitation and reintegration into the mainstream of society, concerned government agencies shall make available the following services to trafficked persons:

- (a) Emergency shelter or appropriate housing;
- (b) Counseling;
- (c) Free legal services which shall include information about the Victims' rights and the procedure for filing complaints, claiming compensation and such other legal remedies available to them, in a language understood by the trafficked person;
- (d) Medical or psychological services;
- (e) Livelihood and skills training; and
- (f) Educational assistance to a trafficked child.

Sustained supervision and follow through mechanism that will track the progress of recovery, rehabilitation and reintegration of the trafficked persons shall be adopted and carried out.

SEC. 24. Other Services for Trafficked Persons. -

(a) Legal Assistance. - Trafficked persons shall be considered under the category "Overseas Filipino in Distress" and may avail of the legal assistance created by Republic Act No. 8042, subject to the guidelines as provided by law.

(b) Overseas Filipino Resource Centers. - The services available to overseas Filipinos as provided for by Republic Act No. 8042 shall also be extended to trafficked persons regardless of their immigration status in the host country.

(c) The Country- Team Approach. - The country team approach under Executive Order No. 74 of 1993, shall be the operational scheme under which Philippine embassies abroad shall provide protection to trafficked persons insofar as the promotion of their welfare, dignity and fundamental rights are concerned.

SEC. 25. Repatriation of Trafficked Persons. - The DFA, in coordination with DOLE and other appropriate agencies, shall have the primary responsibility for the repatriation of trafficked persons, regardless of whether they are documented or undocumented.

If, however, the repatriation of the trafficked persons shall expose the victims to greater risks, the DFA shall make representation with the host government for the extension of appropriate residency permits and protection, as may be legally permissible in the host country.

SEC. 26. Extradition. - The DOJ, in consultation with DFA, shall endeavor to include offenses of trafficking in persons among extraditable offenses.

SEC. 27. Reporting Requirements. - The Council shall submit to the President of the Philippines and to Congress an annual report of the policies, programs and activities relative to the implementation of this Act.

SEC. 28. Funding. - The heads of the departments and agencies concerned shall immediately include in their programs and issue such rules and regulations to implement the provisions of this Act, the funding of which shall be included in the annual General Appropriations Act.

SEC. 29. Implementing Rules and Regulations. - The Council shall promulgate the necessary implementing rules and regulations within sixty (60) days from the effectivity of this Act.

SEC. 30. Non-restriction of Freedom of Speech and of Association, Religion and the Right to Travel. - Nothing in this Act shall be interpreted as a restriction of the freedom of speech and of association, religion and t, 11) right to travel for purposes not contrary to law as guaranteed by the Constitution.

SEC. 31. Separability Clause. - If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

SEC. 32. Repealing Clause. - All laws, presidential decrees, executive orders and rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly: Provided, That this Act shall not in any way amend or repeal the provision of Republic Act No. 7610, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act".

SEC. 33. Effectivity. - This Act shall take effect fifteen (15) days from the date of its complete publication in at least two (2) newspapers or general circulation.

REPUBLIC ACT NO. 10364 - EXPANDED ANTI-TRAFFICKING IN PERSONS ACT OF 2012

H. No. 6339
S. No. 2625

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fifteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand twelve.

[REPUBLIC ACT NO. **10364**]

AN ACT EXPANDING REPUBLIC ACT NO. 9208, ENTITLED "AN ACT TO INSTITUTE POLICIES TO ELIMINATE TRAFFICKING IN PERSONS ESPECIALLY WOMEN AND CHILDREN, ESTABLISHING THE NECESSARY INSTITUTIONAL MECHANISMS FOR THE PROTECTION AND SUPPORT OF TRAFFICKED PERSONS, PROVIDING PENALTIES FOR ITS VIOLATIONS AND FOR OTHER PURPOSES"

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This Act shall be known as the "Expanded Anti-Trafficking in Persons Act of 2012".

SEC. 2. Section 2 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 2. *Declaration of Policy.* – It is hereby declared that the State values the dignity of every human person and guarantees the respect of individual rights. In pursuit of this policy, the State

shall give highest priority to the enactment of measures and development of programs that will promote human dignity, protect the people from any threat of violence and exploitation, eliminate trafficking in persons, and mitigate pressures for involuntary migration and servitude of persons, not only to support trafficked persons but more importantly, to ensure their recovery, rehabilitation and reintegration into the mainstream of society.

"It shall be a State policy to recognize the equal rights and inherent human dignity of women and men as enshrined in the United Nations Universal Declaration on Human Rights, United Nations Convention on the Elimination of All Forms of Discrimination Against Women, United Nations Convention on the Rights of the Child, United Nations Convention on the Protection of Migrant Workers and their Families, United Nations Convention Against Transnational Organized Crime Including its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and all other relevant and universally accepted human rights instruments and other international conventions to which the Philippines is a signatory."

SEC. 3. Section 3 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 3. *Definition of Terms.* – As used in this Act:

"(a) *Trafficking in Persons* – refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the

exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

"The recruitment, transportation, transfer, harboring, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph.

"(b) *Child* – refers to a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.

"(c) *Prostitution* – refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.

"(d) *Forced Labor* – refers to the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception including any work or service extracted from any person under the menace of penalty.

"(e) *Slavery* – refers to the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.

"(f) *Involuntary Servitude* – refers to a condition of enforced and compulsory service induced by means of any scheme, plan or pattern, intended to cause a person to believe that if he or she did not enter into or continue in such condition, he or she or another person would suffer serious harm or other forms of abuse or physical restraint, or threat of abuse

or harm, or coercion including depriving access to travel documents and withholding salaries, or the abuse or threatened abuse of the legal process.

"(g) *Sex Tourism* – refers to a program organized by travel and tourism-related establishments and individuals which consists of tourism packages or activities, utilizing and offering escort and sexual services as enticement for tourists. This includes sexual services and practices offered during rest and recreation periods for members of the military.

"(h) *Sexual Exploitation* – refers to participation by a person in prostitution, pornography or the production of pornography, in exchange for money, profit or any other consideration or where the participation is caused or facilitated by any means of intimidation or threat, use of force, or other forms of coercion, abduction, fraud, deception, debt bondage, abuse of power or of position or of legal process, taking advantage of the vulnerability of the person, or giving or receiving of payments or benefits to achieve the consent of a person having control over another person; or in sexual intercourse or lascivious conduct caused or facilitated by any means as provided in this Act.

"(i) *Debt Bondage* – refers to the pledging by the debtor of his/her personal services or labor or those of a person under his/her control as security or payment for a debt, when the length and nature of services is not clearly defined or when the value of the services as reasonably assessed is not applied toward the liquidation of the debt.

"(j) *Pornography* – refers to any representation, through publication, exhibition, cinematography, indecent shows, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual purposes.

"(k) *Council* – shall mean the Inter-Agency Council Against Trafficking created under Section 20 of this Act."

SEC. 4. Section 4 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 4. *Acts of Trafficking in Persons.* – It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

"(a) To recruit, obtain, hire, provide, offer, transport, transfer, maintain, harbor, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, or sexual exploitation;

"(b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national, for marriage for the purpose of acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

"(c) To offer or contract marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading them to engage in prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage;

"(d) To undertake or organize tours and travel plans consisting of tourism packages or activities for the purpose of utilizing and offering persons for prostitution, pornography or sexual exploitation;

"(e) To maintain or hire a person to engage in prostitution or pornography;

"(f) To adopt persons by any form of consideration for exploitative purposes or to facilitate the same for purposes of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

"(g) To adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

"(h) To recruit, hire, adopt, transport, transfer, obtain, harbor, maintain, provide, offer, receive or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person;

"(i) To recruit, transport, obtain, transfer, harbor, maintain, offer, hire, provide, receive or adopt a child to engage in armed activities in the Philippines or abroad;

"(j) To recruit, transport, transfer, harbor, obtain, maintain, offer, hire, provide or receive a person by means defined in Section 3 of this Act for purposes of forced labor, slavery, debt bondage and involuntary servitude, including a scheme, plan, or pattern intended to cause the person either:

"(1) To believe that if the person did not perform such labor or services, he or she or another person would suffer serious harm or physical restraint; or

"(2) To abuse or threaten the use of law or the legal processes; and

"(k) To recruit, transport, harbor, obtain, transfer, maintain, hire, offer, provide, adopt or receive a child for purposes of exploitation or trading them, including but not limited to, the act of buying and/or selling a child for any consideration or for barter for purposes of exploitation. Trafficking for purposes of exploitation of children shall include:

"(1) All forms of slavery or practices similar to slavery, involuntary servitude, debt bondage and forced labor, including recruitment of children for use in armed conflict;

"(2) The use, procuring or offering of a child for prostitution, for the production of pornography, or for pornographic performances;

"(3) The use, procuring or offering of a child for the production and trafficking of drugs; and

"(4) The use, procuring or offering of a child for illegal activities or work which, by its nature or the circumstances in which it is carried out, is likely to harm their health, safety or morals; and

"(l) To organize or direct other persons to commit the offenses defined as acts of trafficking under this Act."

SEC. 5. A new Section 4-A is hereby inserted in Republic Act No. 9208, to read as follows:

"SEC. 4-A. *Attempted Trafficking in Persons.*

– Where there are acts to initiate the commission of a trafficking offense but the offender failed to or did not execute all the elements of the crime, by accident or by reason of some cause other than voluntary desistance, such overt acts shall be deemed as an attempt to commit an act of trafficking in persons. As such, an attempt to commit any of the offenses enumerated in Section 4 of this Act shall constitute attempted trafficking in persons.

"In cases where the victim is a child, any of the following acts shall also be deemed as attempted trafficking in persons:

"(a) Facilitating the travel of a child who travels alone to a foreign country or territory without valid reason therefor and without the required clearance or permit from the Department of Social Welfare and Development, or a written permit or justification from the child's parent or legal guardian;

"(b) Executing, for a consideration, an affidavit of consent or a written consent for adoption;

"(c) Recruiting a woman to bear a child for the purpose of selling the child;

"(d) Simulating a birth for the purpose of selling the child; and

"(e) Soliciting a child and acquiring the custody thereof through any means from among hospitals, clinics, nurseries, daycare centers, refugee or evacuation centers, and low-income families, for the purpose of selling the child."

SEC. 6. A new Section 4-B is hereby inserted in Republic Act No. 9208, to read as follows:

"SEC. 4-B. *Accomplice Liability.* – Whoever knowingly aids, abets, cooperates in the execution of the offense by previous or simultaneous acts defined in this Act shall be punished in accordance with the provisions of Section 10(c) of this Act."

SEC. 7. A new Section 4-C is hereby inserted in Republic Act No. 9208, to read as follows:

"SEC. 4-C. *Accessories.* – Whoever has the knowledge of the commission of the crime, and without having participated therein, either as principal or as accomplices, take part in its commission in any of the following manners:

"(a) By profiting themselves or assisting the offender to profit by the effects of the crime;

"(b) By concealing or destroying the body of the crime or effects or instruments thereof, in order to prevent its discovery;

"(c) By harboring, concealing or assisting in the escape of the principal of the crime, provided the accessory acts with abuse of his or her public functions or is known to be habitually guilty of some other crime.

"Acts defined in this provision shall be punished in accordance with the provision of Section 10(d) as stated thereto."

SEC. 8. Section 5 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 5. *Acts that Promote Trafficking in Persons.* – The following acts which promote or facilitate trafficking in persons, shall be unlawful:

"(a) x x x

"(b) To produce, print and issue or distribute unissued, tampered or fake counseling certificates, registration stickers, overseas employment certificates or other certificates of any government agency which issues these certificates, decals and such other markers as proof of compliance with government regulatory and pre-departure requirements for the purpose of promoting trafficking in persons;

"(c) x x x

"(d) x x x

"(e) x x x

"(f) x x x

"(g) x x x

"(h) To tamper with, destroy, or cause the destruction of evidence, or to influence or attempt to influence witnesses, in an investigation or prosecution of a case under this Act;

"(i) To destroy, conceal, remove, confiscate or possess, or attempt to destroy, conceal, remove, confiscate or possess, any actual or purported passport or other travel, immigration or working permit or document, or any other actual or purported government identification, of any person in order to prevent or restrict, or attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel in order to maintain the labor or services of that person; or

"(j) To utilize his or her office to impede the investigation, prosecution or execution of lawful orders in a case under this Act."

SEC. 9. Section 6 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 6. *Qualified Trafficking in Persons.* – Violations of Section 4 of this Act shall be considered as qualified trafficking:

"x x x

"(d) When the offender is a spouse, an ascendant, parent, sibling, guardian or a person who exercises authority over the trafficked person or when the offense is committed by a public officer or employee;

"x x x

"(f) When the offender is a member of the military or law enforcement agencies;

"(g) When by reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation or is afflicted with Human Immunodeficiency Virus (HIV) or the Acquired Immune Deficiency Syndrome (AIDS);

"(h) When the offender commits one or more violations of Section 4 over a period of sixty (60) or more days, whether those days are continuous or not; and

"(i) When the offender directs or through another manages the trafficking victim in carrying out the exploitative purpose of trafficking."

SEC. 10. Section 7 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 7. *Confidentiality.* – At any stage of the investigation, rescue, prosecution and trial of an offense under this Act, law enforcement officers, prosecutors, judges, court personnel, social workers and medical practitioners, as well as parties to the case, shall protect the right to privacy of the trafficked person. Towards this end, law enforcement officers, prosecutors and judges to whom the complaint has been referred may, whenever necessary to ensure a fair and impartial proceeding, and after considering all circumstances for the best interest of the parties, order a closed-door investigation, prosecution or trial. The name and personal circumstances of the trafficked person or any other information tending to establish the identity of the trafficked person and his or her family shall not be disclosed to the public.

"It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing tri-media facilities or electronic information technology to cause publicity of the name, personal circumstances, or any information tending to establish the identity of the trafficked person except when the trafficked person in a written statement duly notarized knowingly, voluntarily and willingly waives said confidentiality.

"Law enforcement officers, prosecutors, judges, court personnel, social workers and medical practitioners shall be trained on the importance of maintaining confidentiality as a means to protect the right to privacy of victims and to encourage victims to file complaints."

SEC. 11. Section 8 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 8. *Initiation and Prosecution of Cases.* –

"(a) *Initiation of Investigation.* – Law enforcement agencies are mandated to immediately initiate investigation and counter-trafficking-intelligence gathering upon receipt of statements or affidavit from victims of trafficking, migrant workers, or their families who are in possession of knowledge or information about trafficking in persons cases.

"(b) *Prosecution of Cases.* – Any person who has personal knowledge of the commission of any offense under this Act, such as the trafficked person, the parents, spouse, siblings, children or legal guardian may file a complaint for trafficking.

"(c) *Affidavit of Desistance.* – Cases involving trafficking in persons should not be dismissed based on the affidavit of desistance executed by the victims or their parents or legal guardians. Public and private prosecutors are directed to oppose and manifest objections to motions for dismissal.

"Any act involving the means provided in this Act or any attempt thereof for the purpose of securing an Affidavit of Desistance from the complainant shall be punishable under this Act."

SEC. 12. Section 10 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 10. *Penalties and Sanctions.* – The following penalties and sanctions are hereby established for the offenses enumerated in this Act:

"(a) Any person found guilty of committing any of the acts enumerated in Section 4 shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00);

"(b) Any person found guilty of committing any of the acts enumerated in Section 4-A of this Act shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"(c) Any person found guilty of Section 4-B of this Act shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"In every case, conviction shall cause and carry the automatic revocation of the license or registration of the recruitment agency involved in trafficking. The license of a recruitment agency which trafficked a child shall be automatically revoked.

"(d) Any person found guilty of committing any of the acts enumerated in Section 5 shall suffer the penalty of imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"(e) Any person found guilty of qualified trafficking under Section 6 shall suffer the penalty of life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) but not more than Five million pesos (P5,000,000.00);

"(f) Any person who violates Section 7 hereof shall suffer the penalty of imprisonment of six (6) years and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"(g) If the offender is a corporation, partnership, association, club, establishment or any juridical person, the penalty shall be imposed upon the owner, president, partner, manager, and/or any responsible officer who participated in the commission of the crime or who shall have knowingly permitted or failed to prevent its commission;

"(h) The registration with the Securities and Exchange Commission (SEC) and license to operate of the erring agency, corporation, association, religious group, tour or travel agent, club or establishment, or any place of entertainment shall be cancelled and revoked permanently. The owner, president, partner or manager thereof shall not be allowed to operate similar establishments in a different name;

"(i) If the offender is a foreigner, he or she shall be immediately deported after serving his or her sentence and be barred permanently from entering the country;

"(j) Any employee or official of government agencies who shall issue or approve the issuance of travel exit clearances, passports, registration certificates, counseling certificates, marriage license, and other similar documents to persons, whether juridical or natural, recruitment agencies, establishments or other individuals or groups, who fail to observe the prescribed procedures and the requirement as provided for by laws, rules and regulations, shall be held administratively liable, without prejudice to criminal liability under this Act.

The concerned government official or employee shall, upon conviction, be dismissed from the service and be barred permanently to hold public office. His or her retirement and other benefits shall likewise be forfeited; and

"(k) Conviction, by final judgment of the adopter for any offense under this Act shall result in the immediate rescission of the decree of adoption."

SEC. 13. Section 11 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 11. *Use of Trafficked Persons.* – Any person who buys or engages the services of a trafficked person for prostitution shall be penalized with the following: *Provided, That the Probation Law (Presidential Decree No. 968) shall not apply:*

"(a) *Prision Correccional* in its maximum period to *prision mayor* or six (6) years to twelve (12) years imprisonment and a fine of not less than Fifty thousand pesos (P50,000.00) but not more than One hundred thousand pesos (P100,000.00): *Provided, however, That the following acts shall be exempted thereto:*

"(1) If an offense under paragraph (a) involves sexual intercourse or lascivious conduct with a child, the penalty shall be *reclusion temporal* in its medium period to *reclusion perpetua* or seventeen (17) years to forty (40) years imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) but not more than One million pesos (P1,000,000.00);

"(2) If an offense under paragraph (a) involves carnal knowledge of, or sexual intercourse with, a male or female trafficking victim and also involves the use of force or intimidation, to a victim deprived of reason or to an unconscious victim, or a victim under twelve (12) years of age, instead of the penalty prescribed in the subparagraph above the penalty shall be a fine of not less than One million pesos (P1,000,000.00) but not more than Five million pesos (P5,000,000.00) and imprisonment of *reclusion*

perpetua or forty (40) years imprisonment with no possibility of parole; except that if a person violating paragraph (a) of this section knows the person that provided prostitution services is in fact a victim of trafficking, the offender shall not be likewise penalized under this section but under Section 10 as a person violating Section 4; and if in committing such an offense, the offender also knows a qualifying circumstance for trafficking, the offender shall be penalized under Section 10 for qualified trafficking. If in violating this section the offender also violates Section 4, the offender shall be penalized under Section 10 and, if applicable, for qualified trafficking instead of under this section;

"(b) *Deportation.* – If a foreigner commits any offense described by paragraph (1) or (2) of this section or violates any pertinent provision of this Act as an accomplice or accessory to, or by attempting any such offense, he or she shall be immediately deported after serving his or her sentence and be barred permanently from entering the country; and

"(c) *Public Official.* – If the offender is a public official, he or she shall be dismissed from service and shall suffer perpetual absolute disqualification to hold public office, in addition to any imprisonment or fine received pursuant to any other provision of this Act."

SEC. 14. Section 12 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 12. *Prescriptive Period.* – Trafficking cases under this Act shall prescribe in ten (10) years: *Provided, however,* That trafficking cases committed by a syndicate or in a large scale as defined under Section 6, or against a child, shall prescribe in twenty (20) years.

"The prescriptive period shall commence to run from the day on which the trafficked person is delivered or released from the conditions of bondage, or in the case of a child victim, from the day the child reaches the age of majority, and shall be interrupted

by the filing of the complaint or information and shall commence to run again when the proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to the accused."

SEC. 15. Section 16 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 16. *Programs that Address Trafficking in Persons.* – The government shall establish and implement preventive, protective and rehabilitative programs for trafficked persons. For this purpose, the following agencies are hereby mandated to implement the following programs:

"(a) Department of Foreign Affairs (DFA) – shall make available its resources and facilities overseas for trafficked persons regardless of their manner of entry to the receiving country, and explore means to further enhance its assistance in eliminating trafficking activities through closer networking with government agencies in the country and overseas, particularly in the formulation of policies and implementation of relevant programs. It shall provide Filipino victims of trafficking overseas with free legal assistance and counsel to pursue legal action against his or her traffickers, represent his or her interests in any criminal investigation or prosecution, and assist in the application for social benefits and/or regular immigration status as may be allowed or provided for by the host country. The DFA shall repatriate trafficked Filipinos with the consent of the victims.

"The DFA shall take necessary measures for the efficient implementation of the Electronic Passporting System to protect the integrity of Philippine passports, visas and other travel documents to reduce the incidence of trafficking through the use of fraudulent identification documents.

"In coordination with the Department of Labor and Employment, it shall provide free temporary shelters and other services to Filipino victims of trafficking overseas through the migrant workers and other overseas Filipinos resource centers established overseas under Republic Act No. 8042, as amended.

"(b) Department of Social Welfare and Development (DSWD) – shall implement rehabilitative and protective programs for trafficked persons. It shall provide counseling and temporary shelter to trafficked persons and develop a system for accreditation among NGOs for purposes of establishing centers and programs for intervention in various levels of the community. It shall establish free temporary shelters, for the protection and housing of trafficked persons to provide the following basic services to trafficked persons:

- "(1) Temporary housing and food facilities;
- "(2) Psychological support and counseling;
- "(3) 24-hour call center for crisis calls and technology-based counseling and referral system;
- "(4) Coordination with local law enforcement entities; and
- "(5) Coordination with the Department of Justice, among others.

"The DSWD must conduct information campaigns in communities and schools teaching parents and families that receiving consideration in exchange for adoption is punishable under the law. Furthermore, information campaigns must be conducted with the police that they must not induce poor women to give their children up for adoption in exchange for consideration.

"(c) Department of Labor and Employment (DOLE) – shall ensure the strict implementation and compliance with the rules and guidelines relative

to the employment of persons locally and overseas. It shall likewise monitor, document and report cases of trafficking in persons involving employers and labor recruiters.

"(d) Department of Justice (DOJ) – shall ensure the prosecution of persons accused of trafficking and designate and train special prosecutors who shall handle and prosecute cases of trafficking. It shall also establish a mechanism for free legal assistance for trafficked persons, in coordination with the DSWD, Integrated Bar of the Philippines (IBP) and other NGOs and volunteer groups.

"(e) Philippine Commission on Women (PCW) – shall actively participate and coordinate in the formulation and monitoring of policies addressing the issue of trafficking in persons in coordination with relevant government agencies. It shall likewise advocate for the inclusion of the issue of trafficking in persons in both its local and international advocacy for women's issues.

"(f) Bureau of Immigration (BI) – shall strictly administer and enforce immigration and alien administration laws. It shall adopt measures for the apprehension of suspected traffickers both at the place of arrival and departure and shall ensure compliance by the Filipino fiancés/fiancées and spouses of foreign nationals with the guidance and counseling requirement as provided for in this Act.

"(g) Philippine National Police (PNP) and National Bureau of Investigation (NBI) – shall be the primary law enforcement agencies to undertake surveillance, investigation and arrest of individuals or persons suspected to be engaged in trafficking. They shall closely coordinate with each other and with other law enforcement agencies to secure concerted efforts for effective investigation and apprehension of suspected traffickers. They shall also establish a system to receive complaints and calls to assist trafficked persons and conduct rescue operations.

"(h) Philippine Overseas Employment Administration (POEA) and Overseas Workers and Welfare Administration (OWWA) – POEA shall implement Pre-Employment Orientation Seminars (PEOS) while Pre-Departure Orientation Seminars (PDOS) shall be conducted by the OWWA. It shall likewise formulate a system of providing free legal assistance to trafficked persons, in coordination with the DFA.

"The POEA shall create a blacklist of recruitment agencies, illegal recruiters and persons facing administrative, civil and criminal complaints for trafficking filed in the receiving country and/or in the Philippines and those agencies, illegal recruiters and persons involved in cases of trafficking who have been rescued by the DFA and DOLE in the receiving country or in the Philippines even if no formal administrative, civil or criminal complaints have been filed: *Provided*, That the rescued victims shall execute an affidavit attesting to the acts violative of the anti-trafficking law. This blacklist shall be posted in conspicuous places in concerned government agencies and shall be updated bi-monthly.

"The blacklist shall likewise be posted by the POEA in the shared government information system, which is mandated to be established under Republic Act No. 8042, as amended.

"The POEA and OWWA shall accredit NGOs and other service providers to conduct PEOS and PDOS, respectively. The PEOS and PDOS should include the discussion and distribution of the blacklist.

"The license or registration of a recruitment agency that has been blacklisted may be suspended by the POEA upon a review of the complaints filed against said agency.

"(i) Department of the Interior and Local Government (DILG) – shall institute a systematic

information and prevention campaign in coordination with pertinent agencies of government as provided for in this Act. It shall provide training programs to local government units, in coordination with the Council, in ensuring wide understanding and application of this Act at the local level.

"(j) Commission on Filipinos Overseas – shall conduct pre-departure counseling services for Filipinos in intermarriages. It shall develop a system for accreditation of NGOs that may be mobilized for purposes of conducting pre-departure counseling services for Filipinos in intermarriages. As such, it shall ensure that the counselors contemplated under this Act shall have the minimum qualifications and training of guidance counselors as provided for by law.

"It shall likewise assist in the conduct of information campaigns against trafficking in coordination with local government units, the Philippine Information Agency, and NGOs.

"(k) Local government units (LGUs) – shall monitor and document cases of trafficking in persons in their areas of jurisdiction, effect the cancellation of licenses of establishments which violate the provisions of this Act and ensure effective prosecution of such cases. They shall also undertake an information campaign against trafficking in persons through the establishment of the Migrants Advisory and Information Network (MAIN) desks in municipalities or provinces in coordination with the DILG, Philippine Information Agency (PIA), Commission on Filipinos Overseas (CFO), NGOs and other concerned agencies. They shall encourage and support community-based initiatives which address the trafficking in persons.

"In implementing this Act, the agencies concerned may seek and enlist the assistance of NGOs, people's organizations (POs), civic organizations and other volunteer groups."

SEC. 16. A new Section 16-A is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 16-A. *Anti-Trafficking in Persons Database.* – An anti-trafficking in persons central database shall be established by the Inter-Agency Council Against Trafficking created under Section 20 of this Act. The Council shall submit a report to the President of the Philippines and to Congress, on or before January 15 of every year, with respect to the preceding year's programs and data on trafficking-related cases.

"All government agencies tasked under the law to undertake programs and render assistance to address trafficking in persons shall develop their respective monitoring and data collection systems, and databases, for purposes of ensuring efficient collection and storage of data on cases of trafficking in persons handled by their respective offices. Such data shall be submitted to the Council for integration in a central database system.

"For this purpose, the Council is hereby tasked to ensure the harmonization and standardization of databases, including minimum data requirements, definitions, reporting formats, data collection systems, and data verification systems. Such databases shall have, at the minimum, the following information:

"(a) The number of cases of trafficking in persons, sorted according to status of cases, including the number of cases being investigated, submitted for prosecution, dropped, and filed and/or pending before the courts and the number of convictions and acquittals;

"(b) The profile/information on each case;

"(c) The number of victims of trafficking in persons referred to the agency by destination countries/areas and by area of origin; and

"(d) Disaggregated data on trafficking victims and the accused/defendants."

SEC. 17. Section 17 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 17. *Legal Protection to Trafficked Persons.* – Trafficked persons shall be recognized as victims of the act or acts of trafficking and as such, shall not be penalized for unlawful acts committed as a direct result of, or as an incident or in relation to, being trafficked based on the acts of trafficking enumerated in this Act or in obedience to the order made by the trafficker in relation thereto. In this regard, the consent of a trafficked person to the intended exploitation set forth in this Act shall be irrelevant.

"Victims of trafficking for purposes of prostitution as defined under Section 4 of this Act are not covered by Article 202 of the Revised Penal Code and as such, shall not be prosecuted, fined, or otherwise penalized under the said law."

SEC. 18. A new Section 17-A is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 17-A. *Temporary Custody of Trafficked Victims.* – The rescue of victims should be done as much as possible with the assistance of the DSWD or an accredited NGO that services trafficked victims. A law enforcement officer, on a reasonable suspicion that a person is a victim of any offense defined under this Act including attempted trafficking, shall immediately place that person in the temporary custody of the local social welfare and development office, or any accredited or licensed shelter institution devoted to protecting trafficked persons after the rescue."

SEC. 19. A new Section 17-B is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 17-B. *Irrelevance of Past Sexual Behavior, Opinion Thereof or Reputation of Victims and of Consent of Victims in Cases of Deception, Coercion and Other Prohibited Means.* – The past sexual behavior or the sexual predisposition of a trafficked person shall be considered inadmissible in

evidence for the purpose of proving consent of the victim to engage in sexual behavior, or to prove the predisposition, sexual or otherwise, of a trafficked person. Furthermore, the consent of a victim of trafficking to the intended exploitation shall be irrelevant where any of the means set forth in Section 3(a) of this Act has been used."

SEC. 20. A new Section 17-C is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 17-C. *Immunity from Suit, Prohibited Acts and Injunctive Remedies.* – No action or suit shall be brought, instituted or maintained in any court or tribunal or before any other authority against any: (a) law enforcement officer; (b) social worker; or (c) person acting in compliance with a lawful order from any of the above, for lawful acts done or statements made during an authorized rescue operation, recovery or rehabilitation/intervention, or an investigation or prosecution of an anti-trafficking case: *Provided, That* such acts shall have been made in good faith.

"The prosecution of retaliatory suits against victims of trafficking shall be held in abeyance pending final resolution and decision of criminal complaint for trafficking.

"It shall be prohibited for the DFA, the DOLE, and the POEA officials, law enforcement officers, prosecutors and judges to urge complainants to abandon their criminal, civil and administrative complaints for trafficking.

"The remedies of injunction and attachment of properties of the traffickers, illegal recruiters and persons involved in trafficking may be issued *motu proprio* by judges."

SEC. 21. Section 20 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 20. *Inter-Agency Council Against Trafficking.* – There is hereby established an Inter-Agency Council Against Trafficking, to be

composed of the Secretary of the Department of Justice as Chairperson and the Secretary of the Department of Social Welfare and Development as Co-Chairperson and shall have the following as members:

"(a) Secretary, Department of Foreign Affairs;

"(b) Secretary, Department of Labor and Employment;

"(c) Secretary, Department of the Interior and Local Government;

"(d) Administrator, Philippine Overseas Employment Administration;

"(e) Commissioner, Bureau of Immigration;

"(f) Chief, Philippine National Police;

"(g) Chairperson, Philippine Commission on Women;

"(h) Chairperson, Commission on Filipinos Overseas;

"(i) Executive Director, Philippine Center for Transnational Crimes; and

"(j) Three (3) representatives from NGOs, who shall include one (1) representative each from among the sectors representing women, overseas Filipinos, and children, with a proven record of involvement in the prevention and suppression of trafficking in persons. These representatives shall be nominated by the government agency representatives of the Council, for appointment by the President for a term of three (3) years.

"The members of the Council may designate their permanent representatives who shall have a rank not lower than an assistant secretary or its equivalent to meetings, and shall receive emoluments as may be determined by the Council in accordance with existing budget and accounting rules and regulations."

SEC. 22. Section 22 of Republic Act No. 9208 is hereby amended to read as follows:

"SEC. 22. *Secretariat to the Council.* – The Department of Justice shall establish the necessary Secretariat for the Council.

"The secretariat shall provide support for the functions and projects of the Council. The secretariat shall be headed by an executive director, who shall be appointed by the Secretary of the DOJ upon the recommendation of the Council. The executive director must have adequate knowledge on, training and experience in the phenomenon of and issues involved in trafficking in persons and in the field of law, law enforcement, social work, criminology, or psychology.

"The executive director shall be under the supervision of the Inter-Agency Council Against Trafficking through its Chairperson and Co-Chairperson, and shall perform the following functions:

"(a) Act as secretary of the Council and administrative officer of its secretariat;

"(b) Advise and assist the Chairperson in formulating and implementing the objectives, policies, plans and programs of the Council, including those involving mobilization of government offices represented in the Council as well as other relevant government offices, task forces, and mechanisms;

"(c) Serve as principal assistant to the Chairperson in the overall supervision of council administrative business;

"(d) Oversee all council operational activities;

"(e) Ensure an effective and efficient performance of council functions and prompt implementation of council objectives, policies, plans and programs;

"(f) Propose effective allocations of resources for implementing council objectives, policies, plans and programs;

"(g) Submit periodic reports to the Council on the progress of council objectives, policies, plans and programs;

"(h) Prepare annual reports of all council activities; and

"(i) Perform other duties as the Council may assign."

SEC. 23. A new Section 26-A is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 26-A. *Extra-Territorial Jurisdiction.*
– The State shall exercise jurisdiction over any act defined and penalized under this Act, even if committed outside the Philippines and whether or not such act or acts constitute an offense at the place of commission, the crime being a continuing offense, having been commenced in the Philippines and other elements having been committed in another country, if the suspect or accused:

"(a) Is a Filipino citizen; or

"(b) Is a permanent resident of the Philippines; or

"(c) Has committed the act against a citizen of the Philippines.

"No prosecution may be commenced against a person under this section if a foreign government, in accordance with jurisdiction recognized by the Philippines, has prosecuted or is prosecuting such person for the conduct constituting such offense, except upon the approval of the Secretary of Justice.

"The government may surrender or extradite persons accused of trafficking in the Philippines to the appropriate international court if any, or to

another State pursuant to the applicable extradition laws and treaties."

SEC. 24. Section 28 of Republic Act No. 9208 is hereby amended, to read as follows:

"SEC. 28. *Funding.* – The amount necessary to implement the provisions of this Act shall be charged against the current year's appropriations of the Inter-Agency Council Against Trafficking under the budget of the DOJ and the appropriations of the other concerned departments. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act."

SEC. 25. A new Section 28-A is hereby inserted into Republic Act No. 9208, to read as follows:

"SEC. 28-A. *Additional Funds for the Council.* – The amount collected from every penalty, fine or asset derived from any violation of this Act shall be earmarked as additional funds for the use of the Council. The fund may be augmented by grants, donations and endowment from various sources, domestic or foreign, for purposes related to their functions, subject to the existing accepted rules and regulations of the Commission on Audit."

SEC. 26. Section 32 of Republic Act No. 9208 of the Repealing Clause is hereby amended to read as follows:

"SEC. 32. *Repealing Clause.* – Article 202 of the Revised Penal Code, as amended, and all laws, acts, presidential decrees, executive orders, administrative orders, rules and regulations inconsistent with or contrary to the provisions of this Act are deemed amended, modified or repealed accordingly: *Provided,* That this Act shall not in any way amend or repeal the provisions of Republic Act No. 7610, otherwise known as the 'Special Protection of Child Against Child Abuse, Exploitation and Discrimination Act.'"

SEC. 27. Section 33 of Republic Act No. 9208 is hereby amended to read as follows:


"SEC. 33. *Effectivity.* - This Act shall take effect fifteen (15) days following its complete publication in at least two (2) newspapers of general circulation."


Approved,



 JUAN PONCE ENRILE FELICIANO BELMONTE JR.
President of the Senate *Speaker of the House of Representatives*

This Act which is a consolidation of House Bill No. 6339 and Senate Bill No. 2625 was finally passed by the House of Representatives and the Senate on December 4, 2012 and December 5, 2012, respectively.


 EMMA LIRIO-REYES
Secretary of the Senate


 MARILYN B. BARUA YAP
Secretary General House of Representatives

Approved: FEB 06 2013



 BENIGNO S. AQUINO III
President of the Philippines

O



CERTIFIED COPY:

 MARIANITU M. DIMAANDAL
 DIRECTOR IV
 MALACANANG RECORDS OFFICE
 28-2013 28-2013

REPUBLIC ACT NO. 7610 - SPECIAL PROTECTION OF CHILDREN AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION ACT

Republic of the Philippines
Congress of the Philippines
Metro Manila

Fifth Regular Session

Begun and held in Metro Manila, on Monday, the twenty-second day of July, nineteen hundred and ninety-one.

[REPUBLIC ACT 7610]

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

ARTICLE I TITLE, POLICY, PRINCIPLES AND DEFINITION OF TERMS

SECTION 1. *Title.* - This Act shall be known as the “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.”

SEC. 2. *Declaration of State Policy and Principles.* - It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principles of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life.

SEC. 3. *Definition of Terms.* -

(a) “Children” refers to persons below eighteen (18) years of age or those over but are unable to fully take care of themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition;

(b) “Child abuse” refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- (1) Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (2) Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (3) Unreasonable deprivation of his basic needs for survival, such as food and shelter; or
- (4) Failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.

(c) “Circumstances which gravely threaten or endanger the survival and normal development of children” include, but are not limited to, the following:

- (1) Being in community where there is armed conflict or being affected by armed conflict-related activities;
- (2) Working under conditions hazardous to life, safety and morals which unduly interfere with their normal development;
- (3) Living in or fending for themselves in the streets of urban or rural areas without the care of parents or a guardian or any adult supervision needed for their welfare;

- (4) Being a member of an indigenous cultural community and/or living under conditions of extreme poverty or in an area which is underdeveloped and/or lacks or has inadequate access to basic services needed for a good quality of life;
- (5) Being a victim of man-made or natural disaster or calamity; or
- (6) Circumstances analogous to those abovestated which endanger the life, safety or normal development of children.

(d) “Comprehensive program against child abuse, exploitation and discrimination” refers to the coordinated program of services and facilities to protect children against:

- (1) Child prostitution and other sexual abuse;
- (2) Child trafficking
- (3) Obscene publications and indecent shows;
- (4) Other acts of abuse; and
- (5) Circumstances which threaten or endanger the survival and normal development of children.

ARTICLE II

PROGRAM ON CHILD ABUSE, EXPLOITATION AND DISCRIMINATION

SEC. 4. *Formulation of the Program.* - There shall be a comprehensive program to be formulated by the Department of Justice and the Department of Social Welfare and Development in coordination with other government agencies and private sector concerned, within one (1) year from the effectivity of this Act, to protect children against child prostitution and other sexual abuse; child trafficking; obscene publications and indecent shows; other acts of abuse; and circumstances which endanger child survival and normal development.

ARTICLE III

CHILD PROSTITUTION AND OTHER SEXUAL ABUSE

SEC. 5. *Child Prostitution and Other Sexual Abuse.* - Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

(a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to, the following:

- (1) Acting as a procurer of a child prostitute;
- (2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
- (3) Taking advantage of influence or relationship to procure a child as a prostitute;
- (4) Threatening or using violence towards a child to engage him as a prostitute;
- (5) Giving monetary consideration, goods or other pecuniary benefit to a child with the intent to engage such child in prostitution.

(b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be *reclusion temporal* in its medium period; and

(c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.

SEC. 6. *Attempt to Commit Child Prostitution.* - There is an attempt to commit child prostitution under Section 5, paragraph (a) hereof when any person who, not being a relative of a child, is found alone with the said child inside the room or cubicle of a house, an inn, hotel, motel, pension house, apartelle or other similar establishments, vessels, vehicle or any other hidden or secluded area under circumstances which would lead a reasonable person to believe that the child is about to be exploited in prostitution and other sexual abuse.

There is also an attempt to commit child prostitution, under paragraph (b) of Section 5 hereof when any person is receiving services from a child in a sauna parlor or bath, massage clinic, health club and other similar establishments. A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 5 hereof

shall be imposed upon the principals of the attempt to commit the crime of child prostitution under this Act, or, in the proper case, under the Revised Penal Code.

ARTICLE IV CHILD TRAFFICKING

SEC. 7. *Child Trafficking.* - Any person who shall engage in trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter, shall suffer the penalty of *reclusion temporal* to *reclusion perpetua*. The penalty shall be imposed in its maximum period when the victim is under twelve (12) years of age.

SEC. 8. *Attempt to Commit Child Trafficking.* - There is an attempt to commit child trafficking under Section 7 of this Act:

(a) When a child travels alone to a foreign country without valid reason therefor and without clearance issued by the Department of Social Welfare and Development or written permit or justification from the child's parents or legal guardian;

(b) When a pregnant mother executes an affidavit of consent for adoption for a consideration;

(c) When a person, agency, establishment or child caring institution recruits women or couples to bear children for the purpose of child trafficking;

(d) When a doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person simulates birth for the purpose of child trafficking; or

(e) When a person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centers, or other child-caring institutions who can be offered for the purpose of child trafficking.

A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 7 hereof shall be imposed upon the principals of the attempt to commit child trafficking under this Act.

ARTICLE V OBSCENE PUBLICATIONS AND INDECENT SHOWS

SEC. 9. *Obscene Publications and Indecent Shows.* - Any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, pose, or model in obscene publications or

pornographic materials or to sell or distribute the said materials shall suffer the penalty of *prision mayor* in its medium period.

If the child used as a performer, subject or seller/distributor is below twelve (12) years of age, the penalty shall be imposed in its maximum period.

Any ascendant, guardian, or person entrusted in any capacity with the care of the child who shall cause and/or allows such child to be employed or to participate in an obscene play, scene, act, movie or show or in any other acts covered by this section shall suffer the penalty of *prision mayor* in its medium period.

ARTICLE VI OTHER ACTS OF ABUSE

SEC. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. -

(a) Any person who shall commit any other acts of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.

(b) Any person who shall keep or have in his company a minor, twelve (12) years or under or who is ten (10) years or more his junior in any public or private place, hotel, motel, beer joint, discothèque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort or similar places shall suffer the penalty of *prision mayor* in its maximum period and a fine of not less than fifty thousand pesos (P50,000): *Provided*, That this provision shall not apply to any person who is related within the fourth degree of consanguinity or affinity or any bond recognized by law, local custom and tradition, or acts in the performance of a social, moral or legal duty.

(c) Any person who shall induce, deliver or offer a minor to any one prohibited by this Act to keep or have in his company a minor as provided in the preceding paragraph shall suffer the penalty of *prision mayor* in its medium period and fine of not less than Forty thousand pesos (P40,000): *Provided, however*, That should the perpetrator be an ascendant, stepparent or guardian of the minor, the penalty to be imposed shall be *prision mayor* in its maximum period, a fine of not less than Fifty thousand pesos (P50,000), and the loss or parental authority over the minor.

(d) Any person, owner, manager or one entrusted with the operation of any public or private place of accommodation, whether for occupancy, food drink, or otherwise, including residential places, who allows any person to take along with him to such place or places any minor herein described shall be imposed a penalty of *prision*

mayor in its medium period and a fine of not less than Fifty thousand pesos (₱50,000.00) and the loss of the license to operate such a place or establishment.

(e) Any person who shall use, coerce, force or intimidate a stretchchild or any other child to:

- (1) Beg or use begging as a means of living;
- (2) Act as conduit or middlemen in drug trafficking or pushing; or
- (3) Conduct any illegal activities, shall suffer the penalty of *prision correctional* in its medium period to *reclusion perpetua*.

For purposes of this Act, the penalty for the commission of acts punishable under Articles 248, 249, 262, paragraph 2, and 263, paragraph 1 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of murder, homicide, other intentional mutilation, and serious physical injuries, respectively, shall be *reclusion perpetua* when the victim is under twelve (12) years of age. The penalty for the commission of acts punishable under Articles 337, 339, 340 and 341 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of qualified seduction, acts of lasciviousness with the consent of the offended party, corruption of minors, and white slave trade, respectively, shall be one (1) degree higher than that imposed by law when the victim is under twelve (12) years of age.

The victim of the acts committed under this section shall be entrusted to the care of the Department of Social Welfare and Development.

ARTICLE VII

SANCTIONS FOR ESTABLISHMENTS OR ENTERPRISES

SEC. 11. *Sanctions for Establishments or Enterprises which Promote, Facilitate, or Conduct Activities Constituting Child Prostitution and Other Sexual Abuse, Child Trafficking, Obscene Publications and Indecent Shows, and Other Acts of Abuse.* - All establishments and enterprises which promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows, and other acts of abuse shall be immediately closed and their authority or license to operate cancelled, without prejudice to the owner or manager thereof being prosecuted under this Act and/or the Revised Penal Code, as amended, or special laws. A sign with the words “off limits” shall be conspicuously displayed outside the establishments or enterprises by the Department of Social Welfare and Development for such period which shall not be less than one (1) year, as the Department may determine. The unauthorized removal of such sign shall be punishable by *prision correctional*.

An establishment shall be deemed to promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows, and other acts of abuse if the acts constituting the same occur in the premises of said establishment under this Act or in violation of the Revised Penal Code, as amended. An enterprise such as a sauna, travel agency, or recruitment agency which: promotes the aforementioned acts

as part of a tour for foreign tourists; exhibits children in a lewd or indecent show; provides child masseurs for adults of the same or opposite sex and said services include any lascivious conduct with the customer; or solicits children for activities constituting the aforementioned acts shall be deemed to have committed the acts penalized herein.

ARTICLE VIII WORKING CHILDREN

SEC. 12. *Employment of Children.** - Children below fifteen (15) years of age may be employed: *Provided, That,* the following minimum requirements are present:

(a) The employer shall secure for the child a work permit from the Department of Labor and Employment;

(b) The employer shall ensure the protection, health, safety and morals of the child;

(c) The employer shall institute measures to prevent exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and

(d) The employer shall formulate and implement a continuous program for training and skills acquisition of the child.

The Department of Labor and Employment shall promulgate rules and regulations necessary for the effective implementation of this section.

SEC. 13. *Non-formal Education for Working Children.* - The Department of Education, Culture and Sports shall promulgate a course design under its non-formal education program aimed at promoting the intellectual, moral and vocational efficiency of working children who have not undergone or finished elementary or secondary education. Such course design shall integrate the learning process deemed most effective under given circumstances.

SEC. 14. *Prohibition on the Employment of Children in Certain Advertisements.* - No person shall employ child models in all commercials or advertisements, promoting alcoholic beverages, intoxicating drinks, tobacco and its byproducts, and violence.

SEC. 15. *Duty of Employer.* - Every employer shall comply with the duties provided for in Articles 108 and 109 of Presidential Decree No. 603.

SEC. 16. *Penalties.* - Any person who shall violate any provision of this Article shall suffer the penalty of a fine of not less than One Thousand Pesos (₱1,000.00) but not more than Ten Thousand Pesos (₱10,000.00) or imprisonment of not less than three (3) months but not more than three (3) years, or both at the discretion of the court: *Provided, that,* in case of repeated violations of the provisions of this Article, the offender's license to operate shall be revoked.

ARTICLE IX CHILDREN OF INDIGENOUS CULTURAL COMMUNITIES

SEC. 17. *Survival, Protection and Development.* - In addition to the rights guaranteed to children under this Act and other existing laws, children of indigenous cultural communities shall be entitled to protection, survival and development consistent with the customs and traditions of their respective communities.

SEC. 18. *System of and Access to Education.* - The Department of Education, Culture and Sports shall develop and institute an alternative system of education for children of indigenous cultural communities which is culture-specific and relevant to the needs and the existing situation in their communities. The Department of Education, Culture and Sports shall also accredit and support non-formal but functional indigenous educational programs conducted by nongovernmental organizations in said communities.

SEC. 19. *Health and Nutrition.* - The delivery of basic social services in health and nutrition to children of indigenous cultural communities shall be given priority by all government agencies concerned. Hospitals and other health institutions shall ensure that children of indigenous cultural communities are given equal attention. In the provision of health and nutrition services to children of indigenous cultural communities, indigenous health practices shall be respected and recognized.

SEC. 20. *Discrimination.* - Children of indigenous cultural communities shall not be subjected to any and all forms of discrimination.

Any person who discriminates against children of indigenous cultural communities shall suffer a penalty of *arresto mayor* in its maximum period and a fine of not less than Five Thousand Pesos (₱5,000) nor more than Ten Thousand Pesos (₱10,000).

SEC. 21. *Participation.* - Indigenous cultural communities, through their duly-designated or appointed representatives shall be involved in planning, decision-making, implementation, and evaluation of all government programs affecting children of indigenous cultural communities. Indigenous institutions shall also be recognized and respected.

ARTICLE X

CHILDREN IN SITUATIONS OF ARMED CONFLICT

SEC. 22. *Children as Zones of Peace.* - Children are hereby declared as Zones of Peace. It shall be the responsibility of the State and all other sectors concerned to resolve armed conflicts in order to promote the goal of children as zones of peace. To attain this objective, the following policies shall be observed:

(a) Children shall not be the object of attack and shall be entitled to special respect. They shall be protected from any form of threat, assault, torture or other cruel, inhumane or degrading treatment;

(b) Children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor be allowed to take part in the fighting, or used as guides, couriers, or spies;

(c) Delivery of basic social services such as education, primary health and emergency relief services shall be kept unhampered;

(d) The safety and protection of those who provide services including those involved in fact-finding missions from both government and non-government institutions shall be ensured. They shall not be subjected to undue harassment in the performance of their work;

(e) Public infrastructure such as schools, hospitals and rural health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots; and

(f) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated due to armed conflict.

SEC. 23. *Evacuation of Children During Armed Conflict.* - Children shall be given priority during evacuation as a result of armed conflict. Existing community organizations shall be tapped to look after the safety and well-being of children during evacuation operations. Measures shall be taken to ensure that children evacuated are accompanied by persons responsible for their safety and well-being.

SEC. 24. *Family Life and Temporary Shelter.* - Whenever possible, members of the same family shall be housed in the same premises and given separate accommodation from other evacuees and provided with facilities to lead a normal family life. In places of temporary shelter, expectant and nursing mothers and children shall be given additional food in proportion to their physiological needs. Whenever feasible, children shall be given opportunities for physical exercise, sports and outdoor games.

SEC. 25. Rights of Children Arrested for Reasons Related to Armed Conflict. - Any child who has been arrested for reasons related to armed conflict, either as combatant, courier, guide or spy is entitled to the following rights:

(a) Separate detention from adults except where families are accommodated as family units;

(b) Immediate free legal assistance;

(c) Immediate notice of such arrest to the parents or guardian of the child; and

(d) Release of the child on recognizance within twenty-four (24) hours to the custody of the Department of Social Welfare and Department or any responsible member of the community as determined by the court.

If after hearing the evidence in the proper proceeding the court should find that the aforesaid child has committed the acts charged against him, the court shall determine the imposable penalty, including any civil liability chargeable against him. However, instead of pronouncing judgment of conviction, the court shall suspend all further proceedings and shall commit such child to the custody or care of the Department of Social Welfare and Development or to any training institution operated by the Government, or duly-licensed agencies or to any other responsible person, until he has had reached eighteen (18) years of age or, for a shorter period as the court may deem proper, after considering the reports and recommendations of the Department of Social Welfare and Development or the agency or responsible individual under whose care he has been committed.

The aforesaid child shall be subject to visitation and supervision by a representative of the Department of Social Welfare and Development or any duly-licensed agency or such other officer as the court may designate subject to such conditions as it may prescribe.

The aforesaid child whose sentence is suspended can appeal from the order of the court in the same manner as appeals in criminal cases.

SEC. 26. Monitoring and Reporting of Children in Situations of Armed Conflict. - The chairman of the barangay affected by the armed conflict shall submit the names of children residing in said barangay to the municipal social welfare and development officer within twenty-four (24) hours from the occurrence of the armed conflict.

ARTICLE XI REMEDIAL PROCEDURES

SEC. 27. *Who May File a Complaint.* - Complaints on cases of unlawful acts committed against children as enumerated herein may be filed by the following:

- (a) Offended party;
- (b) Parents or guardians;
- (c) Ascendant or collateral relative within the third degree of consanguinity;
- (d) Officer, social worker or representative of a licensed child-caring institution;
- (e) Officer or social worker of the Department of Social Welfare and Development;
- (f) Barangay chairman; or
- (g) At least three (3) concerned, responsible citizens where the violation occurred.

SEC. 28. *Protective Custody of the Child.* - The offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56, series of 1986. In the regular performance of this function, the officer of the Department of Social Welfare and Development shall be free from any administrative, civil or criminal liability. Custody proceedings shall be in accordance with the provisions of Presidential Decree No. 603.

SEC. 29. *Confidentiality.* - At the instance of the offended party, his name may be withheld from the public until the court acquires jurisdiction over the case.

It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio broadcasting, producer and director of the film in case of the movie industry, to cause undue and sensationalized publicity of any case of violation of this Act which results in the moral degradation and suffering of the offended party.

SEC. 30. *Special Court Proceedings.* - Cases involving violations of this Act shall be heard in the chambers of the judge of the Regional Trial Court duly designated as Juvenile and Domestic Relations Court.

Any provision of existing law to the contrary notwithstanding and with the exception of *habeas corpus*, election cases, and cases involving detention prisoners and persons covered by Republic Act No. 4908, all courts shall give preference to the hearing or disposition of cases involving violations of this Act.

**ARTICLE XII
COMMON PENAL PROVISIONS**

SEC. 31. *Common Penal Provisions.* -

(a) The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;

(b) When the offender is a corporation, partnership or association, the officer or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period;

(c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity, or a manager or owner of an establishment which has no license to operate or its license has expired or has been revoked;

(d) When the offender is a foreigner, he shall be deported immediately after service of sentence and forever barred from entry to the country;

(e) The penalty provided for in this Act shall be imposed in its maximum period if the offender is a public officer or employee: *Provided, however,* That if the penalty imposed is *reclusion perpetua* or *reclusion temporal*, then the penalty of perpetual or temporary absolute disqualification shall also be imposed: *Provided, finally,* That if the penalty imposed is *prision correccional* or *arresto mayor*, the penalty of suspension shall also be imposed; and

(f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

**ARTICLE XIII
FINAL PROVISIONS**

SEC. 32. *Rules and Regulations.* - Unless otherwise provided in this Act, the Department of Justice, in coordination with the Department of Social Welfare and Development, shall promulgate rules and regulations for the effective implementation of this Act.

Such rules and regulations shall take effect upon their publication in two (2) national newspapers of general circulation.

SEC. 33. *Appropriations.* - The amount necessary to carry out the provisions of this Act is hereby authorized to be appropriated in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 34. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue into full force and effect.

SEC. 35. *Repealing Clause.* - All laws, decrees, or rules inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 36. *Effectivity Clause.* - This Act shall take effect upon completion of its publication in at least two (2) national newspapers of general circulation.

(Sgd.) NEPTALI A. GONZALES
President of the Senate

(Sgd.) RAMON V. MITRA
Speaker of the House of Representatives

This Act which is a consolidation of House Bill Nos. 6946, 29431, 35354 and Senate Bill No. 1209 was finally passed by the House of Representatives and the Senate February 7, 1992.

(Sgd.) ANACLETO D. BADOY, JR.
Secretary of the Senate

(Sgd.) CAMILO L. SABIO
Secretary-General
House of Representatives

Approved: June 17, 1992

(Sgd.) CORAZON C. AQUINO
President of the Philippines

REPUBLIC ACT NO. 7658 - ACT PROHIBITING THE EMPLOYMENT OF CHILDREN BELOW 15 YEARS OF AGE IN PUBLIC AND PRIVATE UNDERTAKINGS, AMENDING FOR THIS PURPOSE SECTION 12, ARTICLE VIII OF R.A. 7610

Republic Act No. 7658

November 9, 1993

REPUBLIC ACT NO. 7658

AN ACT PROHIBITING THE EMPLOYMENT OF CHILDREN BELOW 15 YEARS OF AGE IN PUBLIC AND PRIVATE UNDERTAKINGS, AMENDING FOR THIS PURPOSE SECTION 12, ARTICLE VIII OF R.A. 7610

Sec. 1. Section 12, Article VIII of R.A. No. 7610 otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act" is hereby amended to read as follows:

"Sec. 12. Employment of Children. - Children below fifteen (15) years of age shall not be employed except:

1) When a child works directly under the sole responsibility of his parents or legal guardian and where only members of the employer's family are employed: Provided, however, That his employment neither endangers his life, safety, health and morals, nor impairs his normal development; Provided, further, That the parent or legal guardian shall provide the said minor child with the prescribed primary and/or secondary education; or

2) Where a child's employment or participation in public entertainment or information through cinema, theater, radio or television is essential: Provided, The employment contract is concluded by the child's parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: and Provided, That the following requirements in all instances are strictly complied with: cd

(a) The employer shall ensure the protection, health, safety, morals and normal development of the child;

(b) The employer shall institute measures to prevent the child's exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and

(c) The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the requirements.

In the above exceptional cases where any such child may be employed, the employer shall first secure, before engaging such child, a work permit from the Department of Labor and Employment which shall ensure observance of the child. cd i

The Department of Labor and Employment shall promulgate rules and regulations necessary for the effective implementation of this Section."

ec. 2. All laws, decrees, executive orders, rules and regulations or parts thereof contrary to, or inconsistent with this Act are hereby modified or repealed accordingly.

Sec. 3. This Act shall take effect fifteen (15) days after its complete publication in the Official

Gazette or in at least two (2) national newspapers or general circulation whichever comes earlier.

Approved: November 9, 1993

DEPARTMENT ORDER NO. 18

Rules and Regulations Implementing Republic Act No. 7658

By virtue of the provisions of Section 2 of Republic Act No. 7658, An Act Prohibiting the Employment of Children Below Fifteen (15) Years of Age in Public and Private Undertakings, amending Section 12, Article VIII of Republic Act No. 7610, the following Rules and Regulations governing the employment of children are hereby issued:

ec. 1. **General Prohibition.** - Except as otherwise provided in this Rules, children below 15 years of age shall not be employed, permitted or suffered to work, in any public or private establishments in the Philippines.

Sec. 2. **Definition of terms.**

a. "Employer" - any parent, legal guardian or producer acting as employer who hires or engages the services of any child below 15 years of age.

b. "Legal Guardian" - any person duly appointed by a court of competent authority to exercise care and custody of or parental authority over the person of such child/employee.

c. "Producer" - any individual or group of individuals engaged in the production of movies, films, motion pictures, shows or advertisements, whether on cinema, theater, radio or television, wherein the services of such child/employee are hired.

d. "Members of the family" - those persons having family relations referred to under Article 150 of the Family Code of the Philippines. It shall include the employer parent's or legal guardian's husband or wife, parents, children, other ascendants or descendants, brothers and sisters whether of full or half blood.

e. "Department" - the Department of Labor and Employment.

Sec. 3. **Exceptions and conditions.** - The following shall be the only exceptions to the prohibition on the employment of children below 15 years of age and the conditions for availment of said exceptions:

a. When the child works directly under the sole responsibility of his/her parents or legal guardian who employs members of his/her family only, under the following conditions:

1. the employment does not endanger the child's life, safety, health and morals;
2. the employment does not impair the child's normal development.
3. the employer parent or legal guardian provides the child with the primary and/or secondary education prescribed by the Department of Education, Culture and Sports.

b. Where the child's employment or participation in public entertainment or information through cinema, theater, radio or television is essential, provided that:

1. the employment does not involve advertisements or commercials promoting alcoholic beverages, intoxicating drinks, tobacco and its by-products or exhibiting violence;
2. there is a written contract approved by the Department of Labor and Employment; and
3. the condition prescribed in Section a above are met.

Sec. 5. Pre-employment requirements. - Before an employer engages a child for employment under the exceptions enumerated above, he/she must first secure a work permit from the Regional Office of the Department having jurisdiction over the workplace.

The Regional Office shall require the employer to submit the following documents in support of the application for a work permit:

- a. two (2) pictures of the child, one full body and the other showing the child's face, both of which must be recently taken and recognizable;
- b. the child's Birth Certificate or in its absence, his/her Baptismal Certificate and a joint affidavit of his/her two nearest kin showing the year he/she was born and a duly authenticated proof of legal guardianship where the employer is a legal guardian;
- c. a certificate of enrollment issued by the school where he/she is currently or last enrolled or a statement from the parent or legal guardian that the child is attending school;
- d. a written undertaking that:
 1. measures shall be instituted by the employer to prevent the child's exploitation and discrimination such as payment of minimum age, hours of work and other terms and conditions required by law; and
 2. the employer shall ensure the protection, health, safety, morals and normal development of the child;
- e. a medical certificate showing that the child is fit for employment;
- f. a certification of a continuing program for training and skills acquisition approved and supervised by any competent authority, nearest the place of work, which may be recognized vocational or training school, the regional or local office of the Department of Social Welfare and Development and the National Manpower and Youth Council; and
- g. a written contract of employment concluded by the child's parents or legal guardian with the employer in cases of employment or participation in public entertainment or information through cinema, theater, radio or television. Said contract shall bear the express agreement of the child concerned, if possible, and shall state the nature or full description of the job and the justification is essential.

Sec. 5. Hours of Work. - Subject to consultations with the sectors concerned, the Department shall by appropriate regulations, issue standards governing the hours of work and time of day that children may be allowed to work.

Sec. 6. Effect on other issuances. - The provisions of existing rules and administrative issuances not otherwise repealed, modified or inconsistent with this Order shall continue to

have full force and effect.

Sec. 7. Penalties. - Any person who shall violate any provision of Article 12 of RA 7658, shall suffer the penalty of a fine of not less than One Thousand Pesos (P1,000) but not more than Ten Thousand Pesos (P10,000) or imprisonment of not less than three (3) months but not more than three (3) years, or both at the discretion of the court: Provided, that in case of repeated violations of the provisions of this Article, the offender's license to operate shall be revoked.

Sec. 8. Effectivity. - This Rules and Regulations shall take effect fifteen (15) days after its publications in a newspaper of general circulation.

Signed this 12th day of May, 1994 in the City of Manila, Philippines.

(SGD.) MA. NIEVES R. CONFESOR

Secretary

Received by the AS-Records on May 13, 1994 and disseminated on May 3, 1994.

REPUBLIC ACT NO. 9231 - ACT PROVIDING FOR THE ELIMINATION OF THE WORST FORMS OF CHILD LABOR AND AFFORDING STRONGER PROTECTION FOR THE WORKING CHILD, AMENDING FOR THIS PURPOSE REPUBLIC ACT NO. 7610, AS AMENDED

Republic Act No. 9231

An Act Providing For The Elimination Of The Worst Forms Of Child Labor And Affording Stronger Protection For The Working Child, Amending For This Purpose Republic Act No. 7610, As Amended, Otherwise Known as the "Special Protection Of Children Against Child Abuse, Exploitation And Discrimination Act"

Section 1. Section 2 of Republic Act No. 7610, as amended, otherwise known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act", is hereby amended to read as follows:

"Sec. 2. Declaration of State Policy and Principles. - It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development including child labor and its worst forms; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

"It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

"The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life."

Section 2. Section 12 of the same Act, as amended, is hereby further amended to read as follows:

"Sec. 2. Employment of Children - Children below fifteen (15) years of age shall not be employed except:

"1) When a child works directly under the sole responsibility of his/her parents or legal guardian and where only members of his/her family are employed: Provided, however, That his/her employment neither endangers his/her life, safety, health, and morals, nor impairs his/her normal development: Provided, further, That the parent or legal guardian shall provide the said child with the prescribed primary and/or secondary education; or

"2) Where a child's employment or participation in public entertainment or information through cinema, theater, radio, television or other forms of media is essential: Provided,

That the employment contract is concluded by the child's parents or legal guardian, with the express agreement of the child concerned, if possible, and the approval of the Department of Labor and Employment: Provided, further, That the following requirements in all instances are strictly complied with:

"(a) The employer shall ensure the protection, health, safety, morals and normal development of the child;

"(b) The employer shall institute measures to prevent the child's exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and

"(c) The employer shall formulate and implement, subject to the approval and supervision of competent authorities, a continuing program for training and skills acquisition of the child.

"In the above-exceptional cases where any such child may be employed, the employer shall first secure, before engaging such child, a work permit from the Department of Labor and Employment which shall ensure observance of the above requirements.

"For purposes of this Article, the term "child" shall apply to all persons under eighteen (18) years of age."

Section 3. The same Act, as amended, is hereby further amended by adding new sections to be denominated as Sections 12-A, 12-B, 12-C, and 12-D to read as follows:

"Sec. 2-A. Hours of Work of a Working Child. - Under the exceptions provided in Section 12 of this Act, as amended:

"(1) A child below fifteen (15) years of age may be allowed to work for not more than twenty (20) hours a week: Provided, That the work shall not be more than four (4) hours at any given day;

"(2) A child fifteen (15) years of age but below eighteen (18) shall not be allowed to work for more than eight (8) hours a day, and in no case beyond forty (40) hours a week;

"(3) No child below fifteen (15) years of age shall be allowed to work between eight o'clock in the evening and six o'clock in the morning of the following day and no child fifteen (15) years of age but below eighteen (18) shall be allowed to work between ten o'clock in the evening and six o'clock in the morning of the following day."

"Sec. 12-B. Ownership, Usage and Administration of the Working Child's Income. - The wages, salaries, earnings and other income of the working child shall belong to him/her in ownership and shall be set aside primarily for his/her support, education or skills acquisition and secondarily to the collective needs of the family: Provided, That not

more than twenty percent (20%) of the child's income may be used for the collective needs of the family.

"The income of the working child and/or the property acquired through the work of the child shall be administered by both parents. In the absence or incapacity of either of the parents, the other parent shall administer the same. In case both parents are absent or incapacitated, the order of preference on parental authority as provided for under the Family Code shall apply.

"Sec. 12-C. Trust Fund to Preserve Part of the Working Child's Income. - The parent or legal guardian of a working child below eighteen (18) years of age shall set up a trust fund for at least thirty percent (30%) of the earnings of the child whose wages and salaries from work and other income amount to at least two hundred thousand pesos (P200,000.00) annually, for which he/she shall render a semi-annual accounting of the fund to the Department of Labor and Employment, in compliance with the provisions of this Act. The child shall have full control over the trust fund upon reaching the age of majority.

"Sec. 12-D. Prohibition Against Worst Forms of Child Labor. - No child shall be engaged in the worst forms of child labor. The phrase "worst forms of child labor" shall refer to any of the following:

"(1) All forms of slavery, as defined under the "Anti-trafficking in Persons Act of 2003", or practices similar to slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict; or

"(2) The use, procuring, offering or exposing of a child for prostitution, for the production of pornography or for pornographic performances; or

"(3) The use, procuring or offering of a child for illegal or illicit activities, including the production and trafficking of dangerous drugs and volatile substances prohibited under existing laws; or

"(4) Work which, by its nature or the circumstances in which it is carried out, is hazardous or likely to be harmful to the health, safety or morals of children, such that it:

"a) Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being; or

"b) Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals; or

"c) Is performed underground, underwater or at dangerous heights; or

"d) Involves the use of dangerous machinery, equipment and tools such as power-driven or explosive power-actuated tools; or

"e) Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads; or

"f) Is performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations; or

"g) Is performed under particularly difficult conditions; or

"h) Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes and other parasites; or

"i) Involves the manufacture or handling of explosives and other pyrotechnic products."

Section 4. Section 13 of the same Act is hereby amended to read as follows:

"Sec. 13. Access to Education and Training for Working Children - "a) No child shall be deprived of formal or non-formal education. In all cases of employment allowed in this Act, the employer shall provide a working child with access to at least primary and secondary education.

"b) To ensure and guarantee the access of the working child to education and training, the Department of Education (DEPED) shall: (1) formulate, promulgate, and implement relevant and effective course designs and educational programs; (2) conduct the necessary training for the implementation of the appropriate curriculum for the purpose; (3) ensure the availability of the needed educational facilities and materials; and (4) conduct continuing research and development program for the necessary and relevant alternative education of the working child.

"c) The DEPED shall promulgate a course design under its non-formal education program aimed at promoting the intellectual, moral and vocational efficiency of working children who have not undergone or finished elementary or secondary education. Such course design shall integrate the learning process deemed most effective under given circumstances."

Section 5. Section 14 of the same Act is hereby amended to read as follows:

"Sec. 14. Prohibition on the Employment of Children in Certain Advertisements. - No child shall be employed as a model in any advertisement directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its byproducts, gambling or any form of violence or pornography."

Section 6. Section 16 of the same Act, is hereby amended to read as follows:

"Sec. 16. Penal Provisions -

"a) Any employer who violates Sections 12, 12-A, and Section 14 of this act, as amended, shall be penalized by imprisonment of six (6) months and one (1) day to six (6) years or a fine of not less than Fifty thousand pesos (P50,000.00) but not more than Three hundred thousand pesos (P300,000.00) or both at the discretion of the court.

"b) Any person who violates the provision of Section 12-D of this act or the employer of the subcontractor who employs, or the one who facilitates the employment of a child in hazardous work, shall suffer the penalty of a fine of not less than One hundred thousand pesos (P100,000.00) but not more than One million pesos (P1,000,000.00), or imprisonment of not less than twelve (12) years and one (1) day to twenty (20) years, or both such fine and imprisonment at the discretion of the court.

"c) Any person who violates Sections 12-D(1) and 12-D(2) shall be prosecuted and penalized in accordance with the penalty provided for by R. A. 9208 otherwise known as the "Anti-trafficking in Persons Act of 2003": Provided, That Such penalty shall be imposed in its maximum period.

"d) Any person who violates Section 12-D (3) shall be prosecuted and penalized in accordance with R.A. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002"; Provided, That such penalty shall be imposed in its maximum period.

"e) If a corporation commits any of the violations aforesaid, the board of directors/trustees and officers, which include the president, treasurer and secretary of the said corporation who participated in or knowingly allowed the violation, shall be penalized accordingly as provided for under this Section.

"f) Parents, biological or by legal fiction, and legal guardians found to be violating Sections 12, 12-A, 12-B and 12-C of this Act shall pay a fine of not less than Ten thousand pesos (P10,000.00) but not more than One hundred thousand pesos (P100,000.00), or be required to render community service for not less than thirty (30) days but not more than one (1) year, or both such fine and community service at the discretion of the court: Provided, That the maximum length of community service shall be imposed on parents or legal guardians who have violated the provisions of this Act three (3) times; Provided, further, That in addition to the community service, the penalty of imprisonment of thirty (30) days but not more than one (1) year or both at the discretion of the court, shall be imposed on the parents or legal guardians who have violated the provisions of this Act more than three (3) times.

"g) The Secretary, of Labor and Employment or his/her duly authorized representative may, after due notice and hearing, order the closure of any business firm or establishment found to have violated any of the provisions of this Act more than three

(3) times. He/she shall likewise order the immediate closure of such firm or establishment if:

"(1) The violation of any provision of this Act has resulted in the death, insanity or serious physical injury of a child employed in such establishment; or

"(2) Such firm or establishment is engaged or employed in prostitution or in obscene or lewd shows.

"h) In case of such closure, the employer shall be required to pay the employee(s) the separation pay and other monetary benefits provided for by law."

Section 7. The same Act is hereby further amended by adding a new section to be denominated as Section 16-A, to read as follows:

"Sec. 16-A. Trust Fund from Fines and Penalties - The fine imposed by the court shall be treated as a Trust Fund, administered by the Department of Labor and Employment and disbursed exclusively for the needs, including the costs of rehabilitation and reintegration into the mainstream of society of the working children who are victims of the violations of this Act, and for the programs and projects that will prevent acts of child labor."

Section 8. Section 27 of the same Act is hereby amended to read as follows:

"Sec. 27. Who May File a Complaint - Complaints on cases of unlawful acts committed against children as enumerated herein may be filed by the following:

"(a) Offended party;

"(b) Parents or guardians;

"(c) Ascendant or collateral relative within the third degree of consanguinity;

"(d) Officer, social worker or representative of a licensed child-caring institution;

"(e) Officer or social worker of the Department of Social Welfare and Development;

"(f) Barangay chairman of the place where the violation occurred, where the child is residing or employed; or

"(g) At least three (3) concerned, responsible citizens where the violation occurred."

Section 9. The same Act is hereby further amended by adding new sections to Section 16 to be denominated as Sections 16-A, 16-B and 16-C to read as follows:

"Sec. 16-A. Jurisdiction - The family courts shall have original jurisdiction over all cases involving offenses punishable under this Act: Provided, That in cities or provinces where there are no family courts yet, the regional trial courts and the municipal trial courts shall have concurrent jurisdiction depending on the penalties prescribed for the offense charged.

"The preliminary investigation of cases filed under this Act shall be terminated within a period of thirty (30) days from the date of filing.

"If the preliminary investigation establishes a prima facie case, then the corresponding information shall be filed in court within forty eight (48) hours from the termination of the investigation.

"Trial of cases under this Act shall be terminated by the court not later than ninety (90) days from the date of filing of information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case.

"Sec. 15. Exemptions from Filing Fees. - When the victim of child labor institutes a separate civil action for the recovery of civil damages, he/she shall be exempt from payment of filing fees.

"Sec. 16-C. Access to Immediate Legal, Medical and Psycho-Social Services - The working child shall have the right to free legal, medical and psycho-social services to be provided by the State."

Section 10. Implementing Rules and Regulations - The Secretary of Labor and Employment, in coordination with the Committees on Labor and Employment of both Houses of Congress, shall issue the necessary Implementing Rules and Regulations (IRR) to effectively implement the provisions of this Act, in consultation with concerned public and private sectors, within sixty (60) days from the effectivity of this Act.

Such rules and regulations shall take effect upon their publication in two (2) national newspapers of general circulation.

Section 11. Separability Clause. - If any provision of this Act is declared invalid or unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

Section 12. Repealing Clause. - All laws, decrees, or rules inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 13. Effectivity. - This Act shall take effect fifteen (15) days from the date of its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved: December 19, 2003

REPUBLIC ACT NO. 10654 - ACT TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING, AMENDING REPUBLIC ACT NO. 8550, OTHERWISE KNOWN AS “THE PHILIPPINE FISHERIES CODE OF 1998,” AND FOR OTHER PURPOSES

Republic Act No. 10654

February 27, 2015 (<http://www.gov.ph/2015/02/27/republic-act-no-10654/>)

Tags: [Benigno S. Aquino III](http://www.gov.ph/tag/benigno-s-aquino-iii/) (<http://www.gov.ph/tag/benigno-s-aquino-iii/>), [Laws](http://www.gov.ph/tag/laws-2/) (<http://www.gov.ph/tag/laws-2/>), [Republic Acts](http://www.gov.ph/tag/republic-acts/) (<http://www.gov.ph/tag/republic-acts/>)

S. No. 2414

H. No. 4536

**Republic of the Philippines
Congress of the Philippines
Metro Manila**

Sixteenth Congress

Second Regular Session

Begun and held in Metro Manila, on Monday, the twenty-eighth day of July, two thousand fourteen.

[REPUBLIC ACT NO. **10654**]

AN ACT TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING, AMENDING REPUBLIC ACT NO. 8550, OTHERWISE KNOWN AS “THE PHILIPPINE FISHERIES CODE OF 1998,” AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 2 of Republic Act No. 8550, otherwise known as “The Philippine Fisheries Code of 1998”, is hereby amended, as follows:

“SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State:

(a) x x x

x x x

(c) To ensure the rational and sustainable development, management and conservation of the fishery and aquatic resources in Philippine waters including the Exclusive Economic Zone (EEZ) and in the adjacent high seas, consistent with the primordial objective of maintaining a sound ecological balance, protecting and enhancing the quality of the environment. The Philippines shall pursue its commitment to international conventions and cooperate with other states and international bodies, in order to conserve and manage threatened , aquatic species, straddling and highly migratory fish stocks and other living marine resources;

x x x

(f) To adopt the precautionary principle and manage fishery and aquatic resources, in a manner consistent with the concept of an ecosystem-based approach to fisheries management and integrated coastal area management in specific natural fishery management areas, appropriately supported by research, technical services and guidance provided by the State; and

x x x.”

SEC. 2. Section 3 of the same Act is hereby amended, as follows:

“SEC. 3. *Application of its Provisions.* – The provisions of this Code shall be enforced in:

(a) all Philippine waters including other waters over which the Philippines has sovereignty and jurisdiction, and the country’s 200-nautical mile Exclusive Economic Zone (EEZ) and continental shelf;

(b) all aquatic and fishery resources whether inland, coastal or offshore fishing areas, including, but not limited to, fishponds, fish pens/cages;

(c) all lands devoted to aquaculture, or businesses and activities relating to fishery, whether private or public lands; and

(d) all Philippine flagged fishing vessels operating in areas governed by a Regional Fisheries Management Organization (RFMO), in the high seas, or in waters of other coastal states.”

SEC. 3. Section 4 of the same Act is hereby amended, as follows:

“SEC. 4. *Definition of Terms.* – As used in this Code, the following terms and phrases shall mean as follows:

(1) x x x

x x x

(12) *Community Service* – means any service or activity that is performed for the benefit of the community or its institutions in lieu of payment of fine imposed as administrative or criminal penalty.

(13) *Conservation and Management Measures* – means measures to conserve and manage living marine resources that are adopted and applied consistently with the relevant rules of international law including those reflected in conventions, RFMO resolutions and laws of other coastal states where Philippine flagged vessels fish.

(14) x x x

(15) x x x

(16) x x x

(17) x x x

(18) *Distant Water Fishing* – means fishing in the high seas or in waters of other states.

(19) x x x

(20) x x x

(21) x x x

(22) x x x

(23) x x x

(24) x x x

(25) x x x

(26) x x x

(27) x x x

(28) x x x

(29) x x x

(30) x x x

(31) x x x

(32) x x x

(33) x x x

(34) x x x

(35) *Fisheries Observer* – refers to a person duly authorized by the Philippine government or under a Regional Observer Program of the RFMO, to collect scientific, technical or fishing-related data, and other information that may be required by the government or the RFMO and/ or in compliance to a conservation and management measure.

(36) x x x

(37) *Fishing Vessel/Gear License* – refers to a permit to operate specific types of fishing vessel/gear for specific duration in areas beyond municipal waters for demersal or pelagic fishery resources.

(38) x x x

(39) x x x

(40) x x x

(41) x x x

(42) x x x

(43) x x x

(44) *Fishing Gear* – refers to any instrument or device and its accessories utilized in taking fish and other fishery species.

(a) *Active Fishing Gear* – is a fishing device characterized by the pursuit of the target species by towing, pushing the gears, surrounding, covering, dredging, and scaring the target species to impoundments; such as, but not limited to, trawl, purse seines, Danish seines, *paaling* and drift gill net.

(b) *Passive Fishing Gear* – is characterized by the absence of pursuit of the target species; such as, but not limited to, hook and line, fishpots, traps and gill nets set across the path of the fish.

(45) *Fishing Light Attractor* – refers to a fishing aid which employs lights using, among others, mercury vapor, high pressure sodium vapor, standard tungsten, tungsten halogen, fluorescent or light-emitting diode, that are attached to a structure above water or suspended underwater to attract both fish and

members of their food chain to specific areas in order to harvest them.

(46) x x x

(47) x x x

(48) x x x

(49) x x x

(50) x x x

(51) x x x

(52) x x x

(53) x x x

(54) *Harvest Control Rules* – refers to actions or set of actions to be taken to achieve a medium or long term target reference point while avoiding reaching or breaching a limit reference point.

(55) *Illegal Fishing* – means fishing activities conducted by Philippine fishing vessels operating in violation of Philippine laws, Regional Fisheries Management Organization resolutions, and laws of other coastal states.

(56) x x x

(57) x x x

(58) x x x

(59) x x x

(60) *Marine Protected Area* – means a defined area of the sea established and set aside by law, administrative regulation, or any other effective means in order to conserve and protect a part of or the entire enclosed environment through the establishment of management guidelines. It is considered a generic term that includes all declared areas governed by specific rules or guidelines in order to protect and manage activities within the enclosed area.

(61) x x x

(62) x x x

(63) x x x

(64) x x x

(65) x x x

(66) x x x

(67) x x x

(68) x x x

(69) x x x

(70) x x x

(71) x x x

(72) x x x

(73) *Port State Measures* – refers to the requirements established or interventions undertaken by port states, which a Philippine flagged or foreign fishing vessel must comply with as a condition for the use of ports within the port state.

(74) x x x

(75) x x x

(76) *Reference Points* – means benchmark values often based on indicators such as fishery stock size or the level of fishing that serves as standard to compare estimates of a fishery stock size and fishing mortality over time depending on the biological characteristics of the species. Reference points can mark: (a) a *limit* or a level that should be avoided; (b) a *target*, which should be achieved and maintained; or (c) a *trigger* that signals the need to take prescribed actions.

(77) *Regional Fisheries Management Organization (RFMO)* – means a multi-lateral organization with responsibility to coordinate management and establish conservation and management measures for highly migratory fish stocks, fish stocks that straddle national fisheries management boundaries and other high seas species.

(78) x x x

(79) x x x

(80) x x x

(81) x x x

(82) *Serious Violation* – means any of the following violations of the provisions of this Code:

- (a) Fishing without a valid license, authorization or permit;
- (b) Fishing without reporting the catch or misreporting the catch;
- (c) Fishing in a closed area or during a closed season;
- (d) Fishing of prohibited species;
- (e) Fishing with the use of prohibited gear or methods;
- (f) Falsifying, concealing or tampering with vessel markings, identity or registration to conceal vessel identity or lack of registration;
- (g) Concealing, tampering or disposing of evidence relating to an investigation of a violation;
- (h) 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;
- (i) Intentionally tampering with or disabling the vessel monitoring system; and
- (j) Committing multiple violations which taken together constitute a serious disregard of this Code.

(83) *Superlight* – also called magic light, refers to a type of light using halogen or metal halide bulb which may be located above the sea surface or submerged in the water. It consists of a ballast, regulator, electric cable and socket. The source of energy comes from a generator, battery or dynamo coupled with the main engine.

(84) x x x

(85) *Transshipment* – refers to the transfer of all or any fish or fishery product from one fishing vessel to another.

(86) x x x

(87) *Unregulated Fishing* – refers to fishing activities conducted by:

(a) Vessels without nationality but operated by Filipino and/or Filipino corporation;

(b) Philippine flagged fishing vessels operating in areas managed by RFMOs to which the Philippines is not a party to; or

(c) Philippine flagged fishing vessels operating in areas or fish stocks where there are no applicable conservation and management measures.

(88) *Unreported Fishing* – refers to fishing activities which have not been reported, or have been misreported to the Department, in contravention of national laws and regulations of the Philippines, or undertaken in the area of competence of a relevant RFMO which have not been reported or have been misreported, in contravention of the reporting procedures of that organization and further elaborated by regulations to be promulgated by the Department.”

SEC. 4. Section 6 of the same Act is hereby amended, as follows:

“SEC. 6. *Fees and Other Fishery Charges.* – The rentals for fishpond areas covered by the Fishpond Lease Agreement (FLA) or other tenurial instrument and license fees for Commercial Fishing Vessel Licenses (CFVL) shall be set at levels that reflect resource rent accruing from the utilization of resources and shall be determined by the Department: *Provided*, That the Department shall also prescribe fees and other fishery charges and issue the corresponding license or permit for fishing gear, fishing accessories and other fishery activities beyond the municipal waters: *Provided, further*, That the license fees of fishery activity in municipal waters shall be determined by the Local Government Units (LGUs) in consultation with the FARMCs. The FARMCs may also recommend the appropriate license fees that will be imposed.”

SEC. 5. Section 7 of the Act is hereby amended, as follows:

“SEC. 7. *Access to Fishery Resources.* – The Department shall issue such number of licenses and permits for the conduct of fishery activities subject to harvest control rules and reference points as determined by scientific studies or best available evidence. Preference shall be given to resource users in the local communities adjacent or nearest to the municipal waters.”

SEC. 6. Section 8 of the Act is hereby amended, as follows:

“SEC.8. *Harvest Control Rules and Reference Points.* – The Secretary may establish reference points and harvest control rules in a fishery management area or for a fishery: *Provided, however*, That in municipal waters and fishery management areas, and waters under the jurisdiction of special agencies, Harvest Control Rules and Reference Points may be established upon the concurrence and approval or recommendation of such special agency and the concerned LGU in consultation with the FARMC for conservation or ecological purposes.”

SEC. 7. Section 14 of the Act is hereby amended, as follows:

“SEC. 14. *Monitoring, Control and Surveillance (MCS) of Fishing in all Philippine Waters and Philippine Flagged Distant Water Fishing Vessels.* – A monitoring, control and surveillance system shall be established by the Department in coordination with LGUs, FARMCs, the private sector and other agencies concerned to ensure that the fisheries and aquatic resources in Philippine waters are judiciously and wisely utilized and managed on a sustainable basis and conserved for the benefit and enjoyment exclusively of Filipino citizens. The MCS system shall encompass all Philippine flagged fishing vessels regardless of fishing area and final destination of catch.”

SEC. 8. Section 30 of the same Act is hereby amended, as follows:

“SEC. 30. *Renewal of Commercial Fishing Vessel License.* – The commercial fishing vessel license shall be renewed every three (3) years.

The owner/operator of a fishing vessel has a period of sixty (60) days prior to the expiration of the license within which to renew the same.”

SEC. 9. Section 31 of the same Act is hereby amended, as follows:

“SEC. 31. *Transfer of Ownership.* – The owner/operator of a registered fishing vessel shall notify the Department in writing of any intention to transfer the ownership of the vessel within ten (10) days before its intended transfer to another person. Failure of the owner to do so shall not extinguish any existing or pending sanction or liability with respect to said fishing vessel.

SEC. 10. Section 32 of the same Act is hereby amended, as follows:

“SEC. 32. *Distant Water Fishing.* – Fishing vessels of Philippine registry may engage in distant water fishing as defined in this Code: *Provided,* That they comply with the safety, manning and other requirements of the Philippine Coast Guard, Maritime Industry Authority and other agencies concerned: *Provided, however,* That they secure a fishing permit, gear license and other clearances from the Department: *Provided, further,* That the fish caught by such vessels shall be considered as caught in Philippine waters and therefore not subject to all import duties and taxes only when the same is landed in duly designated fish landings and fish ports in the Philippines: *Provided, furthermore,* That landing ports established by canneries, seafood processors and all fish landing sites established prior to the effectivity of this Code shall be considered authorized landing sites: *Provided, finally,* That fishworkers on board Philippine registered fishing vessels conducting fishing activities beyond the Philippine Exclusive Economic Zone are not considered as overseas Filipino workers.

Distant water fishing vessels shall comply with the monitoring, control and surveillance requirements, conservation and management measures, and fishing access conditions of the Department, the RFMO, or other coastal states.”

SEC. 11. Section 33 of the same Act is hereby amended, as follows:

“SEC. 33. *Importation, Construction of New Fishing Vessels and Gears and Conversion of Other Vessels.* – Prior to the importation or the construction of new fishing vessels or gears, or the conversion into a fishing vessel, the approval/clearance of the Department must first be obtained in order to manage fishing capacity.”

SEC. 12. Section 38 of the same Act is hereby amended, as follows:

“SEC. 38. *Reportorial Requirements.* – Each commercial fishing vessel shall keep a daily record of fish catch and spoilage, landing points, and quantity and value of fish caught, and off-loaded for transshipment, sale and/ or other disposal. Detailed information shall be duly certified by the vessel’s captain and transmitted to BFAR within the period prescribed in the implementing rules and regulations promulgated by the Department. Failure to comply shall result to administrative and penal sanctions.”

SEC. 13. Section 42 of the Act is hereby deleted and replaced with a new Section 42, to read as follows:

“SEC. 42. *Port State Measures.* – The Department is authorized to adopt port state measures that must be complied with by foreign fishing vessels. These measures shall include: prior notification of port entry; use of designated ports; restrictions on port entry and landing or transshipment of fish; restrictions on supplies and services; catch and other documentation requirements; port inspections; and other related measures.

Transshipment by Philippine Flagged Fishing Vessels shall be regulated by the Department in a manner consistent with the Philippines’ commitment to conventions and international agreements.”

SEC. 14. Section 44 of the same Act is hereby amended, as follows:

“SEC. 44. *Use of Superlight or Fishing Light Attractor.* – The number and candle light power or intensity of superlight and fishing light attractor used in commercial fishing vessels shall be regulated by the Department: *Provided,* That the use of superlight is banned within municipal waters and bays. The use of fishing light attractor in municipal waters shall be regulated by the local government units.”

SEC. 15. Section 62 of the same Act is hereby amended, as follows:

“SEC. 62. *Trade-Related Measures.* – Standards for weights, volume, quality and other measurements for all fishery transactions and trade shall be set by the Department.

All fish and fishery products for export, import and domestic consumption shall meet the quality grades/ standards and labeling and information requirements as determined by the Department.

The LGU concerned shall, by appropriate ordinance, penalize fraudulent practices and unlawful possession or use of instrument of weights and measures.

The Department may prescribe trade-related measures to reduce or eliminate trade in fish and fishery products derived from illegal, unregulated and unreported (IUU) fishing.”

SEC. 16. Section 65 of the same Act is hereby amended, as follows:

“SEC. 65. *Functions of the Bureau of Fisheries and Aquatic Resources.* – As a line bureau, the BFAR shall have the following functions:

(a) prepare and implement a Comprehensive National Fisheries Industry Development Plan;

x x x

(r) formulate and implement rules and regulations for the conservation and management of straddling fish stocks, highly migratory fish stocks and threatened living marine resources such as sharks, rays and *ludong*, *inter alia*, in the Philippine Exclusive Economic Zone, territorial sea, archipelagic and internal waters, in coordination with LGUs and integrated/municipal/city Fisheries and Aquatic Resources Management Councils;

(s) train, designate and deploy fisheries observers in Philippine flagged fishing vessels engaged in commercial fishing in Philippine waters or distant water fishing to ensure compliance with conservation and management measures adopted by RFMOS and by the Department;

(t) implement boarding and inspection protocols upon Philippine flagged fishing vessels in order to promote observance to international treaty obligations on food safety, to curb illegal, unreported and unregulated fishing, and to comply with conservation and management measures;

(u) adopt an appropriate monitoring, control, surveillance and traceability system for municipal fishing vessels supplying exporters with concurrence of the local government units;

(v) adopt and implement a national plan of action to manage fishing capacity, implement the international code of conduct for responsible fisheries, and declare fishery management areas as over-exploited in coordination with the LGUs and FARMCs;

(w) require performance bonds and impose and collect reasonable fees and charges for laboratory services, inspection, deployment of fisheries observers, and catch documentation and validation, taking into account the balance required between recovering the costs of services rendered and the socioeconomic impact of their imposition, upon prior consultation with stakeholders;

(x) hear and decide administrative cases before it;

(y) determine the appropriate levels of administrative and other sanctions, particularly for serious violations, that deprive offenders of economic benefits from their violations of the laws, rules and regulations;

(z) initiate the criminal prosecution of offenses committed in violation of this Code regardless of their *situs*; and

(aa) perform such other related functions which shall promote the development, conservation, management, protection and utilization of fisheries and aquatic resources.”

SEC. 17. Chapter VI of Republic Act No. 8550 is hereby repealed and replaced with a new Chapter VI to read as follows:

“CHAPTER VI

PROHIBITIONS AND PENALTIES

SEC. 86. *Unauthorized Fishing.* – (a) It shall be unlawful for any person to capture or gather or to cause the capture or gathering of fish, fry or fingerlings of any fishery species or fishery products without license or permit from the Department or LGU.

Except in cases specified under this Code, it shall also be unlawful for any commercial fishing vessel to fish in municipal waters.

The discovery of any person in possession of a fishing gear or operating a fishing vessel in a fishing area where he has no license or permit shall constitute & *prima facie* presumption that the person is engaged in unauthorized fishing: *Provided*, That fishing for daily food sustenance or for leisure which is not for commercial, occupation or livelihood purposes may be allowed.

Upon a summary finding of administrative liability, the boat captain and the three (3) highest officers of the commercial fishing vessel and the owner or operator who violate this provision shall be penalized with confiscation of catch and gear, and an administrative fine of five (5) times the value of the catch or the amount indicated below, whichever is higher:

(1) Fifty thousand pesos (P50,000.00) to One hundred thousand pesos (P100,000.00) for small-scale commercial fishing;

(2) One hundred fifty thousand pesos (P150,000.00) to Five hundred thousand pesos (P500,000.00) for medium-scale commercial fishing; and

(3) One million pesos (P1,000,000.00) to Five million pesos (P5,000,000.00) for large-scale commercial fishing.

Upon conviction by a court of law, the boat captain and the three (3) highest officers of the commercial fishing vessel shall suffer the penalty of imprisonment of six (6) months and confiscation of catch and gear and twice the amount of the administrative fine.

(b) It shall be unlawful for any person not listed in the registry of municipal fisherfolk to engage in any commercial fishing activity in municipal waters.

Upon a summary finding of administrative liability, the offender of this provision shall be punished with an administrative fine equivalent to twice the value of catch or Five thousand pesos (P5,000.00), whichever is higher, and confiscation of the catch and fishing gear: *Provided*, That if the offender fails to pay the fine, he shall render community service.

SEC. 87. Engaging in Unauthorized Fisheries Activities. – It shall be unlawful for any person to exploit, occupy, produce, breed or culture fish, fry or fingerlings of any fishery species or fishery products or construct and operate fish corrals, fish traps, fish pens and fish cages or fishponds without a license, lease or permit.

The discovery of any person engaging in any of the above activities without a lease, license or permit shall constitute & *prima facie* presumption that the person is engaged in unauthorized fisheries activity.

Upon a summary finding of administrative liability, the offender shall be penalized with an administrative fine of Five hundred thousand pesos (P500,000.00) to One million pesos (P1,000,000.00), the dismantling or removal of the structure at the expense of the offender, the rehabilitation of the area affected by the activity and confiscation of stocks.

Upon conviction by a court of law, the offender shall suffer the penalty of imprisonment of six (6) months, a fine equivalent to twice the amount of the administrative fine, the dismantling or removal of the structure at the expense of the offender, the rehabilitation of the area affected by the activity and confiscation of stocks.

SEC. 88. *Failure to Secure Fishing Permit Prior to Engaging in Distant Water Fishing.* – (a) It shall be unlawful for any person to fish in the high seas, in the territorial seas, archipelagic waters, and Exclusive Economic Zones of other states using a Philippine flagged fishing vessel without first securing a fishing permit from the Department and authorization from the coastal state.

The discovery of any person in possession of a fishing gear or operating a fishing vessel in the abovementioned areas without a fishing permit from the Department or authorization from the coastal state shall constitute a *prima facie* presumption that the person is in violation of this provision.

(b) It shall be unlawful for an owner or operator, and the three (3) highest officers, of a commercial fishing vessel to commit acts that are in contravention of the terms and conditions stated in the fishing permit or as may be promulgated by the Department.

Upon a summary finding of administrative liability, the owner, operator, and the three (3) highest officers of the commercial fishing vessel who violate this section, shall be punished with confiscation of the catch and gear and an administrative fine equivalent to five (5) times the value of the catch or the amount indicated below, whichever is higher:

(1) Two million pesos (P2,000,000.00) to Nine million pesos (P9,000,000.00) for small-scale commercial fishing;

(2) Ten million pesos (P10,000,000.00) to Fifteen million pesos (P15,000,000.00) for medium-scale commercial fishing; and

(3) Sixteen million pesos (P16,000,000.00) to Twenty million pesos (P20,000,000.00) for large-scale commercial fishing vessels less than seven hundred fifty (750) gross tons, and Twenty-five million pesos (P25,000,000.00) to Forty-five million pesos (P45,000,000.00) for large-scale commercial fishing vessels seven hundred fifty (750) gross tons or more.

Upon conviction by a court of law, the three (3) highest officers of the commercial fishing vessel shall suffer the penalty of imprisonment of six (6) months and a fine equivalent to twice the amount of the administrative fine, and confiscation of catch and gear.

SEC. 89. *Unreported Fishing.* – It shall be unlawful for any person to engage in unreported fishing or to fail to comply with the reportorial requirements in Section 38 of this Code.

Upon a summary finding of administrative liability, the owner or operator of the municipal or commercial fishing vessel and the three (3) highest officers of the commercial fishing vessel who commit unreported fishing within waters of national jurisdiction shall be punished by an administrative fine equivalent to the value of the catch or the amount indicated below, whichever is higher:

(1) Five thousand pesos (P5,000.00) for municipal fishing: *Provided*, That if the offender fails to pay the fine, he shall render community service;

(2) One hundred thousand pesos (P100,000.00) for small-scale commercial fishing;

(3) Two hundred thousand pesos (P200,000.00) for medium-scale commercial fishing; and

(4) Five hundred thousand pesos (P500,000.00) for large-scale commercial fishing.

In case of unreported fishing committed in waters beyond national jurisdiction, the owner, operator, and the three (3) highest officers of the commercial fishing vessel shall be penalized with an administrative fine equivalent to five (5) times the value of the catch or the amount indicated below, whichever is higher:

(1) Two million pesos (P2,000,000.00) to Nine million pesos (P9,000,000.00) for small-scale commercial fishing;

(2) Ten million pesos (P10,000,000.00) to Fifteen million pesos (P15,000,000.00) for medium-scale commercial fishing; and

(3) Sixteen million pesos (P16,000,000.00) to Twenty million pesos (P20,000,000.00) for large-scale commercial fishing vessels less than seven hundred fifty (750) gross tons, and Twenty-five million pesos (P25,000,000.00) to Forty-five million pesos (P45,000,000.00) for large-scale commercial fishing vessels seven hundred fifty (750) gross tons or more.

Upon conviction by a court of law, the three (3) highest officers of the commercial fishing vessel shall suffer the penalty of imprisonment of six (6) months and a fine equivalent to twice the amount of the administrative fine, and confiscation of catch and gear.

SEC. 90. *Unregulated Fishing.* – It shall be unlawful for any person to engage in unregulated fishing in waters within and beyond national jurisdiction.

Upon a summary finding of administrative liability, the owner, operator, of the municipal or commercial fishing vessel and the three (3) highest officers of the commercial fishing vessel who commit unregulated fishing within waters of national jurisdiction shall be punished by confiscation of catch and gear and an administrative fine equivalent to the value of the catch or amount indicated below, whichever is higher:

(1) Five thousand pesos (P5,000.00) for municipal fishing: *Provided*, That if the offender fails to pay the fine, he shall render community service;

(2) One hundred thousand pesos (P100,000.00) for small-scale commercial fishing;

(3) Two hundred thousand pesos (P200,000.00) for medium-scale commercial fishing; and

(4) Five hundred thousand pesos (P500,000.00) for large-scale commercial fishing.

In case of unregulated fishing committed in waters beyond national jurisdiction, the owner, operator, and the three (3) highest officers of the commercial fishing vessel shall be penalized with confiscation of catch and gear, and an administrative fine equivalent to five (5) times the value of the catch or the amount indicated below, whichever is higher:

(1) Two million pesos (P2,000,000.00) to Nine million pesos (P9,000,000.00) for small-scale commercial fishing;

(2) Ten million pesos (P10,000,000.00) to Fifteen million pesos (P15,000,000.00) for medium-scale commercial fishing; and

(3) Sixteen million pesos (P16,000,000.00) to Twenty million pesos (P20,000,000.00) for large-scale commercial fishing vessels less than seven hundred fifty (750) gross tons, and Twenty-five million pesos (P25,000,000.00) to Forty-five million pesos (P45,000,000.00) for large-scale commercial fishing vessels seven hundred fifty (750) gross tons or more.

Upon conviction by a court of law, the three (3) highest officers of the commercial fishing vessel shall suffer the penalty of imprisonment of six (6) months and a fine equivalent to twice the amount of the administrative fines, confiscation of catch and gear.

SEC. 91. *Poaching in Philippine Waters.* – It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

The entry of any foreign fishing vessel in Philippine waters shall constitute a *prima facie* presumption that the vessel is engaged in fishing in Philippine waters.

Upon a summary finding of administrative liability, any foreign person, corporation or entity in violation of this section shall be punished by an administrative fine of Six hundred thousand US dollars (US\$600,000.00) to One million US dollars (US\$1,000,000.00) or its equivalent in Philippine currency.

Upon conviction by a court of law, the offender shall be punished with a fine of One million two hundred thousand US dollars (US\$1,200,000.00), or its equivalent in Philippine currency, and confiscation of catch, fishing equipment and fishing vessel.

If the offender is caught within internal waters, an additional penalty of imprisonment of six (6) months and one (1) day to two (2) years and two (2) months shall be imposed. If apprehended for the second time within internal waters, the offender shall be punished with imprisonment of three (3) years and a

fine of Two million four hundred thousand US dollars (US\$2,400,000.00) or its equivalent in Philippine currency: *Provided*, That no foreign person shall be deported without the payment of the imposed judicial and/or administrative fines and service of sentence, if any.

SEC. 92. *Fishing Through Explosives, Noxious or Poisonous Substance, or Electricity.* – (a) It shall be unlawful for any person to catch, take or gather or cause to be caught, taken or gathered fish or any fishery species in Philippine waters with the use of explosives, noxious or poisonous substance such as sodium cyanide, which will kill, stupefy, disable or render unconscious fish or fishery species: *Provided*, That the Department, subject to such safeguards and conditions deemed necessary and with the endorsement from the concerned LGUs, may allow, for research, educational or scientific purposes only, the use of poisonous or noxious substances to catch, take or gather fish or fishery species: *Provided, further*, That the use of poisonous or noxious substances to eradicate predators and pests in fishponds in accordance with accepted scientific practices and without causing adverse environmental impact in neighboring waters and grounds shall not be construed as illegal fishing.

The discovery of dynamite, other explosives and chemical compounds which contain combustible elements, or noxious or poisonous substances, or equipment or device for electrofishing in any fishing vessel or in the possession of any fisherfolk, operator, fishing boat official or fishworker shall constitute a *prima facie* presumption that any of these devices was used for fishing in violation of this Code.

The discovery in any fishing vessel of fish caught or killed with the use of explosives, noxious or poisonous substances, or by electricity shall constitute a *prima facie* presumption that the fisherfolk, operator, boat official or fishworker is fishing with the use thereof.

Upon a summary finding of administrative liability, any person found liable for the actual use of explosives, noxious or poisonous substances shall be punished with confiscation of catch including those not caught illegally if co-mingled with those caught illegally, gear, explosives and noxious or poisonous substances, or electrofishing devices and paraphernalia and gear, and an administrative fine equivalent to five (5) times the value of the catch or the amount of fine indicated below whichever is higher:

- (1) Thirty thousand pesos (P30,000.00) for municipal fishing;
- (2) Three hundred thousand pesos (P300,000.00) for small-scale commercial fishing;
- (3) One million five hundred thousand pesos (P1,500,000.00) for medium scale commercial fishing;
and
- (4) Three million pesos (P3,000,000.00) for large scale commercial fishing.

Upon conviction by a court of law, the offender shall be punished with imprisonment from five (5) to ten (10) years, confiscation of catch, including those not caught illegally if co-mingled with those caught illegally, gear, explosives and noxious or poisonous substances, or electrofishing devices and paraphernalia, gear, and a fine equivalent to twice the amount of the administrative fine, without prejudice to the filing of separate criminal cases when the use of the same result to physical injury or loss of human life.

The actual use of electrofishing devices for illegal fishing shall be punished with imprisonment of six (6) months and a fine of Five thousand pesos (P5,000.00).

(b) It shall be unlawful for any person to possess explosives, and noxious or poisonous substances for illegal fishing.

Upon a summary finding of administrative liability, the offender shall be punished with confiscation of catch, gear, and an administrative fine equivalent to five (5) times the value of the catch or the amount indicated below whichever is higher:

- (1) Ten thousand, pesos (P10,000.00) for municipal fishing;
- (2) One hundred thousand pesos (P100,000.00) for small-scale commercial fishing;
- (3) Five hundred thousand pesos (P500,000.00) for medium scale commercial fishing; and
- (4) One million pesos (P1,000,000.00) for large scale commercial fishing.

Violation of this provision shall be punished with imprisonment from six (6) months to two (2) years, and a fine equivalent to twice the amount of the administrative fine and confiscation of catch and gear.

SEC. 93. *Use of Fine Mesh Net.* – It shall be unlawful to engage in fishing using nets with mesh smaller than that which may be determined by the Department: *Provided,* That the prohibition on the use of fine mesh net shall not apply to the gathering of fry, glass eels, elvers, tabios, and *alamang* and other species that by their nature are small but already mature, as identified in the implementing rules and regulations by the Department.

The discovery of a fine mesh net in a fishing vessel shall constitute a *prima facie* presumption that the person or fishing vessel is engaged in fishing with the use of fine mesh net.

Upon a summary finding of administrative liability, the Department shall penalize the owner, operator, captain or master fisherman in case of commercial fishing vessel, or the municipal fisherfolk, with confiscation of the catch and fishing gear, and an administrative fine equivalent to three (3) times the value of the catch or the value indicated below, whichever is higher:

- (1) Twenty thousand pesos (P20,000.00) for municipal fishing: *Provided*, That if the municipal fisherfolk fails to pay the fine, he shall render community service;
- (2) Fifty thousand pesos (P50,000.00) for small-scale commercial fishing;
- (3) One hundred thousand pesos (P100,000.00) for medium-scale commercial fishing;
- (4) Two hundred thousand pesos (P200,000.00) for large-scale commercial fishing.

Upon conviction by a court of law, the captain or master fisherman in case of commercial fishing vessel, or the municipal fisherfolk, shall be punished by imprisonment of six (6) months to two (2) years and a fine equivalent to twice the administrative fine, and confiscation of catch and gear.

SEC. 94. Fishing in Overexploited Fishery Management Areas. – It shall be unlawful for any person to fish in fishery management areas declared as overexploited.

Upon a summary finding of administrative liability, the offender shall be punished with confiscation of catch and fishing gears, and an administrative fine equivalent to the value indicated below:

- (1) Three (3) times the value of catch or Twenty thousand pesos (P20,000.00), whichever is higher, for municipal fishing: *Provided*, That if the offender fails to pay the fine, he shall render community service;
- (2) Five (5) times the value of catch or One hundred thousand pesos (P100,000.00), whichever is higher, for small-scale commercial fishing;
- (3) Five (5) times the value of catch or Three hundred thousand pesos (P300,000.00), whichever is higher, for medium-scale commercial fishing;
- (4) Five (5) times the value of catch or Five hundred thousand pesos (P500,000.00), whichever is higher, for large-scale commercial fishing.

Upon conviction by a court of law, the offender shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and fine of Five hundred thousand pesos (P500,000.00) to Five million pesos (P5,000,000.00), confiscation of the catch and fishing equipment used, and cancellation of fishing permit or license.

SEC. 95. Use of Active Gear in Municipal Waters, Bays and Other Fishery Management Areas. – It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears as defined in this Code.

Upon a summary finding of administrative liability, the owner, operator, boat captain and master fisherman of the vessel, or the chief executive officer in a corporation, or the managing partner in a partnership shall be punished with confiscation of the catch and fishing gears, and a fine three (3) times the value of the catch or the value indicated below, whichever is higher:

(1) Twenty thousand pesos (P20,000.00) for municipal fishing: *Provided*, That if the offender fails to pay the fine, he shall render community service;

(2) Fifty thousand pesos (P50,000.00) for small-scale commercial fishing;

(3) One hundred thousand pesos (P100,000.00) for medium-scale commercial fishing; and

(4) Five hundred thousand pesos (P500,000.00) for large-scale commercial fishing.

Upon conviction by a court of law, the offender shall be punished with imprisonment of two (2) years to six (6) years and fine equivalent to twice the administrative fine, confiscation and forfeiture of fishing gear and catch.

SEC. 96. *Ban on Coral Exploitation and Exportation.* – It shall be unlawful for any person or corporation to gather, possess, commercially transport, sell or export ordinary, semi-precious and precious corals, whether raw or in processed form, except for scientific or research purposes. It shall also be unlawful for any person, corporation or entity to commit any activity that damage coral reefs.

Upon a summary finding of administrative liability, the owner/operator of the fishing vessel/s, boat captain, master fisherman, and recruiter or organizer of fishworkers shall be punished with an administrative fine equivalent to eight (8) times the value of the corals gathered, possessed, commercially transported, sold, or exported, or the amount of Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), whichever is higher, and forfeiture of the subject corals. The offender shall also pay compensation for the restoration of the damaged coral reefs.

Upon conviction by a court of law, the boat captain, master fisherman, and recruiter or organizer of fishworkers, shall be punished by imprisonment from ten (10) years to twenty (20) years and a fine equivalent to twice the administrative fine and forfeiture of the subject corals.

The offender shall also be required to pay the cost of restoration of the damaged coral reefs based on available studies and as determined by the Department.

SEC. 97. *Ban on Muro-ami, Other Methods and Gear Destructive to Coral Reefs and Other Marine Habitat.* – (a) It shall be unlawful for any person, natural or juridical, to fish with gear or method that destroys coral reefs, seagrass beds, and other fishery marine life habitat as may be determined by the

Department. *'Muro-ami'* and any of its variation, and such similar gears and methods that require diving, other physical or mechanical acts to pound the coral reefs and other habitat to entrap, gather or catch fish and other fishery species are also prohibited.

Upon a summary finding of administrative liability, the owner, operator, boat captain, master fisherman, and recruiter or organizer of fishworkers who violate this provision shall suffer the penalty of an administrative fine equivalent to five (5) times the value of the fish caught or Two million pesos (P2,000,000.00), whichever is higher, and confiscation of catch and gear. The fishworkers who serve as pounders shall be penalized with a fine of Twenty thousand pesos (P20,000.00) or community service in case of failure to pay the fine.

Upon conviction by a court of law, the boat captain, master fisherman, and recruiter or organizer of fishworkers shall be punished with imprisonment of two (2) years to ten (10) years and a fine equivalent to twice the amount of the administrative fine.

(b) Except in cases allowed by law, it shall be unlawful for any person, natural or juridical, to gather, possess, commercially transport, sell or export coral sand, coral fragments, coral rocks, silica, and any other substances which make up any marine habitat.

Upon a summary finding of administrative liability, the person or corporation who violates this provision shall be punished with an administrative fine of Five million pesos (P5,000,000.00) or five (5) times the value of the coral rocks, sand, or silica gathered, possessed, commercially transported, sold, or exported, whichever is higher, and confiscation of the substance.

Upon conviction by a court of law, the offender shall suffer the penalty of imprisonment from two (2) years to ten (10) years and a fine equivalent to twice the administrative fine, confiscation of catch or substances and equipment or gear used.

SEC. 98. *Illegal Use of Superlights or Fishing Light Attractor.* – It shall be unlawful to engage in fishing with the use of superlight in municipal waters, or to fish with fishing light attractor using candlelight power or intensity beyond the standards set by the Department in consultation with the LGUs for fishing in municipal waters, or in violation of the rules promulgated by the Department for fishing with the use of superlight or fishing light attractor outside municipal waters.

Upon a summary finding of administrative liability, the offender shall be punished by a fine of Twenty thousand pesos (P20,000.00) per superlight or fishing light attractor, and confiscation of catch, superlight or fishing light attractor and gears: *Provided*, That if the offender is a municipal fisherfolk, he may render community service in lieu of fine.

Upon conviction by a court of law, the offender shall be punished with imprisonment from six (6) months to two (2) years and a fine of Forty thousand pesos (P40,000.00) per superlight or fishing light attractor, and confiscation of catch, superlight or fishing light attractor and gears: *Provided*, That if the offender is a municipal fisherfolk, he may render community service in lieu of fine or imprisonment.

SEC. 99. *Conversion of Mangroves.* – It shall be unlawful for any person to convert mangroves into fishponds or for any other purpose.

Upon a summary finding of administrative liability, the offender shall be penalized with a fine equivalent to the ecological value of a hectare of mangrove based on available studies or administrative fine of Ten million pesos (P10,000,000.00) per hectare, whichever is higher: *Provided*, That if the area requires rehabilitation or restoration as determined by the Department, the offender shall also be required to restore or pay for the restoration of the damaged area.

Upon conviction by a court of law, the offender shall pay a base fine of Eighty thousand pesos (P80,000.00), a fine equivalent to the administrative penalties, and shall suffer the penalty of imprisonment of six (6) months and one (1) day to twelve (12) years: *Provided*, That if the area requires rehabilitation or restoration as determined by the court, the offender shall also be required to restore or pay for the restoration of the damage. The offender shall be liable for environmental damages computed at Five hundred thousand pesos (P500,000.00) per hectare per year until the area is restored.

SEC. 100. *Fishing During Closed Season.* – It shall be unlawful to fish during closed season.

Upon a summary finding of administrative liability, the offender shall be punished with confiscation of catch and gear and an administrative fine of:

- (1) Three times the value of the catch or Twenty thousand pesos (P20,000.00) for municipal fishing, whichever is higher: *Provided*, That if the offender fails to pay the fine, community service shall be rendered;
- (2) Five times the value of the catch or One hundred thousand pesos (P100,000.00), whichever is higher for small-scale commercial fishing;
- (3) Five times the value of catch or Three hundred thousand pesos (P300,000.00), whichever is higher for medium-scale commercial fishing; and
- (4) Five times the value of catch or Five hundred thousand pesos (P500,000.00), whichever is higher for large-scale commercial fishing.

Upon conviction by a court of law, the offender shall be punished with imprisonment of six (6) months and one (1) day to six (6) years, confiscation of catch and gear, and fine twice the amount of the administrative fine and cancellation of license or permit.

SEC. 101. *Fishing in Marine Protected Areas, Fishery Reserves, Refuge and Sanctuaries.* – It shall be unlawful to fish in marine protected areas, fishery reserves, refuge, or fish sanctuaries as declared by the Department or the LGUs.

Upon a summary finding of administrative liability, the offender shall be punished with confiscation of catch and gear, and administrative fine of twice the value of the catch or the amount indicated below, whichever is higher:

- (1) Twenty thousand pesos (P20,000.00) for municipal fishing: *Provided*, That if the offender fails to pay the fine, community service shall be rendered;
- (2) Two hundred thousand pesos (P200,000.00) for small-scale commercial fishing;
- (3) Six hundred thousand pesos (P600,000.00) for medium-scale commercial fishing; and
- (4) One million pesos (P1,000,000.00) for large-scale commercial fishing.

Upon conviction by a court of law, violation of this provision shall be punished by imprisonment of two (2) years to six (6) years and a fine twice the amount of the administrative fine, confiscation of catch and gear, and cancellation of license or permit.

SEC. 102. *Fishing or Taking of Rare, Threatened or Endangered Species.* – (a) It shall be unlawful to fish or take, catch, gather, sell, purchase, possess, transport, export, forward or ship out aquatic species listed in Appendix I of the Convention on the International Trade in Endangered Species of Wild Flora and Fauna (CITES), or those categorized by the International Union for Conservation of Nature and Natural Resources (IUCN) as threatened and determined by the Department as such.

Upon a summary finding of administrative liability, the Department shall penalize the offender with a fine equivalent to five times (5) times the value of the species or Five hundred thousand pesos (P500,000.00) to Five million pesos (P5,000,000.00), whichever is higher, and forfeiture of the species.

Upon conviction by a court of law, the offender shall be punished by imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine equivalent to twice the administrative fine, forfeiture of the species and the cancellation of fishing permit.

(b) It shall be unlawful to fish, take, catch, gather, sell, purchase, possess, transport, export, forward or ship out aquatic species listed in CITES Appendices II and III if scientific assessments show that population of the species in the wild cannot remain viable under pressure of collection and trade: *Provided*, That the taking or fishing of these species from the wild for scientific research, or conservation breeding simultaneous with commercial breeding may be allowed.

Upon a summary finding of administrative liability, the Department shall penalize the offender with a fine equivalent to three (3) times the value of the species or Three hundred thousand pesos (P300,000.00) to Three million pesos (P3,000,000.00), whichever is higher, and forfeiture of the species.

Upon conviction by a court of law, the offender shall be punished by imprisonment of five (5) to eight (8) years and a fine equivalent to twice the administrative fine and forfeiture of the species.

(c) It shall be unlawful to gather, take, possess, transport, or export, forward or ship out captive-bred species that have been transplanted to the wild.

Upon a summary finding of administrative liability, the offender shall be penalized with a fine equivalent to three (3) times the value of the species or Three hundred thousand pesos (P300,000.00) to Three million pesos (P3,000,000.00), whichever is higher, and forfeiture of the species.

Upon conviction by a court of law, the offender shall be punished by imprisonment of five (5) to eight (8) years, a fine equivalent to three (3) times the value of the species or Three million pesos (P3,000,000.00), whichever is higher, and forfeiture of the species.

Should the violation be committed by a vessel manned by more than two (2) persons, the captain, master, and two highest ranking officers of the vessel involved in the fishing or taking of such protected marine life shall be presumed to have committed the prohibited act.

SEC. 103. *Capture of Sabalo and Other Breeders/Spawners.* – It shall be unlawful for any person to catch, gather, capture or possess mature milkfish or *sabalo* and other breeders or spawners of other fishery species as may be determined by the Department: *Provided*, That catching of *sabalo* and other breeders/spawners for local breeding purposes or scientific or research purposes may be allowed subject to guidelines that shall be promulgated by the Department.

Upon a summary finding of administrative liability, an offender shall be punished with a fine equivalent to five (5) times the value of the *sabalo*, other breeders, or spawners gathered or captured, or Five hundred thousand pesos (P500,000.00), whichever is higher, and forfeiture of catch and gear.

Upon conviction by a court of law, the offender shall be punished by imprisonment of six (6) months and one (1) day to eight (8) years and a fine equivalent to twice the amount of the administrative fine, forfeiture of catch and fishing equipment used, and suspension or revocation of license.

SEC. 104. *Exportation of Breeders, Spawners, Eggs or Fry.* – Exportation of breeders, spawners, eggs or fry as prohibited in this Code shall be punished under this Act: *Provided,* That the export of hatchery-bred or captive-bred breeder, spawner, egg or fry, may be allowed subject to the regulations to be promulgated by the Department.

Failure on the part of the shipping or forwarding company from whose possession the breeders, spawners, eggs, or fry are discovered or seized to fully cooperate in the investigation conducted by concerned government authorities on the matter shall create a presumption that there is connivance or conspiracy between the company and the shipper to violate the provisions of this section.

Upon a summary finding of administrative liability, the offender shall be punished with an administrative fine equivalent to three (3) times the value of the breeders, spawners, eggs, or fry exported or One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00), whichever is higher, confiscation of breeders, spawners, eggs or fry, suspension or revocation of license for commercial fishing and/or registration as exporter.

Upon conviction by a court of law, the offender shall be punished by imprisonment of eight (8) years to ten (10) years, confiscation of breeders, spawners, eggs or fry, a fine equivalent to twice the amount of the administrative fine, revocation of the fishing license, and/or suspension or revocation of registration as exporter.

SEC. 105. *Importation or Exportation of Fish or Fishery Species.* – Any importation or exportation of fish or fishery species in violation of this Code shall be unlawful.

Failure on the part of the shipping or forwarding company from whose possession the fish or fishery species imported or exported are discovered or seized to fully cooperate in the investigation conducted by concerned government authorities shall create a presumption that there is connivance or conspiracy between the shipping company and the shipper to perpetrate the aforementioned offense.

Upon a summary finding of administrative liability, the offender shall be punished with an administrative fine of five (5) times the value of the species or Three hundred thousand pesos (P300,000.00) to Five hundred thousand pesos (P500,000.00), whichever is higher, and forfeiture and/or destruction of the species.

Upon conviction by a court of law, the offender shall be punished with eight (8) years of imprisonment and fine of twice the administrative fine, forfeiture and/or destruction of the species: *Provided*, That offenders shall be banned from being members or stockholders of companies currently engaged in fisheries or companies to be created in the future, the guidelines for which shall be promulgated by the Department.

SEC. 106. *Violation of Harvest Control Rules.* – It shall be unlawful for any person to fish in violation of harvest control rules as determined by the Department.

Upon a summary finding of administrative liability, the offender shall be punished with confiscation of catch and fishing gear, revocation of license and an administrative fine of:

(1) Three times the value of the catch or Twenty thousand pesos (P20,000.00) for municipal fishing, whichever is higher: *Provided*, That if the offender fails to pay the fine, community service shall be rendered;

(2) Five times the value of the catch or One hundred thousand pesos (P100,000.00) whichever is higher for small-scale commercial fishing;

(3) Five times the value of the catch or One million pesos (P1,000,000.00), whichever is higher for medium-scale commercial fishing; and

(4) Five times the value of the catch or Five million pesos (P5,000,000.00), whichever is higher, for large-scale commercial fishing.

Upon conviction by a court of law, the offender shall be punished with imprisonment of six (6) months and one (1) day to six (6) years and a fine twice the administrative fine, confiscation of catch and fishing gear, and revocation of license.

SEC. 107. *Aquatic Pollution.* – Aquatic pollution, as defined in this Code, shall be unlawful.

Upon a summary finding of administrative liability, the offender shall be punished with fine of Three hundred thousand pesos (P300,000.00) to Five hundred thousand pesos (P500,000.00) and an additional fine of Fifteen thousand pesos (P15,000.00) per day until the violation ceases and the fines are paid, the imposition of cease and desist order, closure or suspension of the development, construction or facility, or cessation of operations, or disconnection of water supply. The order may be issued *ex parte* pending resolution of the case.

Upon conviction by a court of law, the offender shall be punished with imprisonment of six (6) years and one (1) day to twelve (12) years and a fine twice the amount of the administrative fine and an additional fine of Fifteen thousand pesos (P15,000.00) per day until the violation ceases and the fines

are paid, the imposition of cease and desist order, closure or suspension of the development, construction or facility, or cessation of operations, or disconnection of water supply. The order may be issued *ex parte* pending resolution of the case.

SEC. 108. *Failure to Comply with Minimum Safety Standards.* – The owner and captain of a commercial fishing vessel engaged in fishing who, upon demand by proper authorities, fails to exhibit or show proof of compliance with the safety standards provided in this Code shall be liable administratively and criminally.

Upon apprehension, the fishing vessel shall be escorted to the nearest port or landing point and prevented from continuing with the fishing activity.

Upon a summary finding of administrative liability, the offender shall be punished with an administrative fine of One hundred thousand pesos (P100,000.00) and suspension or cancellation of permit or license and impoundment of the vessel until the safety standard has been complied with.

Upon conviction by a court of law, the offender shall suffer the penalties of imprisonment from one (1) month and one (1) day to six (6) months and a fine of twice the amount of the administrative fine, suspension or cancellation of permit or license and impoundment of the vessel until the safety standard has been complied with.

SEC. 109. *Failure to Submit a Yearly Report on All Fishponds, Fish Pens and Fish Cages.* – It shall be unlawful for owners and operators of fishponds, fishpens and fish cages to fail to submit an annual report to the Department pursuant to Section 57 of this Code.

Upon summary finding of administrative liability, the owner of the fishpond, fishpen or fish cage shall be imposed a fine of Five thousand pesos (P5,000.00) per unreported hectare. In case the fishpond is covered by FLA, nonsubmission of a report for two (2) consecutive years shall result to its cancellation.

Upon conviction by a court of law, the offender shall be punished with twice the amount of the administrative fine.

SEC. 110. *Gathering and Marketing of Shell Fishes or Other Aquatic Species.* – It shall be unlawful for any person to gather, take, sell, transfer, possess, commercially transport, export, forward or ship out any sexually mature shell fish or other aquatic species identified by the Department, or below the minimum size, or above the maximum quantities prescribed for the species. Other parameters for the protection of heavily traded aquatic species may be promulgated by the Department.

Upon a summary finding of administrative liability, the penalty of an administrative fine equivalent to the value of the species or Fifty thousand pesos (P50,000.00), whichever is higher, and confiscation of the same, cancellation of permit or license shall be imposed upon the offender.

Upon conviction by a court of law, the offender shall be punished by imprisonment from one (1) month and one (1) day to six (6) months and fine equivalent to twice the amount of the administrative fine, and cancellation of the permit or license.

SEC. 111. *Obstruction to Navigation or Flow or Ebb of Tide in any Stream, River, Lake or Bay.* – It shall be unlawful for any person to cause obstruction to navigation or flow or ebb of tide.

Upon a summary finding of administrative liability, the offender shall be punished with a fine of Two hundred thousand pesos (P200,000.00) and the dismantling of the obstruction, fish corrals/traps, fish pens or fish cages at the expense of the offender.

Upon conviction by a court of law, the offender shall be punished with imprisonment from one (1) month and one (1) day to six (6) months and fine of twice the amount of the administrative fine, confiscation of stocks and dismantling of the obstruction, fish corrals/traps, fish pens or fish cages at the expense of the violator.

SEC. 112. *Noncompliance with Good Aquaculture Practices.* – Fishery operations involving the breeding and farming of fish and other fishery species shall comply with good aquaculture practices and the guidelines for environmentally-sound design and operation for the sustainable development of the aquaculture industry which shall be promulgated by the Department.

Upon a summary finding of administrative liability, the offender who commits any violation of the rules and regulations, or provisions thereof, shall be punished with an administrative fine of Ten thousand pesos (P10,000.00) to One hundred thousand pesos (P100,000.00) per day until the violation ceases and the fines are paid.

Upon conviction by a court of law, the offender shall be punished with imprisonment of three (3) years and fine of twice the amount of the administrative fine.

SEC. 113. *Commercial Fishing Vessel Operators Employing Unlicensed Fisherfolk, Fishworker or Crew.* –

(a) The owner or operator of a commercial fishing vessel employing unlicensed fisherfolk or fishworker or crew shall, upon a summary finding of administrative liability, be fined Four thousand pesos (P4,000.00) for each unlicensed fisherfolk or fishworker or crew and suspension or revocation of license for commercial fishing.

(b) It shall likewise be unlawful for Philippine flagged fishing vessels engaged in distant water fishing to employ unlicensed fisherfolk or fishworker or crew.

The owner and operator of the distant water fishing vessel, upon a summary finding of administrative liability, shall be fined Forty thousand pesos (P40,000.00) for each unlicensed fisherfolk, fishworker or crew and suspension or cancellation of license.

The owner and operator of the commercial fishing vessel or distant water fishing vessel shall upon conviction by a court of law, be fined with twice the amount of the administrative fine and suspension or cancellation of license.

SEC. 114. *Obstruction of Defined Migration Paths.* – It shall be unlawful for any person to obstruct any defined migration path of anadromous, catadromous and other migratory species.

Upon a summary finding of administrative liability, the offender shall be punished with an administrative fine of One hundred fifty thousand pesos (P150,000.00) to Five hundred thousand pesos (P500,000.00), dismantling of the obstruction at the expense of the offender, and the suspension or revocation of the permit or license.

Upon conviction by a court of law, the offender shall be punished with imprisonment of seven (7) years to twelve (12) years and fine of twice the amount of the administrative fine, dismantling of the obstruction at the expense of the offender, and the suspension or revocation of the permit or license.

SEC. 115. *Obstruction to Fishery Law Enforcement Officer.* – The fishing vessel owner, master or operator or any other person acting on behalf of any fishing vessel who assaults, resists, intimidates, harasses, seriously interferes with, or unduly obstructs or delays a fishery law enforcement officer, authorized inspector or observer, the deputized fishwarden of the LGU, or any lawfully-boarding government officers, in the exercise of their duties shall be penalized under this Code. Any person who does not allow any authorized officer or an observer to exercise any of the legal duties shall be deemed to be obstructing that officer or person.

Upon a summary finding of administrative liability, the offender shall be punished with cancellation of license or permit and an administrative fine of One million pesos (P1,000,000.00) for fishing vessels operating in Philippine waters or Two million pesos (P2,000,000.00) for fishing vessels operating beyond Philippine waters.

Upon conviction by a court of law, the offender shall be punished with imprisonment from six (6) months to two (2) years and a fine twice the amount of the administrative fine and cancellation of license or permit.

SEC. 116. *Noncompliance with Fisheries Observer Coverage.* – (a) It shall be unlawful for Philippine distant water fishing vessel to sail without a fisheries observer on board as required by RFMO conservation and management measures.

(b) It shall be unlawful for commercial fishing vessels to sail without a fisheries observer in compliance with this Code and the rules and regulations promulgated by the Department.

Upon a summary finding of administrative liability, an offender shall be punished with a fine of Five hundred thousand pesos (P500,000.00) and forfeiture of the catch and gear.

Upon conviction by a court of law, the offender shall be punished with imprisonment of one (1) month and one (1) day to six (6) months and fine of twice the amount of the administrative fine, confiscation of catch and suspension or cancellation of license.

SEC. 117. Noncompliance with Port State Measures. – No foreign fishing vessel shall be allowed entry without providing at least twenty-four (24)-hour prior notice. When a foreign fishing vessel is granted entry, failure to provide a catch report shall be deemed unlawful. It shall likewise be unlawful for any person to fail to comply with other rules on port state measures promulgated by the Department in coordination with port state authorities.

Failure to comply with the 24-hour period may result in denial of permission to enter or use of port facilities and the vessel may be subject to onboard inspection and/or impoundment.

SEC. 118. Failure to Comply with Rules and Regulations on Conservation and Management Measures. – It shall be unlawful for any person to fail to comply with conservation and management measures adopted in rules and regulations to be promulgated by the Department pursuant to international conventions, RFMO resolutions and laws of coastal states where Philippine vessels fish.

Upon a summary finding of administrative liability, violation of the rules and regulations promulgated by the Department shall be punished with confiscation of catch and suspension or cancellation of license or permit and an administrative fine of twice the value of the catch or the amount indicated below whichever is higher:

- (1) Twenty thousand pesos (P20,000.00) for municipal fishing or community service in case of failure to pay the fine;
- (2) One million pesos (P1,000,000.00) for small-scale commercial fishing;
- (3) Two million five hundred thousand pesos (P2,500,000.00), for medium-scale commercial fishing; and
- (4) Five million pesos (P5,000,000.00), for large-scale commercial fishing.

Upon conviction by a court of law, the offender shall be punished with imprisonment of six (6) months and fine twice the amount of the administrative fine, and confiscation of the catch and suspension or cancellation of license.

SEC. 119. *Noncompliance with Vessel Monitoring Measures.* – No municipal, commercial or distant water fishing vessel shall engage in fishing activity without complying with the vessel monitoring measures promulgated by the Department in coordination with the LGUs: *Provided*, That for vessels operating in Philippine waters, only the catcher vessel shall be covered by this requirement. It shall also be unlawful to intentionally tamper with, switch off or disable the vessel monitoring system.

Upon a summary finding of administrative liability, the fishing vessel owner, master or any other person acting on behalf of the vessel owner shall be punished with confiscation of catch, suspension or revocation of the license and an administrative fine equivalent to twice the value of the catch or the amount indicated below, whichever is higher:

- (1) Ten thousand pesos (P10,000.00) for municipal fishing or community service in case of failure to pay the fine;
- (2) Two hundred fifty thousand pesos (P250,000.00) for small-scale commercial fishing;
- (3) Five hundred thousand pesos (P500,000.00) for medium-scale commercial fishing; and
- (4) Two million five hundred thousand pesos (P2,500,000.00) for large-scale commercial fishing.

In case of violation committed in waters beyond national jurisdiction, the administrative fine shall be equivalent to five times the value of the catch or twice the amount indicated above, whichever is higher.

Upon conviction by a court of law, the master or any other person acting on behalf of the vessel owner shall be punished with imprisonment of six (6) months to two (2) years and fine twice the amount of the administrative fine, confiscation of catch and suspension or revocation of the license.

SEC. 120. *Constructing, Importing or Converting Fishing Vessels or Gears Without Permit from the Department.* – It shall be unlawful for any person to construct or import fishing vessels or gears or to convert other vessels into fishing vessels without permit from the Department.

Upon a summary finding of administrative liability, the offender shall be imposed the penalty of an administrative fine of:

- (1) Fifty thousand pesos (P50,000.00) for small-scale commercial fishing;
- (2) Five hundred thousand pesos (P500,000.00) for medium-scale commercial fishing; and

(3) Two million five hundred thousand pesos (P2,500,000.00) for large-scale commercial fishing.

Upon conviction by a court of law, the offender shall suffer the penalty of imprisonment from one (1) month and one (1) day to six (6) months and fine of twice the amount of the administrative fine.

SEC. 121. *Use of Unlicensed Gear.* – Any person who uses a fishing gear or method for commercial fishing without license from the Department shall, upon a summary finding of administrative liability, be fined from Two hundred thousand pesos (P200,000.00) to Five hundred thousand pesos (P500,000.00) per gear depending on the seriousness of the violation.

Upon conviction by a court of law, the offender shall be imposed the penalty of fine from Four hundred thousand pesos (P400,000.00) to One million pesos (P1,000,000.00) depending on the seriousness of the violation.

SEC. 122. *Falsifying, Concealing or Tampering with Vessel Markings, Identity or Registration.* – It shall be unlawful for any person to falsify, conceal vessel identity or lack of registration or tamper with the vessel markings, identity or registration.

Upon a summary finding of administrative liability, the offender shall be imposed the penalty of confiscation of catch and suspension or cancellation of license and an administrative fine of:

(1) Ten thousand pesos (P10,000.00) for municipal fishing or community service in case of failure to pay the fine;

(2) One hundred thousand pesos (P100,000.00) for small-scale commercial fishing;

(3) One million pesos (P1,000,000.00) for medium-scale commercial fishing; and

(4) Five million pesos (P5,000,000.00) for large-scale commercial fishing.

In case of violation by distant water fishing vessels, the administrative fine shall be twice the amount indicated above.

Upon conviction by a court of law, the offender shall suffer the penalty of imprisonment from two (2) years to six (6) years and a fine equivalent to twice the amount of the administrative fine, confiscation of catch and suspension or cancellation of license.

SEC. 123. *Concealing, Tampering or Disposing of Evidence Relating to an Investigation of a Violation.* – It shall be unlawful for any person to conceal, tamper or dispose evidence relating to an investigation of a violation.

Upon a summary finding of administrative liability, the offender shall be punished with suspension or cancellation of license and an administrative fine of:

- (1) Ten thousand pesos (P10,000.00) for municipal fishing or community service in case of failure to pay the fine;
- (2) One hundred thousand pesos (P100,000.00) for small-scale commercial fishing;
- (3) One million pesos (P1,000,000.00) for medium-scale commercial fishing; and
- (4) Five million pesos (P5,000,000.00) for large-scale commercial fishing.

In case of violation by distant water fishing vessels, the administrative fine shall be twice the amount indicated above.

Upon conviction by a court of law, the offender shall be imposed the penalty of imprisonment from five (5) years to ten (10) years and fine equivalent to twice the administrative fine, and suspension or cancellation of the license.

SEC. 124. Noncompliance with the Requirements for the Introduction of Foreign or Exotic Aquatic Species. – It shall be unlawful to import, introduce, or breed, foreign or exotic aquatic species without the conduct of risk analysis and prior approval of the Department.

Upon a summary finding of administrative liability, the offender shall be punished with a fine of Two hundred thousand pesos (P200,000.00) to Six million pesos (P6,000,000.00) and confiscation and destruction of the foreign or exotic species. Should the species become invasive and result to predation of native aquatic biota, loss of income or damage to the habitat, the offender shall bear the costs of containment, eradication and/or restoration.

Upon conviction by a court of law the offender shall suffer the penalty of imprisonment of six (6) years to (12) years and fine from Four hundred thousand pesos (P400,000.00) to Twelve million pesos (P12,000,000.00), confiscation of foreign or exotic species and the costs for containment, eradication or restoration.

SEC. 125. Failure to Comply with Standards and Trade-Related Measures. – It shall be unlawful for any person to fail to comply with standards for weights, volume, quality and other requirements for all fishery transactions and trade and trade-related measures prescribed by the Department.

Upon a summary finding of administrative liability, the offender shall be punished with an administrative fine of Fifty thousand pesos (P50,000.00) to Two million pesos (P2,000,000.00), depending on the seriousness, extent and volume of trade associated with the violation, confiscation

of the shipment or fishery products and suspension or revocation of registration or license.

Upon conviction by a court of law, the offender shall suffer the penalty of imprisonment from six (6) months to two (2) years and a fine from One hundred thousand pesos (P100,000.00) to Four million pesos (P4,000,000.00) depending on the seriousness, extent and volume of trade associated with the violation, confiscation of the shipment or fishery products and suspension or revocation of registration or license.

SEC. 126. *Possessing, Dealing in or Disposing Illegally Caught or Taken Fish.* – It shall be unlawful to ship, commercially transport, offer for sale, sell, import, export, or have custody, control, or possession of, or to deal in or in any manner dispose of any fish or species caught, taken or retained in violation of this Code.

The discovery of any fish or species caught with the use of explosives or noxious or poisonous substances shall constitute a *prima facie* presumption that the possessor, seller, fish dealer, transporter, importer, or exporter thereof has knowledge that the fish or species was caught or taken in violation of this Code.

Upon a summary finding of administrative liability, the offender shall be punished with an administrative fine of Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00) or five (5) times the value of fish or species, whichever is higher, and confiscation of the same.

Upon conviction by a court of law, the offender shall suffer the penalty of imprisonment from six (6) months to two (2) years, and fine of eight (8) times the value of the species or from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00), whichever is higher and confiscation of the fish or fishery products and suspension or revocation of registration or license.

SEC. 127. *Unauthorized Disclosure of Sensitive Technical Information.* – Data from the vessel monitoring system or vessel monitoring measure and other related data arising therefrom shall be considered as sensitive technical information. Any unauthorized disclosure of said data including all other data referred to in Section 155 in this Code, by any person shall be penalized with imprisonment of six (6) months and one day to six (6) years, removal from office and forfeiture of all retirement benefits, where applicable.

SEC. 128. *Other Violations.* – In addition to the prohibitions in this Code, the Department, in consultation with the LGUs, local FARMCs and NFARMC, shall issue fishery administrative orders or regulations for the conservation, preservation, management and sustainable development of fisheries and aquatic resources.

Violation of administrative orders or regulations promulgated by the Department or any provision thereof shall subject the offender to a fine of One hundred thousand pesos (P100,000.00) to Five million pesos (P5,000,000.00), depending on the socioeconomic impact and seriousness of the violation, volume and value of the fisheries product, damage to the environment due to the violation, and the habituality of the offender.

SEC. 129. *Escalation Clause.* – The fines herein prescribed shall be increased by at least ten percent (10%) every three (3) years to compensate for inflation and to maintain the deterrent function of such fines.”

SEC. 18. A new Chapter VII on administrative adjudication is hereby inserted after Chapter VI of Republic Act No. 8550, to read as follows:

“CHAPTER VII

ADMINISTRATIVE ADJUDICATION

SEC. 130. *Administrative Adjudication.* – The Department is hereby empowered to impose the administrative fines and penalties provided in this Code.

For this purpose, the Department shall organize and designate the composition of the Adjudication Committee, which shall be composed of the bureau director as chairperson and four (4) other members to be designated by the Secretary. The Adjudication Committee shall be supported by sufficient number of staff to enable it to perform its mandate.

The Committee shall promulgate rules and regulations for the conduct of administrative adjudication and the disposition of confiscated catch, gears, equipment and other paraphernalia. It shall also issue *subpoena duces tecum* and *ad testificandum* in administrative cases before it.

SEC. 131. *Commencement of Summary Administrative Action.* – The Department shall, on its own instance or upon verified complaint by any person, institute administrative proceedings against any person who violates any order, rule or regulation issued by the Department, pursuant to this Code.

SEC. 132. *Power to Issue Cease and Desist Orders and to Summarily Evict Without the Necessity of Judicial Order.* – The Department shall, subject to the requirements of administrative due process, issue cease and desist order/s upon violator/s and to summarily eject, without the necessity of judicial order, the holder of FLA, other tenurial instrument, permit or license from areas of the public domain covered by such FLA, tenurial instrument, permit or license.

SEC. 133. *Authority of the Director of the BFAR or the Duly Authorized Representative to Issue Notice of Violation and Order Confiscation.* – In all cases of violations of this Code or other fishery laws, rules and regulations, the Director of the BFAR or the duly authorized representative, may issue notice of violation and order the confiscation of any fish, fishery species or aquatic resources illegally caught, taken or gathered, and all equipment, paraphernalia and gears in favor of the Department, academic institutions or LGUs and to dispose of the same in accordance with pertinent laws, rules, regulations and policies on the matter.

SEC. 134. *Prohibition on the Issuance of Temporary Restraining Orders, Preliminary Injunctions, and Preliminary Mandatory Injunctions.* – No injunction or restraining order from the Municipal Trial Courts and Regional Trial Courts shall lie against the Department and BFAR upon the *ex parte* motion or petition filed by any person or entity in the exercise by the Department and BFAR of its regulatory functions in support of the implementation of this Code.

SEC. 135. *Accompanying Administrative Sanctions for Serious Violations.* – The Adjudication Committee may impose the following additional sanctions to the administrative penalties imposed for serious violations:

- (1) confiscation of fishing gear;
- (2) impoundment of fishing vessel;
- (3) temporary suspension or permanent revocation of license or permit;
- (4) temporary or permanent ban from the availment of applicable duty and tax rebates;
- (5) inclusion in the IUU fishing vessel list;
- (6) denial of entry and other port services;
- (7) blacklisting; and
- (8) increase in the amount of fines but not to exceed five (5) times the value of the catch. In case of repeated violations within a five-year period, the amount of fine may be increased up to eight (8) times the value of the catch.

During the pendency of the administrative or the criminal case, the Department may impound the vessel/conveyance, gear and other paraphernalia used in the commission of the offense.

In applying these accompanying sanctions, the Department shall take into account the seriousness of the violation as defined in Paragraph 82 of Section 4 of this Code, the habituality or repetition of violation, manner of commission of the offense, severity of the impact on the fishery resources and

habitat, socioeconomic impact, cases of concealment or destruction of evidence, eluding arrest, resisting lawful orders, and other analogous circumstances.

The overall level of sanctions and accompanying sanctions shall be calculated in a manner that is proportionate, effective and dissuasive to deprive the offender of the economic benefits derived from the serious violation.

SEC. 136. *Lien Upon Personal and Immovable Properties of Violators.* – Fines and penalties imposed pursuant to this Code shall constitute a lien upon the personal and immovable properties of the violator.

SEC. 137. *Community Service.* – In case the offender is a municipal fisherfolk or has no property over which the Department may impose the fines and penalties prescribed for the offense, community service may be rendered in lieu of the fine. The Department shall promulgate the rules and regulations for this purpose, taking into account that the service should be rendered in accordance with needs of the community where the offense is committed and computed based on the fine and the prevailing minimum wage in the community, among others.

SEC. 138. *Citizen's Suits.* – For the purposes of enforcing the provisions of this Code and its implementing rules and regulations, any citizen may file an appropriate civil, criminal or administrative action in the proper courts/bodies against:

(a) Any person who violates or fails to comply with the provisions of this Code, and its implementing rules and regulations;

(b) The Department or other implementing agencies with respect to orders, rules and regulations issued inconsistent with this Act; and

(c) Any public officer who willfully or grossly neglects the performance of a duty specifically enjoined by this Code and its implementing rules and regulations; or abuses authority in the performance of duty; or, in any manner improperly performs duties under this Code and its implementing rules and regulations: *Provided, however,* That no suit can be filed until after fifteen (15) days notice has been given the public officer and the alleged offender and no appropriate action has been taken thereon.

SEC. 139. *Strategic Lawsuit Against Public Participation (SLAPP) in the Enforcement of this Act.* – A legal action filed to harass, vex, exert undue pressure, or stifle any legal recourse that any person, institution, or the government has taken or may take in the enforcement of this Code shall be treated as a Strategic Lawsuit Against Public Participation (SLAPP).

The hearing on the defense of a SLAPP shall be summary in nature, the affirmative defense of a SLAPP shall be resolved within thirty (30) days after the summary hearing. If the court dismisses the action, the court may award damages, attorney's fees, and costs of suit under a counterclaim if such has been filed. The dismissal shall be with prejudice.

If the court rejects the defense of a SLAPP, the evidence adduced during the summary hearing shall be treated as evidence of the parties on the merits of the case. The action shall proceed in accordance with the Rules of Court.

The Rules of Procedure for Environmental Cases shall govern the procedure in civil, criminal, and special civil actions involving the enforcement or violations of this Code including actions treated as a SLAPP as provided in this section.

SEC. 140. *Fisheries National Administrative Register.* – The Adjudication Committee shall enter in a Fisheries National Administrative Register, which shall be publicly available, all decisions, resolutions or orders involving violations of this Code, particularly serious violations committed by Philippine flagged vessels or by Philippine nationals and cases on poaching or involving foreigners, including the penalties imposed.”

SEC. 19. Section 108 of the Code is hereby renumbered as Section 141 and a new Section 142 is hereby inserted after to read, as follows:

“SEC. 142. *Fisheries Management Fund.* – A Fisheries Management Fund is hereby established to enhance the budget for: the conservation, preservation, protection, management, development and regulation of the fishery and aquatic resources; research and development and capability building of the various stakeholders including provision for scholarships; supplementary livelihood for poverty alleviation; and improvement of productivity and processes of the various stakeholders. It shall be administered by the Bureau of Fisheries and Aquaric Resources as a special account in any government financial institution.

It shall be funded from administrative fines and penalties imposed under this Code, from the proceeds of the sale of forfeited fish, fishing gears, paraphernalia and fishing vessels, and contributions in the form of endowments, grants and donations to the fund, which shall be exempted from donor and other taxes, charges or fees imposed by the government.

The Fund shall be exclusively utilized as follows:

(a) fifteen percent (15%) for the purchase, upgrade and maintenance of vessels, communication and other equipment used for the monitoring, control and surveillance of Philippine waters and distant water fishing;

(b) five percent (5%) for the payment of litigation expenses, cost of conveyance of witnesses and other costs due to cases filed by or against the Republic of the Philippines in international courts arising from the implementation of this Code or where apprehending party or parties become respondents or defendants in any tribunal or court of law;

(c) twenty-five percent (25%) for the operating costs and capacity building of the NFARMC, IFARMCs and C/MFARMCs and payment for the cost of rehabilitation, medical expenses for injury, or indemnity for death of law enforcement officers, including deputized volunteers, distributed as follows: five percent (5%) to the NFARMC, five percent (5%) to all IFARMCs, five percent (5%) to all C/MFARMCs, and ten percent (10%) to C/MFARMCs for the apprehension and successful prosecution of a fisheries offense;

(d) five percent (5%) for the continued upgrading of laboratory facilities and equipment;

(e) five percent (5%) for the research and development activities of the NFRDI;

(f) five percent (5%) for the capability development of BFAR personnel, deputized law enforcement agencies and volunteers, and stakeholders;

(g) ten percent (10%) for scholarship grants for children of fisherfolks and fishworkers in fish catch, aquaculture, fishing and fish processing;

(h) fifteen percent (15%) for livelihood programs for production enhancement and poverty alleviation; and

(i) fifteen percent (15%) for assistance to fishermen in the form of shared facilities.”

SEC. 20. *Renumbering of the Remaining Chapters and Sections of Republic Act No. 8550.* – Sections 109 to 133 of Republic Act No. 8550 are hereby renumbered as Sections 143 to 167 accordingly. Chapters VII, VIII and IX of the same Act are hereby renumbered as Chapter VIII, IX and X, respectively.

SEC. 21. *Implementing Rules and Regulations.* – The Department of Agriculture, in consultation with concerned government agencies and stakeholders, shall promulgate the implementing rules and regulations of this Act, within six (6) months from the effectivity of this Act.

SEC. 22. *Separability Clause.* – If any portion of this Act is declared unconstitutional or invalid, the portions or provisions which are not affected shall continue to be in full force and effect.

SEC. 23. *Repealing Clause.* – All laws, decrees, executive orders and rules and regulations or parts thereof which are inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 24. *Effectivity.* – This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,

(Sgd.) **FELICIANO BELMONTE JR.**

*Speaker of the House
of Representatives*

(Sgd.) **FRANKLIN M. DRILON**

President of the Senate

This Act which is a consolidation of Senate Bill No. 2414 and House Bill No. 4536 was finally passed by the Senate and the House of Representatives on December 1, 2014.

(Sgd.) **MARILYN B. BARUA-YAP**

*Secretary General
House of Representatives*

(Sgd.) **OSCAR G. YABES**

Secretary of the Senate

Approved:

BENIGNO S. AQUINO III

President of the Philippines

Lapsed into law on **FEB 27 2015**

Without the signature of the President,

In accordance with Article VI, Section

27 (1) of the Constitution.

RESOURCES

- [PDF] [Republic Act No. 10654, February 27, 2015](http://www.gov.ph/downloads/2015/02feb/20150227-RA-10654-BSA.pdf)
(<http://www.gov.ph/downloads/2015/02feb/20150227-RA-10654-BSA.pdf>)

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REGULATIONS AND ISSUANCES TO NATIONAL LAWS

DOLE DEPARTMENT ORDER NO. 156-16: RULES AND REGULATIONS GOVERNING THE WORKING AND LIVING CONDITIONS OF FISHERS ON BOARD FISHING VESSELS ENGAGED IN COMMERCIAL FISHING OPERATION



Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
Intramuros, Manila



DEPARTMENT OF LABOR AND EMPLOYMENT
Certificate No.: AJA15-0048
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DATE: 15 JUN 2016
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DEPARTMENT ORDER NO. 156-16
Series of 2016

RULES AND REGULATIONS GOVERNING THE WORKING AND LIVING CONDITIONS OF FISHERS ON BOARD FISHING VESSELS ENGAGED IN COMMERCIAL FISHING OPERATION

Pursuant to the authority of the Secretary of Labor and Employment to promulgate the necessary rules and regulations under Articles 5 and 168¹ of the Labor Code of the Philippines, as amended, and the Administrative Code of 1987, as amended, this rules and regulations is hereby issued:

RULE I General Provisions

Section 1. Policy Statement. - It is a State policy to:

- a. Regulate the relations between workers and employers recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investment and to expansion and growth;
- b. Guarantee and respect the free exercise of the commercial fishing workers to form union and organize for collective bargaining and/or for their mutual aid and protection; and
- c. Ensure that fishing vessels are sea-worthy and compliant with the standards of safety of life at sea, safe manning requirements and occupational safety and health standards under applicable laws and regulations.

Section 2. Coverage. - This Rules shall apply to fishing vessel owners, fishers and captains or masters on board Philippine-registered fishing vessels engaged in commercial fishing operation in Philippine or international waters, except in the following:

- a. Those on board commercial fishing vessels with foreign registry, which shall be governed by applicable rules and regulations of the POEA;
- b. Those engaged in municipal fishing, which shall be governed by existing labor, fishery, maritime, and local government laws, rules and regulations; and
- c. Those on board fishing vessels engaged in subsistence or recreational fishing.

Section 3. Definition of Terms. - For purposes of this Rules:

- a. **Captain or Master** refers to the person having command of a fishing vessel;²
- b. **Certificate of Compliance (COC)** refers to the certificate issued by the

¹ Former article 162.

² Section 4(27), Implementing Rules and Regulations of Republic Act No. 10635.

- DOLE Regional Director to a labor-law compliant establishment, which shall be valid for two years.³
- c. **Commercial Fishing** means the taking of fishery species from their wild state or habitat by passive or active gear for trade, business or profit beyond subsistence or recreational/sports fishing.⁴
 - d. **Field Personnel** refers to non-agricultural employees who regularly perform their duties away from the principal or branch office or place of business of the employer and whose time and performance is unsupervised by the fishing vessel owner or whose actual hours of work in the field cannot be determined with reasonable certainty.⁵
 - e. **Fishing Vessel Owner** means one who owns the vessel.
 - f. **Fisher** means any person engaged in any capacity for carrying out an occupation on board a commercial fishing vessel, but excludes shore-based persons carrying out work on board a fishing vessel.⁶
 - g. **Fishing Vessel** means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for taking of fishery species or aiding or assisting one or more vessels in the performance of any activity relating to fishing, including, but not limited to, preservation, supply, storage, refrigeration, transportation and/or processing.⁷
 - h. **Gross Tonnage** pertains to the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969,⁸ or any instrument amending or replacing it.
 - i. **Industrial Partner** refers to a natural person who entered into a contract of partnership pursuant to the applicable provisions of Title IX of the New Civil Code.
 - j. **Joint Venture** refers to an association of persons or companies jointly undertaking some commercial enterprise; generally all contribute assets and share risks. It requires a community of interest in the performance of the subject matter, a right to direct and govern the policy in connection therewith, and duty, which may be altered by agreement to share both in profit and losses.⁹
 - k. **Labor Standards** means the minimum requirements prescribed by existing laws, rules and regulations and other issuances relating to wages, hours of work, allowances and other monetary and welfare benefits, including those set by occupational safety and health standards.¹⁰
 - l. **Minimum Wage** means the wage rate that a fishing vessel owner shall pay the fisher pursuant to the appropriate Wage Order issued by the Regional Tripartite Wages and Productivity Board.
 - m. **Municipal Fishing** means fishing within municipal waters.
 - n. **Municipal Waters** include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the

³ Department Order No. 131, Series of 2013

⁴ Section 4(10), Republic Act No. 8550.

⁵ Article 82, Labor Code; Mercidar Fishing Corporation vs. NLRC, G.R. No. 112574, October 8, 1998.

⁶ Enhanced definition of fisherfolk and fish worker under Sections 10(28) and 10(44), Republic Act No. 8550.

⁷ Section 4(41), Republic Act No. 8550.

⁸ DOLE Department Order Nos. 129 and 132, Series of 2013.

⁹ Kilosbayan, Inc. v. Guingona, 232 SCRA 110, 143-144, 41 SCAD 671 (1994), citing Black's Law Dictionary.

¹⁰ Department Order No. 131, Series of 2013.

protected areas as defined under Republic Act No. 7586,¹² public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore inlands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities.¹³

- o. **Notice of Results** refers to the accomplished form issued by Labor Laws Compliance Officers indicating the results of Joint Assessment, Compliance Visit, Occupational Safety and Health Standards Investigation, or Special Assessment/Visit of Establishments.¹⁴
- p. **Occupational Safety and Health Standards** is a set of mandatory and minimum rules on occupational safety and health.
- q. **Partnership** refers to two or more persons who bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves.¹⁵
- r. **Productivity-Based Pay** refers to an additional compensation on top of the minimum wage in the form of productivity/performance bonus or incentive given to fish workers in recognition of their individual or group performance, value of their effort in attaining production and/or profit target, or criteria that will be determined and agreed upon by labor and management.
- s. **Recreational Fishing** generally includes fishing by individuals from boats or from the shore, in salt or fresh water, for purposes of sport and not for profit derived from the catch.¹⁶
- t. **Subsistence Fishing** is where the fish caught are primarily intended to be shared and consumed by the families and kin of fishers.¹⁷
- u. **Single-Entry Approach (SEnA)** refers to the speedy, impartial and inexpensive proceedings through conciliation-mediation where parties are given the opportunity to settle amicably pursuant to DOLE Department Order No. 151-16, Series of 2016 and Republic Act No. 10396.

Section 4. Classification of Commercial Fishing. - For the application of the compensation scheme and occupational safety and health standards for fishing vessels under this Rules, the following classification of commercial fishing operation is hereby adopted:

- a. **Small-Scale Commercial Fishing** means fishing with passive or active gear utilizing fishing vessels of 3.1 gross tonnage up to 20 gross tonnage.
- b. **Medium-Scale Commercial Fishing** means fishing utilizing active gears and vessels of 20.1 gross tonnage up to 150 gross tonnage.
- c. **Large-Scale Commercial Fishing** means fishing utilizing active gears and vessels of more than 150 gross tonnage.

¹² The National Integrated Protected Areas System Act of 1992.

¹³ Section 4(58), Republic Act No. 8550

¹⁴ Department Order No. 131, Series of 2013.

¹⁵ Article 1767, New Civil Code.

¹⁶ Handbook for Improving Living and Working Conditions On Board Fishing Vessels.

¹⁷ *Ibid.*

RULE II

Responsibilities of Fishing Vessel Owner, Captain or Master, and Fisher

Section 1. Responsibilities of Fishing Vessel Owner. - The fishing vessel owner shall ensure that:

- a. Fishing is undertaken in accordance with existing laws, rules and regulations, and international agreements;
- b. Fishing vessel is seaworthy;
- c. Fishing vessel possesses licenses, permits and registrations from appropriate government agencies to undertake commercial fishing;
- d. Fishing vessel carries a crew list, a copy of which shall be provided to the PCG prior to the departure of the vessel;
- e. Captain or master possesses the necessary permits and licenses from appropriate government agencies;
- f. Captain or master is provided with necessary resources to undertake a specific fishing voyage, which shall include medicines and/or emergency medicines, medical equipment or facilities, survival kits and equipment;
- g. Fishers have appropriate fish-worker license from BFAR;
- h. Fishers on board have received basic safety and health, life-saving and survival training and provided specific instructions; and
- i. Fishers possess the minimum requirements for employment on board fishing vessels as provided under Rule III.

Section 2. Responsibilities of Captain or Master. - The captain or master has the responsibility to ensure the safety, health and well-being of fishers on board and compliance with safety of navigation, protection of the environment and watch keeping.

The captain or master shall be given sufficient discretion to take necessary action for the safety of the vessel and the fishers on board during navigation/operation or whenever work is being performed on board.

Section 3. Responsibilities of Fishers. - Fishers shall comply with the lawful orders of the captain or master and other applicable safety and health measures. Fishers shall attend occupational safety and health training and skills enhancement trainings organized/facilitated by the fishing vessel owner.

Section 4. Employer-Employee Relationship in Commercial Fishing Operation. - The existence of employer-employee relationship shall be determined by the four-fold test adopted by jurisprudence, to wit:¹⁷

- a. Selection and engagement of the employee;
- b. Payment of wages;
- c. Power of dismissal; and
- d. Employer's power to control the employee with respect to the means and methods by which the work is to be accomplished.

The following circumstances may be taken in aid of determining employer-employee relations taking into consideration the whole economic activity in which the

¹⁷ "Brotherhood" Labor Unity Movement of the Philippines, *et al.* vs. Zamora, G.R. No. 48645, January 7, 1987 and reiterated in Continental Marble Corporation, *et al.* vs. NLRC, G.R. No. 43825, May 9, 1988 and Sevilla vs. Court of Appeals, G.R. No. 44182-3, April 15, 1988.

fisher is engaged: (1) the extent to which the services performed are an integral part of the employer's business; (2) the extent of the worker's investment in equipment and facilities; (3) the nature and degree of control exercised by the employer; (4) the worker's opportunity for profit and loss; (5) the amount of initiative, skill, judgment or foresight required for the success of the claimed independent enterprise; (6) the permanency and duration of the relationship between the worker and the employer; or (7) the degree of dependency of the worker upon the employer for his/her continued employment within the fishing activity of the latter.¹⁹

Section 5. Joint and Solidary Liability. - The captain or master, agent, or other natural or juridical person who either financed the acquisition of the fishing vessel, provided provisions for the voyage, or assumed the responsibility for the operation of the vessel from the owner, and who, in assuming such responsibility, has agreed to take-over the duties and responsibilities imposed on the fishing vessel owner, regardless of whether any other organization or person fulfills certain duties or responsibilities on behalf of the fishing vessel owner, shall be jointly and solidarily liable with the fishing vessel owner.

Section 6. Contracting/Subcontracting. - When the elements of contracting/subcontracting are present, the provisions of DOLE Department Order No. 18-A, Series of 2011, shall govern.

Section 7. Recruitment and Placement. - DOLE Department Order No. 141, Series of 2014²⁰ shall govern the recruitment and placement of fishers.

RULE III

Minimum Requirements for Work On-board Fishing Vessels

Section 1. Minimum Age. - The minimum age for assignment to activities on-board commercial fishing vessels, which by their nature or circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than eighteen (18) years.²¹

Section 2. Medical Examination. - No fisher shall work on board a fishing vessel without a valid medical certificate issued by a public health facility or any medical facility duly accredited by the DOH for that purpose and in accordance with its existing rules and regulations. The medical certificate shall be valid for a maximum period of one (1) year. If the period of validity of a certificate expires during the course of the voyage, the same shall be deemed valid until the end of the voyage.

Section 3. Training. - Fishers shall be provided with adequate specific instructions and applicable basic safety and health training.

RULE IV

Terms and Conditions of Employment

Section 1. Employment Agreement. - There shall be an employment agreement in a language or dialect comprehensible to the latter, governing fisher's living and working conditions on-board commercial fishing vessel, containing, among

¹⁹ Test of Economic Dependency. See Angelina Francisco vs. NLRC, G.R. No. 170087 August 31, 2006.

²⁰ Revised Rules and Regulations Governing Recruitment and Placement for Local Employment.

²¹ Section 3, Rule XII of Implementing Rules of Book III of the Labor Code, in relation to Republic Act No. 7610, as amended by Republic Act No. 9231.

others, the following particulars:

- a. Fisher's full name, date of birth or age, sex, address, civil status and SSS, PhilHealth and Pag-Ibig identification numbers;
- b. The name of the fishing vessel owner or other party to the agreement with the fisher, including their addresses;
- c. Place where and date when the employment agreement is entered into;
- d. Name of the fishing vessel and its registration number in which the fisher undertakes to work;
- e. Voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- f. Capacity in which the fisher is to be employed or engaged;
- g. Place where and date when the fisher is required to report on board for service;
- h. Provisions to be supplied to the fisher;
- i. Compensation structure composed of wage, mandatory wage-related benefits, and productivity/performance-based pay;
- j. Hours of work;
- k. Leave benefits;
- l. Health and social security benefits;
- m. Separation and retirement pays; and
- n. Other benefits as provided under existing laws.

A sample employment agreement (Annex I) is attached to this Department Order as reference. The DOLE Regional Offices are encouraged to translate said agreement to a local dialect to facilitate understanding of parties thereto.

Fishers shall be issued with a Certificate of Employment showing the nature and duration of his/her employment.

Section 2. Submission to the DOLE. - The employment agreement shall be submitted to the DOLE Regional Office or its Field Office having jurisdiction over the port of registration or principal place of business of the fishing vessel owner. The fishing vessel owner shall provide the fisher with a copy of the aforementioned employment agreement and another copy shall be carried on board.

Section 3. Minimum Benefits. - Fishers shall be entitled to the following benefits:

- a. Minimum wages to be given in accordance with Section 5 of the succeeding Rule;
- b. Holiday pay of 100 percent of the minimum wage, for twelve (12) regular holidays pursuant to Republic Act No. 9849²² and 200 percent of the minimum wage if they are required to work on said holiday;
- c. An additional premium pay of thirty (30) percent of their basic wage if they are required to work on a rest day, an additional premium pay of thirty (30) percent of their basic wage if they are required to work on a special days under Republic Act No. 9849, and an additional premium pay of fifty (50) percent of their basic wage whenever work is performed on a rest day, which happens to be also a special day;
- d. Overtime pay equivalent to at least twenty-five (25) percent of their basic

²² An Act Declaring the Tenth Day of ZhulHijja, the Twelfth Month of the Islamic Calendar, a National Holiday for the Observance of EidulAdha, Further Amending for the purpose Section 26, Chapter 7, Book I of Executive Order No. 292, otherwise known as the Administrative Code of 1987, as amended.

- wage on ordinary days and thirty (30) percent on regular holidays, special days, and rest days for work beyond eight hours per day;
- e. Night shift differential of ten percent of their basic wage for work performed between 10:00 p.m. and 6:00 a.m. of the following day;
 - f. Paid service incentive leave of five days for every year of service;
 - g. 13th month pay pursuant to Presidential Decree No. 851,²³ as amended, equivalent to one-twelfth (1/12) of the total basic salary earned within the calendar year to be given not later than 24 December of each year;
 - h. Paid maternity leave of sixty (60) days for normal delivery and seventy-eight(78) days for Caesarian section delivery pursuant to Republic Act No. 1161,²⁴ as amended by Republic Act No. 8282;²⁵
 - i. Paid paternity leave of seven (7) days pursuant to Republic Act No. 8187;
 - j. Paid parental leave of seven (7) days for solo parents pursuant to Republic Act No. 8972;²⁶
 - k. Paid leave of ten (10) days for victims of violence pursuant to Republic Act No. 9262;²⁷
 - l. Paid leave for women who underwent surgery caused by gynecological disorders pursuant to Republic Act No. 9710;²⁸ and
 - m. Retirement pay upon reaching the age of sixty (60) pursuant to Republic Act No. 7641.²⁹

Nothing in this Rules shall prevent the vessel owners to provide better terms and conditions of employment or stipulate for such through contracts or collective bargaining agreements with the fishers.

Section 4. Meal Breaks. - Fishers shall be entitled to a break/time-off of not less than sixty (60) minutes for their regular meals.

Section 5. Rest Period and Rest Day. - Fishers shall be entitled to an aggregate daily rest period of ten hours per day and to a rest period of not less than twenty-four (24) consecutive hours after every six (6) consecutive work days.

The captain or master may require fishers to perform work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea.

Accordingly, the captain or master may suspend the schedule of hours of rest and require fishers to perform work necessary during emergency and until the normal situation has been restored. The captain or master shall ensure that any fisher who has performed work in a scheduled rest period is provided with an adequate period of rest and duly compensated for the additional work rendered pursuant to applicable provisions of this Rules.

²³ Requiring All Employers to Pay their Employees a 13th Month Pay.

²⁴ Social Security Law.

²⁵ An Act Further Strengthening the Social Security System thereby Amending for this Purpose, Republic Act No. 1161, as amended, otherwise known as the Social Security Law.

²⁶ Solo Parents' Welfare Act of 2000.

²⁷ Anti-Violence Against Women and their Children Act of 2004.

²⁸ The Magna Carta of Women.

²⁹ An Act Amending Article 287 of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines, By Providing for Retirement Pay to Qualified Private Sector Employees in the Absence of any Retirement Plan in the Establishment.

RULE V Compensation Scheme

Section 1. Policy. - Fishers shall receive minimum wages. Productivity-improvement measures shall be introduced to ensure decent working standard for fishers and decent living standard for their families.

Section 2. Compensation Scheme. - The compensation scheme for the fishing industry shall be consistent with the two-tiered wage policy that ensures minimum wage, mandatory wage-related benefits to fishers and encourages the voluntary adoption and implementation of productivity and/or performance-based pay.

The criteria/formula for the implementation of productivity and/or performance-based pay shall be mutually determined by the fishing vessel owners and fishers upon agreement on the adoption of the same.

a. Fishers in small-scale commercial fishing operation

During the first year of implementation of this Rules, the NWPC and the ILS shall conduct a study to determine the appropriate compensation scheme for small-scale fishing operation. The recommended compensation scheme shall be implemented at the start of the third year of the effectivity of this Rules.

b. Fishers in medium-scale commercial fishing operation

Fishing vessel owners shall ensure that fishers in medium-scale commercial fishing operation shall receive applicable daily rate,³⁰ considering the duration of actual work, which shall not be less than the applicable minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration and wage-related benefits and productivity or performance-based pay pursuant to the succeeding Section.

c. Fishers in large-scale commercial fishing operations.

Fishing vessel owners shall ensure that fishers receive daily minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration and wage-related benefits and productivity or performance-based pay pursuant to the succeeding Section.

Section 3. Two-Tiered Compensation Scheme. - The compensation scheme for masters or captains and fishers in medium and large-scale commercial fishing operations shall be composed of minimum wage and wage-related benefits and productivity or performance-based pay, to wit:

³⁰ Applicable Daily Rate = Total Shares and Wages Received by the Fisher for the Year/Factor. See Handbook of Statutory Monetary Benefits. 2014 Edition. Bureau of Working Conditions. Department of Labor and Employment.
Factors: 393.5 for those who are required to work everyday, including Sundays or rest days, special days and regular holidays

313 for those who do not work and are not considered paid on Sundays or rest days

261 for those who do not work and are not considered paid on Saturdays and Sundays or rest days

a. Minimum Wage and Wage-Related Benefits

Wages and/or shares of masters or captains and fishers shall not be less than the applicable daily minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration.

b. Productivity or Performance-Based Pay

For medium and large-scale fishing operations, fishers and fishing vessel owners are encourage to mutually agree and adopt a productivity or performance-based incentive scheme on top of the applicable minimum wage, which may take into consideration business and individual fisher's performance, productivity, accident safety and prevention, cost-savings and attainment of quota/targets.

The grant of productivity or performance-based pay shall not diminish existing gain-sharing arrangements, other forms of bonus and incentive being given to fisher and those provided under collective bargaining agreement.

Section 4. Technical Assistance by the RTWPB. - The RTWPB shall formulate regulations, consistent with the existing guidelines issued by the NWPC, on the productivity and/or performance-based pay scheme.

The RTWPB shall issue advisories for productivity-based pay scheme and provide technical assistance in the development of parameters, criteria, formula in computation of productivity and/or performance-based pay scheme.

Section 5. Payment of Wages. - Unless there is an agreement to the contrary, the wages of fishers shall be paid in cash every after two weeks or at intervals not exceeding sixteen (16) days. Provided, however, that no fishing vessel owner shall make payment with less frequency than once a month. Fishing vessel owners shall ensure that fishers working on board fishing vessels are given means to transmit all or part of their wages, including advances, to their families at no cost.

Unless otherwise agreed upon or stipulated in the employment agreement, productivity or performance-based incentive shall be given to the fishers on the succeeding pay immediately following the completion of every fishing trip.

Section 6. Transparency in Fisher's Pay. - To ensure fairness, the basis of fishers' productivity or performance-based incentive shall be properly agreed upon. Fishing vessel owners shall maintain payrolls and provide fishers with payslips. Moreover, payments for fishers or their family's advances shall be properly documented.

**RULE VI
Field Personnel**

Section 1. Field Personnel. - Fishers shall not be considered as field personnel, except when: (a) they regularly perform duties away from the principal

place of business or branch office of the fishing vessel owner; and (b) their actual hours of work in the sea cannot be determined with reasonable certainty.

Section 2. Entitlement to Wage-Related Benefits of Field Personnel. - Unless provided otherwise under the employment agreement, company policies and practices, or collective bargaining agreements, fishers deemed as field personnel are not entitled to the wage-related benefits under Title I, Book III of the Labor Code, as amended.

RULE VII Occupational Safety and Health

Section 1. Policy. - This Rules aims to promote health and safety, protection from and prevention of accidents, injuries, diseases, or deaths occurring in the course of employment of fishers onboard fishing vessels through compliance with mandatory occupational safety and health standards.

Section 2. Occupational Safety and Health Standards for Covered Commercial Fishing Operation. - For small-scale, medium-scale and large-scale commercial fishing operation, the following standards shall be mandatory:

2.1. Occupational Safety and Health Program. The fishing vessel owner shall formulate, implement, and promote occupational safety and health policies and programs consistent with the provisions of the OSHS, as amended, and other related DOLE issuances. Said programs shall include the prevention and control of tuberculosis, human immunodeficiency virus and acquired immunodeficiency syndrome, hepatitis B, and the prohibition of illegal drug use on board the fishing vessel.

The fishing vessel owner shall also implement and promote workplace policies and programs on anti-smoking, anti-sexual harassment, and alcohol dependency among fishers. The implementation of such policies and programs shall be extended to all fishing vessels under the operation of the fishing vessel owner.

2.2. Safety and Health Committee. The captains or masters on board fishing vessels shall act as safety officers for small and medium-scale commercial fishing vessels.

An on-board safety and health committee shall be organized in large-scale commercial fishing vessels pursuant to Rule 1040 of the existing OSHS, as amended. The captains or masters on board this class of fishing vessel shall act as chairman of the committee.

2.3. Training and Orientation on Occupational Safety and Health. Without prejudice to STCW Manila Amendment, the fishing vessel owner shall require their captains or masters and fishers to undergo applicable occupational safety and health training depending on their rank or position and classification of the vessel.

a. All captains or masters of the fishing vessels regardless of the type or category of the vessel they are manning shall undergo the mandatory forty-hour Basic Occupational Safety and Health Training with DOLE or its accredited safety training organization or its equivalent as prescribed by

MARINA or its accredited training organization. Likewise, the fishing vessel owner shall require all their captains or masters to undergo the basic first aid training conducted by the PRC or any accredited training organization.

- b. All fishers manning fishing vessels shall undergo eight-hour occupational safety and health orientation conducted by DOLE or its accredited safety training organization or its equivalent as prescribed by MARINA or its accredited training organization.

2.4. Safety Protection and Accident Prevention. The fishing vessel owner shall ensure the following are observed on board for safety, protection, and accident prevention.

a. **Electrical Safety.**

- i. All testing and work performed on electrical equipment shall be in accordance with the Philippine Electrical Standards and must be performed only by a fisher with required training and skills in electrical work. The fisher must use insulated protection and tools that will protect him/her from injury.
- ii. If a fisher is working on or near electrical equipment that is live or may become live, the electrical equipment shall be guarded.

- b. **Machine Guarding.** The fishing vessel owner shall ensure that all on board machinery and equipment shall be fitted with machine guards to prevent possible injury to fishers.

c. **Materials Handling and Storage.**

- i. Where mechanical handling equipment is used, sufficient safe clearance shall be allowed for aisles, at loading docks, through doorways, and wherever turns or passageways must be made. Aisles and passageways shall be kept clear with no obstruction across or in aisles that could create a hazard. Permanent aisles and passageways shall be appropriately marked.
- ii. Every fisher who is required to handle loads manually shall be properly trained. Before lifting and carrying weights, fishers should first inspect the load as regards to its weight, size, and shape. The use of lifting aids should be encouraged. Attention should be given to sharp edges, protruding nails or splinters, greasy surfaces, or any other features which might lead to an accident.
- iii. Storage of material shall not create a hazard. Bag containers, bundles, etc. stored in tiers shall be stacked, blocked, interlocked, and limited in height so that the materials are stable and secured against sliding or collapse.
- iv. Storage areas shall be kept free from accumulation of materials that constitute hazards of tripping, fire, explosion, or pest harborage. Controls for perishable items shall be exercised accordingly and in compliance with existing regulations. As far as practicable, the working surface used by the fisher must be kept free from grease, oil, or any other slippery substance and of any material or object that may create a hazard to the fisher.

d. **Fire Prevention, Fire Fighting and Emergency Response.**

- i. Fire protection equipment must be installed, inspected, and maintained on board every fishing vessel in accordance to Chapters VII (Fire Protection and Fire Extinction) and VIII (Fire Safety Measures) of the Philippine Merchant Marine Rules and Regulations, as amended.
 - ii. Emergency exits from all accommodation spaces shall be provided and properly marked. Every fishing vessel owner must prepare emergency procedures, including evacuation or abandon ship procedures. Notices that set out the details of the emergency procedures must be posted in conspicuous places accessible to every fisher on board the fishing vessel.
 - iii. Every fisher must be trained and instructed on the procedures to be followed in the event of an emergency, including the proper use and location of fire protection equipment and life-saving devices.
 - iv. Emergency and life-saving devices shall be provided by the fishing vessel owner and must be placed in conspicuous areas accessible to every fisher on board the fishing vessel.
- e. Personal Protective Equipment.
- i. The fishing vessel owner shall, at his/her own expense, furnish the fishers with personal protective equipment for the eyes, ears, face, hands, and feet, and protective shields and barriers, whenever necessary, by reason of the hazardous nature of the process or environment, chemical, physical, or other safety hazards capable of causing injury or impairment in the function of any part of the body through absorption, inhalation, or physical contact.
 - ii. All personal protective equipment shall be of approved design and construction appropriate to the exposure and the work to be performed.
 - iii. The fishing vessel owner shall be responsible for the adequacy and proper maintenance of personal protective equipment used by the fishers on board the fishing vessel.
 - iv. No fisher shall be subjected or exposed to a hazardous environmental condition without proper protection.

The fishing vessel owner shall, likewise, develop, implement and monitor a program for the prevention of hazard in the fishing vessels; conduct hazard risk evaluation and control including measures to reduce and prevent risk of exposures to chemical, physical, biological, and ergonomic hazards that may arise while in the course of duty on board the fishing vessel; and institute measures to monitor work environment, safe work procedures, machine safety, materials handling, and the use of appropriate personal protective equipment.

2.5. Medical Care. The fishing vessel owner shall provide adequate first aid services on board and shall ensure that all fishers have access, when in port, to out-patient treatment for sickness or injury, hospitalization, when necessary, and dental treatment.

Likewise, the fishing vessel owner shall ensure that there is available means of communication for medical advice taking into consideration all available technology.

Further, the fishing vessel owner shall ensure that all fishing vessels carry a first aid kit and medical supplies, which shall be properly maintained and inspected at regular intervals by the captain or master. Medicines shall be properly stored and labeled with directions for use and expiry dates.

First aid kits shall be accessible to all fishers on board the fishing vessel and shall be clearly identified by a conspicuous sign. The fishing vessel owner shall provide and maintain medicines and medical supplies listed in the OSHS, as amended, or the Maritime First Aid Guide (MFAG), which, as much as possible, shall be enough for the entire duration at sea.

If substances hazardous to skin or eyes exist on the fishing vessel, shower facilities to wash the skin and/or eyewash facilities to irrigate the eyes shall be provided for immediate use by the fishers. If it is not practicable to do so, portable equipment shall be provided such as wash basins.

The fishing vessel owners shall keep and maintain medical and health records, reports, or other related documents in their onshore facilities in a manner that ensures confidentiality yet easy access by company's occupational health personnel. The fisher shall have access to his/her own records at no cost as may be needed.

Large commercial fishing vessels shall carry appropriate medical equipment and medical supplies, taking into account the number of fishers on board, the area of operation and the length of the voyage.

2.6. Food and Potable Water. The fishing vessel owner shall ensure that fishers are provided with ample food supply, food preparation and storage facilities, and potable water for drinking and food preparation.

- a. Cooking equipment shall be provided on board and shall be fitted, where practicable, in a separate galley. Where a separate galley is not provided, cooking area shall be of adequate size for the purpose, well-lit and ventilated, and properly equipped and maintained.
- b. The containers of butane or propane gases used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.
- c. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool, and well-ventilated in order to avoid deterioration of stores and, where practicable and possible, refrigerators or other low temperature storage shall be used.
- d. Food and potable water shall be sufficient, considering the number of fishers and duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity, and variety, considering fishers' religious or health requirements and cultural practices in relation to food.

Section 3. Requirements for General Accommodation and related Facilities. - The succeeding requirements of this Rule for accommodation and related facilities shall be applicable to fishing vessels that are engaged in large-scale commercial fishing operation and constructed on or after the effectivity of this Department Order. Provided, however, that owners of existing fishing vessels regardless of category, shall, as much as practicable, comply with the following

requirements.

Plans, designs and layouts of covered newly-constructed fishing vessels shall conform to applicable maritime laws, rules and regulations.

3.1. Sleeping Accommodation. Where the design, dimensions, or purpose of the fishing vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but in no case be located at the forward of the collision bulkhead.

a. Insulation

Sleeping accommodation shall be adequately insulated against heat and shall be adequately protected against mosquitoes and other insects.

b. Airconditioning System

For large commercial fishing vessels, applicable airconditioning system shall be installed in sleeping and accommodation spaces.

c. Floor Area and Person per Sleeping Room

The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the intended service of the vessel.

For large scale commercial fishing vessels, the floor area per person shall not be less than 1.5 square meters and the number of persons per sleeping room shall not be more than six (6).

d. Openings

Sleeping rooms must not open directly into cargo and machinery spaces, galleys, storage rooms, drying rooms, or communal sanitary areas.

e. Separate Sleeping Accommodation

Separate sleeping accommodation shall be provided for men and women.

3.2. Mess Rooms. Fishing vessels shall be provided with mess-room accommodation suitable for their service. To the extent as practicable, mess-room accommodation shall be separate from sleeping quarters.

For large scale commercial fishing vessel, mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

The dimensions and equipment of each mess room shall be sufficient for the number of fishers likely to use it at any one time and for the type and quantity of provisions to be brought on board for a particular fishing voyage.

3.3. Sanitation Facilities. Sanitary facilities, which include toilets, wash basins, and tubs or showers, shall be provided for all fishers on board, as

appropriate for the service of the vessel and shall be separate for men and women.

Water, of sufficient quantities, shall be available to all fishers on board to allow for proper hygiene. Where sanitary facilities are provided, it shall be properly ventilated to eliminate contamination of other spaces as far as practicable. The sanitary facilities shall allow for reasonable privacy.

For large scale commercial fishing vessels, fishers, who do not occupy rooms to which sanitary facilities are attached, shall be provided at least a toilet and bathing area. Also, amenities for washing and drying clothes shall be provided, as may be necessary taking into account the service of the fishing vessel.

3.4. Work Environment Conditions. The fishing vessel owner shall ensure and maintain the working and living environment in comfortable and healthy conditions for the purpose of promoting and maintaining the health of the fishers.

a. Headroom

Large scale commercial fishing vessels shall have a headroom of not less than two hundred (200) centimeters. For other fishing vessels, adequate headroom that is reasonable and will not result to discomfort of fishers shall be provided.

b. Ventilation.

- i. Sleeping and accommodation areas and work rooms with machineries shall be adequately ventilated.
- ii. For large commercial fishing vessels, appropriate ventilation system shall be installed in sleeping and accommodation areas and work rooms with machineries.
- iii. All enclosed areas in fishing vessels shall be designated as non-smoking areas.

c. Lighting.

- i. All accommodation spaces shall be provided with adequate light.
- ii. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.
- iii. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.
- iv. Emergency lighting shall be provided in sleeping rooms aside from those areas required by OSHS, as amended, PMMRR, as amended, and all other relevant rules and regulations.
- v. Where a fishing vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

d. Noise and Vibration.

- i. The level of sound in the fishing vessel must be less than eighty-five (85) decibels. If it is not reasonably practicable to maintain the level of sound at less than eighty-five (85) dB, feasible engineering or administrative controls shall be utilized. If such controls fail to reduce a sound within eighty-five (85) decibels, ear protective devices capable of bringing the sound level to permissible noise exposure shall be provided by the fishing vessel owner, free of charge, to the fishers.
- ii. In a work area where the level of sound is eighty-five (85) dB or more, appropriate signage and warnings shall be installed to warn fishers entering the said area.
- iii. Accommodation, recreational, and catering facilities must be, as far as practicable, insulated from the noise emanating from engines, steering gear rooms, deck winches, ventilation and air conditioning equipment, and other machinery and equipment.

The same areas must not be exposed to excessive vibration.

e. Hazardous Substances.

- i. All containers with hazardous substances shall be properly labeled in accordance to Globally Harmonized System. No fishing vessel owner shall accept any container of hazardous substances for use, handling, storage, or disposal on a fishing vessel unless such container is labeled with the following:
 - a) The trade and chemical name of the substance;
 - b) The hazardous properties of the substance;
 - c) Hazard statements;
 - d) Precautionary statements; and
 - e) Manufacturer's identity.
- ii. All hazardous substances for use, handling, and storage on a fishing vessel should have Safety Data Sheets from the supplier and shall keep a copy of the same readily available in the fishing vessel for information of the fishers.
- iii. Fishers shall be given careful instructions if special precautions need to be taken when operations would produce fumes and depleted oxygen.
- iv. A fisher must not be exposed to a concentration of an airborne chemical agent in excess of the TLV for that chemical agent as prescribed by the OSHS, as amended.

Section 4. Safety and Health Reports. - The fishing vessel owner shall submit to DOLE through its Regional Office having jurisdiction over the principal place of business of the fishing vessel the Report on Safety and Health Organization, Annual Medical Report, and minutes of the meetings of the Safety and Health Committee.

Section 5. Marine Protests. - Marine protests submitted to the PCG by the captain or master of the affected fishing vessel shall be considered as an equivalent to DOLE's Work Accident and Illness Report and Report on Fatal Accidents. The fishing vessel owner shall submit such marine protest to the DOLE Field/Provincial Office having jurisdiction over the area where the accident or any incident occurred within five (5) days from occurrence of the same.

RULE VIII Termination of Employment

Section 1. Right to Security of Tenure. - The employment of fishers can only be terminated for either just or authorized causes pursuant to Articles 297, 298 and 299³¹ of the Labor Code, as amended. In all cases of termination of employment, the standards of due process laid down in Article 292(b)³² of the Labor Code, as amended, and settled jurisprudence on the matter, must be observed.

For termination of employment based on just causes as defined in Article 297 of the Labor Code, as amended, and Department Order No. 147-15, Series of 2015,³³ the requirement of two written notices served on the fisher shall observe the following:

- a. The first written notice should contain:
 1. The specific causes or grounds for termination;
 2. Detailed narration of the facts and circumstances that will serve as basis for the charge against the fisher.
 3. The company rule, if any, that is violated and/or the ground under Article 297 that is being charged against the fisher; and
 4. A directive that the fisher is given opportunity to submit a written explanation within a reasonable period. Reasonable period should be construed as a period of at least five calendar days from receipt of the notice to give the fisher an opportunity to study the allegation and charge against him/her, consult a union official or lawyer, gather data and evidence, and decide on his/her defenses.
- b. After serving the first notice, the fishing vessel owner shall afford the fisher ample opportunity to be heard and to defend himself/herself with the assistance of a union official or lawyer, if he/she desires, as provided in Article 292(b) of the Labor Code, as amended.

Ample opportunity to be heard should be construed as any meaningful opportunity (verbal or written) given to fisher to answer the charges against him/her and submit evidence in support of his/her defense, whether in a hearing, conference or some other fair, just, and reasonable way. A formal hearing or conference becomes mandatory only in the following instances:

1. When requested by the fisher in writing;
 2. When substantial evidentiary dispute exists;
 3. When company rule or practice requires it; or
 4. When similar circumstances justify the conduct of the same.
- c. After determining that termination of employment is justified, the fishing vessel owner shall serve the fisher a written notice of termination indicating the following:
 1. That all circumstances involving the charge against the fisher have

³¹ Department Advisory No. 01, Series of 2015.

³² *Ibid.*

³³ Amending the Implementing Rules and Regulations of Book VI of the Labor Code of the Philippines.

- been considered; and
2. The grounds for termination of his/her employment have been established to justify the same.

The first written notice and the written notice of termination of employment shall be served at the fisher's last known address.

For termination of employment based on authorized causes as defined in Article 298 of the Labor Code, as amended, the requirement of due process shall be deemed complied with upon serving a written notice to the fisher and the appropriate DOLE Regional Office, specifying the ground or grounds for termination of employment, at least thirty (30) days before the effectivity of the same.

If the termination of employment is brought about by the failure of a probationary fisher to meet the reasonable standards of the fishing vessel owner, which were made known to the fisher at the time of his/her employment, it shall be sufficient that a written notice is served upon the probationary employee within a reasonable time prior to the expiration of the probationary period.

Section 2. Repatriation of Fishers. - In cases of death, illness and other justifiable reasons, fishers shall immediately be repatriated at the expense of the fishing vessel owner.

In case the fishing vessel owner fails to provide the cost of repatriation, the parties referred to in the next succeeding paragraph shall immediately advance the repatriation and other attendant costs, including plane fare, deployment cost, and immigration fines and penalties, without a prior determination of the cause of the termination of the fisher's employment agreement. However, after the fisher has returned to the country, the party who advanced the repatriation expenses may recover it from the fishing vessel owner.

The joint and solidary obligation for the repatriation of the fisher between the fishing vessel owner and contractor/subcontractor, as defined in DOLE Department Order No. 18-A, Series of 2011, shall extend to the following:

1. Bareboat or demise charterer;
2. Time or voyage charterer;
3. Person or group of persons, entity who engaged the services of the fishers through Cabo system; or
4. Person or group of persons, entity who has engaged the services of the fishers and paid by result.

For fishers arrested for illegal fishing in other countries, the fishing vessel owner shall pay them with daily minimum wage as stated under Rule V of this Rules for the duration of their detention.

Further, the fishing vessel owner shall shoulder repatriation expense of fishers arrested for illegal fishing in other countries. For this purpose, the expenses for the repatriation shall include the following:

1. Passage to destination;
2. Accommodation and food from the moment the fisher leaves the vessel until the fisher reaches the repatriation destination;
3. Pay and allowances from the moment the fisher leaves the vessel until the fisher reaches the repatriation destination – as may be provided for in a

- collective bargaining agreement;
4. Transportation of the fishers' personal baggage; and
 5. Medical treatment, when necessary, until the fisher is medically fit to travel to the repatriation destination.

RULE IX Social Protection

Section 1. Social Protection Benefits. - Without prejudice to established company policy, or collective bargaining agreement, or other applicable employment agreement, fishers shall be entitled to coverage for social welfare benefits provided by Pag-IBIG,³⁴ PhilHealth,³⁵ SSS,³⁶ Employees' Compensation Program³⁷ and other applicable laws.

In the absence of social security coverage, medical and hospitalization costs of work-related injuries, illness and sickness of fishers shall be shouldered by fishing vessel owners.

RULE X Joint Venture and Industrial Partnership

Section 1. Joint Venture Agreement and Industrial Partnership. - Joint venture agreement and partnership established pursuant to existing laws, rules and regulations shall be respected.

Section 2. Fishers as Industrial Partners. - Without prejudice to applicable provisions of existing laws and jurisprudence, fishers may be considered as industrial partners when all of the following indicators are present:

- a. A contract or articles of partnership duly executed by fishers and fishing vessel owners as partners, and registered with the Security and Exchange Commission;
- b. Absence of control of fishing vessel owners over the captains or masters and fishers with respect to the means and methods by which the work is to be accomplished;
- c. Creation of a juridical entity separate from the partners;
- d. Utilization of partnership as a mode of managing commercial fishing operation;
- e. Parity of standing between the partners in which the fisher as a partner has an equal proprietary interest in the capital or property contributed and where each partner exercises equal rights in the conduct of the business; and
- f. Death of a fisher causes the dissolution of the partnership.

Section 3. Obligations to Fishers. - Parties to the joint venture or partnership shall ensure that fishers considered employees of the joint venture or partnership are receiving the applicable wage and wage related benefits under Rule V.

³⁴ Republic Act No. 9679.

³⁵ Republic Act No. 7875, as amended by Republic Act No. 9241.

³⁶ Republic Act No. 1161, as amended by Republic Act No. 8282.

³⁷ Presidential Decree No. 626.

RULE XI Licensing, Training and Development

Section 1. Licensing and Certification. - The BWC and OSHC, in coordination with BFAR, PFDA, MARINA, and PCG,³⁸ shall review the existing assessment, licensing and certification programs for fishing vessels and fishers and recommend a responsive and coordinated licensing and certification program to ensure the safety of fishing vessels, and safety and health of fishers.

Section 2. Proficiency Standards. - The TESDA, in coordination with BWC, OSHC, BFAR and MARINA, shall develop training regulations for fishers taking into account generally accepted international standards pursuant to Section 116 of the Implementing Rules and Regulations of Republic Act No. 8550, as amended.

RULE XII Labor-Management Cooperation

Section 1. Right to Self-Organization and Collective Bargaining. - Fishers shall have the right to form, join, or assist in the formation of a labor organization, association, or cooperative of their own choice for purposes of collective bargaining or for mutual aid or protection.

Section 2. Labor-Management Cooperation. - The NCMB shall encourage and assist fishing vessel owners and the fishers in creating a labor and management committee or any labor management mechanism that shall develop and implement labor-management cooperation schemes and welfare programs for fishers.

The labor and management committee shall be the mechanism for the determination of productivity or performance-based pay pursuant to existing policies, rules and regulations of NWPC.

RULE XIII Compliance and Enforcement

Section 1. Enforcement of Labor and Occupational Safety and Health Standards. - The DOLE Regional Office having jurisdiction over fishing vessel's actual place of operation, shall conduct joint assessment to determine compliance to general labor standards and occupational safety and health standards

For this purpose, the BWC and OSHC shall develop a Manual for ascertaining fishing vessel owners' compliance with general labor and occupational safety and health standards, taking into consideration Department Order No. 131-13, Series of 2013,³⁹ as amended, and Manual on Labor Laws Compliance System and Procedures for Uniformed Implementation, within 60 days from the effectivity of this Rules.

Section 2. Enforcement of Fishing, Maritime, Coast Guard and Fish Port Laws. - Fishing, maritime, coast guard and fish port laws, rules and regulations shall be enforced pursuant to the Memorandum of Agreement among the DOLE, DA, DOTC, BFAR, PFDA, MARINA and PCG.

³⁸ Pursuant to the Memorandum of Agreement dated 27 July 2015.

³⁹ Rules on Labor Laws Compliance System.

Section 3. Fishing Vessels Without COC or Company COC. - Fishing vessel owners shall obtain Certificate of Compliance to general labor and occupational safety and health standards of all their vessels within sixty (60) days from the effectivity of this Rules.

Section 4. Joint Assessment. - The DOLE Regional Offices, shall coordinate, as much as practicable, with OSHC, BFAR, MARINA, PCG and PFDA for the conduct of joint assessment of fishing vessels' compliance with general labor standards and occupational safety and health standards; fishery laws, rules and regulations; maritime laws, rules and regulations; coast guard laws, rules and regulations; and other relevant laws, rules and regulations.

Section 5. Improving Compliance with Labor Standards. - To ensure continuing compliance with labor and occupational safety and health standards, fishing vessel owners are encouraged to apply and participate in the Incentivizing Compliance Program.⁴⁰

Section 6. Violations of Employment Agreement. - Any violation of the provisions of the employment agreement, either uncovered during the conduct of joint assessment or compliance visit, shall be initially resolved pursuant to the Single-Entry Approach Program (SEnA).

Section 7. Violations of Labor and Occupational Safety and Health Standards. - Violations of labor and occupational safety and health standards shall be resolved pursuant to DOLE No. 151-16, Series of 2016.

Section 8. Tripartite Monitoring Body. - A regional-based Industry Tripartite Council shall be established within thirty (30) days from the effectivity of this Rules. The Fisheries and Aquatic Resources Management Councils shall be properly represented therein.

It shall submit quarterly report to the Secretary of Labor and Employment and to the National Tripartite Industrial Peace Council containing, among others, compliance with the general labor and occupational safety and health standards, compensation scheme adopted, and fishers' exercise of their right to self-organization.

For fishing concerns, the Cabinet Committee on Marine and Ocean Affairs Technical Working Group, National Monitoring, Control and Surveillance System Operations Center, National Fisheries and Aquatic Resources Council, BFAR, MARINA, PCG and PFDA shall be invited, whenever necessary, in the National Tripartite Industrial Peace Council.

Section 9. Registry of Compliant Fishing Vessels. - The BWC shall maintain a central registry of compliant fishing vessels, which is accessible through the websites of the OSHC, BFAR, MARINA, PCG and PFDA.

RULE XIV Livelihood Program and Support

Section 1. Displacement of Fishers. - During lean season and/or closed

⁴⁰ Department Order No. 115-11.

season, the DOLE, through its Regional Offices, shall facilitate the access of fishers and members of their families to livelihood and temporary employment and income opportunities under the DOLE Integrated Livelihood and Emergency Employment Program, subject to compliance to the requirements under Department Order No. 137, Series of 2014.

Section 2. Livelihood Program. - The DOLE shall implement convergence programs with other government agencies in implementing livelihood and other support programs to fishers.

RULE XV Penalties

Section 1. Non-Payment of Wage and Wage-Related Benefits. - Double indemnity shall be imposed for non-payment of wage and wage-related benefits pursuant to Republic Act No. 8188.⁴¹ Further, non-payment or non-remittance of social security contributions shall be penalized under the laws, rules and regulations of social security agencies.

Section 2. Child Labor and Forced Labor. - Fishing vessel owner engaged in child labor and forced labor shall be penalized pursuant to appropriate provisions of the Revised Penal Code,⁴² Republic Act No. 7610,⁴³ Republic Act No. 7658,⁴⁴ Republic Act No. 9208,⁴⁵ Republic Act No. 9231⁴⁶ and Republic Act No. 10364.⁴⁷

Section 3. Obstruction of Labor Law Compliance Officer. - Obstruction of Labor Law Compliance Officer shall be penalized under existing labor laws, rules and regulations.

RULE XVI Miscellaneous Provisions

Section 1. Mandatory Review. - The provisions of this Department Order shall be reviewed in consultation with the stakeholders, after one year of implementation.

Section 2. Non-Diminution of Benefits. - Nothing herein shall be construed to authorize diminution of benefits currently being enjoyed by fishers.

Section 3. Effect of Existing Company Policy, Contract or Collective Bargaining Agreement. - The minimum benefits provided under this Rules shall be without prejudice to any company policy, contract or collective bargaining agreement which provides better benefits and terms and conditions of employment.

⁴¹ An Act Increasing the Penalty and Increasing Double Indemnity for Violation of the Prescribed Increases or Adjustment In the Wage Rates, Amending for the Purpose Section Twelve of Republic Act Numbered Sixty-Seven Hundred Twenty-Seven, Otherwise Known as the Wage Rationalization Act.

⁴² Articles 272 (slavery), 273 (exploitation of child labor) and 274 (services rendered under compulsion in payment of debt).

⁴³ Special Protection of Children against Abuse, Exploitation and "Discrimination Act."

⁴⁴ An Act Prohibiting the Employment of Children Below 15 Years of Age in Public and Private Undertakings, Amending for This Purpose Section 12, Article VIII of R.A. No. 7610.

⁴⁵ Anti-trafficking in Persons Act of 2003.

⁴⁶ An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for This Purpose Republic Act No. 7610, As Amended, Otherwise Known As the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act.

⁴⁷ Expanded Anti-Trafficking in Persons Act of 2012.

Section 4. Separability Clause. - If any provision or portion of this Rules is declared void or unconstitutional, the remaining portions or provisions shall remain valid and effective.

Section 5. Supersession Clause. - All policies, issuances, rules and regulations and agreements inconsistent with this Rules are hereby superseded accordingly.

Section 6. Effectivity. - This Rules shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Manila, Philippines, 25 May 2016.


ROSALINDA DIMAPILAS-BALDOZ
Secretary

Dept. of Labor & Employment
Office of the Secretary



021672

PHILIPPINE FISHING VESSELS SAFETY RULES AND REGULATIONS

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Rule 1 General Provisions

Section 1. Title. These Rules and Regulations shall be known as the Philippine Fishing Vessels Rules and Regulations (PFVRR) of 2018.

Section 2. Objectives. These Rules and Regulations are geared towards ensuring that all fishing vessels of Philippine ownership and/or registry are so designed, constructed, maintained, operated and inspected in accordance with the standards necessary to enhance the safety of life and property at sea as well as the protection of the marine environment.

Section 3. Scope of Application. These Rules and Regulations shall apply to the following:

1. New fishing vessels, as defined hereunder to be registered in Philippine Registry, in which, by their size and type of operation, are covered by the provisions of these Rules and Regulations, shall comply with the latter in all respects. In the absence thereof of certain provisions, they shall comply with the provisions of relevant international maritime conventions in a suppletory character.
2. Existing fishing vessels, conforming to the Revised Philippine Merchant Marine Rules and Regulations, 1997 (R-PMRR 1997), shall be given a period of one (1) years from the effectivity of this PFVRR 2018 within which to comply with the mandatory provisions herein set forth except for provisions that may require structural changes, whereby said fishing vessel will be given ten (10) years to comply. After the expiration of the aforementioned period, such non-conforming fishing vessels shall be acted upon subject to pertinent and applicable provisions of this Rules and Regulations.
3. The provisions of these Rules and Regulations shall not apply to fishing vessels of 3 GT and below.

Section 4. Definitions. For purpose of these Rules and Regulations and unless expressly provided otherwise:

1. **Accommodation Spaces** are those spaces used for public spaces: corridors, lavatories, cabins, and pantries containing no cooking appliances and similar spaces.
2. **Accredited Supplier/Service Entity** refers to a private individual or entity authorized by the Administration to engage in manufacturing, servicing and/or supplying vessel's appliances and equipment.
3. **Acquisition** refers to the importation, bareboat charter, local construction and permanent conversion of ship's trading status from overseas operation to domestic operations.
4. **Administration** means the Maritime Industry Authority (MARINA).
5. **Alteration/Modification** shall include, but not limited to, re-engining of propulsion machinery; jumboizing of ship's hull in terms of length, breadth and depth; construction of additional deck; transfer, movement or addition of

- superstructure; changes of subdivision(s) affecting watertight integrity and the original approved plans.
6. **Amidships** is in the vicinity of the middle portion of a fishing vessel as distinguished from her ends or midway between bow and stern.
 7. **Anniversary Date** means the day and month of each year, which corresponds to the date of expiry of the relevant certificate.
 8. **Approved** means approved by the Administration.
 9. **Auxiliary Means of Steering** means the equipment other than any part of the main steering gear necessary to steer the fishing vessel in the event of failure of the main steering gear but not including the tiller, quadrant or components serving the same purpose.
 10. **Auxiliary Small Boat (ASB)** is a boat less than three (3) gross tonnage locally known as “pakura” or “sirisan”, made of wood, fiber glass, or any other material, with or without outrigger, propelled by a suitable engine and carried on board a handline fishing boat for use in handline fishing operations
 11. **Boat Captain (BC)** refers to a marine deck officer duly licensed by the Administration to command a ship below 100 GT.
 12. **Breadth (B)**, unless expressly provided, is the maximum breadth in meters of the fishing vessel measured amidships from the moulded line of the frame of the vessel with a metal shell to the outer surface of the hull in a vessel with a shell of any other material.
 13. **Bridge-to-Bridge Communications** means safety communications between fishing vessels at the position from which the vessels are normally navigated.
 14. **Bulkhead Deck** is the uppermost deck up to where the transverse watertight bulkheads are carried.
 15. **Cadet** refers to a student/learner at least 16 years old enrolled in a maritime course approved by the Commission on Higher Education (CHED) or by the Technical Education and Skills Development Authority (TESDA).
 16. **Certificate of Marine Profession (CMP)** refers to the document issued to passers of MAP, MIP, BC 1, BC 2 BC 3, MEM 1, MEM 2, MEM3 and all those seafarers whose licenses were issued under MC 170 and its subsequent amendments giving them authority to practice their profession.
 17. **COLREG** means the International Regulations for Preventing Collisions at Sea, 1972, as amended.
 18. **Company/Fishing Company** means the owner of the fishing vessel/organization/person such as manager or bareboat charterer, who has assumed the responsibilities for operation of the vessel from the vessel’s owner and who, on assuming such responsibilities, has agreed to take over all the duties and responsibilities in the operation of the fishing vessel.
 19. **Construction** refers to a process of shipbuilding using modular/ block system, tradition method and other methods accepted for shipbuilding for new ships;
 20. **Construction Certificate** refers to the certificate issued by the Administration upon completion of the periodic survey and issuance of Builder’s Certificate by the Shipyard/ Shipbuilder.

21. **Continuous Radio Watch** means that the watch concerned shall not be interrupted for any reason other than for brief intervals when the fishing vessel's receiving capability is impaired or blocked by its own communications or when the facilities are under periodical maintenance or checks.
22. **Control Stations** are those spaces where the fishing vessel's radio, main navigating equipment or emergency power source is located or where the fire recording or fire control equipment is centralized.
23. **Conversion** refers to a kind of work done on an existing ship resulting in its modification into something totally different from the original ship resulting to change in ship type and service (i.e., rig type).
24. **Deck Ratings (DR)** refers to a person on board fishing vessel other than the skipper or officer as listed in the minimum safe manning certificate given the task to assist the deck officers.
25. **Depth of Freeboard (D)** means:
 1. The moulded depth amidships, plus the thickness of the freeboard deck stringer plate, where fitted, plus $T \times (L-S) \div L$ if the exposed freeboard deck is sheathed, where:
 - a. L is the length as defined;
 - b. T is the mean thickness of the exposed sheathing clear of deck openings; and
 - c. S is the total length of superstructures as defined.
 2. Fishing vessels having a rounded gunwale with a radius greater than four percent of the breadth (B) or having topsides of unusual form is the depth for freeboard of a vessel having a midship section with vertical topsides and with the same round of beam and area of topside section equal to that provided by the actual midship section.
26. **Digital Selective Calling (DSC)** is a technique, which uses digital codes and enables a radio station to establish contact with, and transfer information to, another station or group of stations.
27. **Domestic Ownership** means ownership vested in citizens of the Philippines, corporations or associations organized under the laws of the Philippines. At least sixty percent (60%) of the capital stock should be wholly owned by citizens of the Philippines.
28. **Electronic Copy of Fishing Vessel's Plans and Specifications** refers to the digital document file of the approved ship's plans and specification by the Administration in file format supported by any marine software, AutoCAD or Adobe Portable Document, clear and readable stored in CD or USB/ flash drives.
29. **Existing Fishing Vessel** means a fishing vessel that is not a new fishing vessel.
30. **Emergency Source of Electrical Power** is a source of electrical power, intended to supply the emergency switchboard in the event of failure of the main source of electrical power.

31. **Engine Officer (EO)** refers to a person duly licensed by the Administration to operate and maintain the engine of a fishing vessel.
32. **Engine Rating (ER)** refers to a person onboard fishing vessel other than the licensed engine officer as listed in the minimum safe manning certificate given the responsibility to assist the engine officers.
33. **Fish Carrier** refers to the Cargo vessel used to supply ice and other food provisions as well as collect/transport fish catch from fish catcher, which is also owned and operated by the same fishing company.
34. **Fish Catcher** refers to the fishing vessel engaged in the capture of fishery resources.
35. **Fishing Fleet** is an aggregate of commercial fishing vessels or group of fishing vessels engaged in a particular type of fishing method under one management, command and control. It consists of fish catchers with auxiliary skiff boats, fish carriers, sonar boats, light boats and supply boats.
36. **Fish Hold** refers to the storage space of the fishing vessel where the ice and the fish catch are kept.
37. **Fishing Vessel** means any boat or other watercraft equipped to be used for taking of 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, refrigeration or processing.
38. **Fishing Vessel Officers** refers to duly licensed deck and engine officers of a fishing vessel.
39. **Fishing Vessel Safety Certificate** is the certificate issued to fishing vessels engaged in domestic/international fishing operation after inspection and survey by the Administration and found to have complied with these Rules and Regulations.
40. **Fishers** are persons involved in the taking of fishery species from their wild state or habitat and working in a fishing vessel. Fishers – refer to the personnel onboard fishing vessels, participating in the preparation/ maintenance of fishing gears, equipment devices, and fish catching, loading and processing of catch. fisher means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
41. **Float-Free Launching** is the method of launching a survival craft whereby the craft is automatically released from a sinking fishing vessel and is ready for use.
42. **Freeboard Assigned** is the distance measured vertically downwards amidships from the upper edge of the deck line to the upper edge of the related load line.
43. **Freeboard Deck** means, normally, the uppermost complete deck exposed to weather and sea, which has permanent means of closing all openings in the weather part thereof and below, where all openings in the sides of the fishing vessel are fitted with permanent means of watertight closing. In a fishing vessel,

the discontinuous freeboard deck, the lowest line of the exposed deck and the continuation of that line parallel to the upper part of the deck are all taken as the freeboard deck. At the option of the owner and subject to the approval of the Administration, a lower deck may be designated as the freeboard deck provided it is a complete and permanent deck continuous in a fore and aft direction at least between the machinery space and peak bulkheads and continuous athwart ships. When this lower deck is stepped, the lowest line of the deck and the continuation of that line parallel to the upper part of the deck are taken as the freeboard deck. When a lower deck is designated as the freeboard deck, that part of the hull, which extends above the freeboard deck, is treated as a superstructure, based on the application of the condition of assignment and the calculation of freeboard. It is from this deck that the freeboard is calculated.

44. **Function** means a group of tasks, duties and responsibilities as specified in the STCW Code, necessary for fishing operation, safety of life at sea or protection of the marine environment.
45. **Gross Tonnage (GT)** means the measure of the overall size of a ship determined in accordance with the provisions of these Rules and Regulations.
46. **Handline Fishing Boat (HFB)** is a fishing boat with or without outrigger and with or without auxiliary small boats on board that exclusively utilizes the handline fishing method. Any reference to fishing boat in this Rules shall pertain to a Handline Fishing Boat.
47. **Hearing Officer/Body** refers to official(s)/body duly designated/constituted by the Administration to act as such in the conduct of maritime investigations and disciplinary proceedings.
48. **HFL-IRR** shall mean the Implementing Rules and Regulations of Republic Act No. 9379 otherwise as “The Handline Fishing Law”.
49. **Inflatable Life Raft** is a life-saving appliance, which depends on non-rigid, gas-filled chambers for buoyancy and is normally kept deflated until ready for use.
50. **International Waters in Fishing** refers to all bodies of marine waters beyond the 200 nautical miles of the Philippine Exclusive Economic Zone (EEZ).
51. **Investigating Officer/Body** refers to the official(s)/body duly designated by the Administration to conduct maritime inquiry/investigation. Body refers to Chairman, Vice-Chairman and members, who may be drawn from the Registry as designated by the Administration.
52. **Launching Appliance or Arrangement** is a means of transferring a survival craft or rescue boat from its stowed position safely to the water.
53. **Length (L)**, measured in meter and is 96% of the total length on a waterline at 85% of the least moulded depth measure from the top of the keel, or the length from the fore-side of the stern to the axis of the rudder stock on that waterline, whichever is greater. In fishing vessels designed with a rake of keel, the waterline on which this is measured shall be parallel to the designated waterline.
54. **License** refers to the Identification (ID) Card issued to a person who is a holder of a Certificate of Marine Profession.

55. **Life-Saving Appliances and Equipment** refer to the appliances and equipment required of each type of vessel in these Regulations.
56. **Lightboat** is the fishing vessel that assists in a fishing operation by utilization of its lighting devices.
57. **Locating** means the finding of vessels, aircraft, units or persons in distress.
58. **Machinery Space** is the area extending from the moulded base line to the margin line and between the extreme main transverse watertight bulkheads, which bounds the spaces containing the main and auxiliary propulsion machinery, boilers serving the needs of propulsion, and all permanent bunker spaces.
59. **Machinery spaces of category A** are those spaces which contain internal combustion type machinery used either:
1. for main propulsion; or
 2. for other purposes where such machinery has in the aggregate a total power output of not less than 750 kW,
- or which contains any oil-fired boiler oil unit.
60. **Major Patron (MAP)** refers to a marine deck officer duly registered and certificated to act as Master of a vessel/ship of not more than 500 gross tonnage (GT) navigating in near-coastal and inter-island voyages.
61. **Main Source of Electrical Power** is a source intended to supply electrical power to the main switchboard for distribution to all services necessary for maintaining the fishing vessel in normal operational and habitable condition.
62. **Main Steering Gear** refers to the machinery, rudder actuators, steering gear power units, if any, and ancillary equipment and the means of applying torque to the rudder stock (e.g. tiller or quadrant) necessary for effecting movement of the rudder for the purpose of steering the fishing vessel under normal service conditions.
63. **Main Switchboard** is the switchboard which is directly supplied by the main source of electrical power and is intended to distribute electrical energy of the fishing vessel services.
64. **MARINA** refers to the Maritime Industry Authority.
65. **Marine Engine Mechanic (MEM)** refers to a person registered and certificated to operate and maintain the diesel engine/s of a boat/ship.
66. **Maritime Casualty or Accident** refers to any casualty or accident involving any vessel other than a naval ship, which occurs within the navigable waters of the Republic of the Philippines; or any casualty or accident involving any Philippine vessel other than a naval ship, which occurs outside of Philippine territorial waters. It includes any incident involving a vessel which results in damage to a vessel, its apparel, gear, and/or passengers and crews, and inter alia includes sinking, collision, stranding, grounding, heavy weather damage, and other damage that may affect and impair the seaworthiness of the vessel.
67. **Maritime Safety Information** means navigational and meteorological warnings, meteorological forecasts and other urgent safety-related messages broadcast to vessels.

68. **MARPOL 73/78** means the International Convention for the Prevention of Pollution from Ships, 1973 and its Protocol of 1978, as amended.
69. **Maximum Ahead Service Speed** is the greatest speed which the fishing vessel is designed to maintain in service at sea at the deepest seagoing draught.
70. **Maximum Astern Speed** is the estimated speed that a fishing vessel can approximately attain at the designated maximum astern power and at deepest seagoing draught.
71. **Minimum Safe Manning** means the number of qualified, competent and certificated officers and ratings onboard fishing vessels who can safely operate her at all times.
72. **Minor Patron (MIP)** refers to a marine deck officer duly registered and certificated to act as Master of a vessel/ship of not more than 250 GT navigating within a specified body of water in near- coastal and inter-island voyages.
73. **Modification** refers to the process of replacing major propulsion machinery to include major auxiliaries; modifying the superstructure such as construction of additional deck above main deck; and other similar process.
74. **Moulded Depth** is:
1. The vertical distance measure from the top of the keel to the top of the freeboard deck beam at side. In wood and composite fishing vessel, the distance is measured from the lower edge of the keel rabbet. Where the form at the lower part of the midship section is of hollow character, or where thick garboards are fitted, the distance is measured from the point where the line of the flat of the bottom continued inwards and cuts the side of the keel.
 2. Fishing vessels having rounded gunwales shall be measured from the point of intersection of the moulded lines of the deck and side shell plating to the lines extending as though the gunwale were of angular design.
 3. Where the freeboard deck is stepped and the raised part of the deck extends over the point at which the moulded depth is to be determined, it shall be measured using a line of reference extending from the lower part of the deck along a line parallel with the raised part.
75. **NAVTEX** is a system for the broadcast and automatic reception of maritime safety information such as but not limited to Navigation/Meteorological warnings, search and rescue information. Urgent Information by means of narrow Band Direct Printing Telegraphy.
76. **Net Tonnage** means the measure of the useful capacity of a ship determined in accordance with the provisions of this Rules and Regulations.
77. **New Fishing Vessel** is either:
1. A fishing vessel, the keel of which was laid down on or after these Rules and Regulations became effective.
 2. A fishing vessel changing to Philippine registry;
 3. An existing fishing vessel which undergoes major conversion as to:

- a. Substantially alter its dimensions or carrying capacity; or
 - b. In the opinion of the Administration, substantially to prolong its life; or
 - c. If it was a new fishing vessel, it would become subject to relevant provisions of these Rules and Regulations not applicable to it as an existing fishing vessel.
78. **Non-combustible material** is a material which neither burns nor gives off flammable vapors in sufficient quantity for self-ignition when heated to approximately 750°C. This will be determined to the satisfaction of the Administration by employing an established test procedure. Any other material is a combustible material.
79. **Non-convention sized vessels** are vessels not covered by the International Conventions.
80. **Oil Fuel Unit** is any equipment used for the preparation of oil fuel for delivery to an oil-fired boiler, or equipment used for the preparation for delivery of heated oil to an internal combustion engine, and includes any oil pressure pumps, filters and heaters dealing with oil at a pressure of more than 0.18 N/mm².
81. **Operational Level** means the responsibility associated with:
1. Serving as officer-in-charge of a navigational or engine watch; or as designated duty engine officer for periodically unmanned machinery spaces; or as radio operators onboard a fishing vessel; and
 2. Maintaining direct control over the performance of all functions within the designated area of responsibility in accordance with proper procedure and under the direction of an individual serving in the management level for that area of responsibility.
82. **Organization** means the International Maritime Organization.
83. **Panel of Examiners (POE)** refers to a body created under this Rules and Regulations to be chaired by the MARINA Administrator whose members shall consist of a pool of qualified Marine Officers tasked to formulate test questions, check examination papers and supervise the conduct of Oral Examinations.
84. **Perpendiculars** means the forward and after perpendiculars taken at the forward and after ends of the length (L). The forward perpendicular shall coincide with foreside of the stem on the waterline on which the length is measured.
85. **Periodic Survey** refers to the complete examination of the hull structure, machinery, among others during the different stages of construction, conversion, alteration, modification or re-building of ship to ascertain that the ship is constructed, converted, altered or modified in accordance with the approved plans.
86. **Pool of Assessors** refers to MARINA qualified personnel, under the direct supervision of the Panel of Examiners, authorized by the MARINA Administrator to conduct the Oral Examinations.
87. **Port of Registry** means the port in the Philippines where the fishing vessel's record of registry is kept and maintained.

88. **Pre-evaluation** refers to the process of reviewing and assessing the ship's plans and specification including survey of ships prior to importation.
89. **Radio Officer (RO)** refers to holder of any appropriate Radio Operator's License/Certificate or SROP (Special RadioTelephone Operator's Permit) issued by appropriate Government Regulatory Agency as determined by existing Radio Regulation.
90. **Radio Regulations** means the Radio Regulations annexed to, or regarded as being annexed to, the most recent Local and International Telecommunication Convention, treaties and agreement, which is in force at any time.
91. **Radio Telephone Auto Alarm** means an approved automatic alarm receiving apparatus that responds to the radiotelephone alarm signal.
92. **Radiotelephone Station and Radiotelephone Installation** shall be considered as relating to the medium frequency (MF), High Frequency (HF), Very High Frequency (VHF) band, unless expressly provided otherwise.
93. **Rating** refers to crew other than officers.
94. **Re-building** refers to an existing ship subjected to changes specifically the replating of its hull/ superstructure and replacement of its main engine in order to substantially prolong its operating life to such an extent of at least 85% of its total hull has been replaced including its main engine;
95. **Recognized Standards** are the applicable international or national standards or those adopted by the recognized classification societies and accepted by the Administration.
96. **Rescue Boat** is a boat designed for rescue of persons in distress and to marshal survival craft.
97. **Retro-Reflective Material** is a material that reflects in the opposite direction any beam of light directed on it.
98. **Sailing Fishing Vessel** refers to a fishing vessel which has no mechanical means of propulsion. All propulsion power is being provided by sails.
99. **Seafarer** refers to ship officers and ratings manning ships, cadets, service providers, company representatives and fishing vessel personnel
100. **Seafarer's Identification and Record Book (SIRB)** – refers to a document issued by the MARINA to all Filipino seafarers as defined herein attesting the qualification of the holder and serves as identification and record of sea service of the holder.
101. **Seaworthy Fishing Vessel** means a fishing vessel which has complied with the requirements of these Rules and Regulations and certified by an attending authorized surveyor.
102. **Secretariat** refers to personnel of the Manpower Development Office (MDO) or the concerned MARINA Regional Office (MRO) tasked to perform the assigned duties in the conduct of examinations, issuance of Certificate of Marine Profession (CMP) and license to passers.
103. **Self-propelled Fishing Vessel** means a fishing vessel that has its own mechanical means of propulsion.

104. **Service Provider** refers to personnel onboard ships who provide services other than those that relate to navigation.
105. **Service Space** are those spaces used for galleys, pantries containing cooking appliances, lockers, mail and specie rooms, store-rooms, workshops other than those forming part of the machinery spaces, and similar spaces and trunks to such spaces.
106. **Ship Plans and Specifications** refers to plans showing the detailed drawings of each specific plan of the ship;
107. **Skipper** refers to the person/deck officer in command of a fishing vessel.
108. **Sonar Boat** is a fishing vessel, equipped with sonar apparatus, used for detecting and locating schools of fish.
109. **Special Personnel** are persons, regardless of age and gender, who are permitted to be on board in connection with a special purpose or work during a given period of time.
110. **Short International Voyage** refers to an international voyage, in which the course of the vessel is not more than 200 nautical miles from a port or place where the crew could be landed safely, and which does not exceed 600 nautical miles between the last port of call in the country where the voyage began and the final port of destination.
111. **Steel or Other Equivalent Material** Where the words “Steel or other equivalent material” occur, “equivalent material” means any non-combustible material which, by itself or due to insulation provided, has structural and integrity properties equivalent to steel at the end of the applicable exposure to the standard fire test (e.g. aluminum alloy with appropriate insulation).
112. **Supply Boat** – is a fishing vessel that supplies water and other needs of the fishing fleet.
113. **Superstructure** is a decked structure on the freeboard deck, extending from side to side of the fishing vessel or with the side plating not being inboard of the shell plating more than four percent of the breadth (B). A raised quarterdeck is regarded as a superstructure.
114. **Support Level** means the level of responsibility associated with performing assigned tasks, duties and responsibilities onboard fishing vessels under the direction of an individual serving in the operational or management level.
115. **Survival Craft** refers to a liferaft or any craft or floating device as allowed by the Administration provided as a means for a person/s to be in an afloat condition in the event of abandonment of the vessel.
116. **Testimonial License** refers to a document issued attesting to the competence of a seafarer to man a ship 15 GT and below based on experience.
117. **Thermal Protective Aid** is a bag or suit made of waterproof material with low thermal conductivity.
118. **Tonnage Breadth** is the horizontal breadth measured at the uppermost depth at midship and the measurement shall be taken to the inboard face of the frames. This shall apply only to the following ships:
 1. Enclosed deck with outriggers.

2. Open deck with outriggers.
 3. Open deck without outriggers.
119. **Tonnage Depth** is the dimension taken at the middle of the tonnage length from a point above the deck edge at side to the top of the floor frames or the inner bottom plating. This shall apply only to the following ships:
1. enclosed deck with outriggers.
 2. open deck with outriggers.
 3. open deck without outriggers.
120. **Tonnage Length** is the length measured on the underside of the tonnage deck, from a point where the line of the inside face of the frames meet on the centerline of the side at the stern to point where the same line would meet the centerline of the ship at the stern. This shall apply only to the following ships:
1. enclosed deck with outriggers.
 2. open deck with outriggers.
 3. open deck without outriggers.
121. **Vessel** is a general term for all craft or artificial contrivance capable of floating in water and designed to be used or capable of being used as a means of water transportation, utilizing its own motive power or that of others.
122. **Watertight** refers to the capability to prevent the passage of water through the structure from any direction under a head of water, for which the surrounding structure is designed.
123. **Wooden Fishing Vessel of Primitive Build** means a wooden vessel built traditionally and not primarily propelled by mechanical means.

Rule 2

Registration and Documentation of Fishing Vessels

Section 1. Coverage. This Rules shall apply to all types of fishing vessels (except fish carrier) of domestic ownership of more than 3 GT.

Section 2. Registration of Fishing Vessels.

1. National Character and Flag

- a. A Philippine-registered fishing vessel shall fly the national flag at all times.
 - b. The sovereignty of the Philippines shall extend to all Philippine-registered fishing vessels.
 - c. The Administration shall effectively exercise its jurisdiction and control in administrative, technical and social matters over fishing vessels flying Philippine flag.
 - d. Fishing vessels, which are not Philippine-registered shall not, for the purpose of making it appear to be a Philippine fishing vessel, fly the national colors, unless the assumption of Philippine nationality has been made for the purpose of escaping capture by the enemy or by a foreign vessel of war in the exercise of belligerent right (the burden of proof shall lie on the fishing vessel owner).
 - e. No owner or skipper of a Philippine-registered fishing vessel shall knowingly do anything to be done, or carry or permit to be carried any papers or documents with intent to conceal the true nationality of the fishing vessel from any person entitled by any law to inquire into the same or with intent to assume a foreign character for the fishing vessel with intent to deceive any person so entitled as aforesaid.
 - f. A Philippine-registered fishing vessel may not change its flag during fishing or while in port of call, except in the case of a real transfer of ownership or change of registry. It may only change its flag after permission to do so has been granted by the Administration.
2. It shall be the duty of the owner or agent of every fishing vessel required to be registered to immediately file an application with the Administration.

Section 3. Certificate of Philippine Registry.

1. Fishing vessels used in Philippine waters, not being a transient of foreign registry, shall be registered with the Administration. Fishing vessels owned by Philippine nationals to be used in international waters shall likewise be registered with the Administration.
2. Pursuant to the preceding paragraph, the Administration shall grant a Certificate of Philippine Registry (CPR) as evidence of registration, provided such fishing vessels, which are not entered in the Philippine register of Fishing Vessels, shall be required to secure a Fishing Vessel Identity Certificate (Certificate of Number).

3. The registration of fishing vessels for fishing operation shall be in effect at the original homeport or at the nearest office of the Administration. This original homeport shall be referred to as the Port of Registry.

1. **Documentation of Fishing Vessel**

- i. **Acquisition of Fishing Vessel**

- a. Letter of Application for Authority to import/purchase;
- b. Request for the Issuance of Provisional Certificate of Philippine Registry (PCPR)
 1. Fishing vessels acquired abroad shall, before being brought to the Philippines, secure a Provisional Certificate of Philippine Registry. Application for provisional registration shall be filed with the Administration, duly supported with the following documents for MARINA approval of the fishing vessel subject for acquisition through importation;
 2. Letter of Intent including request for endorsement to the Department of Foreign Affairs (DFA) for issuance of Provisional Certificate of Philippine Registry (PCPR);
 3. Memorandum of Agreement duly signed with names of signatories printed;
 4. Duly notarized Resolution of the company's Board of Directors, certified by the Board Secretary authorizing the filing of the application and designating the officials/authorized representatives to represent the applicant-company.
- c. Latest Certificate of Good Standing/Company Seal or Business Registration showing the current list of directors/officers of the registered owner;
- d. Duly notarized authenticated Power of Attorney or Board Resolution authorizing the signatory to the Memorandum of Agreement to act as such in behalf of the registered owner;
- e. Valid Certificate of Fishing Vessel Registry;
- f. General Arrangement Plan of the fishing vessel;
- g. Clearance from the Department of Agriculture/Bureau of Fisheries and Aquatic Resources;
- h. Latest Survey Report.

- ii. **Acquisition thru Local Sale**

- a. Letter of Application;
- b. Deed of Sale;
- c. Original Certificate of Registry;
- d. Original Certificate of Ownership;
- e. Clearance from MARINA's Central Office Legal Service or Regional Office indicating that the registered owner/ship have no

pending case/unsettled penalties and the vessel is free from liens and encumbrances.

iii. **Acquisition thru Local Construction**

- a. Letter of Application;
- b. Notarized Memorandum of Agreement between the fishing vessel builder and the owner;
- c. General Arrangement Plan;
- d. Itemized costing of bill of materials;
- e. Filing fee.

iv. **Acquisition thru Bareboat Charter/Lease-Purchase/Lease Irrevocable Purchase**

- a. Letter of Application;
- b. Lease-Purchase/Lease-Irrevocable Purchase Agreement/Bareboat Charter Contract; In case of Taiwanese registered vessels, the Agreement/Contract should be noted and verified by Manila Economic and Cultural Office (MECO) and duly notarized by a Notary Public in Taiwan;
- c. Duly notarized Resolution of the company's Board of Directors, certified by the Board;
- d. Latest Certificate of Good Standing / Company Seal or Business Registration of the vessel's registered owners showing its current list of Directors/Officers;
- e. Power of Attorney or Board Resolution authorizing the signatory to the Lease-Purchase / Lease-Irrevocable Purchase Agreement / Bareboat Charter Contract to act as such in behalf of the registered owner;
- f. Certificate of Vessel's Original Registry / Nationality.

In case of Taiwanese registered vessels, the Agreement/ Contract should be noted and verified by Manila Economic and Cultural Office (MECO) and duly notarized by a Notary Public in Taiwan.

v. **General Arrangement Plan of the Vessel**

- a. Class Certificate or equivalent certificate in case of newly built fishing vessel (if applicable);
- b. Latest and Valid Survey Report (not applicable to newly built);
- c. Consent to the bareboat charter registration in the Philippines by the state of former registry;
- d. Builder's Certificate/Fishing vessel building Contract (for newly built);
- e. Provisional Certificate of Philippine Registry (PCPR).

Section 4. Certificate of Ownership. Upon permanent registration of a fishing vessel, a Certificate of Ownership (CO) shall be issued by the Administration

Section 5. Change of Ownership.

1. Whenever a change occurs in the ownership vessel of a Philippine-registered fishing vessel, the new owner shall present to the Administration at the port of registry an authenticated or notarized bill of sale or any other documents indicating the transfer of ownership of a fishing vessel heretofore documented in the Philippines. This shall be done within 15 days after execution/transfer of the sale.
2. The Administration in the new homeport shall require clearance from the immediate past homeport of the fishing vessel. A copy of the Certificate of Ownership (CO) issued by the registrar in a homeport shall be provided the registrar at the port of registry.
3. If the new owner is a Philippine national, a Certificate of Ownership (CO) shall be issued to such owner by the Registrar in the new homeport if there be a corresponding Change of Homeport, copy furnished the Port of Registry. A new Certificate of Philippine Registry (CPR) shall be issued to the new owner by the port of registry and the new trading certificates shall be issued by the new homeport.
4. If the new owner is a foreign national, the previous owner shall, within 15 days after the execution/transfer of the bill of sale, secure a Certificate of Deletion (CD) from the Administration at the port of registry.

Section 6. Homeport

1. **Homeport.** A fishing vessel shall be homeported in her port of call or her area of operation nearest to where the company's principal office is located.
2. **Change of Homeport.** A homeport may be changed in any of the following instances:
 - a. Change in ports of call or area of operation of the fishing vessel; or
 - b. Change of owner who is domiciled in another place.

Section 7. Assignment of Name

1. **Assignment of Name.**
 - a. An owner of a fishing vessel applying for registration shall file an application on the prescribed form in triplicate and apply for an original assignment of a proposed name of a fishing vessel for approval.
 - b. No license or registration documents shall be issued without complying with the aforementioned requirements. The Administration shall not approve an assignment of any name for a fishing vessel, where it appears the same name has already been assigned and borne by another vessel of more than 3 GT and of the same class and rig. Approval of applications for assignment of name of fishing vessels of 3 GT and below shall be done by a regional office.
2. **Change of Name**
 - a. When an owner of a fishing vessel documented in the Philippines desires to change the name of his fishing vessel, he shall file an application with the Administration /homeport at whose office the registration or license of the fishing vessel was issued.

- b. In every case where a change of name of a fishing vessel is approved, a Certificate of Change of Name shall be issued copy furnished the port of registry if the homeport be not the same as the port of registry. A new Certificate of Philippine Registry/Certificate of Ownership (CPR/CO) may be issued upon the request of the owner, reflecting the new name.

Section 8. Official Number and Marking of Fishing Vessel.

1. Every fishing vessel documented in the Philippines shall be assigned an official number by the Administration.
2. The official number assigned to a fishing vessel shall be carved or otherwise permanently marked in the main beam. The name and official number shall appear on all fishing vessel documents.
3. The official number shall be marked at least 76.20 mm in height. When the main beam is of wood, the figures shall be carved or borne thereon in figures not less than 9.53 mm nor more than 12.70 mm in depth, and 12.70 mm in width. If the main beam is of iron or other metal, the official number shall be counter-punched thereon in figures not less than 3.18 mm in depth and by 12.70 mm in width.
4. For open-deck fishing vessels, the assigned official number shall not be less than 25.4 mm in height and not less than 6.35 mm in width and shall be placed at the most accessible frame forward of the engine.
5. The name of the fishing vessel shall be painted on each side of the bow and the homeport to be painted at the fishing vessel's stem.

Section 9. Register of Fishing Vessels.

1. The Administration shall maintain a registry of fishing vessels to be known as "**Register of Philippine Fishing Vessels**", which shall be kept open to free inspection by the public during regular office hours.
2. The Register of Philippine fishing vessels shall contain the following particulars in such form and detail as the Administration may prescribe:
 - a. Name of fishing vessel;
 - b. Former name and registry (if applicable);
 - c. Type of fishing vessel;
 - d. Radio Station Call sign;
 - e. Official number;
 - f. Hull material;
 - g. Principal dimensions;
 - h. Tonnages (Gross/Net/Deadweight);
 - i. Classification society (if classed);
 - j. Horsepower (KW);
 - k. Main engine;
 - l. Auxiliary engines (if any) ;
 - m. Year built;

- n. Builders/Place built;
 - o. Name, nationality and business address/residence of owner/operator;
 - p. Homeport;
 - q. Date of issuance of Certificate of Philippine Registry (CPR); and,
 - r. Any material change of condition in respect to any of the preceding items including records of encumbrances.
3. Errors made in recording documents shall be rectified in the following manner:
- a. Slight errors not affecting the substance of the document, such as misspelled words, shall be corrected by the registrar or the responsible officer by writing the correction above the errors and by affixing his initials beside the correct entry or notation;
 - b. Any mistake, which might affect the meaning of the document, may be corrected upon petition or upon notice filed by the concerned party. The correction shall be made by rewriting the entire line or lines right below where the error occurred. Said correction, together with a statement of the circumstances, shall be signed by the officer-in-charge of the record;
 - c. Errors made in copying shall not be erased. Instead, all required changes shall be made as described above.

Section 10. Registration of Alterations and Registration Anew.

1. When a registered fishing vessel is so altered as not to correspond with the particulars relating to her tonnage or registered dimensions contained in the register book, the Administration at the port of registry shall, on application being made to them, stating the particulars of the alteration, either cause the alteration to be registered or direct the fishing vessel be registered anew.
2. For the purpose of registering an alteration in a fishing vessel, the Certificate of Philippine Registry (CPR) shall be presented to the Administration at the port of registry and the Administration shall grant a new Certificate of Philippine Registry/Certificate of Ownership (CPR/CO) containing a description of the fishing vessel as altered.
3. The particulars of the alteration so made, and the fact of the new certificate having been granted, shall be entered by the Administration in the register book at the fishing vessel's port of registry.

Section 11. Deletion of Fishing Vessel from Philippine Registry

1. General Provisions
 - a. Fishing vessels of domestic ownership shall be deleted or de-registered from the Philippine registry in any of the following cases
 - i. When the fishing vessel is sold or transferred to a foreign national;
 - ii. When the fishing vessel suffers actual or constructive total loss;
 - iii. When the fishing vessel is broken up or altered;
 - iv. When the Administration, after due process, orders the deletion from the Philippine registry of any fishing vessel found to have violated the government's rules and regulations.

- b. Fishing vessel chartered or leased from a foreign national, who was granted temporary registration in the Philippines for the duration of the charter contract, shall be deleted from the Philippine registry in any of the following cases:
 - i. When the charter or the lease of the fishing vessel expires or is terminated upon mutual agreement by the contracting parties;
 - ii. When the Administration revokes approval of the charter/lease contract for cause and after due process;
 - iii. When the Certificate of Philippine Registry (CPR) expires and not renewed; or,
 - iv. When the fishing vessel suffers actual or constructive total loss.

Section 12. Procedural and Documentary Requirements in the Deletion of Fishing Vessel from Philippine Registry

- 1. The registered owner of a fishing vessel or his authorized agent shall file an application to delete at the port of registry, supported by the following documents:
 - a. In case of sale of a fishing vessel or the transfer of title to a foreign national:
 - i. Memorandum of Agreement;
 - ii. Proof of payment of taxes due the government; and,
 - iii. Consent/release of all holders of mortgages, which have been duly registered with the Administration, if any.
 - b. In case of actual or constructive total loss:
 - i. Marine protest or report of the incident or loss of the fishing vessel duly notarized and authenticated; or,
 - ii. Official report from the Administration or the maritime authorities of other countries; or iii. Declaration by a competent accredited surveyor as to the fact of the loss.
 - c. In the case of shipbreaking:
 - i. Certificate of shipbreaker;
 - ii. All the trading certificates; and,
 - iii. Consent/release of all holders of mortgages, which have been duly registered with the Administration, if any.
 - d. In the case of a fishing vessel under temporary registry:
 - i. A favorable endorsement from the Administration;
 - ii. Clearance from the telecommunications authorities or the duly designated accounting authority for radio maritime accounts;
 - iii. Proof of payment of all moneys due to the fishers of the fishing vessel at least until the month immediately prior to the filing of the application;
 - iv. Consent from the fishing vessel's registered owners;
 - v. Proof of payment of taxes due the government.

2. If the application for deletion is filed by the agent of the registered owner, it must be accompanied by a written authorization duly signed by the owner empowering his agent to file the application and secure the deletion from the Administration at the port of registry.

Section 13. Issuance of Deletion Certificate. Upon submission and presentation by the applicant of the documents enumerated in the preceding Regulation, the Administration, at the port of registry, shall issue a Certificate of Deletion (CD) effective on the date indicated in the certificate. The date and time of the issuance of Certificate of Deletion shall be recorded by the registrar in the Register of Philippine Fishing Vessel.

Section 14. Perfection of Deletion of Fishing Vessels from Philippine Registry. Deletion of a fishing vessel from Philippine registry is deemed perfected:

1. Upon receipt of protocol of re-delivery and acceptance within 60 days for a bareboat chartered fishing vessel. Responsibilities of the charterer shall extend up to the time the fishing vessel have been re-delivered to the registered owners as stated in the protocol; or
2. After 60 days, should no protocol of re-delivery and acceptance be submitted; or,
3. If deletion is issued due to the termination of the bareboat charter party, no extension of deletion period should be granted unless the corresponding bareboat charter hire is duly paid.

Section 15. Change of Date of Deletion of Fishing Vessels from Philippine Registry.

1. If for any valid reason such as the delayed delivery of the fishing vessel to the foreign buyer, or if the registered owner wishes to change the date of deletion indicated in the Certificate of Deletion (CD), the Administration at the Port of Registry may issue an amended Certificate of Deletion indicating the new date. In no case, however, shall the date of deletion be earlier than the date of issuance of the Certificate of Deletion.
2. Upon issuance of an amended Certificate of Deletion, the registered owner shall surrender the old Certificate of Deletion to the registrar who will cancel the latter document.

Section 16. Restrictions on the Re-Registration of Shipwrecked or Abandoned Fishing Vessels. Where a fishing vessel has ceased to be registered by reason of having been wrecked or abandoned, or for any reason other than by capture of the enemy, said vessel shall not be re-registered until it has, at the expense of the applicant, been surveyed thoroughly by an accredited surveyor and certified to be seaworthy.

Section 17. Registration of Mortgages

1. Every mortgage of fishing vessel which is registered in the Philippines shall be registered in the Record of Transfer and Encumbrances of Fishing Vessels.
2. **Documentary Requirements.** The following documentary requirements must be submitted when applying for the annotation/cancellation of mortgages and transfer of rights and other encumbrances of fishing vessel:

- a. Letter of Intent;
 - b. Duly accomplished application form;
 - c. Duly notarized mortgage contract;
 - d. Proof of payment of documentary stamp tax; and,
 - e. Original Certificate of Ownership (CO), Certificate of Philippine Registry (CPR), or Certificate of Number (CN), if applicable.
3. **Annotation of Mortgages and Transfer of Rights and Other Encumbrances of Fishing Vessels.** The Administration shall record all mortgages, transfer of rights and other encumbrances duly delivered to it in the order of their reception in the book/s to be kept for that purpose. The records shall also be indexed to show:
- a. The name of the fishing vessel;
 - b. The name and postal address of the parties to the mortgage;
 - c. The time and date of reception of instrument;
 - d. The interest of mortgage in the fishing vessel in mortgaged;
 - e. The date of the mortgage contract;
 - f. The amount and date of maturity of the mortgage;
 - g. Name, nationality and residence of the owner of the fishing vessel; and,
 - h. Any material change of condition in respect to any of the preceding items. Annotation of the mortgage shall likewise be reflected at the back of the Certificate of Ownership (CO), Certificate of Philippine Registry (CPR), or Certificate of Number (CN), whenever applicable.
4. **Cancellation of Mortgages.** Annotation of mortgages, transfer of rights and other encumbrances shall be canceled from the book under the following circumstances:
- a. Proof of full payment of the mortgage debt;
 - b. Total loss or constructive total loss of the mortgaged fishing vessel;
 - c. Foreclosure Order;
 - d. Court Order to delete all registered mortgages;

Rule 3 Surveys and Certificates

Section 1. General Aspects of Inspections, Surveys and Markings.

1. The inspection and survey of ships, so far as regards the enforcement of the provisions of these rules and regulations and the granting of exemptions therefrom, shall be carried out by the Administration. The Administration may, however, entrust the inspections and surveys either to surveyors nominated for the purpose or to organizations recognized by it. (Suggestion)
2. The Administration, in authorizing surveyors or organizations as set forth in the preceding paragraph shall, as a minimum, empower them to:
 - a. Carry out inspections and surveys if requested by the appropriate authorities of a port State; and
 - b. Require repairs on a fishing vessel.
3. When an authorized surveyor or organization determines that the condition of the fishing vessel or its equipment does not correspond substantially with the particulars of the Fishing Vessel Safety Certificate, or is such that the vessel is not fit to proceed to sea without danger to the fishing vessel or persons on board, such authorized surveyor or organization shall immediately ensure that corrective action is taken and should, in due course, notify the Administration. If such corrective action is not taken, the relevant certificate shall be withdrawn immediately; and if the fishing vessel is in the port of another party, the appropriate authorities of the port State shall also be notified immediately.
4. In any case, the Administration shall fully guarantee the completeness and efficiency of the inspections and surveys and shall undertake to ensure that necessary arrangements to satisfy this obligation are established.

Section 2. Surveys.

1. Fishing vessels to which these Rules and Regulations apply shall be subject to surveys. The general nature and the frequency of such surveys shall be as specified below:
 - a. An initial survey, including an inspection of the outside of the fishing vessel's bottom, before the vessel is put in service;
 - b. A renewal survey at intervals specified by the Administration but not exceeding five years, except where Section 6 (Duration and Validity of Certificates) item 2 is applicable;
 - c. A periodical/intermediate survey within three months before or after the second anniversary date or within three months of the third anniversary of the Certificate, which shall take the place of one of the annual surveys specified in the next paragraph;
 - d. Two (2) inspections of the fishing vessel's hull, including an inspection of the outside of the fishing vessel's bottom, within a five-year period;
2. The surveys referred to in Section 2, item 1 shall be carried out as follows:

- a. The initial survey before the fishing vessel is put into service shall be such as to ensure arrangements, equipment and systems specified below comply fully with the requirements of these Rules and Regulations and the workmanship of all such parts and equipment is in all respects satisfactory:
 - i. The arrangements, materials and scantlings of the structure;
 - ii. Boilers and other pressure vessel;
 - iii. Main and auxiliary machinery systems and appliances;
 - iv. Fire safety and life-saving arrangements and appliances, navigational equipment, nautical publications and means of embarkation for pilots;
 - v. Radio installations including those used in life-saving appliances;
 - vi. Arrangements for the control of discharge of oil and for the retention of oil onboard; vii. Provision of the lights, shapes, means of making sound signals and distress signals as required by the provisions of COLREG;
- b. The renewal survey shall include an inspection of the equipment referred to in item 2.a to ensure it complies with the relevant requirements of these Rules and Regulations and COLREG;
- c. The periodical survey shall include an inspection with tests, when necessary, of the equipment to ensure the requirements relating to the life-saving appliances, fire appliances and the light and sound signals are complied with, are in satisfactory condition and are fit for the service for which the fishing vessel is intended. All certificates, record books, operating manuals and other instructions and documents specified shall be checked for their adequacy;
- d. The intermediate survey shall include an inspection of items relating to Rule 2 (Registration, Documentation, and Licensing of Fishing Vessels), Rule 4 (Construction) Rule 8 (Electrical Installation), Rule 12 (Life Saving Appliances) and Rule 13 (Fire Protection, Fire Extinction, and Fire Safety Measures) of these Rules and Regulations to ensure they are in satisfactory condition and fit for the service for which the fishing vessel is intended. When inspecting items of hull and machinery for detailed examination, due account shall be taken of any continuous survey schemes adopted;
- e. An additional survey, either general or partial and according to the circumstances, shall be made after a repair resulting from an accident involving the fishing vessel or a defect is discovered, either of which affects the safety of the vessel or whenever any important repair or renewals are effectively made;
- f. A minimum of two (2) inspections of the outside of the fishing vessel's bottom during any five-year period except when so authorized by the Administration. The interval between any two such inspections shall not exceed 36 months. The inspection of the outside of the fishing vessel's bottom and the survey of related items inspected at the same time shall be such as to ensure they remain satisfactory for the service for which the fishing vessel is intended. Preferably the inspection shall coincide with the renewal survey.

3. Where a fishing vessel complies with this Regulation partially and complies with the relevant provisions specified in Section 3 of Rule 1 (General Provisions – Scope of Application), the Administration shall ensure that prior to issue of any certificate under this Regulation, compliance with such provisions of the other Conventions is assured.

Section 3. Maintenance of Condition after Survey

1. The condition of the fishing vessel and its equipment shall be maintained by the skipper and company to conform with the provisions of these Rules and Regulations to ensure the fishing vessel, in all respect, will remain fit to proceed to sea without danger to the vessel, persons on board or the environment.
2. After any survey of the fishing vessel under this Rules is completed, no change shall be made in the structural arrangements, machinery, equipment and other items covered by the survey without the sanction of the Administration.
3. Whenever an accident occurs to the fishing vessel or a defect is discovered, either of which affects the safety of the vessel or the efficiency or completeness of its life-saving appliances or other equipment, a request shall be made immediately to the Administration responsible for issuing the relevant certificate for a survey, as may be required by Section 2(Surveys), to be carried out as soon as practicable.

Section 4. Issuance of Certificates

1. Subject to the provisions of Section 2 (Surveys) item d, a Fishing Vessel Safety Certificate, hereinafter called the Certificate, shall be issued after an initial or renewal survey specified in Section 2, item b to a fishing vessel, which complies with relevant requirements of these Rules and Regulations. In any case, the Administration shall ensure the completeness of the inspections prior to the issuance of any certificates.
2. When an exemption is granted by the Administration to a fishing vessel, under and in accordance with the provisions of these Rules and Regulations, an Exemption Certificate shall be issued in addition to the Certificate prescribed in this Regulation. The Exemption Certificate shall be attached to the certificate to which it refers.
3. The Certificate referred to in this Regulation shall be issued by the Administration or by its authorized person or organization. In any case, the Administration shall assume full responsibility for the said Certificate.

Section 5. Issuance or Endorsement of Certificates by another Government. The Administration may, at the request of another government, order a fishing vessel to be surveyed and if satisfied that requirements of these Rules and Regulations are complied with, shall issue or authorize the issuance of the certificates to the fishing vessel and, where appropriate, endorse or authorize the endorsement of the certificate in accordance with the requirements of these Rules and Regulations. Any certificate so issued shall contain a statement to the effect that it has been issued at the request of the Government of the flag State.

Section 6. Duration and Validity of Certificates

1. A Fishing Vessel Safety Certificate (FVSC) shall be issued for a period of not more than five (5) years and to be endorsed annually.

2. Notwithstanding the requirements of the preceding paragraph, when the renewal survey is completed within three (3) months before the expiry date of the existing certificate, the new FVSC shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.
3. When the renewal survey is completed after the expiry date of the existing certificate, the new FVSC shall be valid from the date of completion of the renewal survey to a date not exceeding five years from the date of expiry of the existing certificate.
4. When the renewal survey is completed more than three (3) months before the expiry date of the existing FVSC, the new certificate shall be valid from the date of completion of the renewal survey.
5. If the certificate is issued for a period of less than five (5) years, the Administration may extend the validity of the certificate beyond the expiry date to the maximum period specified in paragraph 1, provided that the applicable surveys referred to in Section 2 (Surveys) for the issue of the certificate for five (5) years are carried out.
6. If a renewal survey has been completed and the new certificate cannot be issued or placed on board the fishing vessel before the expiry date of the existing certificate, the person or the organization authorized by the Administration may endorse the existing certificate and such certificate shall be accepted as valid for further period which shall not exceed thirty (30) days from the expiry date.
7. If a fishing vessel, at the time when the certificate expires, is not in the port in where it is to be surveyed, the Administration may extend the period of validity of the certificate for the purpose of allowing the vessel to complete its voyage to the port where it is to be surveyed, and only in cases when it appears proper and reasonable to do so. No certificate shall be extended for a period longer than one month. The fishing vessel to which such an extension is granted shall not, on its arrival in the port where it is to be surveyed, be entitled by virtue of such extension to leave that port without a new certificate. Where the renewal survey is completed, the new certificate shall be valid to a date not exceeding five years from the date of expiry of the existing certificate before the extension was granted.
8. In special circumstances, as determined by the Administration, the new certificate need not be dated from the date of expiry of the existing certificate as required by items 2, 5 and 7 hereof. In these special circumstances, the new certificate shall be valid to a date not exceeding five (5) years from the date of the completion of the renewal survey.
9. If an annual or periodical/intermediate survey is completed before the period specified in the relevant regulations then:
 - a. The anniversary date shown on the relevant certificate shall be amended by endorsement to a date which shall not be more than three months later than the date when the survey was completed;

- b. The subsequent annual or periodical survey required by the relevant regulations shall be completed at the intervals prescribed by these Rules and Regulations using the new anniversary date;
 - c. The expiry date may remain unchanged provided one or more annual or periodical surveys, as appropriate, are carried out so that the maximum intervals between the surveys prescribed by the relevant regulations are not exceeded.
10. A certificate issued under this Rules shall cease to be valid in any of the following cases:
- a. If the relevant surveys and inspection are not completed within the periods specified in this Rules;
 - b. If the certificate is not endorsed in accordance with this Rules; or,
 - c. Upon transfer of the fishing vessel to the flag of another State.
11. Upon transfer of a fishing vessel to Philippine flag, a new certificate shall be issued by the Administration, if and only if, it complied with the requirements set by these Rules and Regulations.

Section 7. Form of Certificates. All certificates shall be drawn up in a form corresponding to these Rules and Regulations.

Section 8. Availability of Certificates. The certificates issued under this Rules shall be readily available on board for examination at all times.

Rule 4 Construction

Section 1. General Provisions

1. All existing fishing vessels shall, as a rule, comply with the requirements existing prior to coming into force of these Rules and Regulations. Where no such requirements are applicable, fishing vessels shall comply with these Rules and Regulations to the extent the Administration considers to be reasonable or practicable. Existing fishing vessels which undergo replacement of equipment or outfitting related thereto shall comply with the requirements specified in this Rule as far as it is considered reasonable and practicable by the Administration.
2. All machinery and electrical installations, mechanical and electrical equipment and appliances, boilers and other pressure vessels, associated piping systems, fittings and electrical cables and wiring shall be of a design and construction adequate for the service for which they are intended and shall be so installed and protected as to reduce to a minimum any danger to persons on board, due regard being paid to moving parts, hot surfaces and other hazards. The design shall have regard to materials used in construction, and to purposes for which the equipment is intended, the working conditions and the environmental conditions to which it will be subjected.
3. The strength and construction of hull, superstructures, deckhouses, machinery casings, companion ways and any other structure and equipment shall be sufficient to withstand all foreseeable conditions of the intended service. A fishing vessel built and maintained in conformity with the applicable rules of a recognized organization by the Administration may be considered as adequate in this respect.
4. Fishing vessels propelled by mechanical means shall be fitted with a collision bulkhead in accordance with Rule 4, Section 1 and with watertight bulkheads bounding the machinery spaces. Such bulkheads shall be extended up to the freeboard deck. In fishing vessels constructed of wood such bulkheads shall be watertight as far as practicable.
5. Propeller shafts and shaft logs or stern tubes shall not be situated in any space other than machinery spaces containing main propulsion machinery unless they are enclosed in watertight spaces or enclosures inside such spaces acceptable to the Administration. The Administration may exempt, from the requirements of this paragraph, fishing vessels having constraint of space or engaged on sheltered voyages, provided it is demonstrated that any progressive flooding of such space can be easily controlled and that the safety of the fishing vessel is not impaired.
6. Stern glands shall be located in spaces which are easily accessible at all times for inspection and maintenance to the satisfaction of the Administration.
7. Fishing vessel plans involving wooden hull fishing vessels to be constructed, and subsequent repairs thereon, shall comply with the rules and standard design in accordance with Rules for Construction of Wooden Hull Fishing vessels (Annex I) or Rules for the Construction of Wooden Hull Boats with

Outrigger (Annex II) before approval is given, and authority to construct is issued, by the MARINA.

Section 2. Collision Bulkhead

1. For the purpose of this Regulation freeboard deck, lengths of fishing vessel and perpendiculars (forward and aft) have the meanings as defined in Rule 1.
2. A collision bulkhead shall be fitted which shall be watertight up to the freeboard deck. This bulkhead shall, as far as practicable, be located at a distance from the forward perpendicular of not less than five percent (5%) and not more than eight percent (8%) of the length of the fishing vessel. Where it can be shown to the satisfaction of the Administration that it is impractical for the collision bulkhead to be located at distance from the forward perpendicular of not more than eight percent (8%) of the length of the fishing vessel, the Administration may allow relaxation therefrom, subject to the condition that, should the space forward of the bulkhead be flooded, the fishing vessel at full load condition will not be submerged to a line drawn at least 76 mm below the upper surface of the bulkhead deck at side.
3. The collision bulkhead may have steps or recesses in it provided that they are within the limits prescribed in Section 2.2. Pipes piercing the collision bulkhead shall be kept to the minimum. Such pipes shall be fitted with suitable valves operable from above the freeboard deck and the valves chest shall be secured at the collision bulkhead inside the forepeak. The Administration may permit the location of such valves on the after side of the collision bulkhead, provided that they are readily accessible under all service conditions and the space in which they are located is not a cargo space. All such valves shall be of a material acceptable to the Administration.
4. Where a long forward superstructure is fitted, the collision bulkhead shall be extended watertight to the deck immediately above the freeboard deck. The extension shall subject to the requirements of Section 3.3, be located within the limits prescribed in Section 3.2 of the same Rule and Section. The part of the deck, if any, between the collision bulkhead and its extension shall be watertight.
5. Where a bow door and a sloping loading ramp that forms part of the extension of the collision bulkhead above the freeboard deck is fitted, the part of the extension, which is more than 2.3 m, or as specified by the Administration, above the freeboard deck may extend no more than 1 m forward of the forward limits specified in Section 2.2. The ramp shall be watertight over its complete length.
6. The number of openings in the extension of the collision bulkhead above the freeboard deck shall be reduced to the minimum compatible with the design and normal operation of the fishing vessel. All such openings shall be capable of being closed watertight.
7. No doors, manholes, ventilation ducts or access openings are permitted in the collision bulkhead below the freeboard deck.
8. Where a chain locker is located abaft the collision bulkhead or extends into the forepeak tank, it shall be watertight and provided with efficient means of drainage.

9. A chain locker shall not be used for any purpose other than stowage of anchor chain cables.

Section 3. Watertight Bulkheads, Decks, Doors, Trunks, etc.

1. These Rules and Regulations shall apply to new fishing vessels propelled by mechanical means. These Rules and Regulations shall not apply to fishing vessels the hull of which is constructed of wood.
2. Each watertight subdivision bulkhead whether transverse or longitudinal shall be constructed in such a manner that it shall be capable of supporting with a proper margin of resistance, the pressure due to the maximum head of water which it might have to sustain in the event of damage to the fishing vessel but at least the pressure due to a head of water up to the margin line. The construction of these bulkheads shall be to the satisfaction of the Administration.
3. Steps and recesses in bulkheads shall be watertight and of the same strength as the bulkhead at the place where each occurs.
4. Where frames or beams pass through a watertight deck or bulkhead, such deck or bulkhead shall be made structurally watertight to the satisfaction of the Administration.
5. The number of openings in watertight bulkheads shall be reduced to the minimum compatible with the general arrangements and operational needs of the fishing vessel. Openings shall be fitted with watertight closing appliances to the satisfaction of the Administration. Watertight doors shall be of equivalent strength to the adjacent unpierced structure.
6. Watertight decks, trunks, tunnels, duct keels and ventilators shall be of the same strength as watertight bulkheads at corresponding levels. The means used for making them watertight, and the arrangements adopted for closing openings in them, shall be to the satisfaction of the Administration. Watertight ventilators and trunks shall be carried at least up to the freeboard deck.
7. Testing main compartments by filling them with water is no compulsory. When testing by filling with water is not carried out, a hose test shall be carried out in the most advanced stage of the fitting out of the fishing vessel. In any case, a thorough inspection of watertight bulkheads shall be carried out.
8. The forepeak, afterpeak, double bottom tanks (including duct keels), and inner skins shall be tested with water to a head corresponding to the requirements of paragraph b of Rule 2, Section 3.
9. Tanks which are designed to hold liquids, and which form part of the subdivision of the fishing vessel, shall be tested for tightness with water to a head corresponding to two-third of the depth from the top of keel to the margin line in way of the tanks; provided that in no case shall the test head be less than 0.9 m above the top of the tank.
10. The tests referred to in paragraphs 8 and 9 of Rule 2 Section 3 are for the purpose of ensuring that the subdivision structural arrangements are watertight and are not to be regarded as a test of the fitness of any compartment for the storage of oil fuel or for other special purposes for which a test of a superior

character may be required depending on the height to which the liquid has access in the tank or its connections.

Section 4. Means for Sounding

1. Means for sounding to the satisfaction of the Administration, shall be provided for:
 - a. the bilges of those compartments which are not readily accessible at all times during the voyage; and
 - b. all tanks and cofferdams.
2. Where sounding pipes are fitted, their upper ends shall be extended to a readily accessible position and, where practicable, above the freeboard deck. The openings shall be provided with permanently attached means of closing. Sounding pipes which are not extended above the freeboard deck shall be fitted with automatic self-closing devices.

Section 5. Anchoring and Mooring Equipment

1. At least two anchors of sufficient weight shall be provided. One of these shall be provided with a chain cable or wire rope of adequate strength and size and windlass, capstan or winch of suitable size for the cable and other anchor handling equipment and arrangements shall be to the satisfaction of the Administration. The Administration may permit carriage of only one anchor with adequate chain or wire and other arrangements taking into account the size of the fishing vessel and its area of operation.
2. Windlass, capstan, winches, fairleads, bollards, mooring bits and other anchoring mooring, towing and hauling equipment shall be:
 - a. properly designed to meet all foreseeable operational loads and conditions;
 - b. correctly seated; and
 - c. effectively secured by stoppers to a part of the fishing vessel's structure which is strengthened suitably.

Section 6. General Protection Measures Against Accidents

1. Hinged covers of hatchways, manholes and other similar opening shall be protected against accidental closing. In particular, heavy covers on escape hatches shall be equipped with counter weights. Escape doors and covers of escape and access of hatches shall be so constructed as to be capable of being opened from either side of the door or cover.
2. The dimensions of access hatches shall be such that it will allow a person to have a quick and easy escape to a safe place in the event of an emergency. Where practicable, the dimensions of access hatches of cargo, machinery and accommodations spaces shall be such that they will facilitate expeditious rescue operation.
3. Handrails, grab rails and handholds of sufficient size and strength shall be provided to the satisfaction of the Administration as support for persons when the fishing vessel is severely rolling or pitching.

4. Skylights of machinery spaces or other similar openings which are normally kept open at sea shall be provided with adequately spaced protective bars or other arrangements to the satisfaction of the Administration to prevent a person from falling into the space accidentally. Where the size of such an opening is small, the Administration may waive this requirement if satisfied that due to the small size of the opening no protective arrangement is necessary.

Section 7. Plans and Drawings Requirements

1. A Sketch Plan is required to be submitted for Fishing Vessels with tonnage of less than 5 GT.
2. For ships 5 GT to 15 GT
 - a. General Arrangement Plan
 - b. Construction Plan
 - c. Midship Plan and BHD Plan Details
3. The following documents are required to be submitted for fishing vessels above 15 GT to 50 GT:
 - a. General Arrangement Plan;
 - b. Construction Plan
 - c. Midship Plan and BHD Plan Details
 - d. Lines Plan and Table of Offset
 - e. Hydrostatic Curves or Hydrostatic Table
 - f. Shell Expansion Plan
 - g. Scantling Calculation with Longitudinal Hull Girder Strength Calculation
 - h. Capacity Plan;
 - i. Welding Schedule and Specifications;
 - j. Shafting and Propeller Arrangement & Specifications; and
 - k. Specification & Arrangement of Main Propulsion & Auxiliary Machineries
4. The following documents are required to be submitted for fishing vessels above 50 GT
 - a. General Arrangement Plan;
 - b. Construction Plan;
 - c. Midship Plan and BHD Plan Details;
 - d. Lines Plan and Table of Offsets;
 - e. Hydrostatic Curves or Hydrostatic "Table";
 - f. Scantling Calculation with Longitudinal Hull Girder Strength Calculation;
 - g. Capacity Plan;
 - h. Welding Schedule and Specifications;
 - i. Shafting and Propeller Arrangement & Specifications;

- j. Specifications & Arrangement of Main Propulsion & Auxiliary Machineries;
- k. Cross Curves of Stability; and
- l. Life Saving and Fire Fighting Plan.

Rule 5
Repairs, Conversions and Re-Building

Section 1. General Provisions

1. Repairs, alterations or modifications of major character and outfitting related thereto shall meet the requirements prescribed for a new fishing vessel as long as the Administration deems them reasonable and practicable. The owner shall inform the Administration of the proposed repairs, alterations or modifications before they are carried out.
2. For the purposes of these Rules and Regulations, repairs, alterations or modifications shall be recognized as “major character” if it falls within the context of major conversion as defined. An existing fishing vessel which undergoes major conversion as to:
 - a. substantially alter the dimensions or carrying capacity of the fishing vessel;
 - b. change the type of the fishing vessel;
 - c. which in the opinion of the Administration is substantially to prolong its life;
or
 - d. otherwise so alters the fishing vessel that, if it were a new fishing vessel, it would become subject to relevant provisions of these Rules and Regulations not applicable to it as an existing fishing vessel.

Section 2. Specific Provisions

1. The fishing vessel owner/operator or the fishing vessel builder shall submit to the Administration a complete set of required fishing vessel plans and specifications for approval prior to conversion, alteration, modification or rebuilding.
2. The fishing vessel plan and/or proposed conversion, alteration, modification or rebuilding plans of all fishing vessel intended to be acquired for importation shall be subjected to pre-evaluation by the Administration prior to the issuance of the Authority to Import. Pre-evaluation shall be governed by a checklist to be formulated by Administration.
3. Fishing vessel Plans shall be signed and sealed by Philippine Registered Naval Architect (RENA) and Professional Electrical Engineer (PEE) for electrical plans.
4. Any modification/ alteration to the design of the approved plans shall require approval from the Administration prior to the implementation of such modification/ alteration.
5. Any modification or alteration work by the fishing vessel builder shall not commence until that part of the fishing vessel affected by such modification or alteration has been reviewed and approved by the Administration.
6. As-built Plans shall be submitted to the Administration after completion of conversion, alteration or modification of fishing vessel for approval.
7. All fishing vessel shall retain a copy of the Administration-approved "as-built" plans on board, at all times.

8. Any conversion, alteration, modification or re-building of fishing vessel shall be subjected to re-admeasurement, re-inclining Experiment Test, re-calculation of freeboard and other re-issuances as required by the Administration.
9. The Administration shall witness the sea trial of the fishing vessel after construction, conversion, alteration, modification or re-building that will be supervised and certified by the shipyard.

Section 3. Plans and Drawings Requirements. The Administration shall approve plans affecting the conversion, alteration, modification and re-building.

Section 4. Periodic Survey during Conversion, Alteration, Modification or Re-Building and Issuance of Certificate.

1. The Administration surveyor performs the surveys at specific stages throughout all phases conversion, alteration, modification, or re-building following the Administration Checklist. During the survey the surveyor checks the compliance of the works with the approved plans, adequate quality of materials and workmanship. Survey of fishing vessel's work depends on the Administration-approved plans.
2. The fishing vessel works shall be to the satisfaction of the Administration surveyor.
3. Throughout all the stages of the fishing vessel's work, the Administration surveyor submits report on each survey made prior to issuance of Construction Certificate to assure compliance based on approved plans.
4. Periodic Surveys shall be conducted based on the construction stages whether modular assembly or the traditional method of fishing vessel construction.

Rule 6 Stability

Section 1. Intact Stability, Subdivision and Stability Requirements for Fishing Vessels

1. This shall apply to fishing vessels propelled by mechanical means.
2. This shall apply to Philippine-registered fishing vessel operating in domestic trade, except those fishing vessels that rely on outriggers for their stability; Philippine-registered oceangoing fishing vessels are only covered under Section 4 hereof.
3. Fishing vessels of twenty-four (24) meters and above in length, shall comply with the applicable intact stability requirements for fishing vessels specified in the Stability Code or comply with the equivalent stability standards adopted by the Administration.
4. Fishing vessels of 24 meters and above in length whose characteristics, in the opinion of the Administration, render compliance with paragraph 2 impracticable shall comply with the stability criteria recommended in paragraph 2.5.2 of Resolution A.469 (XII) Guidelines for the Design and Construction of Offshore Supply Fishing vessels.
5. In addition to complying with the applicable requirements of this Regulation, the Administration may require, having regard to the nature of intended services, application of weather criteria specified in paragraph 3.2 of the Stability Code.

Section 2. General Provisions

1. The Code on Intact Stability and its amendments, as well as definition of the terms used therein, are hereby adopted as an integral part of this Rules and Regulations.
2. Every Philippine-registered fishing vessel covered by this Rules and Regulation shall undergo an inclining test and must have in possession on board a valid Certificate of Stability issued by the Administration for those engaged in domestic fishing, or an Intact Stability Booklet issued by an Administration recognized organization for those engaged in international fishing. Certificates of Stability issued by MARINA- accredited marine surveying entities prior to the effectivity of this Rules and Regulations will continue to be valid, subject to the conditions of Section 1, item 3 hereof.
3. All fishing vessels 24 meters and above in length, shall be subjected to, and be in compliance with standards, requirements and criteria provided under the Code on Intact Stability as amended, in order to be issued the Certificate of Stability. The Certificates to be issued, or those previously issued, are subject to endorsement every five (5) years from the last inclining test conducted on the ship.
4. Domestic fishing vessels below 24 meters, except those excluded in the coverage of this Rules, shall still be subjected to evaluation using the applicable provisions of the Code on Intact Stability as amended, with the results thereof to serve as basis whether to issue the Certificate of Stability without restrictions in area of operation, if in compliance with the Code's standards, requirements

and criteria, or, issue a Certificate of Stability with restrictions in the area of operation, due to limitations in stability based on the Code's standards.

5. Domestic fishing vessels covered by this Rules shall be subjected to an inclining test to be conducted by a duly licensed Naval Architect or other qualified/trained technical personnel from the MARINA, with the needed notification and preparations to be made by the company/shipyard Naval Architect. If the inclining test for domestic fishing vessel is to be conducted by a recognized organization or accredited marine surveying company, it shall be undertaken under the supervision of an Administration licensed Naval Architect or other qualified/ trained technical personnel, pursuant to Rules 7, Sec. 7.3.1 of the Code on Intact Stability, to ensure compliance with the Code, with the concerned organization/company assuming the responsibility to ensure strict observance of this requirement.
6. Domestic fishing vessels covered by this Rules found to be in compliance with the herein adopted/prescribed rules and regulations, based on the result of the inclining test, together with the supporting plans, calculations, etc. shall be issued the required Certificate of Stability by the Administration, with effectivity reckoned from the date the test/survey was conducted. If the test, calculations and evaluation of a domestic fishing vessel is undertaken by an accredited/ recognized organization, the results thereof shall be submitted to the Administration for validation, approval and subsequent issuance by the Administration of the required Certificate of Stability valid for five (5) years reckoned from the date the test/ survey was conducted.
7. Fishing vessels not covered by this Rules and Regulations shall be issued by the MARINA an Exemption Certificate.
8. In the case of a fishing vessel already issued with a Certificate of Stability, where alterations are made affecting its light condition or the position of the center of gravity, or both, such ship shall be subjected to re-inclining test and its stability information amended.
9. The Administration may allow the inclining test of a fishing vessel to be dispensed with, provided that reliable stability information for such ship can be obtained from a basic data available, or there are available references to existing data for similar class of ships/sister ships and it is shown to the satisfaction of the Administration that reliable stability information for the exempted ship can be obtained from such basic data. In the case of fishing vessel especially designed for the carriage of liquids or ore in bulk, the required inclining test may be dispensed with by the MARINA when reference to existing data for similar ships clearly indicates that, due to the ship's proportions and arrangements, more than sufficient transverse metacentric height will be available in all probable loading conditions.
10. Intact Stability Booklets approved by the Administration shall be supplied to the concerned fishing vessel to enable its Master to assess with ease and certainty the stability of the fishing vessel under various operating conditions, warning him of those operating conditions that could adversely affect either stability or the trim of the fishing vessel.

Section 3. Specific Provisions and Guidance for Stability Determination

1. Prior to the conduct of inclining test, the concerned company/shipyard Naval Architect shall submit the relevant ship plans, stability drawings and calculations for approval by the Administration. If the inclining test is to be performed by a recognized organization/accredited marine surveying entity, an outline of the inclining test procedure shall be submitted in addition to the foregoing requirements.
2. Written notification of the inclining test shall be submitted to the Administration, including the following information;
 - a. Name of ship; Owner/Operator; Address; Contact Number(s).
 - b. Date, time and location of the inclining test.
 - c. Type of Inclining Test
 - i. Using pendulum or tube (to indicate the length, quantity and location);
 - ii. Using Computer-aided Software (i.e, stability master).
 - d. Inclining weight Data
 - i. Type of weight;
 - ii. Amount and certification of weight (number of units, weight of each unit)
 - iii. Method of handling the weight (i.e., sliding, using crane or forklift)
 - e. Approximate draft and trim.
 - f. Conditions of tanks.
3. Newly constructed ships covered by this Rule shall be inclined upon its completion to determine the elements of its stability.
4. In order to insure that the result of the stability test to be conducted is dependable, all tanks on the ship to be tested shall be completely empty and dry, with the free surface moment for slack tanks computed as prescribed in the code.
5. The ship should be almost completely equipped as far as practicable when the inclining test is conducted. If additional materials or equipment is to be installed after the test, a complete and itemized list shall be prepared which shall be considered in the stability calculation to be made.
 - a. All dunnage, tools and other extraneous items on the fishing vessel to be tested shall be removed before the test.
 - b. Fishing vessel to be subjected to inclining test shall be moored in a location protected/with minimum interference from broadside wind, waves and tide, with the mooring lines slack during the test. The depth of water shall be sufficient to provide ample clearance under the vessel against grounding. The test should be conducted as much as possible during fine weather and during high tide.
 - c. Other specific procedures, guidelines, criteria and standards for the conduct of inclining test and stability calculation/determination shall be based from applicable provisions of the Code on Intact Stability.

- d. Other Safety Certificates shall be issued to a fishing vessel which has no Certificate of Stability, or if such Certificate ceases to be valid.
- e. If the Certificate of Stability/Intact Stability Booklet is invalidated by the Administration or its recognized organization after due process, the other Safety Certificate(s) issued to such ship shall automatically be suspended, and the fishing vessel shall be under “no sail condition”.
- f. The Master of a ship under no sail condition shall be under obligation to warrant that such fishing vessel shall not proceed to sea and undertake a voyage.
- g. Non-possession onboard of the required Certificate of Stability (or Exemption Certificate) shall be considered as major deficiency/major non-conformity warranting immediate suspension/cancellation/non-issuance of other ship safety certificates and authority to operate.
- h. All fishing vessel covered by this Rules and Regulation shall be subjected to lightweight survey after five (5) years from the date of the fishing vessel’s latest inclining test to verify any changes in the lightship displacement and longitudinal center of gravity, as a prerequisite to the endorsement of the Certificate of Stability. It is however, incumbent on the Administration to evaluate the annual inspection and drydocking reports of the concerned fishing vessel, and where there is no evidence from such reports of changes, alterations or deterioration from the fishing vessel to affect its stability, the Certificate of Stability shall be indorsed without the fishing vessel being subjected to lightweight survey. In instances where a lightweight survey is deemed necessary to be undertaken, subject to formal notice to the concerned fishing vessel owner/operator/manager stating the basis for such, such survey shall be scheduled by the Administration in conjunction with the scheduled drydocking of the fishing vessel, as far as practicable. Following such, the Administration shall endorse the Certificate of Stability or Intact Stability Booklet issued if no significant deviation is noted after the survey.
- i. The Administration may adopt or approve other inclining test procedure for fishing vessel below 24 meters in length, provided special precautions are taken to ensure the accuracy of the test procedure.

Section 4. Implementation

- 1. Duly accredited marine surveying companies authorized to conduct stability determination in behalf of the Administration for Philippine registered domestic fishing vessel shall continue to perform such function, subject to the conditions in Section 2, item 5 if so contracted by an affected fishing vessel owner/charterer/manager, except that the issuance of the Certificate of Stability shall solely be performed by the MARINA.
- 2. Upon completion of the needed surveys, tests, calculations, etc., whether undertaken by the MARINA or its accredited entities, and submission of all requirements, the Full Term Certificate of Stability shall be issued by the Administration within five (5) working days therefrom.
- 3. In the case of Philippine-registered fishing vessels engaged in international operations, Recognized Organizations shall continue to perform the conduct of

stability determination and issuance of Intact Stability Booklet for such fishing vessel in behalf of the Administration, pursuant to the Code on Intact Stability, as amended. The Intact Stability Booklet to be issued to such fishing vessel however, inclusive of the resulting test and calculations, shall be submitted to the Administration by the concerned Recognized Organizations, pursuant to the requirement provided under Rules 2, Sec. 2.1.2 of the Code on Intact Stability. For purposes of uniformity and to facilitate review and approval, the Intact Stability Booklet to be submitted to the Administration should adhere to the format prescribed hereunder:

- a. Table of Contents.
 - b. General description of the ship.
 - c. General Arrangement Plan and Capacity Plan.
 - d. Inclining Test Report.
 - e. Stability Calculation on every loading condition and their corresponding statistical curve of stability.
 - f. Index of each loading condition.
 - g. Hydrostatic curves or tables and cross curves of stability.
 - h. Tank sounding tables showing capacities, center of gravity and free surface data for each tank.
4. For domestic fishing vessel homeported in the regions, the fishing vessel owner/operator/ manager shall apply and have their fishing vessel undergo an inclining test and subsequent issuance of Certificate of Stability at the concerned MARINA Regional Office. In cases where there is no licensed Naval Architect or other qualified/trained technical personnel in the concerned MRO, they may apply at the next nearest MRO where there is such qualified personnel available.

Section 5. Inclining Tests and Stability Information

1. Every fishing vessel shall undergo an inclining test upon its completion and the actual displacement and position of the center of gravity shall be determined for the light fishing vessel condition.
2. Where alterations are made to a fishing vessel affecting its light condition and the position of the center of gravity, the fishing vessel shall, if the Administration considers this necessary, be re-inclined and the stability information amended.
3. The Administration may allow the inclining test of an individual fishing vessel to be dispensed with, provided reliable stability information for the exempted fishing vessel can be obtained from basic data available.
4. The Stability Booklet/Report approved by the Administration shall be supplied to fishing vessel propelled by mechanical means to enable the skipper to assess with ease and certainty the stability of the fishing vessel under various operating conditions. Such information shall include specific instructions to the skipper warning him of those operating conditions, which could adversely affect either stability or the trim of the fishing vessel.

5. In particular, the information recommended in the Stability Code shall be included as appropriate. A copy of the stability booklet/report shall be submitted to the Administration.
6. The approved stability booklet/report shall be kept on board, readily accessible at all times and inspected at the periodical surveys of the fishing vessel to ensure it has been approved and the condition of the fishing vessel since its approval has not changed.
7. Where alterations are made to a fishing vessel affecting its stability, revised stability calculations shall be prepared and submitted to the Administration for approval. Such revised information shall be supplied to the skipper and the superseded information removed from the fishing vessel.

Section 6. Bilge Pumping Arrangements

1. An efficient bilge pumping arrangement shall be provided which under all practical conditions shall be capable of pumping from and draining any watertight compartment other than a space permanently appropriated for the carriage of fresh water, water ballast, oil fuel or liquid cargoes for which other efficient means for pumping are provided. Where the Administration is satisfied that the safety of the fishing vessel is not impaired, the bilge pumping arrangements may be dispensed with in any particular compartment.
2. The arrangement of the bilge and ballast pumping system shall be such as to prevent possibility of water passing from the sea and from water ballast spaces into the fish hold and machinery spaces, or from one compartment to another.
3. All distribution boxes and manually operated valves in connection with bilge pumping arrangements shall be in positions, which are accessible under ordinary circumstances.
4. At least two bilge pumps connected to the main bilge system shall be provided, one of which may be driven by the propulsion machinery. The total capacity of the required bilge pumps shall not be less than 125 percent of the total capacity of the required main fire pump referred to in Rule 13 (Fire Mains, Water Service Pipes and Fire Hydrants) of these Rules and Regulations.
5. Sanitary, ballast and general services pumps provided with suitable connections for bilge suction may be accepted as independent power bilge pumps.
6. A bilge ejector in combination with an independently driven high pressure seawater pump may be installed, provided this arrangement is to the satisfaction of the Administration.
7. Bilge pipes shall not be led through fuel oil, ballast or double bottom tanks, unless pipes are of heavy gauge steel construction.

Rule 7 Machinery Installation

Section 1. General Requirements.

1. All boilers and other pressure vessels, all parts of machinery, all steam, hydraulic, pneumatic and other systems and their associated fittings, which are under internal pressure, shall be subjected to appropriate tests including a pressure test before being put into service. Corresponding certification society or other recognized body has to be provided to the Administration.
2. Means shall be provided to ensure the machinery can be brought into operation from the dead vessel condition without external aid.
3. Adequate provisions shall be made to facilitate cleaning, inspection and maintenance of machinery installations including boilers and other pressure vessels.
4. Where risk from over speeding of machinery exists, means shall be provided to ensure the safe speed is not exceeded.
5. Where main or auxiliary machinery including pressure vessels or any parts of such machinery are subjected to internal pressure and may be subject to dangerous overpressure, means shall be provided practicable to protect against such excessive pressure.
6. All gearing and every shaft and coupling used for transmission of power to machinery essential for the propulsion and safety of the fishing vessel or for the safety of persons on board shall be so designed and constructed that they withstand the maximum working stresses, which may be subjected in all service conditions, and due consideration shall be given to the type of engines by which they are driven of which they form apart.
7. Main turbine propulsions machinery and, where applicable, main internal combustion propulsion machinery and auxiliary machinery shall be provided with automatic shut-off arrangements in the case of failures such as lubricating oil supply failure, which could lead rapidly to complete breakdown, serious damage or explosion. The Administration may permit provisions for overriding automatic shutoff devices.
8. Internal combustion engines of a cylinder diameter of 200 mm or crankcase volume of 0.6m³ and above shall be provided with crankcase explosion relief valves of a suitable type with sufficient area. The relief valves shall be arranged or provided with means to ensure discharge from them is so directed as to minimize the possibility of injury to personnel.

Section 2. Machinery Controls

1. Main and auxiliary machinery essential for the propulsion and safety of the fishing vessel shall be provided with effective means for its operation and control.
2. Means shall be provided whereby normal operations of propulsion machinery can be sustained or restored even though one of the essential auxiliaries

becomes inoperative. Special consideration shall be given to the malfunctioning of:

- a. An electrical power generator, which serves as a main source of electrical power;
 - b. The sources of lubricating systems oil pressure;
 - c. The fuel oil supply systems for engines;
 - d. The sources of water pressure;
 - e. An air compressor and receiver for starting or for control purposes;
 - f. The hydraulic, pneumatic or electrical means for control in main propulsion machinery including controllable pitch propellers; and,
 - g. Steam boilers and boiler feed systems, if provided. However, the Administration, having regard to overall safety considerations, may accept a partial reduction in propulsion capability from normal operation.
3. Special consideration shall be given to the design, construction and installation of propulsion machinery system so that any mode of their vibrations shall not cause undue stresses on the machinery in its normal operating ranges.

Section 3. Remote Control of Propulsion Machinery

1. Where remote control propulsion machinery from the navigating bridge is provided and the machinery spaces are intended to be manned, the following shall apply:
 - a. The speed, direction of thrust and, if applicable, the pitch of the propeller shall be fully controllable from the navigating bridge under all sailing conditions, including maneuvering;
 - b. The remote control shall be performed, for each independent propeller, by a control device so designed and constructed that its operation does not require particular attention to the operational details of the machinery. Where multiple propellers are designed to operate simultaneously, they may be controlled by one control device;
 - c. The main propulsion machinery shall be provided with an emergency stopping device located on the navigating bridge, which shall be independent of the navigating bridge control system;
 - d. Propulsion machinery orders from the navigating bridge shall be indicated in the main machinery control room or at the maneuvering platform as appropriate;
 - e. Remote control of the propulsion machinery shall be possible only from one location at a time; at such locations interconnected control positions are permitted. At each location, there shall be an indicator showing which location is in control of the propulsion machinery. The transfer of control between the navigating bridge and machinery spaces shall be possible only in the main machinery space or the main machinery control room. This system shall include means to prevent the propelling thrust from altering significantly when transferring control from one location to another;

- f. It shall be possible to control the propulsion machinery locally, even in the case of failure in any part of the remote control system;
 - g. The design of the remote control system shall be such that, in case of its failure an alarm will be given. Unless the Administration considers it impracticable the preset speed and direction of thrust of the propellers shall be maintained until local control is in operation;
 - h. Indicators shall be fitted on the navigating bridge for:
 - i. Propeller speed and direction of rotation, in the case of fixed pitch propellers; and
 - ii. Propeller speed and pitch position, in the case of controllable pitch propellers. An alarm shall be provided on the navigating bridge and in the machinery space to indicate low starting air pressure or low electrical power, which shall be set at a level to permit further main engine starting operation. If the remote control systems of the propulsion machinery are designed for automatic starting, the number of consecutive attempts that fail to produce a start shall be limited in order to safeguard sufficient starting air pressure or adequate electrical power for starting locally. In this context, the recommendations or instructions of the manufacturers for remote controlled starting have to be observed. In case these are not available, an organization, recognized by the Administration, has to conduct tests and shall issue a certification stipulating the capacity (number of starts) of the available air pressure or electrical supply.
2. Fishing vessels where the main propulsion and associated machinery, including main electrical supply, are provided with various degrees of automatic or remote control and are under continuous manual supervision from a control room, the arrangements and controls shall be so designed, equipped and installed that the machinery operation will be as safe and effective as if it were under direct supervision. Particular consideration shall be given to protect such spaces against fire and flooding. An alarm system shall be provided on the navigating bridge and in the machinery space to indicate low starting pressure or low electrical power, which shall be set at a level to permit further main engine starting operation. If the remote control system of the propulsion machinery is designed for automatic starting, the number of consecutive attempts, that fail to produce a start, limited in order to safeguard sufficient starting air pressure or adequate electrical power.

Section 4. Periodically Unattended Machinery Spaces

- 1. Fishing vessels having periodically unattended machinery spaces shall, as far as practicable and reasonable in the opinion of the Administration, comply with the applicable requirements of the Administration for such machinery spaces.
- 2. Where alternative arrangements are provided the Administration shall ensure that:
 - a. The safety of the fishing vessel sailing in all conditions, including maneuvering, is equivalent to that of a vessel having manned machinery spaces; and
 - b. Documentary evidence indicating such arrangements are satisfactorily provided.

Section 5. Steam Boilers and Boiler Feed System

1. Every steam boiler and every unfired steam generator shall be provided with not less than two safety valves of adequate capacity. However, having regard to the output or any other features of any boiler or unfired steam generator, the Administration may permit only one safety valve to be fitted if it is satisfied adequate protection against overpressure is thereby provided.
2. Each oil-fired boiler that is intended to operate without manual supervision shall have safety arrangements, which shut off the fuel supply and give an alarm in the case of low water level, air supply failure or flame failure.
3. Every steam generating system, which provides services essential for the safety of the fishing vessel or which could be rendered dangerous by the failure of its feed-water supply, shall be provided with not less than two separate feed-water systems from and including the feed pumps, noting that a single penetration of the steam drum is acceptable. Unless overpressure is prevented by the pump characteristics, means shall be provided that will prevent overpressure in any part of the systems.
4. Boilers shall be provided with means to supervise and control the quality of the feed-water. Suitable arrangements shall be provided to preclude, as far as practicable, the entry of oil or other that may adversely affect the boiler.
5. Every boiler essential for the safety of the fishing vessel and designed to contain water at a specified level shall be provided with at least two means for indicating its water level; at least one of which shall be a direct reading gauge glass.
6. Water tube boilers serving turbine machinery shall be fitted with a high-water-level alarm.

Section 6. Steam Pipe Systems

1. Every steam pipe and every fittings connected thereto through which steam may pass shall be so designed, constructed and installed as to withstand the maximum working stresses to which it may be subjected.
2. Means shall be provided for draining every steam pipe in which dangerous water hammer action might otherwise occur.
3. If a steam pipe or fitting may receive steam from any source at a higher pressure than that for which it is designed, a suitable pressure-reducing valve or pressure gauge shall be fitted.

Section 7. Air Pressure Systems

1. Means shall be provided to prevent overpressure in any part of compressed air systems and wherever water jackets or casings of air compressors and coolers might be subjected to dangerous overpressure due to leakage into them from air pressure parts of the fishing vessel. Suitable pressure relief arrangements shall be provided for all systems.
2. The main starting air arrangements for main propulsion internal combustion engines shall be adequately protected against the effects of backfiring and internal explosion in the starting pipes.

3. All discharge pipes from starting air compressors shall lead directly to the starting air receivers and all starting pipes from the air receivers to main or auxiliary engines shall be entirely separate from the compressor discharge pipe system.
4. Provision shall be made to reduce to a minimum the entry of oil into the air pressure systems and to drain these systems.

Section 8. Ventilation Systems in Machinery Spaces

1. Machinery spaces of Category A shall be adequately ventilated so as to ensure when machinery or boilers therein are operating at full power in all weather conditions including heavy weather. An adequate supply of air is maintained in the spaces for the safety and comfort of personnel and the operation of the machinery. Any other machinery space shall be adequately ventilated appropriate for the purpose of that machinery space.
2. In addition to complying with the requirements of the preceding item the ventilation of machinery spaces shall also be sufficient under all normal conditions to prevent accumulation of oil vapor.

Section 9. Protection against Noise. Measures shall be taken to reduce machinery noise in machinery spaces to acceptable levels as determined by the Administration. If this noise cannot be sufficiently reduced, the source of excessive noise shall be suitably insulated or isolated or a refuge from noise shall be provided, if the space is required to be manned. Ear protectors shall be provided for personnel required to enter such spaces, if necessary. In case of ear protectors being applied, it must be made sure by appropriate optical means that an alarm will be attended to by the person in charge.

Section 10. Means of Going Astern

1. Sufficient means of going astern shall be provided to secure proper control of the fishing vessel in all normal circumstances.
2. The ability of the machinery to reverse the direction of thrust of the propeller in sufficient time and so to bring the fishing vessel to rest within a reasonable distance from maximum ahead service speed shall be demonstrated and recorded.
3. The stopping times, fishing vessel headings and distances recorded on trials, together with the results of trial to determine the ability of fishing vessels having multiple propellers to navigate and maneuver with one or more propellers inoperative shall be available on board for the use of the master or designated personnel.
4. Where fishing vessel is provided with supplementary means for maneuvering or stopping, the effectiveness of such means shall be demonstrated and recorded in items 3 and 4 of Section 10 herein.

Section 11. Steering Gear

1. Unless expressly provided otherwise, every fishing vessel shall be provided with a main steering gear and subject to the provisions of item 4 of herein section with an auxiliary means of steering the vessel in the event of failure of the steering gear.

2. The main steering gear shall be of adequate strength and capable of steering the fishing vessel at maximum ahead service speed. The main steering gear and rudder stock shall be so designed that they will not be damaged at maximum astern speed.
3. The auxiliary means steering shall be of adequate strength and capable of steering the fishing vessel at navigable speed and of being brought speedily into action in an emergency.
4. Where the power-operated main and auxiliary steering gear units are provided:
 - a. The main steering gear shall be capable of putting the rudder over from 35° on one side to 35° on the other side, with the ship at its deepest seagoing draught and running ahead at maximum ahead service speed and, under the same conditions, from 35° on either side to 30° on the other side is not more than 28 seconds;
 - b. The auxiliary steering gear shall be capable of putting the rudder over from 15° on one side to 15° on the other side in not more than 60 seconds, with the fishing vessel at its deepest seagoing draught and running ahead at one half of the maximum ahead service speed or 7 knots, whichever is greater;
 - c. Where the power-operated main steering gear units and the connections are fitted in duplicate and each unit complies with the provisions of paragraph 3, no auxiliary steering unit need be required.
5. The main steering power failure unit shall be arranged to restart either by manual or automatic means when power is restored after a power failure.
6. In the event of a power failure in any one of the steering gear power units, an audible and a visual alarm shall be given on the navigating bridge.
7. The angular position of the rudder, if the main steering gear is power-operated, shall be indicated on the navigating bridge. The rudder angle indication shall be independent of the steering gear control system.
8. Where a non-conventional rudder is installed, the Administration shall give special consideration to the steering system, so as to ensure that an acceptable degree of reliability and effectiveness that is based on the provisions of these Rules and Regulations is provided.
9. A means of communication shall be provided, where necessary, between the navigating bridge and the steering gear compartment.

Section 12. Communication between Navigating Bridge and Machinery Spaces

1. Fishing vessel shall be provided with at least two (2) independent means for communicating orders between navigating bridge and the machinery space or control room from which the main propulsion engines are normally controlled. One of the means shall be an engine-room telegraph. The arrangement of these means shall be to the satisfaction of the Administration.
2. The engine room telegraph referred to the preceding item may be dispensed with if the main propulsion engine is directly controlled from the navigating bridge under normal operating conditions.
3. In lieu of meeting the requirements of item no. 1 of herein Section, fishing vessel of less than 24 meters in length may be provided with only one means of

communications referred to in item no. 1 of herein Section, if the Administration is satisfied that, due to close proximity of the navigating bridge and the position of local control of the main propulsion machinery, two (2) means of communication are not necessary.

4. Appropriate means of communication shall be provided to any position (other than navigating bridge) from which the engines may be controlled.

Section 13. Engine Room Alarm System. An engine room alarm system shall be provided to be operated from the engine control room or at the maneuvering platform as appropriate and shall be clearly audible in the engineer's accommodation. The Administration may dispense with this requirement if satisfied that, due to particular manning patterns adopted in the engine room or close proximity of the engine control room or the maneuvering platform and the engine officer's accommodation, no engine room alarm system is necessary.

Rule 8 Electrical Installations

Section 1. General Electrical Requirements

1. Electrical installations on fishing vessels shall comply with the requirements of this Rule except as provided otherwise in Section 5 (Special Considerations).
2. Electrical installations shall be such that:
 - a. All electrical auxiliary services necessary for maintaining the fishing vessel in normal operational and habitable conditions will be ensured without recourse to the emergency source of electrical power;
 - b. Electrical services essential for safety will be ensured under various emergency conditions; and,
 - c. The safety of fishers and fishing vessel from electrical hazards will be ensured.

Section 2. Safety Precautions

1. Exposed metal parts of electrical machines or equipment, which are not intended to be live but which are liable under fault conditions to become live, shall be earthed unless the machines or equipment are:
 - a. Supplied at a voltage not exceeding 55 V direct current or 55 V root mean square between conductors. Auto-transformers shall not be used for the purpose of achieving this voltage;
 - b. Supplied at a voltage not exceeding 250 V by safely isolating transformers supplying only one consuming device; or
 - c. Constructed in accordance with the principle of double insulation.
2. The Administration may require additional precautions for portable electrical equipment for use in confined or exceptionally damp spaces, where particular risks due to conductivity may exist.
3. All electrical apparatus shall be constructed and so installed as not to cause injury when handled or touched in the normal manner.
4. Main and emergency switchboards shall be so arranged as to give easy access to apparatus and equipment, without danger to personnel. The sides and the rear and, where necessary, the front of switchboards shall be suitably guarded. Exposed live parts, having voltages to earth exceeding a voltage to be specified by the Administration, shall not be installed on the front of such switchboards. Whenever necessary, non-conducting mats or gratings shall be provided at the front and rear of the switchboard.
5. The requirements of a hull return system of distribution shall be under the conditions approved by the Administration specifically in the use of:
 - a. Impressed current cathodic protective systems;
 - b. Limited and locally earthed systems (e.g. engine starting system);

- c. Limited and locally earthed welding systems, where the Administration is satisfied that the equipotential of the structure is assured in a satisfactory manner or welding with hull return may be installed without restriction; and,
 - d. Insulation level monitoring devices provided the circulation current does not exceed 30 meters under the most unfavorable conditions.
6. Where the hull return system is used, all final sub-circuits, i.e. all circuits fitted after the last protective device, shall be two-wire and special precautions shall be taken to the satisfaction of the Administration.
 7. When a distribution system, whether primary or secondary, for power, heating or lighting with no connection to earth is used, a device capable of continuously monitoring the insulation level to earth and of giving an audible or visual indication of abnormally low insulation values shall be provided.
 8. Except as permitted by the Administration in exceptional circumstances, all metal sheaths and armor of cables shall be electrically continuous and shall be earthed.
 9. All electric cables and wiring external to equipment shall be at least of a flame-retardant type and shall be so installed as not to impair their original flame-retarding properties. Where necessary and for particular applications, the Administrations may permit the use of special types of cables such as radio frequency cables, which do not comply with the foregoing.
 10. Cables and wiring serving essential or emergency power, lighting, internal communications or signals shall, so far as practicable, be routed clear of galleys, laundries, machinery spaces of category A and their casings and other high fire risk areas. Cables connecting fire pumps to the emergency switchboard shall be of a fire-resistant type where they pass through high fire risk areas. Where practicable, all such cables shall be run in such a manner as to preclude their being rendered unserviceable by heating of the bulkheads, which may be caused by a fire in an adjacent space.
 11. Where cables that are installed in hazardous areas introduce the risk of fire or explosion in the event of an electrical fault in such areas, special precautions against such risk shall be taken to the satisfaction of the Administration.
 12. Cables and wiring shall be installed and supported in such a manner as to avoid chafing or other damage.
 13. Terminations and joints in all conductors shall be so made as to retain the original electrical, mechanical, flame-retarding and, where necessary, fire-resisting properties of the cables.
 14. Each separate circuit shall be protected against short circuit and against overload, except the circuit for the steering gear and where the Administration may exceptionally otherwise permit. The rating or appropriate setting of the overload protective device for each circuit shall be permanently indicated at the location of the protective device.
 15. Lighting fittings shall be so arranged as to prevent temperatures rises which could damage the cables and wiring, and to prevent surrounding material from becoming excessively hot.

16. All lighting and power circuits terminating in a bunker or fish hold space shall be provided with a multiple-pole switch outside the space for disconnecting such circuits.
17. Accumulator batteries shall be suitably housed, and compartments used primarily for their accommodation shall be properly constructed and efficiently ventilated.
18. Electrical or other equipment, which may constitute a source of ignition of flammable vapors, shall not be permitted in those compartments except as permitted in 20 hereof.
19. Accumulator batteries, except for batteries used in self-contained battery operated lights, shall not be located in sleeping quarters except where hermetically sealed to the satisfaction of the Administration.
20. No electrical equipment shall be installed in any space where flammable mixtures are liable to collect including those onboard fishing vessels in compartments assigned principally to accumulator batteries, in paint lockers, acetylene stores or similar spaces unless the Administration is satisfied that such equipment is:
 - a. Essential for operational purposes;
 - b. Of a type which will not ignite the mixture concerned;
 - c. Appropriate to the space concerned; and,
 - d. Appropriately certified for safe usage in the dusts, vapors or gases likely to be encountered.
21. Lightning conductors shall be fitted to all masts or topmasts constructed of non-conducting materials. Fishing vessels constructed of non-conductive materials, the lightning conductors shall be connected by suitable conductors to copper plates fixed to the vessel's hull well below the waterline.

Section 3. Main Source of Electrical Power

1. A main source of electrical power of sufficient capacity to supply those services mentioned in **Section 1 hereof (General Electrical Requirements) paragraph 2. a** shall be provided. This main source of electrical power shall consist of at least two (2) generating sets (one could be accepted if driven by the main propulsion engine) and shall comply with the following:
 - a. The capacity of these generating sets shall be such that in the event of any one generating set being stopped, it will be possible to supply those services necessary to provide normal operational conditions of propulsion and safety;
 - b. The arrangements of the fishing vessel's main source of electrical power shall be such that the services referred to in **Section 1 paragraph 2. a (General Electrical Requirements)** can be maintained regardless of the speed and direction of rotation of the propulsion machinery or shafting;
 - c. In addition, the generating sets shall be such as to ensure that with any one generator or its primary source of power out of operation, the remaining generating sets shall be capable of providing the electrical services necessary to start the main propulsion plant from a dead ship condition. The

emergency source of electrical power may be used for such electrical service if its capability is sufficient to provide at the same time those services required to be supplied by **Section 4 (Emergency Source of Electrical Power) paragraph 5**.

2. A main electrical lighting system, which shall provide illumination throughout those parts of the fishing vessel normally accessible to and used by the fishers, shall be supplied from the main source of electrical power.
3. The arrangement of the main electric lighting system shall be such that a fire or other casualty in spaces containing the main source of electrical power, associated transforming equipment, if any, and the main switchboard will not render the emergency electric lighting system required by **Section 4 (Emergency Source of Electrical Power) paragraph 5 inoperative**.
4. The arrangements of the emergency electrical lighting system shall be such that a fire or other casualty in spaces containing the emergency source of electrical power, associated transforming equipment, if any, and the emergency switchboard will not render the main electric lighting system required by this Regulation inoperative.

Section 4. Emergency Source of Electrical Power

1. A self-contained emergency source of electrical power shall be provided.
2. The emergency source of electrical power, associated transforming equipment, if any, and the emergency switchboard shall be located above the uppermost continuous deck and shall be readily accessible from the open deck. They shall not be located forward of the collision bulkhead, except where permitted by the Administration in exceptional circumstances.
3. The location of the emergency source of electrical power, associated transforming equipment, if any, the emergency switchboard in relation to the main source of electrical power, associated transforming equipment, if any, and the main switchboard shall be such as to ensure, to the satisfaction of the Administration, that a fire or other casualty in the space containing the main source of equipment, if any, and the main switchboard, or in any machinery space category A will not interfere with the supply, control and distribution of emergency electrical power.
4. Provided suitable measures are taken for safeguarding independent emergency operation under all circumstances, the emergency generator may be used, exceptionally and for short periods, to supply non-emergency circuits.
5. The electrical power available shall be sufficient to supply all those services essential for safety in an emergency, due regard being paid to such services as may have to be operated simultaneously. The emergency source of electrical power shall be capable, having regard to starting currents and the transitory nature of certain loads, of supplying simultaneously at least the following services for the periods specified hereinafter, if they depend upon an electrical source for their operation:
6. For a period of three (3) hours, emergency lighting at every muster and embarkation station and over the sides in the way of such stations.
7. For a period of 12 hours, emergency lighting:

- a. In all service and accommodation alleys, stairways and exits;
 - b. In spaces containing machinery propulsion used for navigation, if any, and main source of electrical power and their control positions;
 - c. In all control stations, machinery control rooms and at each main and emergency switchboard;
 - d. At all stowage positions for firemen's outfits;
 - e. At the steering gear, if any; and
 - f. At the emergency fire pump and its control position.
 - g. For a period of 12 hours, the navigation lights and other lights required by COLREG;
 - h. For a period of twelve (12) hours:
 - i. All communication equipment required for transmission of distress and safety messages, including fishing vessel's whistle and all internal communication equipment as required in an emergency;
 - ii. The fire detection and fire alarm systems; and,
 - iii. Operation of emergency fire pumps, if electrically operated.
8. Fishing vessels regularly engaged in voyages of short duration, the Administration, if satisfied that an adequate standard of safety would be attained, may accept a lesser period than the 12-hour period specified in Section 4 paragraph 5 a to d of herein Rule but not less than three (3) hours.
9. The emergency source of electrical power may be either:
- a. An accumulator battery capable of carrying the emergency electrical load without recharging or excessive voltage drop; or,
 - b. A generator driven by a suitable prime mover with an independent fuel supply and starting to the satisfaction of the Administration.
10. Where the emergency source of electrical power is an accumulator battery, it shall be capable of automatically connecting to the emergency switchboard in the event of failure of the main source of electrical power. Where an automatic connection to the emergency switchboard is not practical, manual connection may be acceptable to the satisfaction of the Administration.
11. Where the emergency source of power is a generator, it shall be automatically started and connected to the emergency switchboard within 45 seconds of the loss of the main source of electrical power. It shall be driven by a prime mover with an independent fuel supply having a flash point of not less than 43°C. Automatic starting of the emergency generator will not be required where a transitional source of power to the satisfaction of the Administration is provided.

Section 4. Special Considerations

The Administration may waive any of the requirements specified in this Rules taking into account the requirements of electrical power for operating the propulsion machinery and the size of the fishing vessel.

Rule 9 Safe Manning

Rule 9 sets forth the safe manning requirements of Philippine-registered fishing vessels and defines the duties and responsibilities of officers and ratings.

Section 1. General Provisions

1. A Philippine-registered fishing vessel shall be completely manned by Filipino Skippers, Officers and Ratings except as authorized by the Administration.
2. The Skipper, Officers and Ratings onboard Philippine-registered fishing vessels shall be duly qualified, competent, certificated and medically fit in accordance with these Rules and Regulations.
3. A Philippine-registered fishing vessel shall have onboard an approved safe manning document indicating therein the safe manning complement and their corresponding licenses and qualification requirements.
4. The Skipper, Officers and Ratings in international fishing operation performing watchkeeping shall meet the certification requirements of the Administration.
5. The highest officer on deck shall be higher in rank than the highest officer in the engine department, except in cases where the required engine power (KW) is much greater and not in proportion to gross tonnage (GT)
6. An Engine Output Rating shall be measured in KW instead of BHP (1KW = 1.341HP/1HP = 0.746KW).
7. Special manning applies to fishing vessel engaged in fishing operation in domestic and international waters. Manning for engine officers and engine ratings shall be based on the one single highest KW-rated engine on board.

Section 2. Safe Manning

1. In adopting the Table of Safe Manning herein prescribed, the Administration took cognizance of the Principles of Safe Manning under the concept of Safe Manning. Further, the typical fishing fleet operations in the Philippines is also considered. These Rules shall, therefore, mean that the fishers shall include sufficient officers and ratings with appropriate skills and experience to ensure that the following principles can be complied with:
 - a. The capability to maintain a safe bridge watch at sea;
 - b. The capability to moor and unmoor a vessel effectively;
 - c. The capability to operate and maintain effectively all the watertight closing arrangements including ability to mount an effective damage control;
 - d. The capability to operate and when practicable, maintain efficient, all fire equipment and life saving appliances provided including the ability to muster and disembark fishers and non-essential personnel;
 - e. The capability to manage the safety functions of the fishing vessel when employed in a stationary or near-stationary mode at sea;

- f. The capability to maintain a safe engineering watch at sea and also to maintain general surveillance of spaces containing main propulsion and auxiliary machinery;
 - g. The capability to operate the main propulsion and auxiliary machinery and maintain it in a safe condition to enable the fishing vessel to overcome the foreseeable perils of the voyage; and,
 - h. The capability to maintain the safety arrangements and the cleanliness of machinery spaces to minimize the risk of fire.
2. In the application of the basic principles of safe manning and to ensure the safe fishing operations of fishing vessels, the following guidelines are hereby adopted:
- a. There should be sufficient numbers of qualified personnel to meet the peak workload situations and conditions with due regard to the number of hours, fishing vessel board duties and rest periods that may be assigned to a fisher.
 - b. The bridge watch shall consist of at least one officer and one deck rating qualified to take navigational watch, provided that they comply with the requirements of this Regulation.
 - c. For fishing vessels of limited size, a three-watch system shall be adopted.
 - d. At each end of the fishing vessel, there should be sufficient persons to enable them to accept and effectively secure a tug and to send away tension and secure lines and backsprings. Any necessary operation should be capable at bow and stern simultaneously.
 - e. The engine watch should consist of not less than one duly qualified engine officer and may include appropriate engine-room ratings provided that they comply with the requirements of this Regulation.
 - f. In designating the number of personnel assigned to engineering watches, account shall be taken of the following:
 - i. The number, power (KW) and type of the main propulsion and auxiliary units over which surveillance is to be maintained and the number of machinery spaces containing these units; and,
 - ii. Adequacy of internal communication.
3. The Administration shall issue a safe manning certificate indicating the numbers and grades of the personnel required to be on board, together with any special conditions or other remarks.

Section 3. Table of Safe Manning for Fishing Vessels

1. This table of safe manning, subject to the provisions of Section 1 (General Provisions), Section 5 (Additional Manning) and Section 6 (Reduction of Manning) and within the context of Section 2 (Safe Manning) hereof.
2. Safe Manning is assessed on a case-by-case basis upon request of the company and subject to the approval of the Administration.
3. This Rule shall apply to Philippine-registered fishing vessels engaged in domestic and international waters.
4. Table of Safe Manning for Fishing Vessels

a. Deck Department

GROSS TONNAGE	NUMBER	POSITION	LICENSE
50 GT and below	- 1 -	Skipper	Boat Captain 1
above 50GT – 150	- 1 -	Skipper	Boat Captain 2
	- 1 -	Rating	
Above 150 – 350	- 1 -	Skipper	Boat Captain 3
	- 1 -	Rating	
Above 350 – 750	- 1 -	Skipper	Minor Patron
	- 1 -	Deck Officer	Boat Captain 3
Above 750 – 1000	- 2 -	Rating	
	- 1 -	Skipper	Major Patron
Above 1000 – 2000	- 1 -	Deck Officer	Minor Patron
	- 2 -	Rating	
Above 2000	- 1 -	Skipper	OICNW/MAP
	- 1 -	Deck Officer	Major Patron
Above 2000	- 1 -	Skipper	OICNW/MAP
	- 1 -	Chief Officer	Major Patron
Above 2000	- 1 -	Chief Officer	Major Patron
	- 3 -	Rating	

b. Engine Department

KILOWATT	NUMBER	POSITION	LICENSE
Below 750 kw	- 1 -	Chief Engine Officer	Marine Engine Mechanic 1
	- 1 -	Engine Rating	
750 to below 1500 kw	- 1 -	Chief Engine Officer	Marine Engine Mechanic 2
	- 1 -	Engine Officer	Marine Engine Mechanic 1
	- 2 -	Engine Rating	
1500 to below 3000 kw	- 1 -	Chief Engine Officer	Marine Engine Mechanic 3
	- 1 -	Engine Officer	Marine Engine Mechanic 2
	- 3 -	Engine Rating	

3000 kw and above	- 1 -	Chief Engine Officer	OICEW/ Marine Engine Mechanic 3
	- 1 -	2nd Engine Officer	Marine Engine Mechanic 2
	- 1 -	Engine Officer	Marine Engine Mechanic 1
	-3-	Engine Rating	

Section 4. Special Manning

1. In case of emergency in foreign ports where one of the qualified officers cannot be onboard because of illness, incapacity, disappearance, death or other unforeseen circumstances and where replacement is not immediately available, a fishing vessel may be allowed, subject to the approval of Administration, to proceed to the next port of call where replacement shall be made upon arrival thereto, and the skipper shall make an entry in the fishing vessel's logbook indicating the circumstances of the special manning.
2. In the case of engine department, such fishing vessel mentioned in paragraph 1, Section 4, Rule 9 may only return to sea on such voyage, if at the time, it shall have at least one qualified engine officer required by this Rules.
3. In the case of ratings, similar arrangements shall apply provided that a full complement of certificated officers is onboard and that the manning of watches is not adversely affected as determined by the Administration.
4. No special manning shall be allowed for more than thirty days reckoned from the time the fishing vessel sails with officer/rating less than what is required by this Rules except in cases to be determined by the Administration.

Section 5. Additional Manning

Additional manning may be allowed and for which a new manning certificate shall be issued. However, special attention shall be given to the extent to which the fishers are intended for other tasks.

Section 6. Reduction of Manning. Fishing vessels may be allowed to reduce their manning complement subject to the provisions of Section 2 (Safe Manning) of herein Rules.

Section 7. Dispensation/Upgrading of Officers

1. A Dispensation Permit shall be granted to an officer to occupy the next higher rank in a particular fishing vessel.
2. A Dispensation Permit shall not be granted to a Skipper or Engine Officer.

Section 8. Watchkeeping

1. **Fitness for Duty:** The Administration, for the purpose of preventing fatigue shall:
 - a. Establish and enforce rest periods for watchkeeping personnel; and,
 - b. Require watch systems are so engaged that the efficiency of all watchkeeping personnel is not impaired by fatigue and are so organized

that the first watch at the commencement of a voyage and subsequently relieving watches are sufficiently rested and otherwise fit for duty.

2. Watchkeeping arrangements and principles to be observed:
 - a. Fishing Companies, Skippers, Engine Officers, Officers and all watchkeeping personnel are required to observe the principles and guidelines set out by the Administration, to ensure that a safe continuous watch appropriate to the prevailing circumstances and condition are maintained in all sea going fishing vessels at all times;
 - b. Deck officers on watch are responsible for navigating the fishing vessel safely during their periods of duty where they shall be physically present in the navigational bridge or in associated location such as the chartroom or bridge control room at all times;
 - c. Engine officers on watch, under the direction of the Engine Officer-1, shall be immediately available and on call to attend the machinery spaces and when required, shall be physically present in the machinery spaces during their period of responsibility;
 - d. An appropriate and effective watch or watches are maintained for the purpose of safety at all times, while the fishing vessel is not on anchor or moored and if the vessel is carrying hazardous materials. The organization of such watch or watches takes full account of the nature, quantity, packing and storage of the hazardous material and any special conditions prevailing onboard, afloat or ashore; and
 - e. Holders of SRQP or any appropriate Radio Operators License/Certificate are responsible for maintaining the fishing vessel's continuous communications/ radio watch on appropriate frequency during their periods of duty.

Section 9. Duties of Fishing Vessel Officers

The duties and responsibilities of officers in the management and operational levels pursuant to these Regulations and other relevant issuances by the Administration are deemed function and obligation of fishing vessels officers.

Rule 10
Training, Certification and Watchkeeping for Fishing Vessel

Section 1. Standard Objectives.

1. To provide the revised rules in the application, conduct of examination, issuance of Certificate of Marine Profession and license to seafarers onboard domestic fishing vessels of below 500 GT or with engine propulsion power of below 750 kW;
2. To ensure that only qualified and licensed seafarers shall man domestic fishing vessels of below 500 GT or with engine propulsion power of below 750 kW for safe navigation and operation; and,
3. To maintain a registry of licensed seafarers.

Section 2. Coverage

1. All seafarers holding MARINA issued licenses to act as Major Patron (MAP), Minor Patron (MIP), Boat Captain (BC), and Marine Engine Mechanic (MEM); and,
2. All seafarers to be employed as officers onboard fishing vessels of below 500 GT or with engine propulsion power of below 750 kW.

Section 3. Applicability

For purposes of this Regulation, the following licenses applies in accordance with their corresponding limitations:

Deck Department	
License	GT
Major Patron (MAP)	750 to 1000 GT
Minor Patron (MIP)	350 to below 750 GT
Boat Captain 3 (BC 3)	150 to below 350 GT
Boat Captain 2 (BC 2)	50 to below 150 GT
Boat Captain 1 (BC 1)	below 50 GT
Engine Department	
License	kW
Marine Engine Mechanic 3 (MEM 3)	1500 to 3000 kW
Marine Engine Mechanic 2 (MEM 2)	750 to below 1500 kW
Marine Engine Mechanic 1 (MEM1)	below 750 kW

Section 4. General Provisions

1. All seafarers who intend to man fishing vessels below 500 GT or engine propulsion power of below 750 kW shall take the appropriate licensure examinations under this Rule.

2. All officers who shall command fishing vessels of specified tonnages and those who operate or maintain the fishing vessels of specified propulsion power shall be subject to the required licenses for every responsibility onboard domestic fishing vessels.
3. Fishing vessel owners or operators shall ensure that their fishing vessels are manned only by duly licensed officers.
4. All holders of MAP, MIP, BC and MEM Licenses shall be issued a CMP and ID upon expiration of their licenses. Those issued with BC and MEM shall be categorized based on their sea going service as required in Section 5 **(Qualification and Documentary Requirements of Examinees)**.
5. All applicants for the issuance of new licenses, with the exception of those who intend to command fishing vessels of 50 GT and below, shall pass the written and oral examinations required under this Rules and Regulations.
6. The duly constituted Panel of Examiners (POE) shall formulate examination questions and check answer sheets in the conduct of examinations. Likewise, they are tasked to supervise the Pool of Assessors during the Oral Examination.
7. The Pool of Assessor/s shall administer the oral examination.
8. All examination passers shall be issued a Certificate of Marine Profession (CMP). An equivalent license in the form of an identification (ID) card valid for three (3) years shall be issued upon submission/presentation of the Certificate of Marine Profession (CMP) and payment of the corresponding license fee.
9. A testimonial license shall be issued to seafarers in command of fishing vessels 15 GT and below subject to interview to be conducted by the Administration.
10. The Administration shall maintain a system for the random selection of test questions from the databank every time an examination is conducted.
11. A Registry of Licenses shall be established and maintained at the MARINA Central Database.

Section 5. Qualification and Documentary Requirements of Examinees

1. Applicants for Licensure Examination under this Rule shall meet the following qualifications:
 - a. Must be a Filipino Citizen;
 - b. At least 18 years of age;
 - c. Of good moral character;
 - d. Physically & mentally fit; for MAP/MIP/BC3/BC2 with adequate Ishihara vision.
2. In addition, applicants shall meet the applicable sea service and training requirements depending on their educational attainment:

a. Major Patron (MAP)

	Educational Attainment	Sea Service (any Type of Fishing vessel)	TRAINING
.1	BSMT Graduate	1 year Sea Service as part of Curriculum	Ship board Training as part of Curriculum
.2	AMT or completed BSMT academic requirements	2 years on board fishing vessels of at least 250 GT AB/QM/Bosun; OR 3 years on board fishing vessels of at least 250 GT as OS-deck;	Sea Service Experience
.3	Basic Seaman's Course or SRC-Deck graduate (Seafaring Rating Course (SRC Deck) graduate); OR Graduate of Fisher's Course offered by BFAR	4 years on board fishing vessels of at least 250 GT as deck rating	Deck Watchkeeping Course
.4	High School Graduate	5 years on board fishing vessels of at least 250 GT as deck rating	Deck Watchkeeping Course
.5	At least High School Level	8 years on board fishing vessels of at least 250 GT as deck rating	Deck Watchkeeping Course
.6	At least Elementary level	10 years on board fishing vessels of at least 250 GT as deck rating	Deck Watchkeeping Course

b. Minor Patron (MIP)

	Educational Attainment	Sea Service (any Type of Ship)	Training
.1	AMT or completed BSMT academic requirements	1 year onboard any type of ship of at least 100 GT as AB/QM/Bosun; OR 2 years onboard fishing vessels of at	Sea service experience

		least 100 GT as OS-deck	
.2	Basic Seaman's Course or SRC-Deck graduate; OR Graduate of Fisher's Course offered by BFAR	2 years onboard ship of at least 100 GT as deck rating	Deck Watchkeeping Course
.3	High School Graduate	3 years onboard any type of ship of at least 100 GT as deck rating	Deck Watchkeeping Course
.4	At least High School Level	5 years onboard any type of ship of at least 100 GT as deck rating	Deck Watchkeeping Course
.5	At least Elementary level	8 years onboard any type of ship of at least 100 GT as deck rating	Deck Watchkeeping Course

c. Boat Captain 3 (BC3)

	Educational Attainment	Sea Service (any Type of Ship)	Training
.1	Basic Seaman's Course or SRC-Deck graduate	1 year on-board any type of ship of at least 35 GT as OS-deck	Deck Watchkeeping Course
.2	Must have completed four (4) full semesters in college	2 years on-board any type of ship of at least 35 GT as Deck Rating	Deck Watchkeeping Course
.3	High School Graduate	3 years on-board any type of ship of at least 35 GT as deck rating	Deck Watchkeeping Course
.4	At least High School Level	4 years on board fishing vessels of at least 35 GT as deck rating	Deck Watchkeeping Course
.5	At least Elementary Level	5 years on any type of ship of at least 35 GT as deck rating	Deck Watchkeeping Course

d. Boat Captain 2 (BC2)

	Educational Attainment	Sea Service (any Type of Ship)	Training
.1	High School Graduate	1 years onboard any type of ship of at least 15 GT	Deck Watchkeeping Course

.2	At least High School level	2 years onboard any type of ship of at least 15 GT	Deck Watchkeeping Course
.3	At least elementary school level	3 years onboard any type of ship of at least 15 GT	Deck Watchkeeping Course

e. Boat Captain 1 (BC1)

	Educational Attainment	Sea Service (any Type of Fishing vessel)	Training
.1	Must be able to read and write	1 year onboard any type of ship of any size	Modified Basic Safety Training with Typhoon Awareness and Preparedness - (MBST)

f. Marine Engine Mechanic 3 (MEM3)

	Educational Attainment	Sea Service (any Type of fishing vessel)	Training
.1	BSMarE graduate	Shipboard Training as part of the curriculum	
.2	BS Mechanical Engineering /Naval Architecture	1 year onboard any type of ship with engine propulsion power of at least 500 kw, in any capacity in the engine department	Engine Watchkeeping Course
.3	AME or completed BSMarEacademic requirements	1 year onboard any type of ship with engine propulsion power of at least 500 kw, in any capacity in the engine department	Sea Service Experience
.4	Must have completed four(4) full semesters in college	3 years onboard any type of ship with engine propulsion power of at least 500 kw, in any capacity in the engine department	Engine Watchkeeping Course
.5	SRC-Engine graduate	2 years onboard any type of ship with engine propulsion power of at least 500	Engine Watchkeeping Course

		kw, in any capacity in the engine department	
.6	High School Graduate	4 years onboard any type of ship with engine propulsion power of at least 500 kw, in any capacity in the engine department	Engine Watchkeeping Course
.7	At least High School level	8 years onboard any type of ship with engine propulsion power of at least 500 kw, in any capacity in the engine department	Engine Watchkeeping Course
.8	At least elementary school level	10 years onboard any type of ship with engine propulsion power of at least 500 kw, in any capacity in the engine department	Engine Watchkeeping Course

g. Marine Engine Mechanic 2 (MEM2)

	Educational Attainment	Sea Service (any Type of fishing vessel)	Training
.1	AME or completed BSMarE academic requirements	1 year onboard fishing vessels with engine propulsion power of at least 250 kw, in any capacity in the engine department	Sea Service Experience
.2	Must have completed four(4) full semesters in college	3 years onboard fishing vessels with engine propulsion power of at least 250 kw, in any capacity in the engine department	Engine Watchkeeping Course
.3	SRC-Engine graduate;	2 years onboard fishing vessels with engine propulsion power of at least 250 kw, in any capacity in the engine department	Engine Watchkeeping Course
.4	High School Graduate	4 years onboard fishing vessels with engine propulsion	Engine Watchkeeping Course

		power of at least 250 kw, in any capacity in the engine department	
.5	At least High School level	5 years onboard fishing vessels with engine propulsion power of at least 250 kW in any capacity in the engine department	Engine Watchkeeping Course
.6	At least elementary school level	8 years onboard fishing vessels with engine propulsion power of at least 250 kW in any capacity in the engine department	Engine Watchkeeping Course

h. Marine Engine Mechanic 1 (MEM1)

	Educational Attainment	Sea Service (any Type of fishing vessel)	Training
.1	Must be able to read and write	1 year onboard fishing vessels of any engine	Modified Basic Safety Training with Typhoon Awareness and Preparedness (MBST)

Section 6. Schedule, Coverage/Scope, Mechanics and Result of Written and Oral Examination

1. Schedule of Examination

a. Central Office

- i. Examinations shall be conducted at the MARINA Central Office every last Wednesday of the month.
- ii. A Notice of Examination shall be posted in the MARINA Central Office and published in MARINA Website.
- iii. Examinations may be conducted outside of the MARINA Central Office upon the request of fishing vessel companies/associations provided that there are at least twenty (20) applicants/ examinees involved.

b. Regional Office

- i. The MRO Director/OIC may, as necessity requires, conduct examinations in his area of jurisdiction.
- ii. The schedule of examination shall be posted in the MARINA Regional Office, MARINA Website and circulated in the fishing vessel companies and associations.

- iii. Examinations may be conducted outside of the MARINA Regional Office upon the request of fishing vessel companies/associations provided that there are at least twenty-five (25) applicants/ examinees involved.

2. Filing of Application for the Examination

- a. The applicant shall secure the Application Form from the-MARINA Central Office or any of the MARINA Regional Offices and pay the corresponding fee;
- b. The examination permit shall be issued to the applicant upon submission of the duly accomplished Application Form, including the required supporting documents, and the receipt of payment of examination fee.

3. Coverage/Scope and Mechanics of the Examination

- a. The Examination shall cover the following areas/elements:

Major Patron	Minor Patron	Boat Captain 2 & 3
1. Practical Navigation	1. Practical Navigation	1. Practical Navigation
2. Seamanship	2. Seamanship	2. Seamanship
3. Weather and Marine Instruments	3. Meteorology	3. Meteorology
4. Rules of the Road	4. Rules of the Road	4. Rules of the Road
5. General Operators Course and Simulator Plotting	5. General Operators Course and Simulator Plotting	5. National Maritime Laws
6. National Maritime Laws	6. National Maritime Laws	

Marine Engine Mechanic 3	Marine Engine Mechanic 2	Marine Engine Mechanic 1
1. Engine Fundamental Principles	1. Internal Combustion: Diesel Engine Technology	1. Fundamentals of Mathematics
2. Operating Principles	2. Engine Performance, Trouble Shooting and Procedures	2. Electricity and Electrical Driven propulsion
3. Fuel Oil and Lubricating Oil	3. Engine Test and Applied Formula	3. Internal Combustion
4. Cooling System	4. Electrical Knowledge and Installation	4. Drawing/ cooling system
5. Engine Operations	5. National Maritime Laws	5. National Maritime Laws

6. Maintenance & Servicing Procedure		
7. Tools and Maintenance Equipment		
8. Safety Procedure		
9. National Maritime Laws		

- b. The oral examination to be administered by any of the assigned assessor/s from the Pool of Assessors shall be scheduled upon receipt of the results of the written examination.
- c. An examinee must obtain a rating of at least 70% in the Written Examination to qualify for the Oral Examination.
- d. The examinee must obtain at least 70% rating in the oral examination to qualify for the issuance of CMP and license.

4. Examination “Language”

The applicant will have option to take the required written/ oral examination in either English or applicable local dialect.

5. A Selection and Printing of Examination Questions

- a. The MARINA shall provide the Office responsible for systems and database with the list of the applicants and the request for examination questions and answer sheets, two (2) working days before the scheduled examination.
- b. The responsible Office shall secure approval from the MARINA Administrator to generate the questions selected randomly from the databank.
- c. Once approval from the MARINA Administrator has been secured, the designated Office shall print the questions and answer sheets which shall be assigned a control number generated by the system and recorded in the database corresponding to the examinee.
- d. The printed questionnaires together with the corresponding answer sheets shall be sealed in an envelope in the presence of the Administrator or his authorized representative, Director responsible for systems or his authorized representative and the Director for Manpower or his authorized representative, their signatures reflected on the sealed envelope.
- e. A designated staff from Manpower shall carry the sealed envelope containing the printed questionnaires and answer sheets to the requesting MRO on the day of the scheduled examination.

6. Conduct of the Examination

- a. The Secretariat assigned to assist in the conduct of the examination shall check whether the examinee is the same person as the one in the examination permit.
- b. The examinee shall sign in the space provided in the answer sheet.

7. Checking of the Answer Sheets

- a. The Director/OIC of the Office responsible for Manpower or the concerned MRO shall forward all answer sheets to the MARINA Administrator as POE Chairman, thru the staff of the Office responsible for Manpower (for examinations done at MROs), one (1) working day after the examination for subsequent endorsement to the Members of the POE.
- b. The Members of the POE, upon receipt of the answer sheets from the Administrator, shall check the answer sheets within three (3) working days and submit the same to the Administrator together with the results in triplicate copies.
- c. The examination result shall be translated into a Memorandum Matrix as shown below:

Memorandum			
For :			
From :			
Subject :			
Date of Exam :			
Name of Examinees	Control No.	Results of Written Examination	Recommendation (Passed or Failed)
<hr style="width: 30%; margin: 0 auto;"/> Signature Chairman of POE			
Date: _____ Approved/ Disapproved			
<hr style="width: 30%; margin: 0 auto;"/> MARINA Administrator			

- d. Upon receipt of the Memorandum Matrix, the MARINA Administrator take action on the recommendation of the POE Members.
- e. Upon the instruction of the MARINA Administrator, one (1) copy of the duly approved Written examination results shall be provided to the Office responsible for Systems and Database which shall input the results in the Central Database and post in the MARINA Website. The other two (2) copies shall be provided to the Office responsible for Manpower for posting in its Bulletin Board and to the concerned MRO.

8. Conduct of Oral Examination

- a. Upon receipt of the Memorandum Matrix approved by the Administrator, the Director/OIC, Office responsible for Manpower /MROs shall call a meeting of the pool of assessors for the schedule and assignment of oral examination;
- b. Assignment of assessors and schedule of oral examination shall be authorized by the Administrator/OIC thru issuance of a Special Order.
- c. The Office responsible for Manpower/MRO Director/OIC shall issue Notice of Oral Examination, within 5 days from the receipt of the approved Memorandum Matrix, to all examinees who passed the written examination;
- d. Oral examination shall be conducted by the Assessors using a pre-designed questions/test cases;
- e. The Assessors shall immediately submit the result of the oral examination, using a prescribed format, to the Secretariat;
- f. The Secretariat shall consolidate the results and prepare the Memorandum Matrix and forward the same together with all the answer sheets, to the MARINA Administrator as POE Chairman, one (1) working day after the examination.

9. Results of Oral Examination

- a. The examination result shall be translated into a Memorandum Matrix in triplicate copies, as shown below:

Memorandum			
For :			
From :			
Subject :			
Date of Exam :			
Name of Examinees	Control No.	Results of Oral Examination	Recommendation (Passed or Failed)

<hr/> Signature Chairman of POE			
Date: _____ Approved/ Disapproved			
<hr/> MARINA Administrator			

- b. Upon receipt of the Memorandum Matrix, the MARINA Administrator takes action on the recommendation of the Pool of Assessors attested by POE Members.
- c. Upon the instruction of the MARINA Administrator, one (1) copy of the duly approved Oral examination results shall be provided to the Office responsible for Systems and Database which shall input the results in the Central Database. The other two (2) copies shall be provided to the Office responsible for Manpower for posting in its Bulletin Board and to the concerned MRO.
- d. The Office responsible for Systems and Database shall generate a Summary of the Final result, forward the same to the Administrator for his signature.
- e. Copies of the summary of Final result signed by the Administrator shall be provided to the Office responsible for Systems and Database for posting at the MARINA website, Office responsible for Manpower for posting in its Office and to the MRO, when applicable.

10. Publication of the Result of Examination

The Final results of the examinations shall be posted at the MARINA Website fifteen (15) days after the Oral examination.

Section 7. Issuance of Certificate of Marine Profession (CMP) and/or License/ID to New Passers

1. Central Office

- a. The applicant shall secure the Application Form from the MARINA Central Office or any of the MARINA Regional Offices and pay the corresponding fee;
- b. The Clerk shall print the CMP and/or License/ID upon submission of the duly-accomplished Application Form and supporting documents and the receipt of payment;
- c. The Division Chief shall check the correctness of the information in the CMP and/or license/ID and affix his initial if found to be in order;
- d. Signing of the CMP.
 - i. In the case of the MAP and MIP, the Director of the Office responsible for Manpower/OIC shall attest to the issuance of the CMP and shall endorse the same, together with the attached copy of the result of the examination, to the MARINA Administrator for signature.
 - ii. In the case of BC, MEM and Motorman, the Director/OIC of the Office responsible for Manpower shall sign the CMP.
 - iii. The assigned Clerk Office responsible for Manpower shall issue the signed CMP and/or License/ID to the applicant.

2. Regional Office

- a. The applicant shall secure the Application Form from the concerned MARINA Regional Office and pay the corresponding fee;
- b. The Clerk shall print the CMP and/or License/ID upon submission of the duly-accomplished Application Form and supporting documents and the receipt of payment.
- c. The MRO Supervisor shall check the correctness of the information in the CMP and/or license/ID and affix his initial if found to be in order.
- d. Signing of the CMP
 - i. In the case of MAP and MIP, the concerned MRO Director/OIC shall attest to the issuance of the CMP and shall endorse the same, together with the copy of the result of the examination, to the MARINA Administrator for signature.
 - ii. The duly signed MAP/MIP CMP shall be mailed by the Office of the MARINA Administrator to MROs thru the MARINA Records Section.
 - iii. In the case of BC, MEM and Motorman, the concerned MRO Director/OIC shall sign the CMP.
 - iv. The assigned MRO Clerk shall issue the signed CMP and/or License/ID to the applicant.

Section 8. Issuance of Testimonial CMP and License/ID to Boat Captain 1

1. Conduct of the Interview

- a. The applicant shall secure the Application Form from the MARINA Central Office or any of the MARINA Regional Offices and pay the corresponding fee.
- b. The assigned Clerk shall schedule the applicant for the conduct of the Interview upon submission of the duly accomplished Application Form and supporting documents and the receipt of payment.
- c. The interview shall be administered by the Director/OIC of the Office Responsible for Manpower or concerned MRO.
- d. The Director/OIC of the Office Responsible for Manpower or concerned MRO shall direct the Division Chief of Office Responsible for Manpower or the concerned MRO Supervisor for the issuance of CMP and License/ID once satisfied with the result of the interview.

2. Issuance of the Testimonial Certificate of Marine Profession (CMP) and/or License/ID.

The procedure in the issuance of Testimonial Certificate of Marine Profession (CMP) and/or License/ID shall be in accordance with Section 7 of herein Rule.

Section 10. Issuance of Enhanced Seafarer's Identification and Record Book (SIRB).

The relevant MARINA Circular shall govern the issuance of SIRB to qualified seafarers or fishers who will work on-board fishing vessels

Section 11. Maintenance of the Central Database of Registry of CMP/Licenses

1. The MROs shall provide the Office responsible for systems and database with the soft copy of the licenses issued within five (5) working days after the issuance of licenses.
2. The Office responsible for systems and database shall update the Central Database with the soft copy of the CPM/Licenses issued by the MROs.

Section 12. Maintenance of Databank of Examination Questions

1. The Members of POE shall, on a quarterly basis, submit to the MISO at least twenty (20) questions with corresponding answers for MAP/MIP/BC/MEM/Motorman.
2. The Office responsible for Systems and Database shall ensure that Databank of Examination Questions are updated.

Section 13. Filing of Records

1. Upon the issuance of the CMP and License/ID, the Office responsible for Manpower/MRO Secretariat shall forward the folder containing the file of the applicant to the Records Section for filing.
2. The Records Section, shall maintain a filing system for safekeeping and easy retrieval of records.

Section 14. Panel of Examiners

1. Constitution and Composition

- a. The Members of the Panel of Examiners shall be composed of qualified Marine Officers who meet the minimum qualification requirements set forth by the MARINA.
- b. There shall be separate Panels of Examiners for Deck and for Engine consisting of three (3) member each.
- c. The Administrator shall appoint a Chairman from among the members.

2. Term of Office

The Members of the POE shall have a term of three (3) years unless sooner replaced for a cause.

3. Qualifications of Panel of Examiners

a. Deck Department

- i. Filipino citizen
- ii. Physically and Mentally fit
- iii. Duly licensed Master Mariner/Chief Mate/Second Mate or Third Mate
- iv. Must have three (3) years experience as Master Mariner/Second Mate or Third Mate
- v. Of good moral character

b. Engine Department

- i. Filipino citizen
- ii. Physically and Mentally fit
- iii. Duly licensed Chief/Second/Third or Fourth Engineer
- iv. Must have three (3) years experience as Chief Engineer/Second/Third or Fourth Engineer
- v. Of good moral character

4. Selection of the Members of the Panel of Examiners

- a. The MARINA shall publish the notice of invitation for filling up the vacancy for membership in the Panel of Examiners in a newspaper of general circulation.
- b. The Office responsible for Manpower shall prepare the short list of applicants detailing the qualifications and shall submit it to the Selection Committee created by the MARINA Administrator for the purpose.
- c. The Selection Committee shall evaluate the qualification of the applicants and shall submit its recommendation to the MARINA Administrator for approval.
- d. The MARINA Administrator shall submit the list of selected applicants to the MARINA Board for confirmation.

5. Duties and Responsibilities of the Members of the Panel of Examiners.

The appointed Examiners shall:

- a. Formulate examination questions including the answers for submission to the MARINA through the MISO on a quarterly basis.
- b. Formulate the procedures in the conduct of written and oral examinations for applicants of Major Patron, Minor Patron, Boat Captain 3, 2 and Marine Engine Mechanic 2 and 1 and Motorman, as appropriate;
- c. Check the answer sheets of the examinees within three (3) working days after the examination and indicate there in the final ratings obtained by the examinee;
- d. Prepare a report of the completed results of the examination for submission to the MARINA Administrator;
- e. Supervise the Pool of Assessors in the conduct of Oral Examinations; and
- f. Attend meeting/s organized by the MARINA Administrator or Chairman of the Panels.

6. Remuneration

The Members of the Panel of Examiners shall receive remuneration as determined by the MARINA Administrator and approved by the MARINA Board.

Section 15. Pool of Assessors

1. The MARINA Administrator, shall officially designate qualified MARINA personnel to be a Member of Pool of Assessors, upon the recommendation of the Director of the Office responsible for Manpower/OIC.
2. **Assessors shall possess the following qualifications;**
 - a. Must have undertaken the IMO Model Course 3.12;
 - b. Must have Educational/Training backgrounds related to the subject to be assessed;
 - c. Must have at least one (1) year sea service;
 - d. Must be an organic personnel of the MARINA; and
 - e. Must be of good moral character
3. **Duties and Responsibilities:**
 - a. Conduct the Oral Examination;
 - b. Prepare the result of Oral Examination conducted;
 - c. Assist the Panel of Examiners in developing additional tools for the effective conduct of assessment.

Section 16. Oath Taking Ceremonies

Passers of MARINA Examinations shall take their oath as licensed officers before the MARINA Administrator for the Central Office or the Directors/OICs for the MARINA Regional Offices.

Rule 11

Tonnage Measurement

Section 1. Coverage

To provide rules, and regulations and guidelines in ascertaining the volumetric capacity of measurable spaces of Philippine-registered fishing vessels, specifically their Gross and Net Tonnages, this Rules shall cover all Philippine-registered fishing vessels, whether engaged in domestic or international operations, except existing fishing vessels already registered under the Philippine flag which have been issued Tonnage Measurement Certificate by the Administration or the Philippine Coast Guard,(PCG), or its Recognized Organizations (ROS) in the case of Philippine registered International fishing vessels, unless the owner/operator of such fishing vessels decide to have them re-admeasured under the herein. In cases however, where such existing fishing vessels are altered, converted and/or modified, they shall be admeasured/re-admeasured on the basis of this Rules and Regulations.

Section 2. General Provisions

1. All Philippine-registered fishing vessels shall be admeasured in accordance with the applicable provisions of the International Tonnage Convention (ITC) of 1969, as amended, as outlined in Section 3 .1 to .5 of this Rule, except fishing vessels with enclosed deck and with outriggers, open deck and with outriggers, and open deck without outriggers. For Philippine-registered international fishing vessels, they can be admeasured and certified by an Administration-Recognized Organization, but the International Tonnage Measurement Certificate shall adopt such calculations and be issued by the MARINA;
2. The ITC 1969, as amended, is hereby adopted as an integral part of this Rules and Regulation.
3. For fishing vessels with enclosed deck and with outriggers, open deck and with outriggers, and open deck and without outriggers, their admeasurement shall be based on a modified formula provided in Section 3.6 and 3.7 of this Rule.
4. Fishing vessels acquired from abroad through importation, lease or charter, whether second-hand or new building, which have already been admeasured in accordance with the ITC 1969, as amended, shall be re-issued a Tonnage Measurement Certificate by the Administration, subject to the submission of a duly-notarized affidavit from the applicant company/operator/ manager, that the fishing vessel was not altered/modified/converted since its previous admeasurement;
5. Locally constructed fishing vessels and those acquired from abroad not admeasured in accordance with the ITC 1969, as amended, shall be subjected to an admeasurement to be undertaken by a duly-licensed Naval Architect and Marine Engineer (RENAME), or other qualified/trained technical personnel, from the Administration in the case of domestic fishing vessels, and/or an Administration - Recognized Organizations (ROs) in the case of the international fishing vessels. The corresponding Tonnage Measurement Certificate shall be issued by the Administration;
6. In the case of fishing vessels already issued with a Tonnage Measurement Certificate, where alteration, modifications or conversion are made after the

effectivity of this Rules and Regulation affecting its internal volume, such fishing vessels shall be subjected to re-admeasurement by an Administration RENAMED or other qualified/trained technical personnel for domestic fishing vessels, and/or Administration -Recognized Organizations (ROS) for international fishing vessels.

7. For domestic fishing vessels homeported in the regions, the fishing vessel owner/operator/ manager shall apply and have their fishing vessels undergo tonnage measurement and subsequent issuance of Tonnage Measurement Certificate at the concerned MARINA Regional Office (MRO), In cases where there is no licensed RENAMED in the concerned MRO, they may apply at the next nearest MRO where there is such qualified personnel available.
8. The following plans shall be submitted to the Administration to be used in the computation/ calculation of tonnage measurement:
 - a. General Arrangement Plan
 - b. Construction Plan
 - c. Midship Plan
 - d. Lines Drawing
 - e. Capacity Plan
9. Fishing vessels covered in this Rules subjected to the herein adopted/prescribed rules and regulations on Admeasurement/Re-admeasurement, inclusive of the supporting plans, calculations, shall be issued the Tonnage Measurement Certificate/Tonnage Re-admeasurement Certificate by the Administration.
10. Upon completion of the needed survey/inspection, calculations, etc., and submission of all requirements, the Tonnage Measurement Certificate shall be issued by the Administration within five (5) working days therefrom.
11. No domestic fishing vessel shall be registered under the Philippine flag and issued safety and other related certificates until a Tonnage Measurement Certificate has been issued to it by the Administration.

Section 3. Determination of Gross and Net Tonnages of Fishing Vessels

1. Measurement and Calculation

- a. All measurement used in the calculation of volume shall be taken to the nearest thousandth of a meter.
- b. The volume shall be calculated by generally acceptable methods for the space concerned and with an accuracy acceptable to the Administration.
- c. The calculation shall be sufficiently detailed to permit easy checking.

2. Calculation of Volumes.

All volumes included in the calculation of gross and net tonnages shall be measured, irrespective of the fitting of insulation or the like, to the inner side of the shell or structural boundary plating in fishing vessels constructed of metal, and to outer surfaces in fishing vessels constructed of any other material.

3. Gross Tonnage.

The Gross Tonnage (GT) of a fishing vessel shall be determined by the following formula:

$$GT = K_1V$$

where:

V = Total volume of all enclosed spaces of the fishing vessel in cubic metres,

$$K_1 = 0.2 + 0.02\log_{10}V$$

Please refer to Annex IV of this Rules and Regulation for the table of coefficients K_1 and K_2

4. **Net Tonnage.**

The Net Tonnage (NT) of a fishing vessel shall be determined by the following formula:

$$NT = K_2V_c (4d/3D)^2 + K_3 (N_1 + N_2/10)$$

in which formula:

- a. A the factor $(4d/3D)^2$ shall not to be taken as greater than unity;
- b. the term $K_2 V_c (4d/3D)^2$ shall not to be taken as less than 0.25 GT; and
- c. NT shall not to be taken as less than 0.30 GT, and in which:

V_c = total volume of fishing vessel spaces in cubic meters

$$K_2 = 0.2 + 0.02 \log_{10}V_c$$

$$K_3 = 1.25 \frac{GT+10,00}{10,000}$$

D = moulded depth amidship in meters

D = moulded draught amidship in meters

N_1 = number of persons in cabin with not more than 8 berths,

N_2 = number of other persons,

$N_1 + N_2$ = total number of persons the fishing vessel is permitted to carry as indicated in the fishing vessel's safety certificate; when $N_1 + N_2$ is less than 13, N_1 and N_2 shall be taken as zero,

GT = gross tonnage of the fishing vessel

5. **The moulded draught (d) referred to above shall be one of the following draughts:**

- a. for fishing vessels to which the International Convention on Load Lines in force applies, the draught corresponding to the Summer Load Line (other than timber load lines) assigned in accordance with that Convention;
- b. for fishing vessels to which the International Convention on Load Lines does not apply but which have been assigned a load line in compliance with national requirements, the draught corresponding to the summer load line so assigned;

- c. for the fishing vessels to which no load line has been assigned but the draught of which is restricted in compliance with national requirements, the maximum permitted draught;
- d. for other fishing vessels, 75 percent of the moulded depth amidship.

6. By Rake-Rake Method

To be used for wooden/steel/FRP/ etc.-hulled motor/ non-motorized bancas with/without outriggers, and/or open deck designed with rake forward and rake aft, with dugged-out bottom.

$$\text{Tonnage Length (TL)} = \frac{L - [\text{Rake}_1 \text{ fwd} + \text{Rake}_2 \text{ aft}]}{2}$$

$$\text{Tonnage Breadth (TB)} = \frac{B_1 + B_2}{2}$$

$$\text{Gross Tonnage (GT)} = \frac{\text{TL} \times \text{TB} \times \text{TD}}{2.83}$$

$$\text{Net Tonnage (NT)} = \text{GT} - \text{PP}$$

Where:

TL = Tonnage Length

TB = Tonnage Breadth

TD = Tonnage Depth

PP = Propelling Power (32% of GT)

7. By Coefficient Method

To be used for wooden/steel/FRP/etc.-hulled motor/non-motorized bancas with/without outriggers and/or open deck where the design is considered novel in the sense that it is not an ordinary design with dugged-out bottom.

$$\text{Gross Tonnage (GT)} = \frac{\text{TL} \times \text{TB} \times \text{TD} \times 0.70}{2.83}$$

PP = Propelling Power (32% of GT)

$$\text{Net Tonnage (NT)} = \text{GT} - \text{PP}$$

Where:

TL = Tonnage Length

TB = Tonnage Breadth

TD = Tonnage Depth

0.70 = Block Coefficient

Rule 12

Life Saving Appliances

Section 1. Application

1. Unless expressly provided otherwise, this Rules applies to new and existing fishing vessels in compliance with the following:
 - a. Life-Saving Appliances shall be in compliance with recognized standards or of the Administration-approved type or its equivalent
 - b. Survival craft and their launching appliances shall, as far as practicable, provide capacity for the fishing vessel's minimum manning and ancillary requirements.
 - c. Fishing vessels shall comply with the requirements of these Regulations relating to the following:
 - i. Lifejackets;
 - ii. Lifebuoys;
 - iii. Radar transponders;
 - iv. Survival Craft;
 - v. Muster and abandon fishing vessel drill training
 - vi. Distress signal;

Section 2. General Requirements. The Administration may, if it considers the sheltered nature and conditions of the fishing operation are such as to render the application of any specific requirements of this Rules unreasonable or unnecessary, approve alternative specifications, which are considered equally effective under the circumstances.

Section 3. Approval of Life-Saving Appliances and Arrangements. Life-saving appliances and arrangements required by this Rules shall be approved by the Administration or by any member of the International Association of Classification Societies (IACS). Where life-saving appliances or arrangements are to be approved, the Administration shall ensure that they provide the same safety standards as specified herein and that such appliances and arrangements are evaluated.

Section 4. Communications. Fishing vessels shall carry:

1. At least one (1) two-way VHF radiotelephone apparatus;
2. At least one (1) radar transponder for 500 GT and above. Such radar transponder shall be so stowed that it can be rapidly placed in any survival craft;
3. At least one (1) rocket parachute flares on the bridge of the fishing vessel above 20 GT;
4. An emergency means comprising either fixed or portable equipment or both for two-way communications between emergency control stations, muster and embarkation stations and strategic positions on board.
5. A general emergency alarm system for summoning the fishers to muster stations capable of sounding a signal consisting of seven (7) or more short blasts followed by a long blast on the vessel's whistle or siren, which shall be

powered from the vessel's main or the emergency power. The system shall be operated from the vessel's bridge and be audible throughout all the accommodation and normal fishers spaces.

Section 6. Personal Life-Saving Appliances

1. Fishing vessels shall carry lifebuoys of at least:
 - a. One (1) lifebuoy shall be provided with self-igniting light;
 - b. One (1) lifebuoy shall be fitted with a buoyant lifeline;
 - c. Two (2) such lifebuoys shall be fitted with self-activating smoke signals and be capable of quick release from the navigating bridge;
 - d. Lifebuoys with light and those with light and smoke signals shall be equally distributed on both sides of the fishing vessel.
2. Fishing vessels shall carry life jackets accessible to every person on board. In addition, they shall carry sufficient number of life jackets for persons on watch.
 - a. Table for Lifebuoys:

DOMESTIC

Gross Tonnage	Lifebuoy (non-lighted)	Self-Igniting Lighted Light Lifebouys	Buoyant Lifeline
3 GT – 50 GT	one (1)	N/A	N/A
51 GT – 250 GT	two (2)	one (1)	25 m
251 GT – 500 GT	three (3)	one (1)	25 m
501 GT and above	four (4)	two (2)	25 m (2)

INTERNATIONAL

Gross Tonnage	Lifebuoy (non-lighted)	Self-Igniting Lighted Light Lifebouys	Buoyant Lifeline
3 GT – 50 GT	two (2)	N/A	25 m
51 GT – 250 GT	two (2)	one (1)	25 m (2)
251 GT – 500 GT	four (4)	two (2)	25 m (2)
501 GT and above	six (6)	two (2)	25 m (2)

- b. Table for Distress Signals:

DOMESTIC WATERS

Gross Tonnage	Red Hand Flares	Rocket Parachute Flares	Smoke Signal
3 GT – 50 GT	one (1)	N/A	N/A

51 GT – 250 GT	one (1)	one (1)	N/A
251 GT – 500 GT	two (2)	one (1)	one (1)
501 GT and above	two (2)	two (2)	two (2)

INTERNATIONAL WATERS

Gross Tonnage	Red Hand Flares	Rocket Parachute Flares	Smoke Signal
3 GT – 50 GT	one (1)	N/A	N/A
51 GT – 250 GT	two (2)	one (1)	one (1)
251 GT – 500 GT	two (2)	one (1)	two (2)
501 GT and above	four (4)	four (4)	two (2)

Section 7. Survival craft:

1. Life raft (Inflatable or rigid type) shall be capable of carrying 100% of the total number of persons onboard fishing vessel, and/or
2. Equivalent Approved-Type Life raft shall be capable of carrying 50% of the total number of persons onboard fishing vessel.

EQUIVALENT APPROVED TYPE LIFERAFT (Rigid)

CAPACITY	Rigid type
Number of person onboard	
0 – 8	1 (8 person capacity)
9 - 16*	1 (16 person capacity) or 2 (8 person capacity)
17 - 24*	1 (24 person capacity) or 3 (8 person capacity)

Note: Fishing vessels with outrigger shall be exempted

- * The number of Rigid Liferrafts may vary according to the capacity of persons onboard.

Section 8. Lifejackets. Fishing vessels shall carry at least one (1) approved-type life jacket for every person onboard.

Section 9. Manning and Survival Procedures.

1. All persons manning such fishing vessels shall be trained in launching and operating of the survival crafts.
2. Illustrations and instructions relating to the use of life-saving appliances in appropriate languages shall be posted at muster stations and other crew spaces.

3. Posters or signs shall be provided on or in the vicinity of survival craft and their launching controls.
4. Muster stations shall be provided close to the embarkation stations. Both shall be adequately illuminated by lighting supplied from the emergency source of electric power.
5. Persons onboard shall participate in at least one abandon fishing vessel drill and one fire drill every quarter. Onboard training in the use of life-saving appliances including survival craft equipment shall be provided at such drills.
6. Records of the fishing vessel drills and onboard training shall be maintained and recorded in the deck logbook.

Section 10. Stowage, Launching and Recovery of Survival Crafts

1. Survival craft shall be properly stowed as follows:
 - a. That neither the survival craft nor its stowage arrangements interfere with the operation of any other survival craft at any other launching station;
 - b. As near the water surface safe and practicable with the fishing vessel in the fully loaded condition under unfavorable condition of trim and list up to 20° neither way;
 - c. That the liferafts can easily be launched from the fishing vessel in less than five minutes;
 - d. Liferafts intended to be thrown overboard shall be stowed as to be readily transferable for launching on either side of the fishing vessel.
2. Where the liferafts are not provided with launching appliances, they shall be stowed with its painter permanently attached to the vessel with a float-free arrangement complying with the recognized standards.

Section 11. Marking of Survival Craft.

Each survival craft shall be marked in block capitals of the Roman alphabet with the following information:

1. Name and port of registry of the fishing vessel;
2. Name of approving authority;
3. Number of persons permitted to accommodate.

Section 12. Operational Readiness, Maintenance and Inspections.

1. Before the fishing vessel leaves port and at all times during fishing operation, all life-saving appliances shall be in good working order and ready for immediate use.
2. Instructions on board maintenance of life-saving appliances shall be easily understood and illustrated where possible.
3. All survival craft life-saving appliances including launching appliances shall be inspected regularly by company safety officer to ensure they are in good order, complete and ready for use.
4. Every inflatable liferaft, inflated rescue boats and radar transponders shall be serviced not more than fifteen (15) months and at an approved servicing station

to the satisfaction of the Administration. However, the Administration may extend this period to twenty (20) months.

5. Hydrostatics release units shall be serviced not more than fifteen (15) months and at an approved servicing station to the satisfaction of the Administration. However, the Administration may extend this period to twenty (20) months.

Rule 13

Fire Safety Measures

Section 1. General Application.

1. This Section applies to fishing vessels which are provided with machinery spaces of category "A" to maintain its normal habitable and operational condition.
2. Fishing vessels which are provided with machinery other than machinery space of category "A" shall comply with the provisions of this Rules to the satisfaction of the Administration.

Section 2. Structural Fire Protection

1. Shall be so constructed as to be capable of preventing the spread of fire to the unexposed side.
2. Interior stairways below the weather deck shall be of steel or other material having acceptable fire resisting properties.
3. Insulation materials in accommodation spaces, service spaces, control stations and machinery spaces except domestic refrigeration compartments shall be non-combustible. Vapor barriers and adhesive used in conjunction with insulation, as well as insulation of pipe fittings for cold service systems, need not be non-combustible materials, but they shall be kept to the minimum quantity practicable and their exposed surfaces shall have qualities of resistance to the propagation of flame to the satisfaction of the Administration.
4. Paints, varnishes and other finishes used on exposed interior surfaces shall not offer an undue fire hazard to the satisfaction of the Administration and shall not be capable of producing excessive quantities of smoke.

Section 3. Means of Escape and Control of Ventilation

1. Means of escape shall be provided as follows:
 - a. Stairways and ladders shall be so arranged as to provide means of escape to the lifeboat and liferaft embarkation deck.
 - b. Escape routes shall be provided to the satisfaction of the Administration, having regard to the nature and location of the spaces and whether persons are normally employed in such spaces.
2. The following provisions shall apply to machinery spaces of category "A" and, where the Administration considers it desirable, to the other machinery spaces.
 - a. Means of control shall be provided for opening and closure of skylights, opening and closure of windows in machinery space boundaries, closure of openings in funnels which normally allow exhaust ventilation, and closure of ventilator dampers;
 - b. Means of control shall be provided for permitting the release of smoke;
 - c. Means of control shall be provided for stopping forced and induced draught fans, fuel oil transfer pumps, fuel oil unit pumps and to similar fuel pumps;

- d. Controls required in sub-paragraphs (m) and (n) of Rule 13, Section 3.1 of this Regulation shall be located outside the space concerned, where they may be cut off in the event of fire in the space they serve;
- e. The number of skylights, doors, ventilators for natural ventilation, openings in funnel to permit exhaust ventilation and other openings to machinery spaces shall be in accordance with requirements of Regulation Rule 7, Section 8 (Ventilation Systems in Machinery Spaces);
- f. Skylights shall not contain glass Bodies. However, skylights containing wire-reinforced glass or toughened safety glass Bodies may be permitted provided they are fitted with external shutters or steel or other equivalent materials permanently attached. Suitable arrangements shall be made to permit the release of smoke in the event of fire from the spaces to be protected;
- g. Windows shall not be fitted in machinery space boundaries. This does not preclude the use of glass for windows in control rooms within the machinery space;
- h. Doors fitted in machinery space boundaries shall as far as practicable be equivalent in resisting fire to the divisions forming such boundaries. If such doors are not watertight or watertight, the same shall be self-closing;
- i. The arrangements of each ventilation system shall be entirely separated from each other such that fire in one space shall not readily spread to machinery spaces, galleys, fishing hold spaces, accommodation spaces and control stations;
- j. Power ventilation of accommodation spaces, service spaces, fish hold spaces, control stations and machinery spaces shall be capable of being stopped from an easily accessible position located outside the space being served. This position shall not be readily cut off in the event of fire in the space served. The means provided for stopping the power ventilation of machinery spaces shall be entirely separated from the means provided for stopping ventilation of other spaces;
- k. The main inlets and outlets of all ventilation systems shall be capable of being closed from outside the spaces being ventilated.

3. **Ventilation of Tanks and Cofferdams.**

Subject to the provisions of these Regulations, all tanks, cofferdams and other enclosed spaces where dangerous vapors are liable to be trapped shall be provided with effective means for ventilation and access to the satisfaction of the Administration having regard to the intended services.

4. **Miscellaneous Items**

- a. Where bulkheads, decks, ceilings or linings are penetrated for the passage of electric cables, pipes, trunks, etc.; for the fitting of ventilation terminals, lighting fixtures and similar devices; or for girders, beams or other structural members, arrangements shall be made to ensure the fire integrity is not impaired.
- b. The Administration may permit the conveying of oil and combustible liquid through accommodation and service spaces, provided the pipes conveying

oil or combustible liquids are of a material approved by the Administration having regard to the fire risk.

- c. Material readily rendered ineffective by heat shall not be used for overboard scuppers including sanitary discharges and other outlets, which are close to the water-line, and where the failure of the material in the event of fire would give rise to danger of flooding.
- d. Electric radiators, if used, shall be fixed in a position and so constructed as to reduce fire risks to a minimum. No such radiators shall be fitted with an element so exposed that clothing, curtains or other similar materials can be scorched or set on fire by heat from the element or equivalent material.
- e. Paint lockers with an area of more than 10 m² shall be provided with adequate measures to recognized standards to control fire in such spaces.
- f. In spaces where penetration of oil products is possible, the surface of insulation shall be impervious to oil or oil vapor.

5. **Arrangement for Oil Fuel and Other Oil Tanks**

- a. The following limitations shall apply to the use of oil as fuel:
 - i. Except as otherwise permitted by this Regulation, no oil fuel with a flashpoint of less than 60°C shall be used;
 - ii. In emergency generators, oil fuel with a flashpoint of no less than 43°C may be used;
 - iii. Subject to such additional precautions as may consider necessary and on condition that the ambient temperature of the space in which such oil fuel is stored or used shall not be allowed to rise within 10°C below the flash point of the oil fuel. The Administration may permit the general use of oil fuel having a flashpoint of less than 60°C but not less than 43°C.
- b. Fishing vessels in which oil fuel is used, the arrangements for the storage, distribution and utilization of the oil fuel shall be such as to ensure the safety of the vessel and fishers on board and shall at least comply with the following provisions:
 - i. As far as practicable, parts of the oil fuel systems containing heated oil under pressure exceeding 0.18 N/mm² shall not be placed in a concealed position such that defects and leakage cannot be readily observed. The machinery spaces on the way of such parts of the oil fuel system shall be adequately illuminated;
 - ii. Every oil fuel pipe if damaged would allow oil to escape from a storage, settling or daily service tank situated above the double bottom shall be fitted with a cock or valve directly on the tank capable of being closed from a safe position outside the space concerned in the event of a fire occurring in the space in which such tanks are situated. Tanks of not more than 250 liters capacity need not comply with this sub-paragraph;
 - iii. Safe and efficient means of ascertaining the amount of oil fuel contained in any oil fuel tank shall be provided. Sounding pipes shall not terminate in any space where the risk of ignition of spillage from the sounding pipe

might arise. In particular, they shall not terminate in accommodation spaces. Other means of ascertaining the amount of oil fuel contained in any fuel tank may be permitted provided the failure of such means or overfilling of the tanks will not permit release of fuel. The Administration may permit the use of oil level gauges with flat glasses and self-closing valves between the gauges and fuel tanks. Cylindrical gauge glasses may also be permitted and fitted with self-closing valves to the satisfaction of the Administration;

- iv. Provision shall be made to prevent over-pressure in any oil tank or in any part of the oil fuel system, including the filling pipes. Relief valves and air or over-flow pipes shall discharge to a position that in the opinion of the Administration is safe. The open ends of air pipes shall be fitted with wire gauze;
- c. The arrangements for storage, distribution and utilization of other flammable oils employed under pressure in power transmission systems, control and activating systems and heating systems shall be such to ensure the safety of fishing vessels and fishers on board. In locations where means of ignition are present,

6. **Spillage or Leakage of Oil**

No oil fuel tank or lubricating oil tank or any other flammable oil tank shall be situated where spillage or leakage there from can constitute a hazard by falling on heated surfaces. Precautions shall be taken to prevent any oil that may escape under pressure or oil leakage from any pump, filter, piping system or heat exchanger from coming into contact with heated surfaces or enter into machinery air intakes. Where necessary, a suitable spill tray or gutter screen or other suitable arrangement shall be provided to allow oil to drain to a safe place in the event of spillage or leakage of oil from such an oil tank, machinery, equipment or system. The number of joints in piping systems shall be kept to a minimum practicable.

7. **Pipes and Fittings**

Pipes, fittings and valves handling fuel oil, lubrication oil and other flammable oils shall be of steel or other approved material. The restricted use of flexible pipes shall be permissible in positions where the Administration is satisfied that they are necessary. Such flexible pipes and end attachments shall be of approved fire-resisting materials of adequate strength and shall be constructed to the satisfaction of the Administration.

8. **Carriage of Dangerous Goods for Fishing Vessel Use**

Fishing Vessels carrying dangerous goods shall comply with the requirement of the Administration on the carriage of dangerous goods for fishing vessel's use.

Rule 14 Communications

Section 1. Radio Communication

1. General Provisions
 - a. Fishing vessels above 300 gt shall comply with the requirements of this Rule
 - b. Existing and new fishing vessels below 300 gt are exempted from the above paragraph, and may otherwise use the installations as prescribed by the telecommunications authority.
 - c. No provision in this Rules shall prevent the use by any fishing vessel, survival craft or person in distress, of any means at their disposal to attract attention, make known their position and obtain help.
2. Functional Requirements
 - a. Each fishing vessel covered in Regulation paragraphs (1) and (3) of Rule 14 Section 1, while at sea shall be provided with radio installations capable of complying with the functional requirements identified in this Regulation throughout its intended voyage for the sea area or areas through which it will pass during the intended voyage.
 - b. Each fishing vessel, while at sea, shall be capable of:
 - i. transmitting ship-to-shore distress alerts by at least two separate and independent means, each using a different radio communication service;
 - ii. receiving shore-to-ship distress alerts;
 - iii. transmitting and receiving fishing vessel-to-ship distress alerts;
 - iv. transmitting and receiving search and rescue coordinating communications;
 - v. transmitting and receiving on-scene communications;
 - vi. transmitting and where applicable receiving signals for locating;
 - vii. transmitting and receiving maritime safety information;
 - viii. transmitting and receiving general radio communications to and from shore-based radio systems or networks; and
 - ix. transmitting and receiving bridge-to- bridge communications.
3. Fishing Vessel Requirements
 - a. Every radio installation shall be:
 - i. so located that no harmful interference of mechanical, electrical or other origin affects its proper use;
 - ii. so located as to ensure the greatest possible degree of safety and operational availability;
 - iii. be protected against harmful effects of adverse environmental conditions;

- iv. provided with reliable permanently arranged electrical lighting for adequate illumination; and .5 clearly marked with the call sign, the fishing vessel station identity and other qualified codes.
 - b. Control of the radiotelephone channels required for navigational safety shall be available on the navigation bridge.
- 4. Watches
 - a. Each fishing vessel, while at sea, shall maintain continuous distress and safety watch on the, appropriate distress frequencies identified for the relevant sea area.
 - b. Each fishing vessel, while at sea, shall maintain a radio watch for broadcasts of maritime safety information on the appropriate frequency or frequencies on which such information is broadcast for the area in which the fishing vessel is navigating.
 - c. Until 1 February 1999 each fishing vessel, while at sea, shall maintain a continuous listening watch on:
 - i. VHF distress channel 16; 156.8 MHz
 - ii. radiotelephone distress frequency 2,182KHz
- 5. Maintenance Requirements
 - a. The Administration shall ensure that the radio equipment required by this Rules is maintained to provide the availability of the functional requirements and to meet the recommended performance standards for such equipment.
 - b. Adequate information shall be provided to enable the equipment to be properly operated and maintained, taking into account the recommendations of the IMO.

Section 2. Radio Equipment

- 1. Each fishing vessel shall be provided with:
 - a. a VHP installation capable of transmitting and receiving:
 - i. Digital selective calling (DSC) on the frequency 156.525 MHz (channel 70) and maintaining a continuous DSC watch on VHF channel 70. It shall be possible to initiate the transmission of distress alerts on channel 70 from the position from which the fishing vessel is normally navigated. Fishing vessels plying exclusively in sea area A2 need not comply with this requirement if they maintain a continuous listening watch on VHF channel 16 from the navigating bridge;
 - ii. radiotelephony on frequencies 156.300 MHz (channel 6) (Intership), 156.650 MHz (channel 13)(PCG Harbormaster) and 156.800 MHz (channel 16)(VHF International Distress Channel);
 - b. a receiver capable of receiving international NAVTEX service broadcasts if the fishing vessel is engaged on voyages in any area in which an international NAVTEX service is provided;
 - c. where NAVTEX service is not provided, a radio facility for reception of:

- i. maritime safety information service by the INMARSAT enhanced group calling system; or
 - ii. the HF direct-printing telegraphy maritime safety information service.
- d. Where Fishing vessels regularly ply on voyages of less than 24 hours the Administration may exempt such fishing vessel from these requirements provided arrangements to receive NAVTEX messages and weather broadcasts are made available prior to sailing.
- e. Subject to the provisions of Regulation 6.1.2.4.3 (for verification), a satellite emergency position-indicating radio beacon (satellite EPIRB) which should be:
- i. capable of transmitting a distress alert either through the polar orbiting satellite service operating in the 406 MHz band or, if the craft is engaged only on voyages within INMARSAT coverage, through the INMARSAT geostationary satellite service operating in the 1.6 GHz band;
 - ii. installed in an easily accessible position;
 - iii. ready to be manually released and capable of being carried by one person into a survival craft;
 - iv. capable of floating free if the craft sinks and of being automatically activated when afloat; and
 - v. capable of being activated manually.
- f. Radio Equipment: Sea Area A1
- i. In addition to meeting the requirements of Regulation Rule 14, Section 2 (Radio Equipment), each fishing vessel engaged on voyages exclusively in sea area A1 should be provided with a radio installation capable of initiating the transmission of ship-to-shore distress alerts from the position from which the fishing vessel is normally navigated, operating either:
 1. on VHF using DSC; this requirement may be fulfilled by the EPIRB prescribed by **paragraph (e) of Rule 14, Section 2**, either by installing the EPIRB close to, or by remote activation from, the position from which the fishing vessel is normally navigated; or
 2. through the polar orbiting satellite service on 406 MHz; this requirement may be fulfilled by the satellite EPIRB, required by **paragraph (e) of Rule 14, Section 2**, either by installing the satellite EPIRB close to, or by remote activation from the position from which the fishing vessel is normally navigated; or
 3. if the fishing vessel on voyages within the coverage of MF coast stations equipped with DSC, or MF using DSC; or
 4. on HF using DSC; or
 5. through the INMARSAT geostationary satellite service; this requirement may be fulfilled by:
 - 5.1. an INMARSAT fishing vessel earth station; or

- 5.2. the satellite EPIRB, required by **paragraph (e) of Rule 14, Section 2**, either by installing the satellite EPIRB close to, or by remote activation from, the position from which the fishing vessel is normally navigated.
- ii. The VHP radio installation, required by paragraph (1a) of Rule 14, Section 2, should also be capable of transmitting and receiving general communications using radiotelephony.
 1. Fishing vessel engaged on voyages exclusively in sea area A1 may carry, in lieu of the satellite EPIRB required by **paragraph (e) of Rule 14, Section 2**, and EPIRB which should be:
 - 1.1. capable of transmitting a distress alert using DSC on VHP channel 70 providing for locating by means of a radar transponder operating in the 9 GHz band;
 - 1.2. installed in an easily accessible position;
 - 1.3. ready to be manually released and capable of being carried by one person into a survival craft;
 - 1.4. capable of floating free if the craft sinks and of being automatically activated when afloat; and
 - 1.5. capable of being activated manually.
- g. Radio Equipment: Sea Areas A1 and A2
 - i. In addition to meeting the requirements of Rule 14, Section 2 (Radio Equipment), every fishing vessel engaged on voyages beyond sea area A1, but remaining within sea area A2, should be provided with:
 1. an MF radio installation capable of transmitting and receiving, for distress and safety purposes, on the frequencies:
 - 1.1. 2,187.5 KHz using DSC; and
 - 1.2. 2,182 KHz using radiotelephony;
 2. a radio installation capable of maintaining a continuous DSC watch on the frequency 2,187.5 KHz which may be separate from, or combined, that required by paragraph 1.1.1; and
 3. means of initiating the transmission of ship-to-shore distress alerts by a radio service other than MF operating either:
 - 3.1. through the polar orbiting satellite service on 406 MHz; this requirement may be fulfilled by the satellite EPIRB, required by **paragraph (e) of Rule 14, Section 2**, either by installing the satellite EPIRB close to, or by remote activation from the position from which the fishing vessel is normally navigated; or
 - 3.2. on HF using DSC; or
 - 3.3. through the INMARSAT geostationary satellite service; this requirement may be fulfilled by:
 - 3.3.1. the equipment specified in paragraph 3.2 ; or

- 3.3.2. the satellite EPIRB, required by **paragraph (e) of Rule 14, Section 2**, either by installing the satellite EPIRB close to, or by remote activation from, the position from which the fishing vessel is normally navigated.
- ii. It should be possible to initiate transmission of distress alerts by the radio installations specified in paragraphs 1.1 and 1.3 from the position from which the fishing vessel is normally navigated.
 - iii. The fishing vessel should, in addition, be capable of transmitting and receiving general radio communications using radiotelephony or direct-printing telegraphy by either:
 1. a radio installation operating on working frequencies in the bands between 1,605 KHz and 4,000 KHz or between 4,000 KHz and 27,500 KHz. This requirement may be fulfilled by the addition of this capability in the equipment required by, paragraph 1.1; or
 2. an INMARSAT fishing vessel earth station.
 3. The Administration may exempt fishing vessels constructed before 1 February 1997, which are engaged exclusively on voyages within the sea area A2, from the requirements of paragraphs (1) and (2) of Rule 14, Section 2 provided such fishing vessels maintain, when practicable, continuous listening watch on VHP channel 16. This watch should be kept at the position from which the craft is normally navigated. Such exemption should be endorsed by the base port State in the Permit to Operate.
- h. Radio Equipment: Sea Areas A1, A2 and A3
- i. In addition to meeting the requirements of Rule 14, Section 2, every fishing vessel engaged on voyages beyond sea area A1 and A2, but remaining within sea area A3, should, if it does not comply with the requirements of paragraph 2, be provided with:
 1. an INMARSAT fishing vessel earth station capable of:
 - 1.1. transmitting and receiving distress and safety communications using direct-printing telegraphy;
 - 1.2. initiating and receiving distress priority calls;
 - 1.3. maintaining watch for shore-to-ship distress alerts, including those directed to specifically defined geographical areas;
 - 1.4. transmitting and receiving general radiocommunications, using either radiotelephony or direct-printing telegraphy; and
 2. an MF radio installation capable of transmitting and receiving, for distress and safety purposes, on the frequencies;
 - 2.1. 2,187.5 KHz using DSC; and
 - 2.2. 2,182 KHz using radiotelephony;
 - 2.3. a radio installation capable of maintaining a continuous DSC watch on the frequency 2,187.5 KHz which may be separate from, or combined, that required by paragraph 1.2.1; and

- 2.4. means of initiating the transmission of ship-to-shore distress alerts by a radio service other than MF operating either:
 - 2.5. through the polar orbiting satellite service on 406 MHz; this requirement may be fulfilled by the satellite EPIRB, required by Regulation 6.14.2 (Radio Equipment), paragraph 3, either by installing the satellite EPIRB close to, or by remote activation from the position from which the fishing vessel is normally navigated; or
 - 2.6. on HF using DSC; or
 - 2.7. through the INMARSAT geostationary satellite service, by an additional fishing vessel earth station or by the satellite EPIRB required by Regulation 6.14.2 (Radio Equipment), paragraph 3, either by installing the satellite EPIRB close to, or by remote activation from the position from which the craft is normally navigated;
3. In addition to meeting the requirements of Rule 14, Section 2, every fishing vessel engaged on voyages beyond sea areas A1 and A2, but remaining within sea area A3, should, if it does not comply with the requirements of paragraph 1, be provided with:
- 3.1. an MF radio installation capable of transmitting and receiving, for distress and safety purposes, on all distress and safety frequencies in the bands between 1,605 KHz and 4,000 KHz or between 4,000 KHz and 27,500 KHz:
 - 3.2. using DSC;
 - 3.3. using radiotelephony; and
 - 3.4. using direct-printing telegraphy; and
 - 3.5. equipment capable of maintaining DSC watch on 2,187.5 KHz, 8,414.5 KHz and on at least one of the distress and safety DSC frequencies 4,207.5 KHz, 6,312 KHz, 12,577 KHz or 16,804.5 KHz; at any time, it should be possible to select any of these DSC distress and safety frequencies. This equipment may be separate from, or combined with, the equipment required by paragraph 2.1; and
 - 3.6. means of initiating the transmission of ship-to-shore distress alerts by a radiocommunication service other than HF operating either:
 - 3.7. through the polar orbiting satellite' service on 406 MHz; this requirement may be fulfilled by the satellite EPIRB, required by paragraph (e) of Rule 14, Section 2, either by installing the satellite EPIRB close to, or by remote activation from the position from which the fishing vessel is normally navigated; or
 - 3.8. through the INMARSAT geostationary satellite service; this requirement may be fulfilled by:

- 3.8.1. an INMARSAT fishing vessel earth station; or
 - 3.8.2. the satellite EPIRB, required by Regulation **paragraph (e) of Rule 14, Section 2** either by installing the satellite EPIRB close to, or by remote activation from, the position from which the fishing vessel is normally navigated.
 - 3.8.3. In addition, the fishing vessel should be capable of transmitting and receiving general radio communications using radiotelephony or direct-printing telegraphy by an MF/HF radio installation operating on working frequencies in the bands between 1.605 KHz and 4.000 KHz and between 4,000 KHz and 27,500 KHz. This requirement may be fulfilled by the addition of this capability in the equipment required by paragraph 2.1.
4. It should be possible to initiate transmission of distress alerts by the radio installations specified in paragraphs 1.1', 1.2, 1.4, 2.1 and 2.3 from the position from which the fishing vessel is normally navigated.
 5. The Administration, in conjunction with the base port State, may exempt fishing vessels constructed before 1 February 1997 and engaged exclusively on voyages within sea areas A2 and A3, from the requirements of Rule 14, Section 2 Regulation 6.14.2 (Radio Equipment), paragraph 1.1 and 1.2, provided such fishing vessels maintain, when practicable, a continuous listening watch on VHP channel 16. This watch should be kept at the position from which the craft is normally navigated.
- i. Radio Equipment: sea areas A1, A2, A3 and A4
 - i. In addition to meeting the requirements of Regulation 6.14.2 (Radio Equipment), fishing vessel engaged on voyages in all areas be provided with the radio installations and equipment required by Regulation 6.14.2.7 (Radio Equipment: Sea Areas A1, A2 and A3) paragraph 2, except that the equipment required by Regulation 6.14.2.7 (Radio Equipment: Sea Areas A1, A2 and A3), paragraph 2.3.2 should not be accepted as an alternative to that required by Regulation 6.14.2.7 (Radio Equipment: Sea Areas A1, A2 and A3), paragraph 2.3.1, which should always be provided. In addition, fishing vessel engaged on voyages in all areas should comply with the requirements of Regulation 6.14.2.7 (Radio Equipment: Sea Areas A1, A2 and A3) paragraph 3.
 - ii. The Administration, in conjunction with the base port State, may exempt fishing vessels constructed before 1 February 1997 and engaged exclusively on voyages within sea areas A2, A3 and A4, from the requirements of Regulation 6.14.2 (Radio Equipment), paragraph 1.1,1 and 1.2, provided such fishing vessels maintain, when practicable, a continuous listening watch on VHP channel 16. This watch should be kept at the position from which the craft is normally navigated.

Section 4. Table for Communications:

DOMESTIC

Gross Tonnage	VHF Radio Telephone	SSB	Transponder
3 GT – 150 GT	one (1)	N/A	N/A
151 GT – 500 GT	one (1)	one (1)	N/A
501 GT and above	one (1)*	one (1)	one (1)

INTERNATIONAL

Gross Tonnage	VHF Radio Telephone	SSB	Transponder
3 GT – 150 GT	one (1)	N/A	N/A
151 GT – 500 GT	one (1)*	one (1)	N/A
501 GT and above	one (1)*	one (1)	one (1)

* to include at least two units of portable/handheld two-way radio equipment

Section 5. Sources of Energy.

There shall be available at all times, while the fishing vessel is at sea, a supply of electrical energy sufficient to operate the radio installations and to charge any batteries used as part of a reserve source or sources of energy for the radio installations for a period of 18 hours as specified in Regulation 6.8.4 (Emergency Source of Electrical Power) paragraph 4 of these Rules and Regulations.

Section 6. Radio Logs

1. A radio log shall be maintained in accordance with the Radio Regulations in a fishing vessel which is fitted with a GMDSS radio communication station. Every qualified operator, master, officer or crew member maintaining a listening watch in accordance with Regulation 6.14.1.4 shall enter in the log his name and the details of all incidents connected with the radio service which occur during his watch which may appear to be of importance to safety of life at sea. In addition, there shall be entered in the log:
 - a. the details required by the Radio Regulations;
 - b. the time listening watch begins when the fishing vessel leaves port, and the time at which it ends when the fishing vessel reaches port;
 - c. the time at which listening watch was discontinued for any reason together with the reason thereof, and the time at which listening watch was resumed thereafter; and,
 - d. details of the maintenance of the batteries (if provided), including a record of the charging required.
2. Radio logs shall be available for inspection by the officers authorized by the Administration to make such inspection.

Rule 15 Safety of Navigation

Section 1. General. This Rules applies to ships including those towed or pushed by a tug or other such ship. Wooden ships when propelled by mechanical means shall as far as practicable comply with the regulations relating to the prevention of collisions (COLREG) and the routing measures adopted by the Organization.

Section 2. Danger Messages

1. The master of each ship which meets with dangerous derelict, or any other direct danger to navigation, or a tropical storm (signal no. 2 and above) or winds of force 10 or above on the Beaufort scale shall communicate such information by all the means at his disposal to ships in the vicinity and to the competent authorities at the first point on the coast with which he can communicate.
2. All radio messages issued under this Regulation shall be preceded by the safety signal, using the procedure as prescribed by the Radio Regulations.
3. The information to be transmitted shall be as complete as practicable and may be sent in plain language preferably in English.

Section 3. Routing. Fishing Vessels shall comply with the traffic separation schemes or routing requirements applicable to the area including avoidance of passage through areas designated as areas to be avoided by Ships or certain classes of ships.

Section 4. Misuse of Distress Signals. The use of any distress signal, except for the purpose of indicating that a ship, aircraft or person is in distress, and the use of any signal which may be confused with any international distress signal, are prohibited.

Section 5. Distress Messages: Obligations and Procedures

1. The master of a ship at sea, on receiving a signal from any source that a ship or aircraft or survival craft thereof is in distress, is bound to proceed with all speed to the assistance of the persons in distress informing them if possible that he is doing so. If he is unable or, in the special circumstances of the case, considers it unreasonable or unnecessary to proceed to their assistance, he must enter in the log-book the reason for failing to proceed to the assistance of the persons in distress.
2. The master of such ship shall be released from the obligation imposed by paragraph (1) of Rule 15, Section 5 if he is informed by the persons in distress or by the master of another ship which has reached such persons that assistance is no longer necessary. If the Master of a ship receives such release, this has to be documented by him from the duty to render assistance.
3. A ship which receives any kind of distress message, shall simultaneously report this immediately to the nearest Coast Guard, Ports Authority or Coastal Radio Station under providing all relevant data to introduce immediate life saving actions.

Section 6. Shipborne Navigational Equipment

1. Ships shall be fitted with:
 - a. standard magnetic compass, except as provided in Section 6.2.b;

- b. steering magnetic compass, unless heading information provided by the standard compass required under sub-paragraph (1a) of Rule 15, Section 6 is made available and is clearly readable by the helmsman at the main steering position;
 - c. adequate means of communication between the standard compass position and the normal navigation control position to the satisfaction of the Administration;
 - d. means of taking bearings as nearly as practicable over an arc of the horizon of 360°
2. Each magnetic compass referred to in paragraph (1) of Rule 15, Section 6 shall be properly adjusted and its table of curve of residual deviations shall be available at all times.
- a. A spare magnetic compass, interchangeable with the standard compass, shall be carried, unless the steering compass mentioned in sub-paragraph (1b) of Rule 15, Section 6 or a gyro-compass is fitted.
 - b. The Administration, if it considers it unreasonable or unnecessary to require a standard magnetic compass, may exempt individual ship or classes of ships from these requirements if the nature of the voyage, the ship's proximity to land or the type of ship does not warrant a standard compass. A suitable steering compass shall in all cases be carried with means for taking bearings according to the recognized standards.
 - c. From 1 February 1999, ships of 300 GT and above shall be fitted with a RADAR installation capable of operating in the 9 GHz frequency band. A ship may be exempted from compliance with the requirements of paragraph 6 at the discretion of the Administration, provided that the equipment is fully compatible, with the radar transponder for search and rescue.
 - d. All equipment fitted in compliance with this Regulation shall be of type-approved by the Administration. Equipment installed on board ships on or after 1 February 1999 shall conform to appropriate performance standards not inferior to those adopted by the Organization. Equipment fitted prior to the adoption of related performance standards may be exempted from full compliance with those standards at the discretion of the Administration having due regard to the recommended criteria which the Organization might adopt in connection with the standards concerned

Section 7. Nautical Publications. All ships shall carry adequate and up-to-date charts, sailing directions, lists of lights, notices to mariners, tide tables and all other nautical publications necessary for the intended voyage.

Section 8. International Code of Signals. Ships required to carry radio installations shall carry the International Code of Signals. This publication may also be carried by any other ship, which, in the opinion of the Administration, has a need to use it.

Section 9. Life-Saving Signals. Life-saving signals shall be used by ships when communicating with ships or persons in distress or when communicating with life-saving stations, maritime rescue units and aircraft engaged in search and rescue operations. An illustrated table describing the life-saving signals shall be readily available to the officer of the watch of every ship.

Rule 16 Occupational Health and Safety

Section 1. Objectives. These Rules aim to promote health and safety, protection from and prevention of accidents, injuries, diseases, or deaths occurring in the course of deployment of fishers onboard fishing vessels through compliance with mandatory occupational safety and health standards.

Section 2. Occupational Safety and Health

1. For small-scale, medium-scale and large-scale commercial fishing operation, the following standards shall be mandatory:
 - a. **Occupational Safety and Health.** The fishing vessel owner/operator shall formulate, implement, and promote occupational safety and health policies which shall preferably include, the prevention and control of tuberculosis (TB), human immunodeficiency virus (HIV) and acquired immunodeficiency syndrome (AIDS), hepatitis B, and the prohibition of illegal drug use on board the fishing vessel. The fishing vessel owner/ operator shall also implement and promote workplace policies and programs on anti-sexual harassment and gender and development among fishers.
 - b. **Safety and Health Committee.** The skippers (Masters) on board fishing vessels shall act as safety officers for fishing vessels less than 500 GT. An on-board safety and health committee shall be organized in fishing vessels above 500 GT. The skippers (Masters) on board this class of fishing vessel shall act as chairman of the committee.
 - c. **Training and Orientation on Occupational Safety and Health.** The fishing vessel owner/operator shall ensure that their skippers and fishers undergo applicable occupational safety and health training depending on their rank or position and classification of the vessel as required by the Administration and appropriate government agencies, as applicable. All skippers (Masters) of fishing vessels regardless of the type or category of the vessel they are manning shall undergo the mandatory Basic Occupational Safety and Health Training from appropriate government agencies or any of their accredited service providers. Likewise, the fishing vessel owner shall require all their skippers (Masters) to undergo basic first aid training conducted by accredited training organization.
 - d. **Safety Protection and Accident Prevention.** The fishing vessel owner/operator shall ensure the following are observed on board for safety, protection, and accident prevention in accordance to MARINA regulations.
 - e. **Medical Care.** The fishing vessel owner/operator shall provide adequate first aid services on board and shall ensure that all fishers have access, when in port, to out-patient treatment for sickness or injury, hospitalization, when necessary, and dental treatment.
 - i. Further, the fishing vessel owner/operator shall ensure that all fishing vessels carry first aid kit and medical supplies, which shall be properly maintained and inspected at regular intervals by the skipper (Master). Medicines shall be properly stored and labelled with directions for use and expiry dates.

- ii. If substances hazardous to skin or eyes exist on the fishing vessel, facilities to wash the skin and/or eyewash facilities to irrigate the eyes shall be provided for immediate use by the fishers. If it is not practicable to do so, portable equipment shall be provided such as wash basins.
 - iii. The fishing vessel owners/ operators shall keep and maintain medical and health records, reports, or other related documents in their onshore facilities in a manner that ensures confidentiality yet easily accessible by company's occupational health personnel. The fisher shall have access to his/her own records at no cost as may be needed.
 - iv. Fishing vessels above 500 GT shall carry appropriate medical equipment and medical supplies, taking into account the number of fishers on board, the area of operation and the length of the voyage.
 - v. Fishing vessels carrying 100 or more fishers should have a qualified medical doctor on board.
- f. **Food and Potable Water.** The fishing vessel owner/operator shall ensure that fishers are provided with ample food supply, food preparation and storage facilities, and potable water for drinking and food preparation.
- i. Cooking equipment shall be provided on board and shall be fitted, where practicable, in a separate galley. Where a separate galley is not provided, cooking area shall be of adequate size for the purpose, well-lit and ventilated, and properly equipped and maintained.
 - ii. The containers of gases used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designated to protect them from external heat sources and external impact.
 - iii. A suitable place for provisions for adequate capacity shall be provided which can be kept dry, cool, and well-ventilated in order to avoid deterioration of stores and, where practicable and possible, refrigerators or other low temperature storage shall be used.
 - iv. Food and potable water shall be sufficient, considering the number of fishers and duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity, and variety, considering fishers' religious or health requirements and cultural practices in relation to food.

Section 2. Requirements for General Accommodation and Related Facilities

The succeeding requirements of this Rule for accommodation and related facilities shall be applicable to fishing vessels that are above 500 GT and constructed on or after the effectivity of this Rule.

Plans, designs and layouts of covered newly-constructed fishing vessels shall conform to applicable maritime laws, rules and regulations.

1. Sleep Accommodation.

Where the design, dimensions, or purpose of the fishing vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but in no case be located at the forward of the collision bulkhead.

2. **Insulation**

Sleeping accommodation shall be adequately insulated against heat and shall be adequately protected against mosquitoes and other insects.

3. **Airconditioning System**

For large commercial fishing vessels 500GT and above, applicable airconditioning system shall be installed in sleeping and accommodation spaces.

4. **Floor Area and Person per Sleeping Room**

The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the intended service of the vessel.

For fishing vessels above 500 GT, the floor area per person shall not be less than 1.5 square meters.

a. **Openings**

Sleeping rooms must not open directly into cargo and machinery spaces, galleys, storage rooms, drying rooms, or communal sanitary areas.

b. **Separate Sleeping Accommodation**

Separate sleeping accommodation shall be provided for men and women.

c. **Mess Rooms.**

Fishing vessels 500GT and above, shall be provided with mess room accommodation suitable for their service. To the extent as practicable, mess room accommodation shall be separate from sleeping quarters.

Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

The dimensions and equipment of each mess room shall be sufficient for the number of fishers likely to use it at any one time and for the type and quantity of provisions to be brought on board for a particular voyage.

d. **Sanitation Facilities**

Sanitary facilities, which include toilets, wash basins, and tubs or showers, shall be provided for all fishers on board, as appropriate for the service of the vessel and shall be separate for men and women.

Water, of sufficient quantities, shall be available to all fishers on board to allow for proper hygiene. Where sanitary facilities are provided, it shall be properly ventilated to eliminate contamination of other spaces as far as practicable. The sanitary facilities shall allow for reasonable privacy.

Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practical, they should be situated convenient to, but separate from sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.

For fishing vessel 500GT and above, fishers, who do not occupy rooms to which sanitary facilities are attached, shall be provided at least a toilet and bathing area. Also, amenities for washing and drying clothes shall be provided, as may be necessary taking into account the service of the fishing vessel.

Section 4. Work Environment Conditions

The fishing vessel owner/operator shall ensure and maintain the working and living environment in comfortable and healthy conditions for the purpose of promoting and maintaining the health of the fishers.

1. Headroom

Fishing vessels 500GT and above shall have a headroom of not less than two hundred (200) centimeters. For other fishing vessels, adequate headroom that is reasonable and will not result to discomfort of fishers shall be provided.

2. Ventilation

- a. Sleeping and accommodation areas and work rooms with machineries shall be adequately ventilated.
- b. For fishing vessels 500 GT and above, appropriate ventilation system shall be installed in sleeping and accommodation areas and work rooms with machineries.
- c. All enclosed areas in fishing vessels shall be designated as non-smoking areas.

3. Lighting

- a. All accommodation spaces shall be provided with adequate light.
- b. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.

4. Hazardous Substances

- a. All containers with hazardous substances shall be properly labelled in accordance to Globally Harmonized System. No fishing vessel owner shall accept any container or hazardous substance for use, handling, storage, or disposal on a fishing vessel unless such container is labelled with the following:
 - i. The trade and chemical name of the substance;
 - ii. The hazardous properties of the substance;
 - iii. Hazard statements;
 - iv. Precautionary statements; and,
 - v. Manufacturers' Identity.
- b. All hazardous substance for use, handling, and storage on a fishing vessel should have Safety Data Sheets from the supplier and shall keep a copy of the same readily available in the fishing vessel for information of the fishers.

- c. Fishers shall be given careful instructions if special precautions need to be taken when operations would produce fumes and depleted oxygen.

Rule 17 Environment

Section 1. Application of MARPOL73/78. The provisions of the International Convention for the Prevention of Pollution from Ships 1973 and its 1978 Protocol, as amended, and national legislations and issuances to implement thereto, shall apply to vessels covered by these Rules and Regulations.

Where the Administration considers the provisions relating to construction and equipment unreasonable or impracticable, it may exempt fishing vessels from such provisions, provided that the construction and equipment of that vessel provides equivalent protection against pollution of the marine environment, having regard to the service for which the fishing vessel is intended.

Rule 18
Handline Fishing Boat (HFB)

Section 1. Application. This Rules adopts the Implementing Rules and Regulations of Republic Act No. 9379, “An Act Defining Handline Fishing, Providing Effective Regulations therefore and for other purposes.” (HFL-IRR) under Joint DA-DOTC-NTC Administrative Order No. 01, series of 2016 and shall apply to Handline Fishing Boats.

Section 2. General Provisions

1. Such HFB, irrespective of the date of construction which undergoes repairs, alterations, modifications and outfitting related thereto shall continue to comply with Rule V of the HFL-IRR.
2. Compliance with structural standards referred and adhered to by the HFL-IRR shall be satisfactory proof of the structural adequacy of the HFB.
3. The owner/ operator/ company operating the HFB shall exercise strict control over its operation and maintenance in compliance with requirements set in the HFL-IRR;
4. The owner/ operator/ company shall ensure that the HFB is manned only by persons duly qualified and certificated in accordance to Rule IV of the HFL-IRR.
5. An HFB shall, at all times, be in seaworthy condition as to their hull and machinery, electrical installations, provided with lights, shapes, means of making sound signals and distress signals, properly fitted with adequate navigational aids and equipment, firefighting equipment, life-saving appliances and that they are operated and maintained in accordance to pertinent sections in the HFL-IRR and its subsequent amendments.
6. The PMMRR and its subsequent amendments shall be applied suppletorily to the HFL-IRR insofar as reasonable, practicable, and beneficial to the HFB and its operation as may be determined by the Administration;

Section 3. Surveys. The inspection and survey of the HFB shall be carried out in accordance to the HFL-IRR.

Section 4. Equivalents.

1. Where the HFL-IRR requires that a particular fitting, material, appliance or apparatus, or type thereof should be fitted or carried in a HFB, or that any particular provision should be made, the Administration may allow any other fitting, material, appliance or apparatus, or type thereof, to be fitted or carried, or any other provision to be made in the craft, if it is satisfied by trial thereof or otherwise that such fitting, materials, appliance or apparatus, or type thereof, or provision, is at least as effective as that required by the HFL-IRR.
2. Where compliance with any of the requirements of the HFL-IRR would be impractical for the particular design of the HFB, the Administration may substitute those with alternative requirements provided that equivalent safety is achieved.

Section 5. Certification. HFB which complies with the requirements of the HFL-IRR in its entirety and which has been surveyed and certified as provided for in the HFL-IRR shall be deemed to have complied with the requirements of the PMMRR and its subsequent amendments. The certificates and permits issued under the HFL-IRR shall have the same force and the same recognition as the certificates issued under the PMMRR and its subsequent amendments.

Section 6. Documentation. Documentation requirements of HFB shall be in accordance with pertinent sections in the HFL-IRR.

Section 7. Minimum Safe Manning. Minimum safe manning requirements of HFB shall be in accordance to pertinent sections stipulated in the HFL-IRR.

Rule 19

Maritime Investigation and Disciplinary Proceedings

Section 1. Scope. This Rules prescribes the rules and procedures of the administrative investigation of all maritime-related cases described herein, including violation/s of relevant rules and regulations and the grounds for the disciplinary/administrative action and the prescribing penalty therefore.

Section 2. Objective. The purpose is two-fold:

1. To determine the cause/s of maritime casualties/incidents/accidents and the adoption of measures to prevent the recurrence/occurrence of the same; and,
2. To establish responsibility for a casualty or accident or violation of maritime laws, rules and regulations as basis for legal action.

Section 3. Report of Maritime Casualty/Marine Protest and Voyage Record.

1. **Report of Maritime Casualty/Marine Protest.** The owner or Skipper of a fishing vessel involved in a maritime casualty/incident/accident shall submit a written Report/Marine Protest to the Administration's Central Office or its nearest Regional Office where the casualty/incident/accident occurs, by any fastest means of communications within 24 hours from the occurrence of the maritime casualty/ incident/accident, whenever the casualty/incident/accident, result in any of the following:
 - a. Actual physical damage to the fishing vessel;
 - b. Material damage affecting the seaworthiness or efficiency of the fishing vessel;
 - c. Stranding, grounding, collision or sinking;
 - d. Loss of life
 - e. Physical injuries to any person; and,
 - f. Incidents which may result to any of the above.
2. **Contents of the Report/Marine Protest.** The report required shall show the name and official number of the fishing vessel involved, the port of registry or homeport, the company thereof, the locations and time where the casualty occurred and, insofar as practicable, the probable names of persons and the nature and extent of injury to persons, the damage to property and estimated amount of loss or damage and other additional information relevant to the casualty/incident/accident.
3. **Voyage Records**, retention of:
 - a. The owner, agent, skipper or person in charge of any fishing vessel involved in a maritime casualty or accident shall retain such voyage records as are maintained by the vessel such as deck logbooks, engineering logbooks, navigational charts, crew lists and other official logbooks and materials, which might be of assistance in investigating and determining the cause of the casualty or accident. The owner, agent, skipper, other officer or person responsible for the custody thereof, shall make these records available to the investigating or hearing officer/body concerned.

- b. The Investigating/Hearing Officer/Body may substitute true or photocopies of the voyage records referred to in the preceding paragraph when they serve their purpose and return the original records to the company.
4. **Report of Accident to Aids of Navigation.** Whenever a fishing vessel strikes or damage to a lightship, buoy, or other aids to navigation under the jurisdiction of other appropriate government agency, or is involved in any such damage, it shall be the duty of the Skipper of such fishing vessel to report the accident to the nearest appropriate government agency.

Section 4. Procedure of Investigation

1. **Commencement of Investigation.** Administrative investigation shall be initiated by the Administration through:
- a. Motu proprio based on reliable information/report;
 - b. Inspection/investigation report submitted by any official/s of the Administration or other government agency;
 - c. Sworn complaint of any private person, duly supported by affidavits of witnesses and/or documentary evidence;
 - d. Marine Protest.
2. **Preliminary Inquiry.**
- a. Without prejudice to the plenary authority of the Board to order an investigation, an investigating officer/body shall conduct investigation in order to determine the cause/s of the casualty or accident or any contributing factors thereto and whether there has been any act of misconduct, inattention to duty, or negligence upon the part of any licensed or certificated fishing vessel's officers and fishers, or whether there has been a violation of the Administration rules or the law, or whether there is evidence any government agency or personnel or any other person caused or contributed to the cause of the casualty/accident so that appropriate action shall be taken, and to determine whether a formal investigation shall be held;
 - b. In the conduct of the preliminary inquiry, the investigating officer/ body may examine any relevant papers, documents or records, interview witnesses, and go on board to inspect the fishing vessels and equipment and to examine the vessel's and the fishers's documents. The investigating officer/body may obtain and collect evidence including but not limited to affidavits, statements, books, papers, documents on records, and may make copies, take photographs, and remove and mark any original documents or objects for future identification;
 - c. Thereafter, the investigating officer/body shall submit an investigation report and recommendation to the Administration for appropriate action.

Section 5. Formal Hearing

1. **Power.**

Without prejudice to the filing of appropriate criminal action against the responsible person before the Department of Justice/Prosecutor's Office, the Hearing Officer/Body shall have the power to hear and try maritime casualty/incident/accident,

complaints/cases against the fishing company and/or fishing vessel's officers and fishers for violation of these Rules and Regulations.

- a. When prima-facie evidence exists, a Show Cause Order shall be issued against the offender/s, requiring him to file counter affidavit/answer under oath, within five days of receipt thereof, and to show cause why no administrative sanction shall be imposed against him.
 - b. The Hearing Officer/Body shall have the power to administer oaths, summon witnesses, require persons having knowledge of the subject matter to appear at the hearing to answer questions and to require the production of relevant books, papers, documents or any other evidence/s. Attendance of witnesses or the production of books, papers, documents or other evidence shall be compelled by a similar process as in the regular courts of justice;
 - c. In accordance with Section 29, Rules V of the Public Service Act, as amended, the Hearing Officer/Body may summarily punish for contempt by a fine not exceeding two hundred pesos, any person guilty of misconduct in the presence of the Hearing Officer/Body or so near the same as to interrupt the hearing or session or any proceedings before him, including cases in which a person present at a hearing session or investigation held by the Hearing Officer/Body refuses to be sworn as a witness or to answer as such when lawfully required to do so. To enforce this provision, the Hearing Officer/Body may request the assistance of police authorities for the execution of any order made for this purpose;
 - d. The venue of the hearing may be determined or changed by the Hearing Officer/Body motu proprio or upon motion of either of the parties when it is more advantageous to conduct the hearing.
2. **Right to be Represented by a Counsel.** The party litigants shall be given opportunity to present their case or defense personally or through counsel, and to present all witnesses and evidence/s as they may desire. The Hearing Officer/Body shall have the discretion to overrule unreasonable motions regarding the presentation of evidence which are clearly dilatory.
 3. **Order of Hearing.** Unless the Hearing Officer/Body directs otherwise, the Order of Hearing shall be, as follows:
 - a. The complainant or prosecution shall first introduce evidence/s;
 - b. The respondent or defense then presents evidence/s in support of its theory;
 - c. The complainant or prosecution may submit rebuttal evidence/s;
 - d. The respondent or defense may present sur-rebuttal evidence/s;
 - e. When the presentation of evidence has been concluded, and formal offer of the same has been made, the parties may be required to submit their respective memoranda within a reasonable time.
 4. **Clarificatory Questions.** The Hearing Officer/Body may from time to time ask clarificatory questions.
 5. **Objections.** All objections or interlocutory questions that arise during the proceedings shall be resolved by the Hearing Officer/Body as the case may be.

6. **Rules of Evidence.** The proceedings of the aforesaid Hearing Officer/Body shall not be bound by the strict rules of evidence but the Rules of Court may be applied by analogy or as suppletory character and whenever practical and convenient.
7. **Employment of Stenographer.** The Hearing Officer/Body shall see to it that notes of the testimony of the witnesses or a summary thereof are taken, and together with the documentary evidence/s presented shall constitute the records of the case. The employment of a stenographer is optional except when in the opinion of the Hearing Officer/Body, the nature of the case requires the employment of one.
8. **Marking.** All documentary evidence or exhibits shall be marked by letter (A, B, C, etc.) if introduced by the complainant and by number (1, 2, 3, etc.) if introduced by the respondent. They shall be attached to the records or, if voluminous, kept in a separate folder marked "Folder of Exhibits" which shall also be a part of the records.
9. **Failure to Prosecute.** If complainant fails to appear at the time of the trial, or to prosecute his action for an unreasonable length of time, or to comply with this Rules or any order of the Hearing Officer/Body, the action may be dismissed upon motion of the respondent or upon the Hearing Officer/Body's own initiative. This dismissal shall have the effect of adjudication upon the merits, unless otherwise ruled by the Hearing Officer/Body.
10. **Failure to Answer/Appear.** If the respondent fails to answer within the period specified in the Order, he shall be declared in default and deemed to have waived his right to file an answer and the case shall proceed accordingly. If the respondent fails to appear by himself or through counsel on the specific date of hearing upon proof of service of notice to the latter, he shall be declared as in default and the hearing shall proceed ex-parte.
11. **Hearing Ex-Parte.** The Hearing Officer/Body may motu proprio or through motion of a party-litigant proceed with the hearing ex-parte, when one of the parties has been declared in default or otherwise refuses to recognize the authority of the investigating body or to comply with these rules or any order issued during the proceedings.
12. **Relief from Order of Default.** A party declared in default, may at any time after discovery thereof and before decision, file a motion under oath to set aside the order of default upon proper showing that his failure to answer was due to fraud, accident, mistake or excusable neglect and that he has a meritorious defense. In these instances, the order of default may be set aside on such terms and conditions as the Hearing Officer/Body may impose in the interest of justice.
13. **Testimony by Interrogatories and Deposition.**
 - a. Witnesses shall be examined orally, except that for a good cause shown, testimony may be taken by deposition upon application of any party in interest or upon the initiative of the Hearing Officer/Body;
 - b. Application to take deposition shall be made to the Hearing Officer/ Body prior to or during the course of the proceedings and shall be made in writing setting forth the reasons for the need, the name and address of the witness,

the matters on which the witness is expected to testify and the time and place proposed for the taking of the deposition. Such deposition may be taken before any officer authorized to administer oath under the Administrative Code of 1987. The procedure for taking deposition shall be in accordance with existing court practices;

- c. When the deposition has been duly executed, it shall be returned to the Hearing Officer/Body to be presented to the parties concerned for their examination. The Hearing Officer/Body shall rule on the admissibility of the deposition or any part thereof and of any objection offered by either party thereto.
14. **Report of Hearing.** The Hearing Officer/Body shall submit to the Management its report of findings and recommendation within 30 days of the termination of the formal hearing or after the parties have submitted their respective memoranda, as the case may be.
15. **Decision.** The Management may base its decision upon the findings and recommendations of the Hearing Officer/Body or may deviate from or disregard the same, or may order further investigation of the case.
16. **Motion for Reconsideration.** Either party may, within 15 days without extension from receipt of decision, file with the Management a Motion for Reconsideration thereof on the ground either the decision is not supported by the evidence on record or errors of law and/or fact, or irregularities have been committed prejudicial to the interest of the petitioner. Only one Motion for Reconsideration shall be entertained.
17. **Finality of Decision.** All decisions of the Management shall be final unless, within 15 days after receipt of a copy thereof, an appeal of said decision to the Board of the Maritime Industry Authority is filed and perfected.
18. **Appeal.** Within 15 days from receipt of the Decision/Order, an appeal may be made taken by serving upon the adverse party a copy of the appeal and filing with the Management three (3) copies thereof.
19. **Record on Appeal Form and Contents Thereof.** The full names of all the parties to the proceedings shall be stated in the caption of the record on appeal and it shall include the judgment or decision from which the appeal is taken, and, in chronological order, copies of only such pleadings, petitions, motions and all interlocutory orders as are related to the appealed judgment or decision and necessary for the proper understanding of the issue involved, together with such data as will show that the appeal was perfected on time. If an issue of fact is to be raised on appeal, the record on appeal shall include by reference all the evidence, oral and documentary, taken upon the issue involved. The reference shall specify the documentary evidence by the exhibit number of letters by which it was identified when admitted or offered at the hearing and the oral evidence by the names of the corresponding witnesses. If the whole oral and documentary evidence in the case is to be included, a statement to that effect will be sufficient without mentioning the names of the witnesses or the number of letters of exhibits. Every record on appeal exceeding 20 pages must contain a subject index.

20. **Decision on Appeal.** The decision of the Board shall be final and executory, unless within fifteen (15) days of receipt of a copy thereof, an appeal is filed with the appropriate appellate court.

Section 6. Suspension or Revocation of Licenses/ Certificates or Seafarers' Identification and Record Book (SIRB)

1. Grounds for Suspension or Revocation. The following shall be grounds for the suspension or revocation of License/Certificates or Seafarers' Identification and Record Book (SIRB):
 - a. Incompetence, negligence or incapacity in the performance of duty;
 - b. Misconduct committed while acting under authority of his license or certificate;
 - c. Intemperate habits such as drunkenness tending to cause immediate loss or destruction or serious damage to the fishing vessel or tending to endanger the life of any person belonging to or on board such vessel;
 - d. Immoral or disgraceful conduct committed while acting under the authority of his license or certificate;
 - e. Insubordination;
 - f. Violation of the terms and conditions of the contract without just cause; and,
 - g. Conviction by a court of competent jurisdiction of a crime involving moral turpitude.
2. **Offenses for Which Revocation of License or Certificate is Mandatory.** Revocation of license or certificate is mandatory for the following acts or offenses, the serious nature of which is such that permitting such persons to sail under their license or certificate would be clearly a threat to the safety of life at sea, the welfare of fishers and property onboard fishing vessels:
 - a. Assault with dangerous weapon;
 - b. Malicious destruction of fishing vessel's property;
 - c. Misconduct resulting to loss of life or serious injury;
 - d. Molestation of co-fisher;
 - e. Murder or attempted murder;
 - f. Mutiny;
 - g. Perversion;
 - h. Possession, use, sale or association with prohibited drugs and substances, including marijuana;
 - i. Serious theft of fishing vessel's property including unauthorized barter;
 - j. Smuggling of aliens or goods;
 - k. Sabotage;
 - l. Court conviction of a crime involving moral turpitude;
 - m. Jumpship;
 - n. Serious neglect of duty.

3. For the purpose of this Regulation, the following shall be defined:
- a. Misconduct is a human behavior which violates some formal duty or established rule, such as the common law, the general Maritime law, Code of Ethics, fishing company regulation or order;
 - b. Negligence refers to failure to perform one's assigned duties and responsibilities;
 - c. Incompetence is the inability of a person to perform required duties whether due to professional deficiencies, physical disability, mental incapacity, or any combination of the same;
 - d. Acting under Authority of a License, Certificate or Document. A person employed in the service of a fishing vessel is considered to be acting under the authority of a license, certificate or document held by him when the holding of such license, certificate or document is required as a condition of employment. A person does not cease to act under the authority of his license, certificate or document while on authorized shore leave from the fishing vessel.

In case of licenses/certificates issued by another government agency, the Administration shall coordinate with that agency for appropriate action.

Section 7. Non-Issuance of Endorsement of Certificates or Seafarers' Identification and Record Book (SIRB) Documents. No new STCW Endorsement of Certificates or SIRB document shall be issued to a person whose similar document is under suspension, except upon approval by the Administration.

Section 8. Preventive Suspension. If there is reason to believe at any time during the investigation or hearing, that the continued service of the certificated fisher will be detrimental to the maritime service, the Investigating/Hearing Officer/Body may recommend to the Management the temporary confiscation of his certificates or document.

Section 9. Reinstatement. Any fisher whose certificate or document has been revoked or surrendered shall be entitled to reinstatement after he shall have been cleared from the charge for which his certificate was revoked and upon the favorable findings by the Administration.

Rule 20
Final Provisions

Section 1. Repealing Clause. Any provision of the Revised Philippine Merchant Marine Rules and Regulations (PMMRR) 1997, and existing MARINA Rules and Regulations and Orders, which are inconsistent with the Philippine Fishing Vessels Safety Rules and Regulation (PFVSRR) of 2018, are hereby repealed.

Section 2. Separability Clause. Should any part of these Rules and Regulations be declared null and void by any competent authority, the same shall not affect the validity of the remaining part.

Section 3. Effectivity. These Philippine Fishing Vessels Safety Rules and Regulation (PFVSRR) of 2018 shall take effect Thirty (30) days after publication once in a newspaper of general circulation in the Philippines.

BY AUTHORITY OF THE BOARD:

REY LEONARDO B GUERRERO
Administrator

SECRETARY'S CERTIFICATE

This is to certify that the foregoing Philippine Fishing Vessels Safety Rules and Regulations has been approved by the MARINA Board in its 261st Regular Board Meeting held on 20 September 2018.

ATTY. MAXIMO I. BAÑARES, JR.
Corporate Board Secretary

Date of Publication: _____

Date of Submission to ONAR: _____



INDICATORS OF TRAFFICKING IN PERSONS FOR LABOR EXPLOITATION

Excerpts from the Labor Exploitation Dimension of Trafficking in Persons
A Manual for Investigators, Prosecutors, Labor Inspectors and Service Providers

INDICATORS OF TRAFFICKING IN PERSONS FOR LABOR EXPLOITATION



Definition of Trafficking in Persons from RA 9208 as amended by RA 10364:

Trafficking in Persons refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The recruitment, transportation, transfer, harboring, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth.

Elements of Trafficking in Persons

- ✓ **ACT** of recruiting, obtaining, hiring, providing, offering, transporting, transferring, maintaining, harboring, or receipt of persons
- ✓ Deceptive or coercive **MEANS** (i.e., deception in the act of recruitment, use of force in the act of transportation, etc.)
- ✓ Intention to use the person for an **EXPLOITATIVE PURPOSE** (i.e., sexual exploitation, forced labor, slavery, removal or sale of organs, etc.)

The ACT must be facilitated by any of the MEANS, and both the ACT and the MEANS are carried out to achieving the EXPLOITATIVE PURPOSE.

ACT	MEANS	PURPOSE
Recruitment	Threat	Exploitation
Obtaining	Use of force	Prostitution of other
Hiring	Other forms of coercion	Other forms of sexual exploitation
Providing	Abduction	Forced labor or services
Offering	Fraud	Slavery
Transportation	Deception	Servitude
Transfer	Taking advantage of the vulnerability of a person	Removal or sale of organs
Maintaining	Giving or receiving payments to achieve consent of a person having control over another person	
Harboring		
Receipt of persons		



LABOR EXPLOITATION DIMENSIONS OF TRAFFICKING IN PERSONS

1. Forced Labor

RA 9208, as amended, defines forced labor as the “extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt bondage or deception including any work or service extracted from any person under the menace of penalty.”

Forced Labor Convention (No. 29) defines forced labor as “all work or services, which is extracted from any person under the menace of penalty and for which the said person has not offered himself voluntarily.”

Elements of Forced Labor

- ✓ There is work or service, which encompasses all types of work/service, employment or occupation.
- ✓ Work/service is extracted from a person through coercive (i.e., violence, intimidation/ threat, use of force), deceptive (i.e., enticement, debt bondage, deception), and non-coercive or non-deceptive (i.e., abuse of authority or moral ascendancy, deprivation of freedom) means.
- ✓ The person rendering work or service has not offered himself/herself voluntarily.

Indicators of Forced Labor

Indicator	Means of verification
Use of threat, force or violence against, or abuse of, a person or his family	<ul style="list-style-type: none"> • Does the person makes statements which are incoherent or show indoctrination by the employer? • Does the person report any threat, force, abuse or violence against him or her, his/her co-workers or family members? • Is there any sign that the person is subjected to racketeering or blackmailing (with or without the complicity of the employer)? • Does the person show anxious behavior? • Is the person forced to worked excessive, unpaid overtime or to carry out tasks that he/she prefers not to do, and is he/she threatened if he/she refuses? • Is the worker injured as a result of infliction or force or violence?
Imposition of unreasonable and excessive control measures of discipline through punishment	<ul style="list-style-type: none"> • Is the person imposed additional workload or quota as a disciplinary or control measure? • Is the person chained or handcuffed or locked up as a form of punishment? • Is the person beaten as a punishment or subjected to cruel or inhumane punishment? • Is the person deprived of food ration or given smaller portion of food or spoiled food or food unfit for human consumption? • Is the person humiliated (i.e., verbal abuse, stripped off his/her clothing) as a form of punishment?
Forcing a person to work under certain or odd situations	<ul style="list-style-type: none"> • Is the person compelled to work even if injured or ill? • Is the person subjected to repeated interruption of rest or sleep? • Is the person subjected to prolonged periods of being assigned in night-shift? • Is the person compelled to perform hazardous work or use equipment without protective gears or safety devices? • Is the person subjected to prolonged exposure to chemicals and hazardous substances or polluted water?
In ability of the worker to negotiate for better working conditions	<ul style="list-style-type: none"> • Is the person prevented from becoming a member of worker's association or union? • Is the person unable to complain? • Does the person have access to information including on new policies, or about his rights and privileges? • Does the person suffer from constant threats or humiliation those results in lack of self-esteem, making him/her unable to claim or negotiate for better working conditions?
Injuries sustained as a result of application of control measures	<ul style="list-style-type: none"> • Does the person have burns, bruises, scars, healed wounds or any evidence showing infliction of violence to control the person under conditions of forced labor? • Does the worker exhibit mental illness or post- traumatic stress as a result of application of control measures?

<p>Restrictions to the movements of the worker which is commonly characterized by confinement to the workplace or in a limited area</p>	<ul style="list-style-type: none"> • Is the person locked-up at the workplace? • Is the person forced to sleep in the workplace? • Are there visible signs which indicate that the person is not free to leave the workplace, such as, for example, periphery fence has barbed wires or the premises are heavily guarded by armed guards, or other similar constraints? • Is the person constrained to leave the workplace?
<p>Restrictions to communications, especially with relatives and friends of workers, or contact with other people and/or disclosure of work or home address</p>	<ul style="list-style-type: none"> • Does the person have access to communication facilities? • Is the person's conversation with relatives strictly monitored by the employer? • Does the employer screen letters addressed to the person?
<p>Withholding of wages or decreased in the agreed upon salary and/or the non-granting of food and other allowance and offsetting benefits</p>	<ul style="list-style-type: none"> • Does the person have a regular employment contract? If not, how are the wages being paid? • Does the person have access to their earnings? • Has the person been deceived about the amount of his/her wages? • Are wages paid on regular basis? • Is the person paid in kind?
<p>Withholding of passports and travel documents or non-securing of necessary working documents and permits</p>	<ul style="list-style-type: none"> • Are the identity documents or workers in their own possession? If not, are they kept by the employer or supervisor? Why? • Does the worker have access to the documents as the time? • Does the worker have necessary working documents and permits?
<p>Contract substitutions and/or "reprocessing" to a different position and/or assignment to an uncredited or blacklisted foreign employer</p>	<ul style="list-style-type: none"> • Is the person required to sign two different contracts before deployment? • Is the person required to sign a new contract on arrival at the country of destination? • Is the person deployed by an agency which is blacklisted or unaccredited? Is the worker deployed to an employer other than the one stated in the contract? • Does the person receive salaries lower than that originally stipulated?
<p>Threats or revealing a worker to the authorities for having an irregular or illegal immigration status</p>	<ul style="list-style-type: none"> • Is the person subjected to threats or threatened use of the legal process? • Is the person in an irregular situation (e.g. migrant workers)? • Does the person receive threats to denounce him to immigration authorities due to his/her status?

2. Slavery

RA 9208, as amended, defines slavery as the “status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”

Elements of Slavery

- ✓ A person is under a condition over whom any or all of the powers attaching to the right of ownership
- ✓ That “another person” exercises any or all of the powers attaching to the right of ownership over him/her.

Indicators of Slavery

Indicators	Means of verification
Making a person an object of purchase	<ul style="list-style-type: none"> • Is a sum of money paid to a recruiter or through him/her for another ,as payment for the victim? • Does the victim eventually pay for such amount and other amounts considered as debts through his/her services?
Using a person and a person’s labor in a substantially unrestricted manner	<ul style="list-style-type: none"> • Are the working hours of the worker defined? • Are the working hours unreasonably long and excessive? • Is there a demand from the employer as to the quantity of the work to be performed? • Is the demand unreasonable or unconscionable?
Entitlement by another of the person’s labor without compensation commensurate to the value of the labor	<ul style="list-style-type: none"> • Does the employer extract forced or compulsory labor? • Does the person receive periodic or regular compensation? • Does the person pay for a “debt” through his work or services for a long period of time • Does the person earn much, or not at all? • How much is the person paid for his/her work?
Controlling or restricting movement of a person	<ul style="list-style-type: none"> • Does the person enjoy freedom of movement? • Is the worker confined to a particular section of the workplace? • Does the employer assert exclusivity? • Do measures exist to prevent or deter escape? • Is the person detained or is in a condition of captivity? • Are the passport and other travel, immigration or working documents confiscated or retained by the employer or a person acting on his/her behalf as a measure to prevent the victim from seeking assistance from authorities or to maintain the labor or services of the victim?

3. Debt Bondage

RA 9208, as amended, defines debt bondage as the “pledging by the debtor of his/her personal services or labor or those of a person under his/her control as security or payment for a debt, when the length and nature of service is not clearly defined or when the value of the services as reasonably assessed is not applied toward the liquidation of the debt”

Elements of Debt Bondage

- ✓ A person incurs a debt or loan
- ✓ Such person pledges his/her personal services or those of a person under his/her control as security or payment for the debt/loan
- ✓ The length and nature of services is not clearly defined or the value of the services as reasonably assessed is not applied toward the liquidation of the debt

Indicators of Debt Bondage

Indicators	Means of verification
Presence of loan or debt	<ul style="list-style-type: none"> • Has any loan been obtained by the person? • What is the purpose of obtaining the loan? • From who is the loan obtained? From the agency? From the Employer? From a financial institution or a loan facility? • Who referred the financial institution? The Agency? • Has an advance been paid by the employer? To whom the amount has been advanced - to the agency or the worker himself or herself? If advanced to the agency, is it made known to the person?
Existence of an agreement whether written or oral where the debtor or a person under his control is required to render service or work as payment or security for the loan	<ul style="list-style-type: none"> • Is there a signed loan agreement containing terms and conditions of payment? Is the interest rate reasonable or within the limits of the law? • Is there an arbitrary deduction of salary or wage? • Is there a quota imposed in the accomplishment of the work? • Is there a valid contract between the debtor (worker) and the creditor (employer)? • How are the wages being paid i.e., daily, weekly, monthly or by “pakyaw” basis? • Are work permits bound to a specific employer?
Deductions from salary or non-payment of salary to be applied for an existing loan or debt for an unspecified period of time	<ul style="list-style-type: none"> • Does the person have a regular employment contract? • How are wages or salaries being paid? • Does the contract acknowledge the loan or debt of the worker, or is it covered by a separate agreement? • Is there an agreement on repayment scheme? • Is the period of repayment certain? • Is the worker aware or informed of the repayment scheme?

<p>Occurrence of excessive or changing interest rates whether such fact known or unknown to the debtor</p>	<ul style="list-style-type: none"> • Does the person have to pay additional fees once he/she reaches country of destination? • Is there a contract for the loan? • Is the interest rate clearly stipulated? • Is the interest rate fix? Is it reasonable or excessive? • Does the person know the interest rate and fully understand the payment scheme?
<p>Withholding of records and accounting or the absence of it showing the liquidation of the debt or loan</p>	<ul style="list-style-type: none"> • Is the payment of the debt properly recorded? • Does the person have access to such record? • Are any receipts or any other evidence of payment issued for each payment? • Are excessive interest rates applied in case of non-payment?
<p>Excessive placement fees and other expenses used for the deployment of the workers</p>	<ul style="list-style-type: none"> • Does the person have to repay exorbitant recruitment, placement and processing fee, including the transportation fee? • Is the person forced to pay their basic needs i.e., food, shelter, etc.? • Is the person required to repay pre-departure fees through salary deduction? • Is the person required to pay for the amount aid by his/her facilitators/ recruiters for his/her transport to the country of destination whom he/she must pay back by working or providing services? • Are the excessive interest rates applied in case of non - payment?
<p>Existence of a loan in the Philippines or abroad used for the payment of placement fees and other deployment costs but the interest being charged for such a loan is beyond the limits the law allows</p>	<ul style="list-style-type: none"> • Is it within the allowable interest rate of 8% as provided under R.A. No. 10022? • Is the person compelled to secure loan to finance pre-departure requirements from a specific lending institution referred by recruiting agency? • Does the worker have to pay additional fee once he/she reaches country of destination?
<p>Non-payment of salary or excessive or unconscionable deductions from salary</p>	<ul style="list-style-type: none"> • Is there any salary deduction? Are the deductions reasonable or excessive? • Has the person received any salary at all? How long have they not been receiving salaries? • Does the person have access to his/her earnings?
<p>Withholding of passports and travel documents by another person with the agreement of its release upon payment of debt</p>	<ul style="list-style-type: none"> • Is the worker in possession of his/her passport and other travel documents? • Does the employer forcibly confiscate the worker's passport and other travel documents? What is the reason for such confiscation? • Does the worker have access to the documents at any time?

4. Involuntary Servitude

RA 9208, as amended, defines debt bondage as a “condition of enforced and compulsory service induced by means of any scheme, plan or pattern, intended to cause a person to believe that if he/she did not enter into or continue in such condition, he/she or another person would suffer serious harm or other forms of abuse or physical restraint, or threat of abuse or harm, or coercion including depriving access to travel documents and withholding salaries, or the abuse or threatened abuse of the legal process.”

Elements of Involuntary Servitude

- ✓ A person renders involuntary, enforced or compulsory service
- ✓ Such service is induced by means of any scheme, plan or pattern
- ✓ Such inducement is intended to cause the person a belief that if he/she did not enter into or continue in such condition, he/she or another person would suffer serious harm or other forms of abuse or physical restraint, or threat of abuse or harm, or coercion including depriving access to travel documents and withholding salaries, or the abuse or threatened abuse of the legal process

Indicators of Involuntary Servitude

Indicators	Means of verification
Involuntary or enforced service	<ul style="list-style-type: none"> • Is the person regularly required or compelled to render overtime work/service? Are the overtime services excessive? Are such services paid? • Is the person allowed or entitled to rest days or leave privileges? • Is the person properly compensated for the work/service rendered? • Is the person allowed by the employer to seek other employment without risking the loss of other earnings?
Use of threat, force, or violence against, or abuse of, the worker or his family	<ul style="list-style-type: none"> • Is the person compelled to render overtime work for fear of losing his/her job? • Is the person physically violated in cases of breakage, loss or damage to the employer’s property? • Is the person imposed or suffered unreasonable or excessive penalty for mistakes? • Is the person threatened with denunciation to immigration authorities especially for workers in irregular status?

<p>Inducement through a scheme, plan or pattern undertaken by a person or group</p>	<ul style="list-style-type: none"> • Is the person enticed to work due to a promise of getting an education, high salary and other fringe benefits? • Is the person bribed to accept a job through gifts/ excessive attention or profession of false affection? • Is the person encouraged by a parent/relative to work for a particular employer? • Is the person compelled to perform hazardous work or use equipment without protective gears or safety devices? • Is the person subjected to prolonged exposure to chemicals and hazardous substances or polluted water?
<p>Threatened or actual abuse of the legal process to continue the enforced service of an individual</p>	<ul style="list-style-type: none"> • Is the person threatened with deportation or false charges if continued employment is refused by the worker? • Is the person constantly reminded that he would be charged in court if h/she attempts to escape or run away?
<p>Presence of physical restraints such as on movement and communication</p>	<ul style="list-style-type: none"> • Is the worker locked-up in the workplace? • Are the worker's travel documents confiscated/withheld/ kept by the employer? For what purpose are they kept? • Is the worker allowed to enjoy rest day/s? • Is the worker able to practice his faith and allowed to perform religious obligation in the place of choice? • Is the worker allowed to get in touch with the family on a regular basis • Does the employer screen or monitor communication of the worker? • Does the employer confiscate communication equipment of the worker?

WHAT CAN YOU

DO TO HELP ADDRESS CHILD LABOR AND FORCED LABOR?

Do workers have a **voice** to speak out against labor abuses where these goods are made?

What are the **companies I buy from** doing to fight child labor and forced labor in global supply chains?

What are **governments doing** to combat child labor and forced labor?

Could some of the **goods I buy** be made by child labor or forced labor?

ASK QUESTIONS

TAKE ACTION

Empower yourself with knowledge about this problem: Download DOL's *Sweat & Toil* app.



Make your voice heard: spread the word among friends, family, and the companies you buy from and invest in.



Show your support for organizations that are working to end these abuses.



DEMAND CHANGE

Advocate for a world in which:

Workers everywhere can raise their voices against child labor, forced labor, and other abuses.



Companies make serious commitments to addressing these issues.



Your investments have a positive social impact by promoting responsible labor practices in supply chains.



Governments work vigorously to adopt the country-specific Suggested Actions in DOL's *Findings on the Worst Forms of Child Labor* report.



Learn more: dol.gov/EndChildLabor
To contact us, please email GlobalKids@dol.gov



PRESENTATIONS





Let us have some fun first ☺

1. On your small sheet of paper, draw a symbol of your name/identity on the blank.
2. Now, let us begin the 10 point questions. Just write your answer opposite each number.



1)The Expanded Anti Trafficking in Persons Act of 2012 is also known as:

- a) RA 9208
- b) RA 7610
- c) RA 9231
- d) RA 10364
- e) RA 10821





2) The Palermo Protocol is the short title for the:

- a) UN Convention of the Rights of the Child
- b) International Maritime Labor Convention
- c) The League of Nations Slavery Convention
- d) UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children



3) The Abolition of Forced Labor Convention is also known as:

- a) ILO C.29. ratified by the Philippines in 2005
- b) ILO C.105 ratified by the Philippines in 1960
- c) ILO C.182 ratified by the Philippines in 2000
- d) ILO C.138, ratified by the Philippines in 2005



4. Debt bondage refers to:

- a) the pledging by the debtor of his/her personal services or labor or those of a person under his/her control as security or payment for a debt,
- b) when the length and nature of services is not clearly defined
- c) when the value of the services as reasonably assessed is not applied toward the liquidation of the debt
- d) all of the above



5. Slavery is:

- a) Making a person an Object of purchase
- b) Using a person and a person's labor in a substantially unrestricted manner
- c) Entitlement by another of the person's labor without compensation commensurate to the value of the labour
- d) Controlling or restricting movement of a person
- e) All of the above





6. The use of threat, force or violence against, or abuse of, a person or his family; the imposition of unreasonable and excessive control measures of discipline through punishment; forcing a person to work under certain or odd situations; inability of the worker to negotiate for better working conditions are indicators of:

- a) Slavery
- b) Forced Labor
- c) Debt bondage
- d) Involuntary servitude





7. The presence of loan or debt; existence of an agreement whether written or oral where the debtor or a person under his control is required to render service or work as payment or security for the loan; deductions from salary or non-payment of salary to be applied for an existing loan or debt for an unspecified period of time; occurrence of excessive or changing interest rates whether such fact known or unknown to the debtor are indicators of:

- a) Slavery
- b) Forced Labor
- c) Debt bondage
- d) Involuntary servitude







8. Injuries sustained as a result of application of control measures; restrictions to the movements of the worker which is commonly characterized by confinement to the workplace or in a limited area; restrictions to communications, especially with relatives and friends of workers, or contact with other people and/or disclosure of work or home address; withholding of wages or decreased in the agreed upon salary and/or the non-granting of food and other allowance and offsetting benefits are indicators of:

- a) Slavery
- b) Forced Labor
- c) Debt bondage
- d) Involuntary servitude




9. Involuntary or Enforced service, use of threat, force, or violence against, or abuse of, the worker or his family; inducement through a scheme, plan or pattern undertaken by a person or group; threatened or actual abuse of the legal process to continue the enforced service of an individual; and the presence of physical restraints such as on movement and communication are indicators of:

- a) Slavery
- b) Forced Labor
- c) Debt bondage
- d) Involuntary servitude




10 Withholding of records and accounting or the absence of it showing the liquidation of the debt or loan; excessive placement fees and other expenses used for the deployment of the workers; existence of a loan in the Philippines or abroad used for the payment of placement fees and other deployment costs but the interest being charged for such a loan is beyond the limits the law allows; non-payment of salary or excessive or unconscionable deductions from salary and withholding of passports and travel documents by another person with the agreement of its release upon payment of debt are indicators of:

- a) Slavery
- b) Forced Labor
- c) Debt bondage
- d) Involuntary servitude




Now let us exchange papers
and check our answers 😊



1. The Expanded Anti Trafficking in Persons Act of 2012 is also known as:

a. RA 9208- Anti-trafficking in Persons Act of 2003 -Republic Act 9208 paved the way for the establishment of the Inter-Agency Council Against Trafficking (IACAT) to lead efforts at averting and thwarting incidences of trafficking and to observe the implementation of the provisions stated within the law. The Council is in charge of assuring that victims of trafficking are provided with the adequate services pertinent to their recovery, rehabilitation and reintegration into society.



1. The Expanded Anti Trafficking in Persons Act of 2012 is also known as:

b. RA 7610- An Act Providing Stronger Deterrence and Special Protection against Child Abuse, Exploitation and Discrimination - Republic Act 7610 has been identified as the forerunner of child protection law in the Philippines as it provides for the protection of children from various rights violations including discrimination, neglect, child abuse, sexual violence, pornography, prostitution, trafficking and armed conflict



1. The Expanded Anti Trafficking in Persons Act of 2012 is also known as:

c. RA 9231- Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Amending for this Purpose R.A. 7610, Otherwise Known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act" (2003)





1. The Expanded Anti Trafficking in Persons Act of 2012 is also known as:

d. RA 10364- The Expanded Anti Trafficking in Persons Act of 2012 RA 10364 provides further definitions of key terms in Section 3 Definition of Terms, and elaborates on trafficking in persons in Section 4 Acts of Trafficking in Persons. The key terms are as follows: Trafficking in persons; child ,forced labor, slavery, involuntary servitude and debt bondage.



1. The Expanded Anti Trafficking in Persons Act of 2012 is also known as:

e. RA 10821 - AN ACT MANDATING THE PROVISION OF EMERGENCY RELIEF AND PROTECTION FOR CHILDREN BEFORE, DURING, AND AFTER DISASTERS AND OTHER EMERGENCY SITUATIONS also known as the "Children's Emergency Relief and Protection Act".





1. The Expanded Anti Trafficking in Persons Act of 2012 is also known as:

- a. RA 9208-
- b. RA 7610-
- c. RA 9231-
- ✓ **d. RA 10364- The Expanded Anti Trafficking in Persons Act of 2012**

RA 10364 provides further definitions of key terms in Section 3 Definition of Terms, and elaborates on trafficking in persons in Section 4 Acts of Trafficking in Persons. The key terms are as follows: Trafficking in persons; child ,forced labor, slavery, involuntary servitude and debt bondage.

e. RA 10821 -



✓ **RA 10364- The Expanded Anti Trafficking in Persons Act of 2012**

Amending RA 9208 strengthening its provisions with respect to prosecuting human trafficking offenders . RA 10364 introduced new provisions that clarify “acts of attempted trafficking in persons” committed against the child. These include the following acts: facilitating the travel of a child alone to a foreign country or territory without a valid reason and without required clearance permit from the DSWD; recruiting women to bear a child for purposes of selling the child; simulating a birth for the purposes of selling the child; and soliciting a child or generating custody thereof, for purposes of selling the child.



2. The Palermo Protocol is the short title for the:

- a. UN Convention of the Rights of the Child ratified by the Philippines on 21 August 1990. In line with this, the Philippines as a state party to the Convention on the Rights of the Child (CRC) has a legally binding commitment in observing and implementing policies that promote the best interests of the child.
- b. International Maritime Labour Convention ratified by the Philippines in 2012. The International Maritime Labour Convention established in 2006 is also known as the “**Seafarer’s Bill of Rights,**” describes the working conditions that ship owners should provide as well stipulates in article 3 that ratifying countries will “work for the elimination of all forms of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination of employment and occupation.





2.The Palermo Protocol is the short title for the:

c. The League of Nations Slavery Convention, 1926 ratified by the Philippines in 1955- This convention defines 'slavery' as the "status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised" (Article 1(1)). Although the definition provided in the convention does not mention work, Article 5 requires ratifying countries to take "all necessary measures to prevent compulsory or forced labor from developing into conditions analogous to slavery."



✓ **d) UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, ratified by the Philippines in 2002 or "Palermo Protocol"** It is a supplemental protocol to the United Nations Convention Against Transnational Organized Crime.

The Protocol's definition of trafficking in persons has become a standard model for national legislation:
The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of persons or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.



3.The Abolition of Forced Labor Convention is also known as:

a)ILO C.29. ratified by the Philippines in 2005- the Forced Labor Convention, 1930 - International Labor Organization (ILO) Convention 29, 1930, is the most authoritative convention on Forced Labor. ILO C. 29, Article 2, defines 'forced or compulsory labor' as: *All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*



3.The Abolition of Forced Labor Convention is also known as:

- ✓ b. ILO C.105 ratified by the Philippines in 1960 - International Labor Organization Convention 105, 1957, the Abolition of Forced Labor Convention, requires members that ratify C.105 to specifically suppress and not make use of any form of forced or compulsory labor





3.The Abolition of Forced Labor Convention is also known as:

- c. ILO C.182 ratified by the Philippines in 2000 - ILO Convention on Worst Forms of Child Labor, 1999
- d. ILO C.138, ratified by the Philippines in 1998- ILO Convention on the Minimum Age for Employment, 1974





4. Debt bondage refers to:

- a.the pledging by the debtor of his/her personal services or labor or those of a person under his/her control as security or payment for a debt,
- b.when the length and nature of services is not clearly defined
- c.when the value of the services as reasonably assessed is not applied toward the liquidation of the debt
- d. all of the above**







5. Slavery is:

- a. Making a person an Object of purchase
- b. Using a person and a person's labor in a substantially unrestricted manner
- c. Entitlement by another of the person's labor without compensation commensurate to the value of the labour
- d. Controlling or restricting movement of a person
- e. **All of the above**





6. The use of threat, force or violence against, or abuse of, a person or his family; the imposition of unreasonable and excessive control measures of discipline through punishment; forcing a person to work under certain or odd situations; inability of the worker to negotiate for better working conditions are indicators of:

- a. Slavery
- b. **Forced Labor**
- c. Debt bondage
- d. Involuntary servitude





7. The presence of loan or debt; existence of an agreement whether written or oral where the debtor or a person under his control is required to render service or work as payment or security for the loan; deductions from salary or non-payment of salary to be applied for an existing loan or debt for an unspecified period of time; occurrence of excessive or changing interest rates whether such fact known or unknown to the debtor are indicators of:

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- b. Forced Labor
- c. **Debt bondage**
- d. Involuntary servitude





8. Injuries sustained as a result of application of control measures; restrictions to the movements of the worker which is commonly characterized by confinement to the workplace or in a limited area; restrictions to communications, especially with relatives and friends of workers, or contact with other people and/or disclosure of work or home address; withholding of wages or decreased in the agreed upon salary and/or the non-granting of food and other allowance and offsetting benefits are indicators of:

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- c. Debt bondage
- d. Involuntary servitude



9. Involuntary or Enforced service, use of threat, force, or violence against, or abuse of, the worker or his family; inducement through a scheme, plan or pattern undertaken by a person or group; threatened or actual abuse of the legal process to continue the enforced service of an individual; and the presence of physical restraints such as on movement and communication are indicators of:

- a. Slavery
- b. Forced Labor
- c. Debt bondage
- d. Involuntary servitude**



10 Withholding of records and accounting or the absence of it showing the liquidation of the debt or loan; excessive placement fees and other expenses used for the deployment of the workers; existence of a loan in the Philippines or abroad used for the payment of placement fees and other deployment costs but the interest being charged for such a loan is beyond the limits the law allows; non-payment of salary or excessive or unconscionable deductions from salary and withholding of passports and travel documents by another person with the agreement of its release upon payment of debt are indicators of:

- a. Slavery
- b. Forced Labor
- c. Debt bondage**
- d. Involuntary servitude





Anybody got a perfect score?





Visual Conceptual Frameworks of Forced Labor of Adults and Children
Figure 1: Forced Labor of Children Conceptual Framework

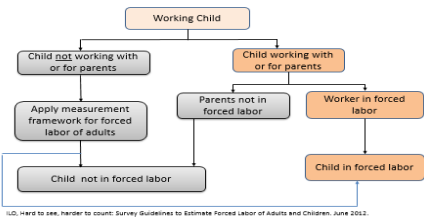
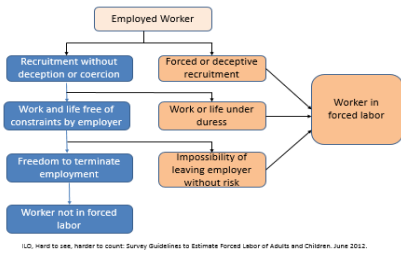




Figure 2 Forced Labor of Adults Conceptual Framework





Indicators of Forced Labor	
Indicators	Means of Verification
	* Does the person makes statements which are incoherent or show indoctrination by the employer
	* Does the person report any threat, force, abuse or violence against him or her, his/her co-workers or family members?
a. Use of Threat, force or violence against, or abuse employee?	* Is there any sign that the person is subjected to racketeering or blackmailing (with or without the complicity of the person or his family)
	* Does the person show anxious behavior?
	* Is the person forced to work excessive, unpaid overtime or to carry out tasks that he/she prefers not to do, and is he/she threatened if he/she refuses?
	* Is the worker injured as a result of infliction or force or violence?
b. imposition of unreasonable and excessive control measures of discipline through punishment	* Is the person imposed additional workload or quotas as a disciplinary or control measure?
	* Is the person chained or handcuffed or locked up as a form of punishment?
	* Is the person beaten as a punishment or subjected to cruel or inhumane punishment?
	* Is the person deprived of food ration or given smaller portion of food or spoiled food or food unfit for human consumption?
	* Is the person humiliated (e.g., verbal abuse, stripped off his/her clothing) as a form of punishment?
	* Is the person compelled to work even if injured or ill?
c. forcing a person to work under certain or odd situations	* Is the person subjected to repeated interruption of rest or sleep?
	* Is the person subjected to prolonged periods of being assigned in night shift?
	* Is the person compelled to perform hazardous work or use equipment without protective gears or safety devices?
	* Is the person subjected to prolonged exposure to chemicals and hazardous substances or polluted water?
	* Is the person prevented from becoming a member of worker's association or union?
d. in ability of the worker to negotiate for better working conditions	* Is the person unable to complain?
	* Does the person have access to information including on new policies, or about his rights and privileges?
	* Does the person suffer from constant threats or humiliation those results in lack of self-esteem, making him/her unable to claim or negotiate for better working conditions?
e. injuries sustained as a result of application of control measures	* Does the person have burns, bruises, scars, healed wounds or any evidence showing infliction of violence to control the person under conditions of forced labor?
	* Does the worker exhibit mental illness or post traumatic stress as a result of application of control measures?

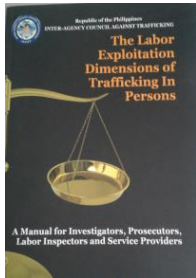


Indicators of Forced Labor	
Indicators	Means of Verification
	* Is the person locked-up at the workplace?
f. Restrictions to the movements of the worker which is commonly characterized by confinement to the workplace or in a limited area	* Is the person forced to sleep in the workplace?
	* Are there visible signs which indicate that the person is not free to leave the workplace, such as, for example, periphery fence has barbed wires or the premises are heavily guarded by armed guards, or other similar constraints?
	* Is the person constrained to leave the workplace?
h. Withholding of wages or decreased in the agreed upon salary and/or the non-granting of food and other allowance and offsetting benefits	* Does the person have a regular employment contract? If not, how are the wages being paid?
	* Does the person have access to their earnings?
	* Has the person been deceived about the amount of his/her wages?
	* Are wages paid on regular basis?
	* Is the person paid in kind?
i. Withholding of passports and travel documents or non-securing of necessary working documents and permits	* Are the identity documents or workers in their own possession? If not, are they kept by the employer or supervisor? Why?
	* Does the worker have access to the documents as the time?
	* Does the worker have necessary working documents and permits?
j. Contract substitutions and/or "reprocessing" to a different position and/or assignment to an uncredited or blacklisted foreign employer	* Is the person required to sign two different contracts before deployment?
	* Is the person required to sign a new contract on arrival at the country of destination?
	* Is the person deployed by an agency which is blacklisted or uncredited? Is the worker deployed to an employer other than the one stated in the contract?
	* Does the person receive salaries lower than that originally stipulated?
k. Threats or revealing a worker to the authorities for having an irregular or illegal immigration status	* Is the person subjected to threats or threatened use of the legal process?
	* Is the person in an irregular situation (e.g. migrant workers)?
	* Does the person receive threats to denounce him to immigration authorities due to his/her status?



Indicators of Slavery	
Indicators	Means of Verification
a. Making a person an Object of purchase	* Is a sum of money paid to a recruiter or through him/her for another, as payment for the victim? Does the victim eventually pay for such amount and other amounts considered as debts through his/her services?
b. Using a person and a person's labor in a substantially unrestricted manner	* Are the working hours of the worker defined?
	* Are the working hours unreasonably long and excessive?
	* Is there a demand from the employer as to the quantity of the work to be performed?
	* Is the demand unreasonable or unconscionable?
c. Entitlement by another of the person's labor without compensation commensurate to the value of the labour	* Does the employer extract forced or compulsory labor?
	* Does the person receive periodic or regular compensation?
	* Does the person pay for a "debt" through his work or services for a long period of time?
	* Does the person earn much, or not at all?
	* How much is the person paid for his/her work?
d. Controlling or restricting movement of a person	* Does the person enjoy freedom of movement?
	* Is the worker confined to a particular section of the workplace?
	* Does the employer assert exclusivity?
	* Do measures exist to prevent or deter escape?
	* Is the person detained or is in a condition of captivity?
	* Are the passport and other travel, immigration or working documents confiscated or retained by the employer or a person acting on his/her behalf as a measure to prevent the victim from seeking assistance from authorities or to maintain the labor or services of the victim?







ABOUT THE SAFE SEAS PROJECT



Funding for SAFE Seas is provided by the United States Department of Labor

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BACKGROUND

1. Fishing is recognized as a hazardous occupation involving high risk of labour exploitation and human trafficking
2. Working and living conditions can be dangerous with relatively high incidence of occupational injuries and fatalities
3. Working in fishing is highly transnational
4. Migrant fishers may face a number of challenges during recruitment placement, and once on board



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Identified Gaps/Problems in Indonesia and the Philippines

1. Legal and regulatory environment
2. Lack of institutional capacity and coordination among relevant agencies
3. Process to implement labor inspection on fishing vessels can be improved
4. Lack of workers and citizen awareness
5. Lack of effective grievance reporting mechanisms
6. Lack of effective remedies and coordinated services for victims/survivors



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Other Related Issues

1. Illegal, Unreported, and Unregulated (IUU) fishing
2. Other transnational fishery crimes
3. Transshipment at sea
4. Business and the global supply chain



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PROJECT GOAL:

All workers in the fishing industry are protected from labor exploitation and human trafficking

PROJECT OBJECTIVE:

Reduce forced labor and human trafficking on fishing vessels in Indonesia and the Philippines



PROJECT OUTCOMES

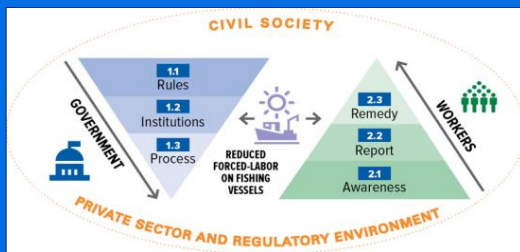
1. Improved enforcement and coordination to combat labor exploitation including forced labor and human trafficking on fishing vessels
2. Decreased presence of indicators of forced labor on fishing vessels



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PROJECT STRATEGY



SAFE Seas and the SDGs



Project Approach



1. Rights-based approach
2. Private sector engagement – *Safe Fishing Alliance (SFA)*
3. *Prioritize* engagement of fish workers
4. Promote shared information portal and collaborative learning
"FishingPort.net"
5. Encourage technologies to increase impact



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1. Rights-Based Approach



- Involve citizens through participation and decision-making to empower communities
- Focus on the root causes of problems
- Orient program towards policy and a holistic approach
- Address vulnerability (in different contexts) of stigmatized or disempowered populations
- Respond in gender-specific, age-appropriate ways that are suitable to the local context



2. Private Sector Engagement

- Establish the SAFE Fishing Alliance
- Leverage Plan's work in ASEAN to address human trafficking
 - Ex. Replicate the Multi-Stakeholder Initiative for Accountable Supply Chain (MAST)



3. Fish Workers Engagement

- Fish workers will be engaged in all SAFE Seas activities.
- SAFE Fishing Alliance and collaborative working groups.



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4. Promote a Shared Information Portal for Collaborative Learning

- Facilitating a web-based information portal: "FishingPort.net"
- The SFA will determine most appropriate institutional home and long-term funding for the publically accessible portal.
- The portal will provide a common and open set of information and data that is currently lacking.
- Obtaining key data will depend on our successful engagement of government agencies



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5. Encourage Technologies to Increase Impact

- Strengthen the reach and impact of existing platforms, such as hotlines in the Philippines
- Technology will be used to protect worker data while providing transparency on aggregate inspections, reporting, and services



SAFE Fishing Alliance

- SAFE Fishing Alliance (SFA) stakeholders: private sector, government, civil society, and worker associations.
- Members will form working groups comprised of specialists and interested parties
- The SFA and its working groups in each country will build on existing structures.
- Four initial working groups will contribute to SAFE Seas:
 - 1) Policy;
 - 2) Inspections;
 - 3) Awareness and Reporting; and
 - 4) Service Delivery.



FishingPort.net

- SAFE Seas will provide technical assistance to develop an information portal including: policy, inspections, reporting remedies, fish worker outreach materials. studies
- SAFE Seas will provide technical assistance to design the portal,
- Information and communication materials for the portal may come from existing sources



FishingPort.net: Materials

- Updates on regulatory and policy reforms and implementing guidelines
- SFA joint action plans and monitoring reports
- Data on fishing industry inspections (*numbers, findings, locations, etc.*)
- Electronic versions of jointly developed outreach materials to reach workers (*posters, leaflets, booklets, etc.*)
- Data on worker grievance reports (*numbers, origins, outcomes, worker profiles, etc.*)
- Data on remedial services
- Assessments of studies conducted by SAFE Seas, SFA members, and other related groups



PROPOSED PROJECT SITES

1. INDONESIA

- Jakarta: national policy, advocacy, and inter-agency coordination
- Central Java: labour inspections, local advocacy and outreach in Rembang, Tegal, and Kendal
- North Sulawesi: Bitung

2. PHILIPPINES

- Manila: national policy, advocacy, and inter-agency coordination
- Palawan, General Santos and Sarangani Provinces: labour inspections, local advocacy, and outreach



PROJECT SITES

1. INDONESIA
 - Jakarta: national policy, advocacy, and inter-agency coordination
 - Central Java and Bitung, North Sulawesi provinces: labour inspections, local advocacy and outreach
2. PHILIPPINES
 - Manila: national policy, advocacy, and inter-agency coordination
 - Palawan, General Santos and Sarangani Provinces: labour inspections, local advocacy, and outreach

PHILIPPINES

PALAWAN: Puerto Princesa City & Municipality of Taytay

Criteria	Puerto Princesa	Taytay
Length of coastal area	416km	803km
Area of municipal waters	3,211km ²	3,228km ²
Number of coastal barangays	48	28
Number of fisherfolks	5,105	1,147
Number of motorized boats	2,349	1,243 (registered)
Number of non-motorized boats	817	300
Number of commercial fishing boats	178	None



Philippines		
Province	Municipality/City	Barangay
General Santos	General Santos City	Fatima Calumpang
Sarangani	Kiamba	Poblacion Suli Kayupo
	Glan	Taluya San Jose Gumaya
Palawan	Puerto Princesa City	Mandaragat Bancao-bancao
	Taytay	Poblacion Liminangcong

PHILIPPINES

MINDANAO: General Santos & Sarangani

- ✓ Presence of fishport/port/wharf
- ✓ Fish landing (also for marginal fishers)
- ✓ Fishing communities
- ✓ GenSan is within the buying station of fish by the domestic/local and international buyers
- ✓ GenSan is also a distribution and landing area of fish both local and international market
- ✓ Sarangani is the main source of manpower of fishing operators in GenSan



FEATURES OF THE PHILIPPINES' FISHING VESSELS RULES AND REGULATIONS

Maritime Industry Authority



The Philippine Fishing Vessels Rules & Regulations

- aims to address the long standing issues raised by various fishing associations
- initial output was provided by the various associations with strong interest in the fishery industry
- contains 20 rules that govern relevant safety aspect of fishing vessel operations



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 1 GENERAL PROVISION

Title

Objective

Scope of Application

Definition



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 2
REGISTRATION, DOCUMENTATION AND LICENSING
Acquisition, Assignment of Name, Official Number and Homeport
Registration: Issuance of CPR and CO
Markings
Deletion



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 3
SURVEYS AND CERTIFICATES
General Aspects of Inspection and Surveys
Maintenance of Condition after Survey
Forms, Issuance, Duration and Validity of Certificates



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 4
CONSTRUCTION
Collision and Watertight Bulkhead, Decks, Doors and Trunks
Anchoring and Mooring Equipment
General Protection Measures Against Accidents
Plans and Drawings



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 5 REPAIRS, CONVERSION AND RE-BUILDING
General Requirement for Repair, Alteration or Modification
Specific Requirement for Repair, Alteration or Modification
Plans and Drawing Requirement
Periodic Survey During Conversion, Alteration, Modification and Issuance of Certificate



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 6 STABILITY
Intact Stability Requirements
Guidance for Stability Determination
Inclining test and Stability Information
Bilge Pumping Arrangements



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 7 MACHINERY INSTALLATION
Machinery Controls, Remote Control
Periodically Unattended Machinery Spaces
Bilge Pumping Arrangements
Steam Pipes, Air Pressure System
Ventilation System in Machinery Space



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 7 MACHINERY INSTALLATION
Protection Against Noise
Means of Going Astern
Steering Gear
Communication Between bridge and Machinery Space
Engine Alarm System



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 8 ELECTRICAL INSTALLATION
Safety Precaution
Mean and Emergency Source of Electrical Power
Special Consideration



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 9 SAFE MANNING
Took Cognizant of the Principles of safe Manning
Provides Minimum Manning Requirements for Navigation
Wathkeeping



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 10 TRAINING, CERTIFICATION AND WATHKEEPING
Qualification for Licensure Examination
• Education, Sea Service, Training
Procedures for Examination
Issuance of Certificate of Marine Profession



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 11 TONNAGE MEASUREMENT
Determination of Tonnage



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 12 LIFE SAVINGS APPLIANCES
Life saving Appliances and Arrangement must be approved
Communication Equipment
Personal Life saving Appliances
Survival Craft and Life Jackets



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 12 LIFE SAVINGS APPLIANCES
Survival Procedures
Markings of Survival Craft
Operational Readiness, Maintenance and Inspection



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 13 FIRE SAFETY MEASURES
Structural Fire Protection
Communication Equipment
Means of Escape and Control of Ventilations
Ventilation of Tanks and Cofferdams



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 13 FIRE SAFETY MEASURES
Miscellaneous Items
Arrangement for Oil Fuel and Oil Tanks
Pipes and Fittings
Carriage of Dangerous Goods



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 13 COMMUNICATIONS
Functional Requirements and Watches
Radio requirement for Sea Areas A1, A2 and A3
Sources of Energy
Radio Logs



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 15 SAFETY OF NAVIGATION
Danger Messages
Routeing
Misuse of Distress Signals
Distress Signal: Obligations and Procedures



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 15 SAFETY OF NAVIGATION
Shipborne Navigational Equipment
Nautical Publication
International Code of Signals
Life Savings Signals



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 16 OCCUPATIONAL HEALTH AND SAFETY
Company Requirements for Occupational Safety and Health
General Accommodation and Related Facilities
Insulation
Floor Area and Person Per Sleeping Room
Work Environment Conditions



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 17 ENVIRONMENT
Adopt all MARPOL Annexes relating to prevention of pollution from ships



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 18 HANDLINE FISHING BOAT
Incorporate by reference the IRR of Handline Fishing Law



The Philippine Fishing Vessels Safety Rules & Regulations


RULE 19 MARITIME INVESTIGATION AND DISCIPLINARY PROCEEDINGS
Report of Maritime Casualty, Submission of Marine Protest and Retention of Voyage Records
Suspension or Revocation of Licenses/Certificates and SIRB
Non-issuance of Certificates and SIRB
Reinstatement



The Philippine Fishing Vessels Safety Rules & Regulations

RULE 20 FINAL PROVISIONS
Repealing Clause
Separability Clause
Effectivity





THANK YOU.



DEPARTMENT ORDER NO. 156-16

RULES AND REGULATIONS GOVERNING THE WORKING AND LIVING CONDITIONS OF FISHERS ON BOARD FISHING VESSELS ENGAGED IN COMMERCIAL FISHING OPERATION



DEPARTMENT OF LABOR AND EMPLOYMENT
Bureau of Working Conditions
Intramuros, Manila



GENERAL PROVISIONS



COVERAGE

- All fishing vessel owners, fishers and captains or masters on board Phil-registered fishing vessels engaged in commercial fishing operation in Philippine or international waters.

EXCEPTION

- Those on board commercial fishing vessels with foreign registry - governed by applicable rules and regulations of the POEA
- Those engaged in municipal fishing - governed by existing labor, fishery, maritime and local government laws, rules and regulations
- Those on board fishing vessels engaged in subsistence or recreational fishing

GENERAL PROVISIONS

DEFINITION OF TERMS

CAPTAIN OR MASTER - person having command of a fishing vessel



COMMERCIAL FISHING - taking of fishery species from their wild state or habitat by passive or active gear for trade, business or profit beyond recreational fishing

FIELD PERSONNEL - non-agricultural employees who regularly perform their duties away from the principal or branch office and whose time and performance is unsupervised by the fishing vessel owner

FISHING VESSEL OWNER - one who owns the vessel



GENERAL PROVISIONS

DEFINITION OF TERMS

FISHER - any person engaged in any capacity for carrying out an occupation on board a commercial fishing vessel

FISHING VESSEL - any ship or boat, irrespective of the form of ownership, used or intended to be used for taking of fishery species

GROSS TONNAGE - gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969

MUNICIPAL FISHING - fishing within municipal waters



GENERAL PROVISIONS



DEFINITION OF TERMS

MUNICIPAL WATERS - streams, lakes, inland bodies of water and tidal waters within the municipality and marine waters included between 2 lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide

RECREATIONAL FISHING - fishing by individuals from boats or from the shore, in salt or fresh water, for purposes of sport and not for profit derived from the catch

SUBSISTENCE FISHING - where the fish caught are primarily intended to be shared and consumed by the families and kin of fishers

GENERAL PROVISIONS



CLASSIFICATION OF COMMERCIAL FISHING

SMALL SCALE - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tonnage up to 20 gross tonnage

MEDIUM SCALE - fishing utilizing active gears and vessels of 20.1 gross tonnage up to 150 gross tonnage

LARGE SCALE - fishing utilizing active gears and vessels of more than 150 gross tonnage

RESPONSIBILITIES OF FISHING VESSEL OWNER, CAPTAIN OR MASTER AND FISHER

RESPONSIBILITIES OF FISHING VESSEL OWNER

- a. Fishing is undertaken in accordance with existing laws, rules and regulations and international agreements
- b. Fishing vessel is seaworthy
- c. Fishing vessel possesses licenses, permits and registrations from appropriate government agencies
- d. Fishing vessel carries a crew list, a copy of which shall be provided to the PCG



RESPONSIBILITIES OF FISHING VESSEL OWNER, CAPTAIN OR MASTER AND FISHER

RESPONSIBILITIES OF FISHING VESSEL OWNER

- e. Captain or Master possesses the necessary permits and licenses from appropriate government agencies
- f. Captain or Master is provided with necessary resources to undertake a specific fishing voyage
- g. Fishers have appropriate fish-worker license from BFAR
- h. Fishers on board have received basic safety and health, life-saving, survival training and provided specific instructions
- i. Fishers possess the minimum requirements for employment on board fishing vessels



RESPONSIBILITIES OF FISHING VESSEL OWNER, CAPTAIN OR MASTER AND FISHER

RESPONSIBILITIES OF CAPTAIN OR MASTER

- Ensure safety, health and well-being of fishers on board
- Ensure compliance with safety of navigation, protection of the environment and watch keeping.



RESPONSIBILITIES OF FISHERS



- Comply with the lawful orders of the captain or master and other applicable safety and health measures.
- Attend occupational safety and health training and skills enhancement trainings organized by the fishing vessel owner.

RESPONSIBILITIES OF FISHING VESSEL OWNER, CAPTAIN OR MASTER AND FISHER

EMPLOYER-EMPLOYEE RELATIONSHIP IN COMMERCIAL FISHING

- Selection and engagement of the employee
- Payment of wages
- Power of dismissal
- Employer's power to control the employee with respect to the means and methods by which the work is to be accomplished



RESPONSIBILITIES OF FISHING VESSEL OWNER, CAPTAIN OR MASTER AND FISHER

JOINT AND SOLIDARY LIABILITY



The captain or master or agent who:

- either financed the acquisition of the fishing vessel; or
- assumed the responsibility for the operation of the vessel from the owner; and
- has agreed to take-over the duties and responsibilities imposed on the fishing vessel owner

shall be jointly and solidarily liable with the fishing vessel owner

When the elements of contracting are present, the provisions of D.O. 18-A, s. 2011 shall govern while the D.O. 141, s. 2014 shall govern the recruitment and placement of fishers.

MINIMUM REQUIREMENTS FOR WORK ON-BOARD FISHING VESSELS



MINIMUM AGE

The minimum age for assignment to activities on-board commercial fishing vessels shall not be less than 18 years.



MEDICAL EXAMINATION

No fisher shall work on board a fishing vessel without a valid medical certificate issued by a public health facility or any medical facility duly accredited by the DOH



TRAINING

Fishers shall be provided with adequate specific instructions and applicable basic safety and health training

TERMS AND CONDITIONS OF EMPLOYMENT

EMPLOYMENT AGREEMENT

- a. Fisher's full name, date of birth or age, sex, address, civil status and SSS, Philhealth and Pag-Ibig identification numbers
- b. The name of fishing vessel owner or other party to the agreement with the fisher, including their addresses
- c. Place where and date when the employment agreement is entered into
- d. Name of fishing vessel and its registration number
- e. Voyage or voyages to be undertaken
- f. Capacity in which the fisher is to be employed
- g. Place where and date when the fisher is required to report on board for service



TERMS AND CONDITIONS OF EMPLOYMENT

EMPLOYMENT AGREEMENT

- h. Provisions to be supplied to the fisher
- i. Compensation structure composed of wage, mandatory, wage-related benefits and performance-based pay
- j. Hours of work
- k. Leave benefits
- l. Health and social security benefits
- m. Separation and retirement pays





It shall be submitted to the DOLE Regional Office or its Field Office having jurisdiction over the port of registration or principal place of business of the fishing vessel owner

The fishing vessel owner shall provide the fisher with a copy of the Employment Agreement and another copy shall be carried on board

TERMS AND CONDITIONS OF EMPLOYMENT

MINIMUM BENEFITS

- 
- 
- a. Minimum Wage
 - b. Holiday Pay
 - c. Overtime Pay
 - d. Night Shift Differential
 - e. Service Incentive Leave
 - f. 13th Month Pay
 - g. Maternity Leave
 - h. Paternity Leave
 - i. Parental Leave
 - j. Leave for victims of VAWC
 - k. Special leave for Women
 - l. Retirement Pay

TERMS AND CONDITIONS OF EMPLOYMENT

MEAL BREAKS

Fishers shall be entitled to a break/time-off not less than 60 minutes for their regular meals

REST PERIOD AND REST DAY

- Fishers shall be entitled to an aggregate daily rest period of 10 hours per day to a rest period of not less than 24 consecutive hours after every 6 consecutive work days
- Captain may require fishers to perform work necessary for the immediate safety of the vessel, the persons on board or the catch
- Captain shall ensure that any fisher who has performed work in a scheduled rest period is provided with an adequate period of rest and duly compensated for the additional work rendered

COMPENSATION SCHEME



FISHERS IN SMALL-SCALE COMMERCIAL FISHING OPERATION

A study to be conducted by NWPC and ILS to determine the appropriate compensation scheme.

MEDIUM-SCALE COMMERCIAL FISHING OPERATION

Applicable daily rate, considering the duration of actual work, which shall not be less than the applicable minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration

LARGE-SCALE COMMERCIAL FISHING OPERATION

Applicable daily rate, considering the duration of actual work, which shall not be less than the applicable minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration

COMPENSATION SCHEME



TWO-TIERED COMPENSATION SCHEME

➤ Minimum Wage and Wage-Related Benefits

not less than the applicable daily minimum wage for the non-agricultural sector prescribed by the appropriate RTWPB having jurisdiction over the fishing vessel's port of registration.

➤ Productivity or Performance-Based Pay

not diminish existing gain-sharing arrangements, other forms of bonus and incentive being given to fisher and those provided under collective bargaining agreement.



COMPENSATION SCHEME

PAYMENT OF WAGES

- Fishers shall be paid in cash every after two weeks or at intervals not exceeding sixteen (16) days.
- No fishing vessel owner shall make payment with less frequency than once a month.
- Fishing vessel owners shall ensure that fishers working on board fishing vessels are given means to transmit all or part of their wages, including advances, to their families at no cost.



TRANSPARENCY IN FISHER'S PAY

- Fishing vessel owners shall maintain payrolls and provide fishers with payslips.
- payments for fishers or their family's advances shall be properly documented.



FIELD PERSONNEL

FIELD PERSONNEL

- a. they regularly perform duties away from the principal place of business or branch office of the fishing vessel owner
- b. their actual hours of work in the sea cannot be determined with reasonable certainty.



ENTITLEMENT TO WAGE-RELATED BENEFITS OF FIELD PERSONNEL

- Unless provided otherwise under the employment agreement, company policies and practices, or collective bargaining agreements, fishers deemed as field personnel are not entitled to the wage-related benefits under Title I, Book III of the Labor Code, as amended.



OCCUPATIONAL SAFETY AND HEALTH (OSHS)

Occupational Safety and Health Program

- The fishing vessel owner shall formulate, implement, and promote occupational safety and health policies and programs consistent with the provisions of the OSHS.
- It shall include the prevention and control of tuberculosis, human immune deficiency virus and acquired immunodeficiency syndrome, hepatitis B, and the prohibition of illegal drug use on board the fishing vessel.



Safety and Health Committee

- The captains or masters on board fishing vessels shall act as safety officers for small and medium-scale commercial fishing vessels.
- An on-board safety and health committee shall be organized in large-scale commercial fishing vessels pursuant to Rule 1040 of the existing OSHS, as amended.



OCCUPATIONAL SAFETY AND HEALTH (OSHS)

Training and Orientation on Occupational Safety and Health



- the fishing vessel owner shall require their captains or masters and fishers to undergo applicable occupational safety and health training depending on their rank or position and classification of the vessel.

Safety Protection and Accident Prevention



- a. Electrical Safety
- b. Machine Guarding
- c. Materials Handling and Storage
- d. Fire Prevention, Fire Fighting and Emergency Response
- e. Personal Protective Equipment

OCCUPATIONAL SAFETY AND HEALTH (OSHS)

Medical Care

- The fishing vessel owner shall provide adequate first aid services on board and shall ensure that all fishers have access, when in port, to out-patient treatment for sickness or injury, hospitalization, when necessary, and dental treatment



Food and Potable Water

- Fishing vessel owner shall ensure that fishers are provided with ample food supply, food preparation and storage facilities, and potable water for drinking and food preparation.



OCCUPATIONAL SAFETY AND HEALTH (OSHS)

REQUIREMENTS FOR GENERAL ACCOMMODATION AND RELATED FACILITIES

▪ SLEEPING ACCOMMODATION

- | | |
|--|------------------------------------|
| a. Insulation | d. Openings |
| b. Airconditioning System | e. Separate Sleeping Accommodation |
| c. Floor Area and Person per Sleeping Room | |



▪ MESS ROOMS

The dimensions and equipment of each mess room shall be sufficient for the number of fishers likely to use it at any one time and for the type and quantity of provisions to be brought on board for a particular fishing voyage.



OCCUPATIONAL SAFETY AND HEALTH (OSHS)

▪ SANITATION FACILITIES

Sanitary facilities, which include toilets, wash basins, and tubs or showers, shall be provided for all fishers on board, as appropriate for the service of the vessel and shall be separate for men and women.

WORK ENVIRONMENT CONDITIONS

- a. Headroom
- b. Ventilation
- c. Lighting
- d. Noise and Vibration
- e. Hazardous Substances



OCCUPATIONAL SAFETY AND HEALTH (OSHS)

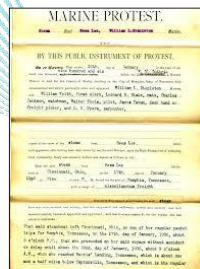
SAFETY AND HEALTH REPORTS



The fishing vessel owner shall submit to DOLE through its Regional Office having jurisdiction over the principal place of business of the fishing vessel the:

- a. Report on Safety and Health Organization
- b. Annual Medical Report
- c. Minutes of the meetings of the Safety and Health Committee

MARINE PROTESTS



Marine protests submitted to the PCG by the captain or master of the affected fishing vessel shall be considered as an equivalent to DOLE's Work Accident and Illness Report and Report on Fatal Accidents

TERMINATION OF EMPLOYMENT

- The fishing vessel owner shall submit such marine protest to the DOLE Provincial Office having jurisdiction over the area where the accident or any incident occurred within 5 days from occurrence of the same.

RIGHT TO SECURITY OF TENURE

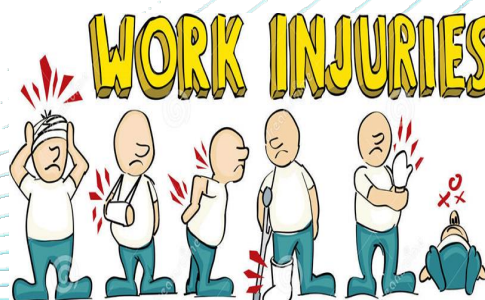
- The employment of fishers can only be terminated for either just or authorized causes.
- For termination of employment based on just causes as defined in Article 297 of the Labor Code, as amended, and Department Order No. 147-15, the requirement of two written notices shall be served on the fisher

REPATRIATION OF FISHERS

- In cases of death, illness and other justifiable reasons, fishers shall immediately be repatriated at the expense of the fishing vessel owner.

SOCIAL PROTECTION

- **SSS, Pag-Ibig, PhilHealth and ECC**
- **In the absence of social security coverage, medical and hospitalization costs of work-related injuries, illness and sickness of fishers shall be shouldered by fishing vessel owners**



JOINT VENTURE AND INDUSTRIAL PARTNERSHIP

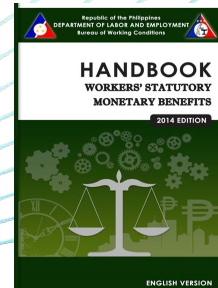
FISHERS AS INDUSTRIAL PARTNERS

- A contract or articles of partnership duly executed by fishers and fishing vessel owners as partners
- Absence of control of fishing vessel owners over the captains or masters and fishers
- Creation of a juridical entity separate from the partners
- Utilization of partnership as a mode of managing commercial fishing operation
- Parity of standing between the partners in which the fisher as a partner
- Death of a fisher causes the dissolution of the partnership



OBLIGATIONS TO FISHERS

- Parties to the joint venture or partnership shall ensure that fishers considered employees of the joint venture or partnership are receiving the applicable wage and wage related benefits



LICENSING, TRAINING AND DEVELOPMENT

LICENSING AND CERTIFICATION

- The BWC and OSHC, in coordination with BFAR, PFDA, MARINA, and PCG, shall review the existing assessment, licensing and certification programs for fishing vessels and fishers



PROFICIENCY STANDARDS

- The TESDA, in coordination with BWC, OSHC, BFAR and MARINA, shall develop training regulations for fishers taking into account generally accepted international standards



LABOR-MANAGEMENT COOPERATION

RIGHT TO SELF-ORGANIZATION AND COLLECTIVE BARGAINING

- Fishers shall have the right to form, join, or assist in the formation of a labor organization, association



LABOR-MANAGEMENT COOPERATION

- The NCMB shall encourage and assist fishing vessel owners and the fishers in creating a labor and management committee or any labor management mechanism that shall develop and implement labor-management cooperation schemes and welfare programs for fishers.



COMPLIANCE AND ENFORCEMENT

ENFORCEMENT OF LABOR AND OSH STANDARDS



- The DOLE Regional Office having jurisdiction over fishing vessel's actual place of operation, shall conduct joint assessment to determine compliance to GLS and OSHS
- BWC and OSHC shall develop a Manual for ascertaining fishing vessel owners' compliance with GLS and OSHS taking into consideration D.O. 131-13, as amended, and Manual on Labor Laws Compliance System and Procedures for Uniformed Implementation, within 60 days from the effectivity of this Rules.



ENFORCEMENT OF FISHING, MARITIME, COAST GUARD AND FISH PORT LAWS

- Fishing, maritime, coast guard and fish port laws, rules and regulations shall be enforced pursuant to the Memorandum of Agreement among the DOLE, DA, DOTC, BFAR, PFDA, MARINA and PCG

FISHING VESSELS WITHOUT COC OR COMPANY COC

- Fishing vessel owners shall obtain COC to GLS and OSHS of all their vessels within 60 days from the effectivity of this Rules.



COMPLIANCE AND ENFORCEMENT

JOINT ASSESSMENT

- The DOLE ROs, shall coordinate, as much as practicable, with OSHC, BFAR, MARINA, PCG and PFDA for the conduct of joint assessment of fishing vessels' compliance with GLS and OSHS, fishery laws, rules and regulations; maritime laws, rules and regulations; coast guard laws, rules and regulations



IMPROVING COMPLIANCE WITH LABOR STANDARDS

- Fishing vessel owners are encouraged to apply and participate in the Incentivizing Compliance Program

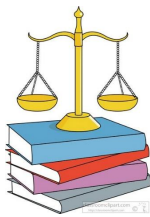


VIOLATIONS OF EMPLOYMENT AGREEMENT

- Any violation of the provisions of the employment agreement, either uncovered during the conduct of joint assessment or compliance visit, shall be initially resolved pursuant to the Single-Entry Approach Program (SEnA).



COMPLIANCE AND ENFORCEMENT



VIOLATIONS OF LABOR AND OSHS

- Violations of labor and occupational safety and health standards shall be resolved pursuant to DOLE D.O. No. 151-16, Series of 2016

TRIPARTITE MONITORING BODY

- A regional-based Industry Tripartite Council shall be established within thirty (30) days from the effectivity of this Rules. The Fisheries and Aquatic Resources Management Councils shall be properly represented therein



REGISTRY OF COMPLIANT FISHING VESSELS

- The BWC shall maintain a central registry of compliant fishing vessels, which is accessible through the websites of the OSHC, BFAR, MARINA, PCG and PFDA.



LIVELIHOOD PROGRAM AND SUPPORT

DISPLACEMENT OF FISHERS

- During lean season and/or closed season, the DOLE, through its ROs, shall facilitate the access of fishers and members of their families to livelihood and temporary employment and income opportunities under the DOLE Integrated Livelihood and Emergency Employment Program



LIVELIHOOD PROGRAM

- The DOLE shall implement convergence programs with other government agencies in implementing livelihood and other support programs to fishers.



PENALTIES



NON-PAYMENT OF WAGE AND WAGE-RELATED BENEFITS

- Double indemnity shall be imposed for non-payment of wage and wage-related benefits
- non-payment or non-remittance of social security contributions shall be penalized under the laws, rules and regulations of social security agencies.



CHILD LABOR AND FORCED LABOR

- Fishing vessel owner engaged in child labor and forced labor shall be penalized



OBSTRUCTION OF LABOR LAW COMPLIANCE OFFICER

- Obstruction of Labor Law Compliance Officer shall be penalized under existing labor laws, rules and regulations.

Orientation on the Conduct of Inspection, Particularly on the use of the Checklist, in the Fishing Industry Pursuant to Department Order No. 156, Series of 2016

Labor Governance Learning Center, DOLE Building,
Muralla Street, Intramuros Manila
12 January 2018

Updates

- This year (2018), implementation of Department Order No. 156, Series of 2016: Rules and Regulations Governing the Working and Living Conditions on Fishers on Board Fishing Vessels engaged in Commercial Fishing Operation
- Classification of Commercial Fishing Vessels:
 - ✓ Small Scale Commercial Fishing Vessels: 3.1 - 20 GT
 - ✓ Medium Scale Commercial Fishing Vessels: 20.01 – 150 GT
 - ✓ Large Scale Commercial Fishing Vessels: more than 150 GT

Checklist for Small and Medium Scale (Handline) Commercial Fishing Vessels

CHECKLIST Commercial Fishing Vessels Engaged in Commercial Fishing Operation FOR MEDIUM- AND LARGE-SCALE COMMERCIAL FISHING VESSELS

Name of Fishing Vessel	
BFAR Registration	
MARINA Registration	
Port of Registration	
Name of Captain	
Number of Fishers On Board	Number of Male Fishers

Commercial Fishing Vessel Classification
 Medium-Scale: 20.1 GT – 150 GT Large-Scale: more than 150 GT

COMPLIANCE INDICATORS	YES	NO	REMARKS
Part A: Minimum Requirements for Work			
Fishers are at least 18 years old			
Fishers have medical certificate valid for one (1) year issued by a certified physician			
Fishers are provided with adequate specific instructions			
Part B: Requirements of Other Government Agencies			
Fishers have Fishworkers' License from BFAR			
Part C: Employment Agreement			
Fishers were provided with employment agreement			
The employment agreement contains the following particulars:			
Fisher's full name, date of birth or age, sex, address, civil status and SSS, PhilHealth and Pag-IBIG identification numbers			
The name of the fishing vessel owner or other party to the agreement with the fisher, including their addresses			
Place where and date when the employment agreement is entered into			
Name of the fishing vessel and its registration number in which the fisher undertakes to work			
Voyage or voyages to be undertaken, if this can be determined at the time of making the agreement			
Capacity in which the fisher is to be employed or engaged			
Place where and date when the fisher is required to report on board for service			
Provisions to be supplied to the fisher			
Compensation structure composed of wage, mandatory wage-related benefits, and productivity/performance-based pay			
Hours of work			
Leave benefits			

Checklist for Medium and Large-Scale Commercial Fishing Vessels

CHECKLIST Commercial Fishing Vessels Engaged in Commercial Fishing Operation FOR MEDIUM- AND LARGE-SCALE COMMERCIAL FISHING VESSELS

Name of Fishing Vessel	
BFAR Registration	
MARINA Registration	
Port of Registration	
Name of Captain	
Number of Fishers On Board	Number of Male Fishers

Commercial Fishing Vessel Classification
 Medium-Scale: 20.1 GT – 150 GT Large-Scale: more than 150 GT

COMPLIANCE INDICATORS	YES	NO	REMARKS
Part A: Minimum Requirements for Work			
Fishers are at least 18 years old			
Fishers have medical certificate valid for one (1) year issued by a certified physician			
Fishers are provided with adequate specific instructions			
Part B: Requirements of Other Government Agencies			
Fishers have Fishworkers' License from BFAR			
Part C: Employment Agreement			
Fishers were provided with employment agreement			
The employment agreement contains the following particulars:			
Fisher's full name, date of birth or age, sex, address, civil status and SSS, PhilHealth and Pag-IBIG identification numbers			
The name of the fishing vessel owner or other party to the agreement with the fisher, including their addresses			
Place where and date when the employment agreement is entered into			
Name of the fishing vessel and its registration number in which the fisher undertakes to work			
Voyage or voyages to be undertaken, if this can be determined at the time of making the agreement			
Capacity in which the fisher is to be employed or engaged			
Place where and date when the fisher is required to report on board for service			
Provisions to be supplied to the fisher			
Compensation structure composed of wage, mandatory wage-related benefits, and productivity/performance-based pay			
Hours of work			
Leave benefits			

REFERENCES

Department of Labor and Employment. Department Order 156-16: https://www.dole.gov.ph/files/Dept%20Order%20No_%20156-16.pdf

Department of Labor and Employment and Department of Justice - Inter-agency Council Against Trafficking. Labor Exploitation Dimension of Trafficking in Persons: A Manual for Investigators, Prosecutors, Labor Inspectors and Service Providers

ILO Convention 29: https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/documents/genericdocument/wcms_346435.pdf

ILO Convention 105: <https://www.ohchr.org/Documents/ProfessionalInterest/abolition.pdf>

ILO Convention 182: http://blue.lim.ilo.org/cariblex/pdfs/ILO_Convention_182.pdf

ILO Convention 138: http://blue.lim.ilo.org/cariblex/pdfs/ILO_Convention_138.pdf

ILO Convention 188: https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_161209.pdf

Maritime Industry Authority. Philippine Fishing Vessels Safety Rules and Regulations

Palermo Protocol: <https://www.osce.org/odihr/19223?download=true>

RA 9208: <https://www.wcwoonline.org/pdf/lawcompilation/PhilippinesRepublicActNo9208AntiTrafficking.pdf>

RA 10364: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/103636/125993/F1442701866/PHL103636.pdf>

RA 7610: https://www.pcw.gov.ph/sites/default/files/documents/laws/republic_act_7610.pdf

RA 9231: <http://hrlibrary.umn.edu/research/Philippines/RA%209231%20-Elimination%20of%20Worst%20Forms%20of%20Child%20Labor.pdf>

RA 8550 as amended by RA 10654: <https://www.ofdc.org.tw/components/Editor/webs/files/Republic%20Act%20No%2010654.pdf>

RA 7658: <https://aboutphilippines.org/documents-etc/Republic%20Act%20No.%207658.pdf>

1926 Slavery Convention: http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.13_slavery%20conv.pdf

