

Republic of the Philippines
Autonomous Region in Muslim Mindanao
REGIONAL LEGISLATIVE ASSEMBLY
Cotabato City

THIRD LEGISLATIVE ASSEMBLY
(Fourth Regular Session)

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Begun and held in Cotabato City, on Tuesday, the twenty-seventh day of April nineteen hundred and ninety seven.

[MUSLIM MINDANAO AUTONOMY ACT 86]

"AN ACT PROVIDING FOR AN AQUATIC AND FISHERIES CODE OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES."

Be it enacted by the Regional Legislative Assembly in session assembled:

ARTICLE I

TITLE AND COVERAGE

SECTION 1. Title. - This Act shall be known and cited as the "ARMM Aquatic and Fisheries Code of 1999."

SEC. 2. Coverage. - The provisions of this Code shall be enforced in:

a. ARMM waters which shall extend to offshore fishing grounds, up to and including all waters twenty-two and one-half (22 1/2) kilometers from its coastline but inside the territorial waters of the Philippines, regardless of depth, the seabed and the subsoil that are included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the ARMM touch the sea at low tide and a third line parallel to the general coastline;

b. all fisheries and aquatic resources whether inland, coastal or offshore including, but not limited to, fishponds and fish pens/cages; and

c. all lands devoted to aquaculture or business and activities relating to fishery, whether private or public lands.

ARTICLE 11

DECLARATION OF POLICY AND OBJECTIVES

SEC. 3. Declaration of Policy. -It is hereby declared the policy of the Autonomous Region in Muslim Mindanao:

a. To achieve food security as the overriding consideration in the management, development, and utilization of fisheries and aquatic resources in order to provide the food requirements of the people;

b. To limit access to the fisheries and aquatic resources for the exclusive use of Filipinos, preferably the ARMM residents.

c. To ensure the rational management, sustainable development, and intensified conservation of the fishery and aquatic resources in ARMM to maintain sound ecological balance of the environment;

d. To protect the rights of fisherfolk in the preferential use of the municipal waters, which shall be based on Maximum Sustainable Yield or Total Allowable Catch on the basis of resources and ecological conditions;

e. To provide support to the fishery sector, primarily to the municipal fisherfolk, through appropriate technology and research, adequate financial support, production and marketing assistance, and other services;

f. To manage fishery and aquatic resources consistent with the concept of an integrated coastal area management in specific natural fishery areas; and

g. To grant the private sector the privilege to utilize fisheries and aquatic resources under the basic concept that the grantee, licensee or permittee thereof shall not only be a privileged beneficiary but

also an active partner in the management, development, protection and disposition of fisheries and aquatic resources.

SEC. 4. Objectives. - The ARMM shall ensure the attainment of the following objectives:

1. Poverty alleviation and the provision of supplementary livelihood among municipal fisherfolk;
2. Improvement of productivity of aquaculture and seaweeds industry within ecological limits;
3. Modernization of fishery sector by transforming it from a resource-based to a technology-based industry;
4. Equitable access of small fisherfolk to assets, resources, services and post-harvest facilities; and
5. Promotion of people empowerment by establishing mechanisms for the participation of people's organizations, non-government organizations, and cooperatives in decision-making;

ARTICLE III

DEFINITION OF TERMS

SEC. 5. Definition of Terms. - As used in this Code, the following terms are hereby defined:

1. Ancillary Industries - companies related to the supply, construction and maintenance of fishing vessels, gears, nets and other fishing paraphernalia; fishery machine shops; and other facilities such as hatcheries, nurseries, feed plants, cold storage/refrigeration, processing plants and other pre-harvest and post harvest facilities.
2. Appropriate Fishing Technology - adaptable technology, both in fishing and ancillary industries, that is ecologically sound, locally source-based and labor intensive.

3. Aquaculture - fishery operations involving all forms of raising and culturing fish and other fishery species in fresh, brackish and marine water areas.

4. Aquatic Pollution - the introduction by human or machine, directly or indirectly, of substances or energy to the aquatic environment which is likely to result in such deleterious effects as to harm living and non living aquatic resources, pose potential and/or real hazard to human health, hindrance to aquatic activities such as fishing and navigation, including dumping/disposal of waste and other marine litters, discharge of petroleum or residual products of petroleum or carbonaceous materials/substances, and other radioactive, noxious or harmful liquid, gaseous or solid substances. Deforestation, unsound agriculture practices, and wetland conversion which cause similar deleterious effects shall also constitute aquatic pollution.

5. Aquatic Resources - includes fish, other aquatic flora and fauna and other living resources of the aquatic environment including, but not limited to, salt and corals.

6. ARMM is an acronym for the Autonomous Region in Muslim Mindanao.

7. Artificial Reefs - any structure of natural or manmade materials placed on a body of water to serve as shelter and habitat, source of food, breeding area for fishery species and shoreline protection.

8. Catch Ceilings - the annual catch limits allowed to be taken, gathered or harvested from any fishing area in consideration of the need to prevent overfishing and harmful depletion of breeding stocks of aquatic organisms.

9. Closed Season - the period during which the taking of specified fishery species by a specified fishing gear is prohibited in a specified area or areas.

10. Coastal Area/Zone - a band of dry land and adjacent ocean space in which terrestrial processes and

uses directly affect oceanic processes and uses, and vice versa. Its geographic extent may include areas within a landmark limit of one (1) kilometer from the shore-line at high tide to include mangrove swamps, brackish water ponds, nipa swamps, estuarine rivers, sandy beaches and other areas within seaward limit of 200 meters isobar.

11. Commercial Fishing - the taking of fishery species by passive or active gear for trade, business or profit beyond subsistence or sports fishing, to be further classified as:

a. Small scale commercial fishing - fishing with passive or active gear utilizing fishing vessels of 3.1 gross tons (GT) up to 15 GT;

b. Medium scale commercial fishing - fishing utilizing active gears and vessels of 15.1 GT up to 100 GT; and

c. Large scale commercial fishing - fishing utilizing active gears and vessels of more than 100 GT.

12. Commercial Scale - scheme of producing minimum harvest per hectare per year of milkfish or other species to be determined by the Regional Department in consultation with concerned sectors.

13. Coral - the hard calcareous substance made up of the skeleton of marine coelenterate polyps which include reefs, shelves and atolls or any of the marine coelenterate animals living in colonies where their skeletons form a stony mass. They include:

(a) skeletons of anthozoan coelenterates characterized as having a rigid axis of compact calcareous or horny spicules, belonging to the genus corallium represented by red, pink, and white corals which are considered precious;

(b) skeletons of anthozoan coelenterates characterized by thorny, horny

axis such as the antipatharians represented by black corals which are considered semi-precious; and

(c) ordinary corals which are neither precious nor semi-precious.

14. Coral Reef - a natural aggregation of coral skeleton, with or without living coral polyps, occurring in intertidal and subtidal marine waters.

15. Demarcated Areas - boundaries defined by markers and assigned exclusively to specific individuals or organizations for certain specified and limited uses such as:

- a. Aquaculture, sea ranching and sea farming;
- b. Fish aggregating devices;
- c. Fixed and passive fishing gears; and
- d. Fry and fingerlings gathering.

16. Electrofishing - the use of electricity generated by batteries, generators and other source of electric power to kill, disable or render unconscious fishery species, whether or not the same are subsequently recovered.

17. Endangered, Rare and/or Threatened Species - aquatic plants, animals, including some varieties of corals and sea shells in danger of extinction as provided for in existing fishery laws, rules and regulations or in the protected areas of the Department of Environment and Natural Resources - ARMM and in the Convention on International Trade of Endangered Species of Flora and Fauna (CITES).

18. Fine Mesh Net - net with mesh size of less than three centimeters (3 cm.) measured between two (2) opposite knots of a full mesh when stretched or as otherwise determined by the appropriate government agency.

19. Fish Cage - an enclosure which is either stationary or floating made up of nets or screens sewn or fastened together and installed in the water with

opening at the surface or covered and held in a place by wooden/bamboo posts or various types of anchors and floats.

20. Fish fingerlings - a stage in the life cycle of the fish measuring to about 6-13 cm. depending on the species.

21. Fish fry - a stage at which a fish has just been hatched usually with sizes from 1-2.5 cm.

22. Fishery/Aquatic Products. - include not only finfish and seaweeds but also mollusks, crustaceans, echinoderms, marine mammals, and all other species of aquatic flora and fauna and all other products of aquatic living resources in any form.

23. Fish Corral or Baklad - a stationary weir or trap devised to intercept and capture fish consisting of rows of bamboo stakes, plastic nets and other materials fenced with split bamboo or wire mattings with one or more enclosures, usually with easy entrance but difficult exit, and with or without leaders to direct the fish to the catching chambers, purse or bags.

24. Fish pen - an artificial enclosure constructed within a body of water for culturing fish and fishery/aquatic resources made up of poles closely arranged with wooden materials, screen or nylon netting to prevent escape of fish.

25. Fisherfolk - people directly or personally and physically engaged in taking and/or culturing and processing fishery/aquatic resources.

26. Fisherfolk Cooperative - a duly registered association of fisherfolk with a common interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contribution to the capital requirement and accepting a fair share of the risks and benefits of the undertakings.

27. Fisherfolk Organization - an organized group, association, federation, or alliance of fisherfolk

which has at least fifteen (15) members, a set of officers, a constitution and by laws, an organizational structure and program of action.

28. Fisheries - all activities relating to the act or business of fishing, culturing, preserving, processing, marketing, developing, conserving and managing aquatic resources and the fishery areas, including the privilege to fish or take aquatic resource thereof.

29. Fish pond - a land-based facility enclosed with earthen or stone material to impound water for growing fish.

30. Fishing Boat/Gear License - a permit to operate specific types of fishing boat/gear for specific duration in areas beyond municipal water for deversal or pelagic fishery resources.

31. Fishery Management Areas - a bay, gulf, lake or any other fishery area which may be delineated for fishery resource management purposes.

32. Fishery Operator - one who owns and provides the means including land, labor, capital, fishing gears and vessels, but does not personally engage in fisheries.

33. Fishery Refuge and Sanctuaries - a designated area where fishing or other forms of activities which may damage the ecosystem of the area is prohibited and human access maybe restricted.

34. Fishery Reserve - a designated area where activities are regulated and set aside for educational and research purposes.

35. Fishery Species - all aquatic flora and fauna including, but not restricted to, fish, algae, coelenterates, mollusks, crustaceans, echinoderms and cetaceans.

36. Fishing gear - any instrument or device and its accessories utilized in taking fish and other aquatic resources, classified into:

a. Active fishing gear - characterized by gear movements and/or the pursuit of the fish by towing, lifting, and pushing the gears, surrounding, covering, dredging, pumping and scaring the target species to impoundments, such as, but not limited to, trawl, purse seines, Danish seines, bag nets, and paaling.

b. Passive fishing gear - characterized by the absence of gear movement and/or the pursuit of the target fish, such as, but not limited to, hook and line, fishpots, traps and gill nets across the path of the fish.

37. Fishing Vessel - any boat, ship or other watercraft equipped 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, supply, storage, refrigeration, and/or processing.

38. Fishworker - a person regularly or not regularly employed in commercial fishing and related industries, whose income is either in wage, profit-sharing or stratified sharing basis, including those working in fish pens, fish cages, fish corrals, fishponds, prawn farms, sea farms, salt beds, fish ports, fishing boat or trawlers or fish processing and/or packing plants. Excluded from this category are administrators, security guards and overseers.

39. Fishing with Explosives - the use of dynamite, other explosives or chemical compounds that contain combustible elements which upon ignition by friction, concussion, percussion or detonation of all or parts of the compound, will kill, disable or render unconscious any fishery species. It also refers to the use of any other substance and/or device which causes an explosion that is capable of producing the said harmful effects on any fishery species and capable of damaging and altering the natural habitat.

40. Fishing with Noxious or Poisonous Substances - the use of any substance, plant extracts or juice

thereof, sodium cyanide and/or cyanide compounds or other chemicals either in a raw or processed form, harmful or harmless to human beings, which will kill, disable or render unconscious any fishery species and capable of damaging and altering the natural habitat.

41. Food Security - any plan, policy or strategy aimed at ensuring adequate supplies of appropriate food at affordable prices. It may be achieved through self-sufficiency (i.e. ensuring adequate food supplies from domestic production), through self-reliance (i.e. ensuring adequate food supplies through a combination of domestic production and importation), or through pure importation.

42. Gross Tonnage - includes the underdeck tonnage, permanently enclosed spaces above the tonnage deck, except for certain exemptions. In broad terms, all the vessel's closed-in spaces expressed in volume terms on the basis of one hundred cubic feet (equals one gross ton).

43. Inland Fishery - the freshwater and brackish water fishponds, fish cages, fish pens and fish traps.

44. Lake - an inland body of water, an expanded part of a river, a reservoir formed by a dam, or a lake basin intermittently or formerly covered by water.

45. Mangroves - a community of intertidal plants including all species of trees, shrubs, vines and herbs found on coasts, swamps, or border of swamps.

46. Maximum Sustainable Yield (MSY) - the largest average quantity of fish that can be harvested from a fish stocks/resource within a period of time (e.g. one year) on a sustainable basis under existing environmental conditions.

47. Migratory species - any fishery species which in the course of their life could travel from freshwater to marine water or vice versa, or any marine species which travel over great distances in

the ocean as part of their behavioral adaptation for survival and speciation, classified into:

a. Anadromous species - marine fishes which migrate to freshwater areas to spawn.

b. Catadromous species - freshwater fishes which migrate to marine areas to spawn.

48. Municipal fishing - fishing within municipal water using fishing vessel of three (3) gross tons or less, or fishing not requiring the use of fishing vessels.

49. Municipal waters - include not only streams, lakes, inland bodies of water and tidal waters within the municipality, except protected areas defined under R.A. No. 7586 (The NIPAS Law), public forest, timber land, 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 islands and twelve (12) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than twenty four (24) kilometers of marine waters between them, the third line shall be equally distant from opposite shores of such municipalities.

50. Non-governmental organization (NGO) - an agency, institution, a foundation or a group of persons whose purpose is to assist people's organizations in various ways including, but not limited to, organizing, education, training, research and resource accessing.

51. Payao - a fish aggregating device consisting of a floating raft anchored by a weighted line with suspended materials such as palm fronds to attract pelagic and schooling species common in deep waters.

52. Pearl Farm Lease - public waters leased for the purpose of producing cultured pearls.

53. People's Organization (PO) - a bonafide association of citizens with demonstrated capacity to promote public interest and with identifiable leadership, membership and structure. Its members belong to a sector who voluntarily band themselves together to work for and by themselves for their own upliftment, development and greater good.

54. Post-harvest facilities - include, but are not limited to, fishport, fishlanding, ice plants/cold storages, and fish processing plants.

55. Purse Seine - a form of encircling net having a line at the bottom passing through rings attached to the net, which can be drawn or pursed. In general, the net is set from a boat or pair of boats around the school of fish. The bottom of the net is pulled closed with the purse line. The net is then pulled aboard the fishing boat or boats until the fish are concentrated in the bunt or fish bag.

56. RBFAR - refers to Regional Bureau of Fisheries and Aquatic Resources.

57. Regional Department - the Department of Agriculture and Fisheries in the ARMM.

58. Sea Farming - stocking of natural or hatchery produced marine plants or animals, under controlled or natural condition for purposes of rearing and harvesting.

59. Sea Ranching - release of the young of fishery species reared in hatcheries and nurseries into natural bodies of water for subsequent harvest at maturity or the manipulation of fishery habitat to encourage the growth of the wild stocks.

60. Superlight - also called magic light, is 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, and its energy comes from a generator, battery or dynamo coupled with the main engine.

61. Total Allowable Catch (TAC) - the maximum harvest allowed to be taken during a given period of time from any fishery area, or from any fishery species or group of fishery species, or a combination of area and species and normally would not exceed the MSY.

62. Trawl - an active fishing gear consisting of a bag shaped net with or without outer boards to open its opening which is dragged or towed along the bottom/mid-water or through the water column to take fishery species by straining them from the water.

ARTICLE IV

REGIONAL BUREAU OF FISHERIES AND AQUATIC RESOURCES

SEC. 6. Creation - Pursuant to Section 19, Art. XIII of R.A. No. 6734, there is hereby created a Regional Bureau of Fisheries and Aquatic Resources under the Regional Department to be headed by a Director with one Assistant Director, who are both appointed by the Regional Governor in accordance with Civil Service Law.

The RBFAR shall be assisted by administrative and technical staff personnel as well as provincial and municipal offices as may be appropriate and necessary to carry out effectively and efficiently its powers and functions.

SEC. 7. Powers and Functions - The RBFAR shall have the following powers and functions:

a. prepare and implement a Comprehensive Regional Fisheries Development Plan;

b. formulate and implement a Fishery Research and Development Program, such as, but not limited to, sea farming, sea ranching, tropical/ ornamental fish and seaweed culture, aimed at increasing resource productivity and ensuring sustainability of the region's fisheries and aquatic resources;

c. establish and maintain a Comprehensive Fishery Information System;

d. provide extensive development support services in all aspects of fisheries including the maintenance of proper sanitation and hygienic practices in fish markets and fish landing areas;

e. implement an inspection system for import and export of fishery/aquatic products and fish processing establishments consistent with international standards to ensure product quality and safety;

f. coordinate with LGUs and other concerned agencies for the establishment of productivity enhancing and market development programs in fishing communities;

g. enforce all fishery laws, rules and regulations, and settle conflicts of resource use and allocation in coordination with the LGU, RFARMC, IFARMC and M/CFARMC;

h. develop value-added fishery/aquatic products for domestic consumption and export;

i. recommend measures for the protection/enhancement of the fishery industry;

j. assist the LGUs in developing their technical capability in the development, management, conservation, and protection of the fishery/aquatic resources;

k. issue license for the operation of commercial fishing vessels and authorize the movement or trade of fishery/aquatic products and collect fees prescribed by law and regulations; and

l. perform such other related functions which shall promote the development, management, protection and conservation of fisheries and aquatic resources.

ARTICLE V

FISHERIES AND AQUATIC RESOURCES MANAGEMENT COUNCIL

SEC. 8. Creation of Fisheries and Aquatic Resources Management Councils (FARMCs). - The FARMCs shall be created in

the regional level and in all municipalities/cities abutting municipal waters as defined by this Code. The FARMCs shall be formed by fisherfolk organizations/cooperatives and NGOs in the locality and be assisted by the LGUs and other government entities. Before organizing FARMCs, the LGUs, NGOs, fisherfolk, and other concerned POs shall undergo consultation and orientation on the formation of FARMCs.

SEC. 9. Regional Fisheries and Aquatic Resources Management Council. - The Regional Fisheries and Aquatic Resources Management Council (RFARMC) shall be composed of the following:

Regional Secretary of the Department of Agriculture and Fisheries (DAF-ARMM) - Chairman;

Chairperson of the Committee on Agriculture, & Fisheries Regional Legislative Assembly (RLA) - Member;

Regional Secretary of Department of Ecology & Natural Resources (DENR-ARMM) - Member;

Regional Secretary of Department of Interior & Local Government (DILG-ARMM) - Member;

Regional Director of the RBFAR - Member;

Three representatives of the fisherfolk and fishworkers; - Members;

Three representatives of commercial fishing and aquaculture operators and the processing sector - Members;

One representative from the Academe - Member; and

One representative from the NGOs involved in fisheries - Member.

The members of RFARMC, except the representatives of DAF-ARMM, DENR-ARMM, DILG-ARMM, RLA and RBFAR, shall be appointed by the Regional Governor upon the recommendation of their respective organizations for a term of three (3) years without reappointment.

The RFARMC shall adopt its own rules in the conduct of its proceedings, and shall be assisted by a secretariat with staffmembers from among the qualified employees of DAF-ARMM and RBFAR.

SEC. 10. Functions - The RFARMC shall have the following functions:

- a. assist in the formulation of regional policies on fisheries and aquatic resources for approval of the Regional Governor;
- b. assist in the preparation of the Comprehensive Regional Fisheries Development Plan;
- c. recommend to the RLA the enactment of fishery laws; and
- d. perform such other functions as may be provided by law.

SEC. 11. Municipal/City Fisheries and Aquatic Resources Management Council (M/CFARMC). - The M/CFARMC shall be composed of the following:

- a. Municipal/City Planning and Development Officer;
- b. Chairperson, Committee on Agriculture and Fisheries, Sangguniang Bayan/Paulungsod;
- c. Municipal/City Agriculturist/Fishery Officer;
- d. One Representative from the accredited Non-Governmental Organization;
- e. One Representative from the Regional Department; and
- f. Eight fisherfolk representatives: five municipal fisherfolk, one fishworker and two commercial fishers.

The Council shall adopt rules and regulations necessary to govern its proceedings and election.

SEC. 12. Functions. - The M/CFARMC shall have the following functions:

a. assist in the preparation of the Municipal/City Fisheries Development Plan and submit such plan to the Municipal/City Planning and Development Council;

b. assist in the enforcement of fishery laws, rules and regulations in municipal waters;

c. advise the sangguniang bayan/sangguniang panlungsod on fishery matters and recommend the enactment of fishery ordinances; and

d. perform such other functions which may be assigned by the sangguniang bayan/panlungsod.

SEC. 13. Integrated Fishery and Aquatic Resources Management Council (IFARMC). - The IFARMC shall be created in bays, gulfs, lakes, rivers and dams bounded by two (2) or more municipalities/cities, with the following composition:

a. Chairpersons of the Committees on Agriculture/Fisheries of the concerned sangguniang bayan/panlungsod;

b. Municipal/City Agriculturists/Fishery Officers of the concerned municipalities/cities;

c. Municipal/City Planning and Development Officers of the concerned municipalities/cities;

d. Two representatives from NGO;

e. Two representatives from the academe; and

f. at least seven representatives from the fisherfolk, fishworker and commercial fishers.

The Council shall adopt its rules and regulations to govern its proceedings and election.

SEC. 14. Functions. - The IFARMC shall have the following functions:

a. assist in the preparation of the Integrated Fisheries Development Plan and submit such plan to the concerned Municipal/City Planning and Development Councils;

b. assist in the enforcement of fishery laws, rules and regulations in concerned municipal waters;

c. advice the concerned sangguniang bayan/panlungsod on fishery matters and recommend the enactment of integrated fishery ordinances; and

d. perform such other functions which may be assigned by the concerned sangguniang bayan/panlungsod.

SEC. 15. Source of Funds. - A separate fund for the RFARMC, M/CFARMC and IFARMC shall be established and administered by the Regional Department from its regular annual budgetary appropriations.

ARTICLE VI

MANAGEMENT, DEVELOPMENT, PROTECTION AND DISPOSITION OF FISHERIES AND AQUATIC RESOURCES

SEC. 16. Use of ARMM Waters. - The use and exploitation of fisheries and aquatic resources in ARMM waters shall be reserved exclusively to Filipinos with preference to ARMM residents: Provided, however, That research and survey activities may be allowed under strict regulations, for purely scientific, technological and educational purposes that would also benefit Filipinos.

SEC. 17. Fees and Other Fishery Charges. - The rentals for fishpond areas covered by the Fishpond Lease Agreement (FLA) and fees for Commercial Fishing Boat Licenses, except commercial fishing boat of 3 gross tons or less, shall be set by the Regional Department at levels that reflect resource rent accruing from the utilization of resources: Provided, That the Regional Department shall also prescribed 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 or upon recommendation of the M/CFARMCs.

SEC. 18. Access to Fishery Resources. - The Regional Department shall issue such number of licenses and permits for the conduct of fishery activities subject to the limits of the

MSY of the resource as determined by scientific studies of best available evidence.

SEC. 19. Catch Ceiling Limitations. - For conservation or ecological purposes, the Regional Governor upon the recommendation of the RFARMC may prescribe limitations or quotas on the total quantity of fish captured, for a specified period of time and specified area based on the best available evidence. Such a catch ceiling may be imposed per species of fish, whenever necessary and practicable: Provided, however, That in municipal waters and fishery management areas, catch ceilings may be prescribed upon the concurrence or recommendation of the concerned LGU in consultation with the M/CFARMC; and in waters under the jurisdiction of special agencies, catch ceilings may be established with the concurrence or recommendation of such special agencies.

SEC. 20. Establishment of Closed Season. - The Regional Governor upon the recommendation of the RFARMC may declare, through public notice in two (2) newspapers of regional circulation or in public service announcements, whichever is applicable, at least five (5) days before the declaration, a closed season in any or all ARMM waters outside the boundary of municipal waters for conservation and ecological purposes. The Regional Governor may include waters under the jurisdiction of special agencies, municipal waters, fishery management areas, and other areas reserved for the use of the municipal fisherfolk in the coverage of the closed season upon the concurrence or recommendation of such special agency and the concerned LGU in consultation with the M/CFARMC, as the case may be: Provided, That the LGU in consultation with or upon recommendation of the M/CFARMC may establish closed season in municipal waters, fishery management areas and other areas reserved for the use of the municipal fisherfolk, for conservation or ecological purposes.

SEC. 21. Introduction of Foreign Aquatic Species. - No foreign finfish, mollusk, crustacean or aquatic plants shall be introduced in ARMM waters without a sound ecological, biological and environmental justification based on scientific studies and the bio-safety standard provided for by existing laws: Provided, however, That the Regional Department may approve the introduction of foreign aquatic species for scientific/research purposes.

SEC. 22. Protection of Rare, Threatened and Endangered Species. - The Regional Governor shall declare closed seasons

and take conservation and rehabilitation measures for rare, threatened and endangered species, including their eggs/offspring as may be determined and identified by existing laws in concurrence with concerned government agencies.

SEC. 23. Environmental Compliance Certificate (ECC). - All government agencies and private corporations that intend to undertake projects which will affect the environment shall be required to prepare a detailed Environmental Impact Statements (EIS) prior to undertaking such projects. The EIS shall be submitted to the DENR ARMM for review and evaluation. No person, natural or juridical, shall undertake any development project without first securing an Environmental Compliance Certificate (ECC) from the Regional Secretary of DENR-ARMM.

SEC. 24. Monitoring, Surveillance and Control of ARMM Waters. - A monitoring, surveillance and control system shall be established by the Regional Department in coordination with LGUs, FARMCs, the private sector and other agencies concerned to ensure that the fisheries and aquatic resources in the ARMM are judiciously utilized and wisely managed on a sustainable basis and conserved for the benefit exclusively of Filipino citizens.

SEC. 25. Auxiliary Invoices. - All fishery/aquatic products must have an auxiliary invoice to be issued by the LGUs prior to their transport from their point of origin to their point of destination and/or export purposes upon payment of a fee to be determined by the LGUs to defray administrative costs therefor.

ARTICLE VII

MUNICIPAL FISHERIES

SEC. 26. Jurisdiction of Municipality/City. - The municipality/city shall have jurisdiction over municipal waters as defined in this Code and, in consultation with the M/CFARMC, shall be responsible for the management, development, protection, and disposition of all fisheries and aquatic resources therein.

The municipal/city government may, in consultation with the M/CFARMC, enact appropriate ordinances in accordance with regional fishery policy, subject to review by the sanggunian of the concerned province pursuant to MMA Act 25.

The LGUs shall also enforce all fishery laws, rules and regulations as well as valid fishery ordinances enacted by the municipal/city council.

The management of contiguous fishery resources such as bays which straddle several municipalities, cities or provinces, shall be done in an integrated manner and shall not be based on political subdivisions in order to facilitate their management as single resource system. The LGUs which share or border such resources may group themselves and coordinate with each other to achieve the objectives of integrated fishery resource management. The IFARMC shall serve as the venue for close collaboration among LGUs in the management of contiguous resources.

SEC. 27. Fishing Privileges in Municipal Waters. - The duly registered fisherfolk organizations/cooperatives shall have preference in the grant of fishery rights by the municipality/city pursuant to Section 154 of MMA Act 25.

SEC. 28. Users of Municipal Waters. - All fishery related activities in municipal waters shall be utilized by municipal fisherfolk and their cooperatives/organizations who are listed as such in the registry of municipal fisherfolk.

The municipal or city government may, pursuant to an appropriate ordinance, authorize or permit small (3.1GT to 15 GT) and medium (15.1 GT to 100 GT) commercial fishing vessels to operate within the seven point one (7.1) to twelve (12) kilometer area from the shoreline in municipal waters, as defined herein, provided the following are met:

- a. no commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency;
- b. the use of fishing methods and gears are consistent with policies set by the Regional Department;
- c. prior consultation, through public hearing, with the M/CFARMC has been conducted; and
- d. the applicant vessel as well as the shipowner, employer, captain and crew have been certified by appropriate agency as not having violated this Code and environmental laws.

SEC. 29. Registry of Municipal Fisherfolk. - The LCU shall maintain a registry of municipal fisherfolk who are fishing or may desire to fish in municipal waters for the purpose of determining priorities among them, of limiting entry into the municipal waters, and of monitoring fishing activities and other related purposes: Provided, That the M/CFARMC shall submit to the LGU the list of priorities for its consideration.

Such list or registry shall be updated annually or as may be necessary, and shall be posted in barangay halls or other strategic locations where it shall be open to public inspection, for the purpose of validating the correctness and completeness of the list. The LGU, in consultation with or upon recommendation of the M/CFARMC, shall formulate the necessary mechanisms for inclusion or exclusion procedures that shall be most beneficial to the resident municipal fisherfolk.

The LGU shall also maintain a registry of municipal fishing vessels by type of gear and other boat particulars with the assistance of the M/CFARMC.

SEC. 30. Fisherfolk Organizations/Cooperatives. - Fisherfolk organizations/cooperatives whose members are listed in the registry of municipal fisherfolk may be granted use of demarcated fishery areas to engage in fish capture, seaweeds farming, mariculture and/or fish farming: Provided, however, That an organization/cooperative member whose household is already in possession of a fishery right other than for fish capture cannot enjoy the fishing rights granted to the organization or cooperative.

SEC. 31. Priority of Resident Municipal Fisherfolk. Resident municipal fisherfolk and their organizations/cooperatives shall have priority to exploit municipal and demarcated fishery areas of the concerned municipality.

SEC. 32. Demarcated Fishery Right. - The LCU concerned shall grant demarcated fishery rights to fishery organizations/cooperatives for mariculture operation such as, but not limited to, seaweeds farming and fish farming in specific areas identified by the Regional Department.

SEC. 33. Limited Entry into Overfished Areas. - Whenever it is determined by the LGUs and the Regional Department that a municipal water is overfished or in danger of being overfished,

based on available data, and that there is a need to regenerate the fishery in that water, the LGU shall prohibit or limit fishery activities in said waters.

SEC. 34. Support to Municipal Fisherfolk. - The Regional Department and the LGUs shall provide support to municipal fisherfolk through appropriate technology and research, credit, production and marketing assistance and other services such as training for supplementary livelihood.

SEC. 35. Privileges of Fishworkers. - The Fishworkers shall be entitled to the privileges and benefits accorded to other workers under the Labor Code, Social Security System and other social legislations for workers.

ARTICLE VIII

COMMERCIAL FISHERIES

SEC. 36. Commercial Fishing Vessel License. - No person shall operate a commercial fishing vessel, pearl fishing vessel or fishing vessel for scientific, research or educational purposes, or engage in any fishery activity, or seek employment as a fishworker or pearl diver without first securing a license from the Regional Department: Provided, That no such license shall be required of a fishing vessel engaged in scientific, research or educational purposes pursuant to an international agreement of which the Philippines is a signatory and which agreement defines the status, privileges and obligations of said vessel and its crew and the non Filipino officials of the international agency under which said vessel operates: Provided, further That members of the crew of a commercial fishing vessel except the duly licensed and/or authorized patrons, marine engineers, radio operators and cooks shall be considered as fisherfolk: Provided, furthermore, That all skippers/master fishers shall be required to undertake an orientation training on detection of fish caught by illegal means before they can be issued their fishworker licenses: Provided, finally, That the medium and large commercial fishing vessel license herein authorized to be granted shall allow the licensee to operate only in AIRM waters seven (7) or more fathoms deep, the depth to be certified by NAMRIA, and subject to the conditions that may be stated therein and the rules and regulations that may be promulgated by the Regional Department.

SEC. 37. Persons Eligible for Commercial Fishing Vessel License. - No commercial fishing vessel license shall be issued

except to Filipino citizens and partnerships, associations, cooperatives or corporations duly registered in the Philippines at least sixty percent (60%) of the capital stock of which is owned by Filipino citizens. No person to whom a license has been issued shall sell, transfer or assign, directly or indirectly, his stock or interest therein to any person not qualified to hold a license. Any such transfer, sale or assignment shall be null and void.

For purposes of commercial fishing, fishing vessels owned by a person qualified under this section shall secure Certificate of Philippine Registry and such other documents necessary for fishing operations from the concerned agencies: Provided, That the commercial fishing vessel license shall be valid for a period to be determined by the Regional Department.

SEC. 38. Commercial Fishing Vessel Registration. - The registration, documentation, inspection and manning of the operation of all types of fishing vessels plying ARMM and municipal waters shall be in accordance with existing laws, rules and regulations.

SEC. 39. Registration and Licensing of Fishing Gears. - Before a licensed commercial fishing vessel may begin fishing operations, the fishing gear it will utilize in fishing shall be registered and a license granted therefor. The Regional Department shall promulgate guidelines to implement this provision within ninety (90) days from approval of this Code.

SEC. 40. Renewal of Commercial Boat License. - The commercial fishing boat license shall be renewed every two (2) years.

SEC. 41. Report of Transfer of Ownership. - The owner/operator of a registered fishing vessel shall notify the Regional Department in writing of the transfer of ownership of the vessel with a copy of such document attached within ten (10) days after its transfer.

SEC. 42. Importation and Construction of Fishing Vessels. - Prior to the importation of fishing vessels and the construction of new ones, the approval/clearance of the Regional Department must be obtained.

SEC. 43. Incentives for Municipal Fisherfolk and Fisherfolk Organizations/Cooperatives. - Municipal fisherfolk and fisherfolk

organizations/cooperatives shall be granted incentives which shall include, but are not limited to, the following:

a. at least ten percent (10%) of the credit and the guarantee funds of government financing institutions shall be made available for post-harvest and marketing projects to enhance fisherfolk competitiveness. Qualified projects shall include ice plants, cold storage, canning, warehouse, transport and other related infrastructure facilities; and

b. a capability-building program for targeted parties shall be developed by the Regional Department to promote greater bankability and credit worthiness of municipal fisherfolk and fisherfolk organizations/cooperatives. Groups and cooperatives organized under the program shall have priority access over credit and guarantee funds established under this Code.

SEC. 44. Complement of Fishing Vessels. - Every commercial fishing vessel of Philippine registry when actually operated shall be manned in accordance with the requirements of the Philippine Merchant Marine rules and regulations.

SEC. 45. Medical Supplies and Life-Saving Devices. - All fishing vessels shall be provided with adequate medical supplies and life saving devices to be determined by the Regional Department and other concerned agencies; Provided, That a fishing vessel of fifteen point one (15.1) GT or more shall have as a member of its crew a person qualified as first aider duly certified by the Philippine National Red Cross.

SEC. 46. Reportorial Requirement. - Each commercial fishing vessel shall keep a daily record of the quantity and value of fish catch and spoilage, landing and transshipment points, and sale and/or other disposals. Detailed information shall be duly certified by the vessel's captain and transmitted monthly to the local offices of the Regional Department.

SEC. 47. Color Code and Radio Frequency. - For administrative efficiency and enforcement of regulations, registered fishing vessels shall bear a color code as may be determined by the Regional Department.

In coordination with the National Telecommunications Commission, the Regional Department shall promulgate guidelines

in the operation of radio communication facilities on board fishing vessels and the assignment of radio frequencies that are specific and distinct to their area of operation.

SEC. 48. Transshipment. - Foreign fishing vessels wishing to avail of ARMM facilities to transport fishery/aquatic products which are caught outside ARMM jurisdiction to final destination shall call only at duly designated government owned or controlled regional fishport complexes after securing clearance from the Regional Department.

SEC. 49. Use of Superlight. - The number and wattage of superlights used in commercial fishing vessels shall be regulated by the Regional Department: Provided, That the use of superlights is banned within municipal water and bays.

ARTICLE IX

AQUACULTURE

SEC. 50. Disposition of Public Lands for Fishery Purposes. - All public lands such as tidal swamps, mangroves, marshes, foreshore lands and ponds suitable to fishery operations shall not be disposed or alienated. Upon effectivity of this Code, Fishpond Lease Agreement (FLA) may be issued for public lands declared available for fishpond development to qualified fisherfolk cooperatives/associations: Provided, however, That upon the expiration of existing FLAs, the current lessees shall be given priority and be entitled to extension of fifteen (15) years in the utilization of their respective leased areas. Thereafter, such FLAs shall be granted to any Filipino citizen with preference to qualified fisherfolk cooperatives/associations: Provided, further, That the Regional Governor shall declare as reservation, portions of available public lands certified as suitable for fishpond, fish sanctuary, conservation, and ecological purposes: Provided, finally, That one (1) year after the approval of this Act, no fish pens or fish cages or fish traps shall be allowed in lakes.

SEC. 51. Lease of Fishpond. - The FLA which shall be approved by the Regional Governor shall be subject to the following conditions:

- a. Areas leased for fishpond purposes shall be no more than Thirty (30) hectares for individuals and Two Hundred (200) hectares for corporations or fisherfolk organizations/cooperatives;

b. The lease shall be for a period of twenty (20) years renewable for another twenty (20) years: Provided, That in case of the death of the lessee, his spouse and/or children shall have pre-emptive rights to the unexpired term of his FIA subject to the same terms and conditions provided therein;

c. Lease rates for fishponds shall be determined by the Regional Department: Provided, That one-half (1/2) of the fees collected shall be used for research and development purposes;

d. The area leased shall be producing on a commercial scale within three (3) years from the approval of the lease contract: Provided, however, That all areas not fully producing within five (5) years from the approval of the lease contract shall automatically revert to the public domain for reforestation;

e. The lessee shall not sublease, in whole or in part, or assign his rights under the FIA without prior written approval of the Regional Governor. Violation hereof shall mean cancellation of FIA;

f. The lessee shall undertake reforestation for river banks, bays, streams and seashore fronting the dike of his fishpond subject to the rules and regulations of the Regional Department; and

g. The lessee shall provide facilities that will minimize environmental pollution, i.e., settling ponds, reservoirs, etc. Failure to comply hereof shall mean cancellation of FIA.

SEC. 52. Code of Practice for Aquaculture. The Regional Department shall establish a code of practice for aquaculture that will outline general principles and guidelines for environmentally-sound design and operation to promote the sustainable development of the industry. Such Code shall be developed through a consultative process with the DTIG-ARM, DENR ARM, the fishworkers, FIA holders, fishpond owners, fisherfolk cooperatives, research institutions and the academe, and other potential stakeholders.

SEC. 53. Reversion of All Abandoned, Undeveloped or Underutilized Fishponds. - The DENR ARMM, in coordination with the Regional Department, LGUs, other concerned agencies and RFARMC shall determine which abandoned, undeveloped or underutilized fishponds covered by FLAs can be reverted to their original mangrove state and after having made such determination shall take all steps necessary to restore such areas in their original mangrove state.

SEC. 54. Absentee FLA Holders. - Holders of FLA who have acquired citizenship in another country during the existence of the FLA shall have their lease automatically cancelled and the improvements thereon forfeited and disposed of in accordance with the rules and regulations promulgated thereon.

SEC. 55. License to Operate Fish Pens, Fish Cages, Fish Traps and Other Structures. - Fish pens, fish cages, fish traps and other structures for the culture of fish and other fishery/aquatic products shall be constructed and shall operate only within established zones duly designated by LGUs in consultation with the M/CFARMCs concerned, after the corresponding licenses thereof have been secured. The area to be utilized for this purpose shall be determined by the LGUs in consultation with the concerned M/CFARMC: Provided, however, That not over ten percent (10%) of the suitable water surface area of all rivers shall be allotted for aquaculture purposes like fish pens, fish cages, and fish traps, and the stocking density and feeding requirement shall be controlled and determined by its carrying capacity: Provided, further, That fish pens, fish cages and fish traps located outside municipal waters shall be constructed and operated only within fish pen/fish cage/fish traps belts designated by the Regional Department and after corresponding licenses therefore have been secured and the fees thereof paid.

SEC. 56. Pearl Farm Leases. - Existing pearl farm leases shall be respected and allowed to operate under the terms thereof: Provided, That upon expiration of such lease contracts, the current leasees shall be entitled to extension of fifteen (15) years and be given priority in the renewal of the contracts. The LGUs may grant new leases to qualified persons who possess the necessary capital and technology.

SEC. 57. Privileges for Operations of Fish Pens, Fish Cages, Fish Corrals/Traps, and Similar Structures. - No new concessions, licenses, permits, leases and similar privileges for the

establishment or operation of fish pens, fish cages, fish corrals/traps, and other similar structures in municipal waters shall be granted except to municipal fisherfolk and their organizations/cooperatives.

SEC. 58. Insurance for Fishponds, Fish Cages, Fish Pens and Fish Traps. - Inland fishery such as fishponds, fish cages, fish pens and fish traps shall be covered under the insurance program of the Philippine Crop Insurance Corporation for losses caused by force majeure and fortuitous events.

SEC. 59. Non-Obstruction to Navigation. - Nothing in the foregoing sections shall be construed as permitting the lessee, licensee, or permittee to undertake any construction which will obstruct the free navigation in any stream, river, lake, or bay flowing through or adjoining the fish pens, fish cages, fish traps, and fish ponds, or impede the flow of the tide to and from the area. Any construction made in violation hereof shall be removed upon order of the Regional Department in coordination with other government agencies concerned at the expense of the lessee, licensee, or occupants thereof.

SEC. 60. Non-Obstruction to Migration Paths. - Nothing in the foregoing sections shall be construed as permitting the lessee, permittee, or licensee to undertake any construction which will obstruct any defined migration path of migratory fish species such as river mouths and estuaries within a distance determined by the concerned LGUs in consultation with and upon the recommendation of the M/CFARMCs.

SEC. 61. Registration of Fish Hatcheries and Private Fishponds, etc. - All fish hatcheries, fish breeding facilities and private fishponds must be registered with the LGUs which shall prescribe minimum standards for such facilities in consultation with the Regional Department. All operators of fishponds, fish pens, fish cages and fish traps shall annually report to the Regional Department the type of species and volume of production in areas devoted to aquaculture: Provided, That the Regional Department shall conduct a yearly inventory of all fishponds, fish pens, fish cages and fish traps, whether in public or private lands.

ARTICLE X

POST-HARVEST FACILITIES AND TRADES

SEC. 62. Comprehensive Post-Harvest and Ancillary Industries Plan. - The Regional Department shall formulate a comprehensive plan for post-harvest and ancillary industries, taking into account, among others, the following:

- a. detailed guidelines on the distribution, construction, maintenance and use of post-harvest infrastructure facilities;
- b. extension of credit and incentives for post-harvest operations;
- c. development of domestic fishmeal industry as well as ship-building and repair of fishing vessels;
- d. strengthening of semi-processing, processing and marketing facilities, including the pricing system, with emphasis on collective marketing and elimination of middlemen;
- e. increased participation of cooperatives and non-governmental organizations in post-harvest operations and ancillary industries; and
- f. integration of post-harvest operations into the Comprehensive Regional Fisheries Development Plan.

SEC. 63. Establishment of Post Harvest Facilities for Fishing Communities. - The LGUs shall coordinate with M/CFARMCs and other concerned agencies in the establishment of post-harvest facilities for fishing communities such as, but not limited to, municipal fish landing sites, fish ports, ice plants and cold storages and other fish processing facilities to serve primarily the needs of municipal fisherfolk.

SEC. 64. Registration and Licensing of All Post-harvest Facilities. - All post-harvest facilities such as fish processing plants, ice plants/cold storages, fish ports/landing and other fishery business establishments must register with and be licensed by the LGUs which shall prescribe minimum standards for such facilities in consultation with the Regional Department.

SEC. 65. Importation and Exportation of Fishery Products.

a. Export of fishery/aquatic products shall be regulated whenever such exportation affects food security and production: Provided, That exportation of live fish shall be prohibited except those which are hatched or prepagated in accredited hatcheries and ponds.

b. To protect and maintain local biodiversity or ensure sufficiency of domestic supply, the spawners, breeders, eggs and fry of bangus, prawn and other endemic species, as may be determined by the Regional Department, shall not be exported by any person;

c. Fishery/aquatic products may be imported only when the importation has been certified as necessary by the Regional Department in consultation with the RFARMC, and all the requirements of this Code as well as existing rules and regulations have been complied with: Provided, That fish imports for canning/processing purposes only may be allowed without the necessary certification, but within the provisions of Section 65 (d) of this Code; and

d. No person shall import and/or export fishery/aquatic products of whatever size, stage or form for any purpose without securing a permit from the Regional Governor.

The Regional Department in consultation with the National Department of Agriculture and other concerned agencies shall promulgate rules and regulations on importation and exportation of fishery/aquatic products.

SEC. 66. Instruments of Weights and Measures and Quality Grades/Standards. - Standards for weights, volume and other measurements for all fishery transactions shall be set by the Regional Department.

All fishery/aquatic products for export, import and domestic consumption shall meet the quality grades/standards as determined by the Regional Department.

The LGU concerned shall, by appropriate ordinance, penalize fraudulent practices and unlawful possession or use of instruments of weights and measures.

ARTICLE XI

FISHERY RESERVES, REFUGE AND SANCTUARIES

SEC. 67. Areas Reserved for Exclusive Use of Autonomous Regional Government. - The Regional Governor may designate area or areas in ARMM waters beyond twelve (12) kilometers from shoreline as fishery reservation for the exclusive use of the autonomous regional government or any of its political subdivisions, agencies or instrumentalities, for propagation, educational, research and scientific purposes: Provided, That the concerned LGUs in consultation with or upon recommendation of the M/CFARMCs may recommend to the Regional Governor that portion of the municipal waters be declared as fishery reserves for special or limited use for educational, research, and/or special management purposes.

SEC. 68. Fish Refuge and Sanctuaries. - The Regional Governor may establish fish refuge and sanctuaries to be administered in the manner to be prescribed by the Regional Department with at least twenty-five percent (25%) but not more than forty percent (40%) of bays, foreshore lands, continental shelf or any fishing ground which shall be set aside for the cultivation of mangroves to strengthen the habitat and the spawning ground of fish. Within these areas, no commercial fishing shall be allowed: Provided, however, That in municipal waters, the concerned LGU in consultation with or upon recommendation of the M/CFARMC may establish fishery refuge and sanctuaries in at least fifteen percent (15%), where applicable, of the total coastal areas in each municipality/city based on the best available scientific data and in consultation with the Regional Department.

The administration and supervision of all marine fishery reserves, fish sanctuaries and mangrove swamp reservations already declared by the President or legislated by the Congress of the Philippines shall be transferred to, or exercised by, the autonomous regional government within two years from effectivity of this Code.

ARTICLE XII

PROHIBITIONS AND PENALTIES

SEC. 69. Unauthorized Fishing or Other Unauthorized Fishery

Activities. - No person shall exploit, occupy, produce, breed, culture, capture, or gather fish, fry or fingerlings of any fishery species or fishery products, or engage in any fishery activity in the ARMM without a license, lease or permit.

Discovery of any person in an area where he has no permit or registration papers for a fishing vessel shall constitute a prima facie presumption that the person and/or vessel 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.

It shall be unlawful for any commercial fishing vessel to fish in bays and in such other fishery management areas which are declared as over-exploited.

Any commercial fishing boat captain or the three (3) highest officers of the boat who commit any of the above prohibited acts shall be punished by a fine equivalent to the value of catch or Ten Thousand Pesos (P10,000.00) whichever is higher, and imprisonment of six (6) months, confiscation of catch and fishing gears, and automatic revocation of license.

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. Violation hereof shall be punished by confiscation of catch and a fine of Five Hundred Pesos (P 500.00).

SEC. 70. Poaching in ARMM Waters. - It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in ARMM waters.

The entry of any foreign fishing vessel in ARMM waters shall constitute a prima facie evidence that the vessel is engaged in fishing in ARMM waters.

Violation of the above shall be punishable by a fine of One Hundred Thousand U.S. Dollars (US\$100,000.00) in addition to the confiscation of the catch, fishing equipment and fishing vessel: Provided, That the Regional Governor is empowered to impose an administrative fine of not less than Fifty Thousand U.S. Dollars (US\$50,000.00) but not more than Two Hundred Thousand U.S. Dollars (US\$200,000.00) or its equivalent in Philippine Currency.

SEC. 71. Fishing Through Explosives, Noxious or Poisonous Substance, and/or Electricity. - (1) 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 ARMM waters with the use of electricity, explosives, noxious or poisonous substances such as sodium cyanide which will kill, disable or render unconscious fish or fishery species: Provided, That the Regional Department, subject to such safeguards and conditions deemed necessary and endorsement from the concerned LGUs, may allow the use of electricity, poisonous or noxious substances to catch, take or gather fish or fishery species for research, educational or scientific purposes only, Provided, further, That the use of poisonous or noxious substances to eradicate predators in fishponds in accordance with accepted scientific practices and without causing adverse environmental impact in neighboring waters and ground shall not be construed as illegal fishing.

It will likewise be unlawful for any person to possess, deal in, sell or in any manner dispose of, any fish or fishery species which have been illegally caught, taken, or gathered.

The discovery of dynamite, other explosives and chemical compounds which contain combustible elements, or noxious or poisonous substances, or equipment or device for electro-fishing in any fishing vessel or in the possession of any fisherfolk, operator, fishing boat official or fishworker shall constitute prima facie evidence that the same was used for fishing in violation of this Code. The discovery in any fishing vessel of fish caught or killed with the use of explosive, noxious or poisonous substances or electricity shall constitute a prima facie evidence that the fisherfolk, operator, boat official or fishworker is fishing with the use thereof.

(2) Mere possession of explosive, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from six (6) months to two (2) years.

(3) Actual use of explosives, noxious or poisonous substances or electrofishing devices for illegal fishing shall be punishable by imprisonment ranging from five (5) years to ten (10) years without prejudice to the filing of separate criminal case when the use of the same results to physical injury or loss of human life.

(4) Dealing in, selling, or in any manner disposing of, for profit, illegally caught/gathered fishery species shall be punishable by imprisonment ranging from six (6) months to two (2) years.

(5) In all cases enumerated above, the explosives, noxious or poisonous substances and/or electrical devices, as well as the fishing vessels, fishing equipment and catch shall be forfeited.

SEC. 72. Use of Fine Mesh Net. - It shall be unlawful to engage in fishing using nets with mesh smaller than that which may be fixed by the Regional 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 alaming and such species which by their nature are small but already mature, to be identified in the rules and regulations of the Regional Department.

Violation of the above shall subject the offender to a fine from Two Thousand Pesos (P2,000.00) to Twenty Thousand Pesos (P 20,000.00) or imprisonment from six (6) months to two (2) years, or both fine and imprisonment, at the discretion of the court: Provided, That if the offense is committed by a commercial fishing vessel, the owner/operator, the boat captain and the master fisherman shall also be subjected to the penalties provided herein: Provided, further, That the Regional Governor is hereby empowered to impose upon the offender an administrative fine or cancel his permit/license, or both.

SEC. 73. Use of Active Gear in Municipal Waters, Bays and Other Fishery Management Areas. - It shall be unlawful to engage in fishing in municipal waters, bays and other fishery management areas using active fishing gears as defined in this Code. Violators hereof shall suffer the following penalties:

(1) The captain and master fisherman of the vessel shall suffer the penalty of imprisonment from two (2) years to six (6) years;

(2) The owner/operator of the vessel shall be fined from Two Thousand Pesos (P 2,000.00) to Twenty Thousand Pesos (P20,000.00). If the owner/operator is a corporation, the penalty shall be imposed on the chief executive officer of the Corporation. If it is a partnership, the penalty shall be imposed on the managing partner; and

(3) The catch and fishing gear shall be forfeited.

SEC. 74. Ban on Coral Exploitation and Exportation. - It shall be unlawful for any person to gather, possess, sell or export ordinary, precious and semi-precious corals, whether raw

or in processed form, except for scientific or research purposes.

Violation of this provision shall be punishable by imprisonment from six (6) months to two (2) years or a fine from Two Thousand Pesos (P2,000.00) to Twenty Thousand Pesos (P20,000.00), or both fine and imprisonment, at the discretion of the court, and forfeiture of such corals including the vessel.

The confiscated corals shall either be returned to the sea or donated to schools and museums for educational or scientific purposes or disposed through other means, in accordance with the guidelines to be promulgated by the Regional Department.

SEC. 75. Ban on Muro-Ami, Other Methods and Gear Destructive to Coral Reefs and Other Marine Habitat. - It shall be unlawful for any person to fish with gear method that destroys coral reefs, seagrass beds, and other marine life habitat as may be determined by the Regional Department. "Muro-Ami" and any of its variation, and such similar gear 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.

The operator, boat captain, master fisherman, and recruiter or organizer of fishworkers who violate this provision shall suffer a penalty of two (2) years to ten (10) years imprisonment or a fine of not less than One Hundred Thousand Pesos (P100,000.00) to Five Hundred Thousand Pesos (P500,000.00) or both fine and imprisonment, at the discretion of the court. The catch and gear used shall be forfeited.

It shall likewise be unlawful for any person to gather, sell or export white sand, silica, pebbles and any other substances which make up any marine habitat. Violator hereof shall suffer a penalty of two (2) years to ten (10) years imprisonment or a fine of not less than One Hundred Thousand Pesos (P100,000.00) to Five Hundred Thousand Pesos (P500,000.00), or both fine and imprisonment at the discretion of the court. The substance taken from its marine habitat shall be forfeited.

SEC. 76. Illegal Use of Superlights. - It shall be unlawful to engage in fishing with the use of superlights in municipal waters or in violation of the rules and regulations which may be promulgated by the Regional Department on the use of superlights outside municipal waters.

Violator hereof shall be punished by imprisonment from six (6) months to two (2) years or a fine of Five Thousand Pesos (P5,000.00) per superlight, or both such fine and imprisonment, at the discretion of the court. The superlight, fishing gears and vessel shall be confiscated.

SEC. 77. Conversion of Mangroves. - It shall be unlawful for any person to convert mangroves into fishponds or for any other purposes.

Violation of this provision shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty Thousand Pesos (P80,000.00) at the discretion of the court: Provided, That if the area requires rehabilitation or restoration as determined by the court, the offender shall also be required to restore or compensate for the restoration of the damage.

SEC. 78. Fishing in Overfished Area and During Closed Season. - It shall be unlawful to fish in overfished area and during closed season. Violator hereof shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or a fine of Six Thousand Pesos (P6,000.00) at the discretion of the court. The catch shall be forfeited and the fishing permit or license shall be cancelled.

SEC. 79. Fishing in Fishery Reserves, Refuge and Sanctuaries. - It shall be unlawful to fish in fishery reserves, refuge and sanctuaries. Violator hereof shall be punished by imprisonment of two (2) years to six (6) years and/or a fine of Two Thousand Pesos (P2,000.00) to Twenty Thousand Pesos (P20,000.00) at the discretion of the court. The catch shall be forfeited and the fishing permit or license shall be cancelled.

SEC. 80. Fishing or Taking of Rare, Threatened or Endangered Species. - It shall be unlawful to fish or take rare, threatened or endangered species as listed in the CITES and as determined by the Regional Department.

Violation of this provision shall be punished by imprisonment of twelve (12) years to twenty (20) years and/or a fine of One Hundred and Twenty Thousand Pesos (P120,000.00), at the discretion of the court. The catch shall be forfeited and the fishing permit shall be cancelled.

SEC. 81. 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 such other breeders or spawners of other fishery species as may be determined by the Regional Department: Provided, That catching of "sabalo" and other breeders/spawners for local breeding, scientific or research purposes may be allowed subject to guidelines to be promulgated by the Regional Department.

Violation of this provision shall be punished by imprisonment of six (6) months and one (1) day to eight (8) years and/or a fine of Eighty Thousand Pesos (P80,000.00) at the discretion of the court. The catch and fishing equipment shall be forfeited and the fishing license shall be revoked.

SEC. 82. Exportation of Breeders, Spawners, Eggs or Fry. - Exportation of breeders, spawners, eggs or fry as prohibited in this Code shall be punished by imprisonment of eight (8) years and/or a fine equivalent to double the value of the same, at the discretion of the court. The fishing and export license/permit shall be revoked.

SEC. 83. Importation or Exportation of Fish or Fishery Species. - Any importation or exportation of fish or fishery species in violation of this Code shall be punished by eight (8) years of imprisonment and/or a fine of Eighty Thousand Pesos (P80,000.00) at the discretion of the court. The live or non-live fish or fishery species shall be forfeited for proper disposition.

SEC. 84. Violation of Catch Ceilings. - It shall be unlawful for any person to fish in violation of catch ceilings as determined in this Code. Violation of this provision shall be punished by imprisonment of six (6) months and one (1) day to six (6) years and/or a fine of Fifty Thousand Pesos (P50,000.00), at the discretion of the court. The catch and fishing equipment used shall be forfeited and the fishing license/permit shall be revoked.

SEC. 85. Aquatic Pollution. - Any person Violating the provision on aquatic pollution as defined in this code shall be punished by imprisonment of six (6) years and one (1) day to twelve (12) years and/or a fine of Eighty Thousand Pesos (P80,000.00) plus an additional fine of Eight Thousand Pesos (P8,000.00) per day until such violation ceases and the fines paid, at the discretion of the court.

SEC. 86. Other Violations. - The following fishery activities shall also be considered as violation of this Code:

a. 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 immediately prevented from continuing with his fishing activity and escorted to the nearest port or landing point. The license to operate the commercial fishing vessel shall be suspended until the safety standard has been complied with.

b. Failure to Conduct a Yearly Report on all Fishponds, Fish Pens and Fish Cages. - The FLA of the holder who fails to render a yearly report shall be immediately cancelled; Provided, That if the offender is the owner of the fishpond, fish pen or fish cage, he shall be subjected to the following penalties: (1) first offense, a fine of Five Hundred Pesos (P500.00) per unreported hectare; and (2) subsequent offenses, a fine of One Thousand Pesos (P1,000.00) per unreported hectare.

c. Gathering and Marketing of Shell Fishes. - It shall be unlawful for any person to take, sell, transfer, or have in possession for any purpose any shell fish which is sexually mature or below the minimum size or above the maximum quantities prescribed for the particular species.

d. Obstruction to Navigation or Flow of Tide - It shall be unlawful for any person who causes obstruction to navigation or flow of tide in any stream, river, lake or bay.

e. Construction and Operation of Fish Corrals/Traps, Fish Pens and Fish Cages. - It shall be unlawful to construct and operate fish corrals/traps, fish pens and fish cages without a license/permit.

Subject to the provision of subparagraph (b) of this section, violation of the above-enumerated prohibited acts shall subject the offender to a fine ranging from Two Thousand Pesos (P2,000.00) to Ten Thousand Pesos (P10,000.00) or imprisonment from one (1) month and one (1) day to six (6) months, or both such fine and imprisonment, upon the discretion of the court: Provided, That the Regional Governor is hereby empowered to impose upon the offender an administrative fine of not more than

Ten Thousand Pesos (P10,000.00) and/or to cancel his permit or license, in the discretion of the Regional Governor: Provided, further, That the Regional Governor, or his duly authorized representative, and law enforcement agents are hereby empowered to impound with the assistance of the PNP-ARMM and the Philippine Coast Guard: Provided, finally, That any person who unlawfully obstructs or delays the inspection and/or movement of fish and fishery/aquatic products shall be subject to a fine of not more than Ten Thousand Pesos (P10,000.00) or imprisonment of not more than two (2) years, or both such fine and imprisonment, upon the discretion of the court.

Every penalty imposed for the commission of an offense shall carry with it the forfeiture of the proceeds of such offense and the instruments or tools with which it was committed. Such proceeds and instruments or tool shall be forfeited in favor of the Regional Department, unless they belong to third person not liable for the offense. Those articles which are not subject of lawful commerce shall be destroyed.

SEC. 87. Commercial Fishing Vessel Employing Unlicensed Fisherfolk or Fishworker or Crew. - The owner/operator of a commercial fishing vessel employing unlicensed fisherfolk or fishworker shall be fined Five Hundred Pesos (P500.00) every month for each unlicensed fisherfolk or fish worker employed and/or One Thousand Pesos (P1,000.00) every month for each unlicensed crew member who has been employed.

SEC. 88. Obstruction of Defined Migration Paths. - Any person who obstructs any defined migration paths of anadromous, catadromous and other migratory species, in areas including, but not limited to, river mouths and estuaries within a distance determined by the concerned LGUs in consultation with and upon recommendation of M/CFARMCs shall be punished by imprisonment of seven (7) years to twelve (12) years or a fine from Fifty Thousand Pesos (P50,000.00) to One Hundred Thousand Pesos (P100,000.00), or both imprisonment and fine, at the discretion of the court. The permit/license, if any, shall be cancelled and the obstruction shall be dismantled and confiscated at his own expense.

SEC. 89. Obstruction to Fishery Law Enforcement Officer. - The boat owner, master or operator or any person acting on his behalf of any fishing vessel who evades, obstructs or hinders any fishery law enforcement officer of the Regional Department to perform his duty, shall be fined Ten Thousand Pesos (P10,000.00).

In addition, the registration, permit and/or license of the vessel including the license of the master fisherman shall be cancelled.

ARTICLE XIII

GENERAL PROVISIONS

SEC. 90. Fisherfolk Resettlement Areas. - The Regional Department shall establish fisherfolk resettlement areas in coordination with concerned agencies of the government, where certain areas of the public domain, specifically near the fishing grounds, shall be reserved for the resettlement of the municipal fisherfolk. Nothing in this section shall be construed to vest ownership of any resettlement area to a municipal fisherfolk for whom said areas may have been reserved for or had been actually granted to.

SEC. 91. Upgrading of State Fishery Schools. - The Regional Department, in coordination with the Commission on Higher Education-ARMM (CHED-ARMM), Department of Education, Culture and Sports-ARMM (DECS-ARMM), and Technical Education and Skills Development Authority-ARMM (TESDA-ARMM), shall upgrade State Fishery Schools: Provided, however, That appropriate fish technology subject shall be incorporated in the curricula of fishery schools.

The Regional Department and the CHED-ARMM shall jointly formulate standards to upgrade all fishery schools. Fisheries schools that do not meet the minimum standards shall be closed.

SEC. 92. Inclusion of Fishery Conservation Subject in School Curricula. - Fishery conservation subject shall be incorporated in the curricula of elementary and secondary schools, both private and public.

SEC. 93. Educational campaign at all levels. - The Regional Department, CHED-ARMM, DECS-ARMM, TESDA-ARMM and DILG-ARMM shall launch and pursue educational campaign to help realize regional policies and implement the provisions of this Code.

SEC. 94. Infrastructure Support. - The Regional Department in cooperation with concerned agencies shall:

- a. prepare and implement a regional plan for the development of municipal fishing ports and markets;
- b. prioritize the construction of farm-to-market roads linking production sites, coastal landing points and other post-harvest facilities to major market and arterial roads/highways;
- c. construct community infrastructure facilities such as fish landing ports, ice plant and cold storage in consultation with fishery cooperatives/associations, consistent with international environmental standards;
- d. establish quality laboratories in major fish ports and prescribe the highest standards for the operation of such post-harvest facilities; and
- e. promote and strengthen local ship-building and repair industry for fishing vessels.

SEC. 95. Protection of Sensitive Technical Information. - The Regional Department shall take such measures as may be necessary in order to protect trade, industrial and policy information of Filipino fisherfolk, fisheries owners/operators, entrepreneurs, manufacturers and researchers, when disclosure of such information will injure the competitiveness or viability of domestic fisheries.

SEC. 96. Persons and Deputies Authorized to Enforce this Code and Other Fishery Laws. - The law enforcement officers of the Regional Department, the PNP-ARMM, the Philippine Navy, Philippine Coast Guard, Law Enforcement Officers of the LGUs and other government enforcement agencies, are hereby authorized to enforce this Code and other fishery laws, rules and regulations. Other competent government officials and employees, punong barangays and officers and members of fisherfolk associations/cooperatives who have undergone training on law enforcement may be designated in writing by the Regional Governor as deputy fish wardens in the enforcement of this Code and other fishery laws, rules and regulations.

SEC. 97 . Financial Assistance. - For the management, development and conservation of the fisheries and aquatic resources, the Regional Governor shall make representation with appropriate funding institutions, domestic or international, to seek grants or donations or other forms of financial assistance.

SEC. 98. Mandatory Review. - The Regional Legislative Assembly shall undertake a mandatory review of this Code at least once every five (5) years and as often as it may deem necessary, to ensure that fishery policies and guidelines remain responsive to changing circumstances.

SEC. 99. Research and Development. - In recognition of the important role of research in the management, development, protection and disposition of the ARMM's fisheries and aquatic resources, the Regional Department shall be required to avail of the services and assistance of the National Fisheries Research and Development Institute which is attached to the national Department of Agriculture, for research and educational purposes.

ARTICLE XIV

FINAL PROVISIONS

SEC. 100. Appropriation. - The sum necessary for the initial implementation of the provisions of this Act shall be sourced from the budget of the Regional Department and other agencies performing fishery-related functions. Appropriations for succeeding years shall be included in the regular annual budget of the Regional Department.

SEC. 101. Separability Clause. - If any portion or provision of this Code is declared unconstitutional or invalid, the other portions or provisions hereof, which are not affected thereby, shall continue in full force and effect.

SEC. 102. Effectivity. - This Code shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of regional circulation.

APPROVED:


KABILAN G. SEMA
Speaker

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This Act was approved by the Regional Legislative Assembly
on June 10, 1999.



WILSON S. ANNI
Secretary General

APPROVED:

PROFESSOR NUR P. MISUARI
Regional Governor
Date _____