

F I S H E R Y

(Law No. 31/2004 dated October 6, 2004)

WITH GRACE OF THE ALMIGHTY GOD,
PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

- a. that, the waters under the sovereignty and jurisdiction of the Unitary State of the Republic of Indonesia and Indonesian Exclusive Economic Zone and open seas based on international regulations containing potential fish resources and fish breeding grounds are the blessings of the One and Only God mandated to the Indonesian nation having Pancasila as its basic principles and 1945 Constitution to be utilized optimally for the welfare and prosperity of the Indonesian people;
- b. that, in the framework of implementation of national development based on the Archipelago Concept, cultivation of fish resources has to be implemented optimally based on justice and even distribution in the utilization thereof by giving of priority to the expansion of work opportunities and improvement of standard of living of fishermen, fish breeders, and/or parties related to fishery activities, and conservation of fish resources and the environment thereof;

- c. that, the existing Law No. 9/1985 on Fishery has not accommodated all aspects of cultivation of fish resources and is less able to anticipate the development of legal need and technological advancement in the framework of cultivation of fish resources, therefore it must be amended;
- d. that, based on the considerations as set forth in paragraphs a, b, and c, it is necessary to establish Law on Fishery to replace Law No. 9/1985 on Fishery;

In view of:

Articles 20, 21, and 33 of 1945 Constitution.

With joint approval of
THE HOUSE OF REPRESENTATIVES OF
THE REPUBLIC OF INDONESIA
and
PRESIDENT OF THE REPUBLIC OF INDONESIA

D E C I D E S :

To stipulate:

LAW ON FISHERY.

CHAPTER I GENERAL PROVISIONS PART ONE Definitions Article 1

Hereinafter referred to as:

1. Fishery is all activities relating to the cultivation and utilization of fish resources and the environment thereof, starting from pre-production, production, cultivation, up to marketing, implemented in a system of fishery business.
2. Fish Resources are the potentiality of all kinds of fish.
3. Fish Resource Environment is the water as the living place for fish resources, including biota and the surrounding natural factors.
4. Fish is all kinds of organisms, all or part of which life cycle is in the watery areas.

5. Fish Catching is an activity to acquire fish from the waters not cultivated by any means or method, including activities by ships to load, transport, store, cool, handle, process and/or preserve it.
6. Fish Breeding is an activity to raise, grow, and/or breed fish and to harvest the output in a controlled environment, including activities by boats to load, transport, store, cool, handle, process, and/or preserve it.
7. Fish Cultivation is all efforts, including an integrated process in compiling information, analysis, planning, consultation, decision-making, allocation of fish resources, and implementation and enforcement of law and regulations in fishery, implemented by the government or any other authority, which is directed toward achievement of continuing productivity of biological resources in the waters and the agreed purposes.
8. Conservation of Fish Resources is efforts to protect, preserve, and utilize fish resources, including the ecosystems, types, and genetics to ensure the existence, availability, and continuity by maintaining and increasing of quality of value and variety of fish resources.
9. Fishery Boat is a ship, boat, or other floating means used to catch fish, to support fish catching, fish breeding, fish transportation, fish processing, trainings on fishery, and fishery research/exploration.
10. Fisherman is a person whose means of living is catching fish.
11. Small Fisherman is a person whose means of living is catching fish to fulfill his daily necessities.
12. Fish Breeder is a person whose means of living is breeding fish.
13. Small Fish Breeder is a person whose means of living is breeding fish to fulfill his or her daily necessities.
14. Every Person is a person or a corporation.
15. Corporation is a group of well-organized persons and/or assets, a corporation or non-corporation.

- 16. Licensing of fisheries, hereinafter referred to as SIUP, is written permission that must be owned fishing companies to conduct fishing operations using production facilities specified in the license.**
- 17. Fishing license, hereinafter called the SIPI, it is written permission that must be owned by a fishing vessel to fish that are an integral part of SIUP.**
- 18. Fishing vessel permit, hereinafter referred to SIKPI, is written permission that must be owned by a fishing vessel to fish transportation.**
- 19. Indonesia's territorial sea is the sea lane width of 12 (twelve) nautical miles measured from the baseline of the Indonesian archipelago.**
- 20. Indonesian waters are the Indonesian territorial sea and archipelagic waters and the waters pedalamananya.**
- 21. Indonesian exclusive economic zone, hereinafter referred to IEEZ, is a point beyond and adjacent to the territorial sea of Indonesia as defined under the applicable laws concerning Indonesian waters including the seabed, subsoil, and water on them with the outer limit of 200 (two hundred) nautical miles measured from the Indonesian territorial sea baseline.**
- 22. Open sea is part of the sea that are not included in IEEZ, Indonesia's territorial sea, archipelagic waters of Indonesia, and inland waters of Indonesia.**
- 23. Fishing port is a place that consists of land and surrounding waters with certain limits as a place of government activity and the activities of fisheries business system that is used as a place of fishing boats to dock, anchor, and / or loading and unloading of fish that are equipped with safety of shipping facilities and activities supporting fisheries.**
- 24. Minister is the minister responsible for fisheries.**
- 25. Government is the Central Government.**
- 26. Local Government is the Government of the Province and / or the Government District.**

Chapter II - Principles and Objectives

Article 2

Fisheries management is based on the principle of benefit, justice, partnership, equity, integrity, openness, efficiency, and sustainable conservation.

Article 3

Implemented with the aim of fisheries management:

- a. improve livelihoods of fishermen and small-power pembudi small fish;**
- b. increase revenue and foreign exchange;**
- c. encourage expansion and employment opportunities;**
- d. increase the availability and consumption of fish protein sources;**
- e. optimize the management of fish resources;**
- f. improve productivity, quality, value added, and competitiveness;**
- g. increase the availability of raw material for fish processing industry;**
- h. achieve utilization of fish resources, fish cultivation land, and environment of fish resources optimally; and**
- i. ensure the sustainability of fish resources, fish cultivation land and layouts.**

Chapter III -Scope

Article 4

This Act applies to:

- a. everyone, both Indonesian citizens and foreign citizens and Indonesian legal entities and foreign legal entities, which conduct fishing activities in the territory of the Republic of Indonesia fisheries management;**
- b. a fishing vessel flying the Indonesian and foreign-flagged fishing vessel, which conducts fisheries management of fisheries in the region of the Republic of Indonesia;**
- c. each of the Indonesian-flagged fishing vessel fishing outside the territory of the Republic of Indonesia fisheries management; and**
- d. each of the Indonesian-flagged fishing vessels engage in fishing, either individually or together, in the form of cooperation with foreign parties.**

Article 5

- (1) The Indonesian fish cultivation territory for fish catching and/or breeding consists of:
- a. Indonesian waters;
 - b. ZEEI;
 - c. Rivers, lakes, water reservoirs, swamps, and other watery areas, which can be operated, and potential fish breeding area in the Indonesian territory.
- (2) Fish cultivation outside the Indonesian fish cultivation territory, as set forth in paragraph (1), shall be operated based on the laws, conditions, and or international standards, which are generally acceptable.

CHAPTER IV
FISH CULTIVATION

Article 6

- (1) Fish cultivation in the Indonesian fish cultivation territory shall be done for the achievement of optimal and constant benefit and guaranteed conservation of fish resources.
- (2) Fish cultivation for fish catching and breeding purposes must observe the traditional law and/or local point of view and the role of the society.

Article 7

- (1) In the framework of supporting of fish resource cultivation policy, the Minister will determine:
- a. Fish cultivation plan;
 - b. Potentiality and allocation of fish resources in the Indonesian fish cultivation territory;
 - c. Permitted quantity of fish caught in the Indonesian fish cultivation territory;
 - d. Potentiality and allocation of fish breeding grounds in the Indonesian fish cultivation territory;
 - e. Potentiality and allocation of mothers and germs of certain kinds of fish in the Indonesian fish cultivation territory;
 - f. Type, quantity, and size of fishing gears;
 - g. Type, quantity, size, and placement of fish catching means;
 - h. Fish catching area, belt, and time or season;
 - i. Requirements or standards of procedure for fish catching;
 - j. Fishing boat monitoring system;

- k. Types of new fish that will be cultivated;
- l. Types of fish and re-spreading territory and breeding-based fish catching;
- m. Fish breeding and the protection thereof;
- n. Prevention of pollution and damage to fish resources and the environment thereof;
- o. Rehabilitation and improvement of fish resources and the environment thereof;
- p. Minimum size or weight of types of fish permitted to be caught;
- q. Fish sanctuary;
- r. Epidemics and fish epidemic territory;
- s. Types of fish not allowed to be traded, introduced, and exited to and from the Indonesian territory; and
- t. Types of protected fish.

- (2) Every person who operates fish cultivation business and/or activity must obey the provisions of paragraph (1) relating to:
- a. Type, quantity, and size of fishing gears;
 - b. Type, quantity, size, and placement of fish catching means;
 - c. Fish catching territory, belt, and time or season;
 - d. Requirements or standards of procedure for fish catching;
 - e. Fishing boat monitoring system;
 - f. Types of new fish, which will be cultivated;
 - g. Types of fish and re-spreading territory and breeding-based fish catching;
 - h. Fish breeding and the protection thereof;
 - i. Prevention of pollution and damage to fish resources and the environment thereof;
 - j. Minimum size or weight of types of fish permitted to be caught;
 - k. Fish sanctuary;
 - l. Epidemics and fish epidemic territory;
 - m. Types of fish not allowed to be traded, introduced, and exited to and from the Indonesian territory;
 - n. Types of protected fish.

- (3) The Minister shall determine the potentiality and permitted quantity of fish caught, as set forth in paragraph (1) clauses b and c, after considering the recommendation of the national commission examining fish resources.

- (4) The national commission, as referred to in paragraph (3), is established by the Minister with membership composing of experts from the related institutions.
- (5) The Minister shall determine the types of fish of the water territory, which are protected, including the national sea park for the purposes of science, culture, tourism, and/or conservation of fish resources and/or the environment thereof.
- (6) In the framework of acceleration of fishery development, the government shall form a national fishery development advisory council presided by the President with members consisting of the related ministers, fishery association, and individuals having interest in fishery development.
- (7) Further provisions regarding structure of organization and operational procedure of the national fishery development advisory council, as set forth in paragraph (6), will be stipulated in a Presidential Decree.

Article 8

- (1) Every person shall not do fish catching and/or breeding by chemical substances, biological substances, explosives, means and/or methods, and/or structures, which may harm and/or damage the conservation of fish resources and/or the environment thereof in the Indonesian fish cultivation territory.
- (2) The ship master or captain of the fishing boat, fish catching specialist, and ship crews who catch fish shall not use chemical substances, biological substances, explosives, means and/or methods, and/or structures, which may harm and/or damage the conservation of fish resources and/or the environment thereof in the Indonesian fish cultivation territory.
- (3) Owners of fishing boats, owners of fishery companies, managers of fishery companies, and/or fishing boat operators shall not use chemical substances, biological substances, explosives, means and/or methods, and/or structures, which may harm and/or damage the conservation of fish resources and/or the environment thereof in the Indonesian fish cultivation territory.
- (4) Owners, authorized parties, and/or managers of fish breeding companies shall not use chemical substances, biological substances, explosives, means and/or methods, and/or structures, which may harm and/or damage the conservation of fish resources and/or the environment thereof in the Indonesian fish cultivation territory.
- (5) The use of chemical substances, biological substances, explosives, and means and/or methods and/or structures for catching and/or breeding fish, as set forth in paragraph (1), shall only be allowed for research purposes.
- (6) Further provisions regarding the use of chemical substances, biological substances, explosives, means and/or methods and/or structures for catching and/or breeding fish, as set forth in paragraph (5), will be stipulated in a Government Regulation.

Article 9

Every person shall not own, control, bring, and/or use in the fishing boat in the Indonesian fish cultivation territory, the following items:

- a. Fishing gears and/or fish catching means, which are not according to the determined size;
- b. Fishing gears, which are not according to the requirements or standards determined for types of certain equipment; and/or
- c. Fishing gears, which are prohibited to be used.

Article 10

- (1) For international cooperation purposes, the government:
 - a. May publish regularly matters relating to conservation and cultivation of fish resources;
 - b. Cooperate with the neighboring countries or any other countries in the framework of conservation and cultivation of fish resources in the open sea, closed or semi-closed open sea, and enclave;
 - c. Notify and submit the related evidences to the country of origin of ship's flag suspected of doing activities that may hamper conservation and cultivation of fish resources.

- (2) The government shall play an active role in the membership of regional and international agencies/institutions/organizations in the framework of cooperation in the regional and international fish cultivation.

Article 11

- (1) For the conservation of fish resources and utilization of fish breeding grounds, the Minister shall determine a critical condition, which endangers or may endanger the availability of fish, fish species, or fish breeding grounds in the Indonesian fish cultivation territory.
- (2) The Minister shall publish the steps to prevent the critical condition, as set forth in paragraph (1).

Article 12

- (1) Every person shall not do something, which will cause pollution and/or damage to fish resources and the environment thereof in the Indonesian fish cultivation territory.
- (2) Every person shall not do fish breeding, which may endanger fish resources and the environment thereof and/or human health in the Indonesian fish cultivation territory.
- (3) Every person shall not cultivate fish as a result of genetic engineering, which may endanger fish resources and the environment thereof and/or human health in the Indonesian fish cultivation territory.
- (4) Every person shall not use medicine in breeding fish, which may endanger fish resources and the environment thereof and/or human health in the Indonesian fish cultivation territory.
- (5) Further provisions regarding the matters as set forth in paragraphs (1), (2), (3), and (4) will be set forth in a Government Regulation.

Article 13

- (1) In the framework of cultivation of fish resources, efforts to conserve the ecosystem, fish, and fish engineering shall be implemented.

- (2) Further provisions regarding the conservation of the ecosystem, fish, and fish engineering, as set forth in paragraph (1), will be stipulated in a Government Regulation.

Article 14

- (1) The government shall regulate and/or develop the utilization of sperm plasma relating to fish resources in the framework of conservation of the ecosystem and preservation of fish resources.
- (2) Every person must preserve sperm plasma relating to fish resources.
- (3) The government shall monitor the introduction of new types of fish from abroad and/or inter-island traffic to ensure the preservation of sperm plasma relating to fish resources.
- (4) Every person shall not harm sperm plasma relating to fish resources.
- (5) Further provisions regarding the utilization and conservation of sperm plasma relating to fish resources, as set forth in paragraphs (1), (2), and (3), will be stipulated in a Government Regulation.

Article 15

The government shall manage the introduction and/or exit of types of candidate mothers and/or germs of fish into and from the Indonesian fish cultivation territory.

Article 16

- (1) Every person shall not introduce, exit, procure, distribute, and/or cultivate fish that harm the society, fish cultivation, fish resources, and/or fish resource environment to and/or from the Indonesian fish cultivation territory.
- (2) Further provisions regarding the introduction, exit, procurement, distribution, and/or cultivation of fish, as set forth in paragraph (1), will be stipulated in a Government Regulation.

Article 17

The government shall manage and develop the

utilization

utilization of facilities and infrastructure for fish breeding in the framework of development of fish breeding grounds.

Article 18

- (1) The government shall manage and develop procedure for utilization of water and grounds for fish breeding.
- (2) The management and development of the procedure for utilization of water and grounds for fish breeding, as set forth in paragraph (1), shall be done in the framework of guaranteeing of water quantity and quality for fish breeding purposes.

Article 19

- (1) The government shall determine the qualifications and standards of means of transportation, unit of storage of products of fish breeding and unit for management of health of fish and the environment thereof.
- (2) The government will supervise the means of transportation, unit of storage of products of fish breeding and unit of management of health of fish and the environment thereof.
- (3) The government and the society shall manage health of fish and the environment thereof, as set forth in paragraph (1).
- (4) Further provisions regarding conditions and standards for the monitoring of means of transportation, unit of storage of products of fish breeding, and unit of management of health of fish and the environment thereof, as set forth in paragraphs (1) and (2) and the realization of management of health of fish and the environment, as set forth in paragraph (3), will be stipulated in a Government Regulation.

Article 20

- (1) The process of cultivation of fish and fishery products must fulfill the conditions of fish cultivation worthiness, quality guarantee system, and safety of fishery products.

- (2) The quality guarantee system and safety of fishery products, as set forth in paragraph (1), consist of sub-systems of:

- a. Quality monitoring and control;
- b. Development and application of requirements or standards of raw materials, conditions and standards for sanitation, and handling and cultivation techniques, requirements or standards of quality of products, requirements or standards of facilities and infrastructures, and requirements or standards of methods of examination; and
- c. Certification.

- (3) Every person who handles and cultivates fish must obey and apply the conditions for fish cultivation worthiness, quality guarantee system, and safety of fishery products.

- (4) Every person who has obeyed and implemented the conditions for fish cultivation, as referred to in paragraph (3), shall obtain a Certificate of Fish Cultivation Worthiness.

- (5) Every person who has fulfilled and implemented the conditions for implementation of system of guarantee of quality of fishery products, as set forth in paragraph (3), will obtain a Certificate of Application of Integrated Quality Management Program.

- (6) Fish as a result of catching and/or breeding must fulfill standards of quality and safety of fishery products.

- (7) Products as a result of fish cultivation must comply with the criteria and/or standards of quality and safety of fishery products, as set forth in paragraph (2) clause b.

- (8) Any matters relating to fish cultivation industry, which are not stipulated in this Law, will be implemented in accordance with the applicable laws.

Article 21

Every person who introduces or exits fish and/or fishery products from and/or to the Indonesian territory must have a certificate of health for human consumption.

Article 22

Further provisions regarding quality guarantee system and safety of fishery products, certificate of processing worthiness, certificate of integrated implementation of quality management, as set forth in Article 20, and certificate of health, as set forth in Article 21, will be stipulated in a Government Regulation.

Article 23

- (1) Every person shall not use raw materials, additives, auxiliary materials, and/or tools endangering human health and/or the environment in handling and cultivating fish.
- (2) The government shall determine the raw materials, additives, auxiliary materials, and/or tools endangering human health and/or the environment in handling and cultivating fish.

Article 24

- (1) The government shall encourage increase of added value of fishery products.
- (2) The government may limit export of raw materials for fish cultivation industry to guarantee the availability of such raw materials domestically.
- (3) Further provisions regarding increase of added value of fishery products, as set forth in paragraph (1), and guarantee of the availability of raw materials for fish cultivation industry locally, and limitation of export of raw materials, as set forth in paragraph (2), will be stipulated in a Government Regulation.

CHAPTER V

FISHERY BUSINESS

Article 25

Fishery business shall be operated based on a fishery business system consisting of pre-production, production, processing, and marketing.

Article 26

- (1) Every person who operates fishery business and specializes in fish catching, breeding, transportation, processing, and marketing of fish within the Indonesian Fish Cultivation Territory must have SIUP.

- (2) The obligation to have SIUP, as referred to in paragraph (1), is inapplicable for small fishermen and/or small fish breeders.

Article 27

- (1) Every person having and/or operating fishing boat with an Indonesian flag used to catch fish in the Indonesian Fish Cultivation Territory and/or the open seas must have SIPI.
- (2) Every person having and/or operating fishing boat with a foreign flag used to catch fish in the Indonesian Fish Cultivation Territory must have SIPI.
- (3) SIPI, as set forth in paragraph (1), is issued by the Minister.
- (4) Fishing boats with Indonesian flags catching fish within the jurisdiction of another country must obtain prior approval of the government.

Article 28

- (1) Every person having and/or operating fish transporting boat within the Indonesian Fish Cultivation Territory must have SIKPI.
- (2) SIKPI, as set forth in paragraph (1), is issued by the Minister.

Article 29

- (1) Fishery business within the Indonesian Fish Cultivation Territory shall only be operated by Indonesian citizens or Indonesian corporations.
- (2) Exceptions from the provision of paragraph (1) will be permitted for foreign individuals or corporations catching fish within ZEEI as far as it relates to the liabilities of Indonesia based on international agreement or provisions of the applicable international laws.

Article 30

- (1) The issuance of fishery business license to foreign individuals and/or corporations operating within ZEEI must be preceded with fishery agreement, access regulating, or any other consensus between the Indonesian government and the government of the ship's flag.

(2) Fishery agreement executed by and between the Indonesian government and the government of the country of the ship's flag, as set forth in paragraph (1), must mention liabilities of the government of the country of the ship's flag on compliance responsibility of the individual or corporation of the country of the ship's flag to obey the fishery agreement.

(3) The government shall determine the regulating of issuance of fishery business license to foreign individuals and/or corporations operating in ZEEI, fishery agreement, access regulating, or any other consensus between the Indonesian government and the government of the country of the ship's flag.

Article 31

(1) Every fishing boat used to catch fish in the Indonesian Fish Cultivation Territory must be completed with SIPI.

(2) Every fishing boat used to transport fish in the Indonesian Fish Cultivation Territory must be completed with SIKPI.

Article 32

Further provisions regarding procedure and conditions on issuance of SIUP, SIPI, and SIKPI will be stipulated in a Regulation of the Minister.

Article 33

Further provisions regarding fish catching and/or fish breeding in the Indonesian Fish Cultivation Territory not for commercial purposes will be stipulated in a Regulation of the Minister.

Article 34

(1) Fishing boat, based on its function, includes:

- Fish catching boat;
- Fish transporting boat;
- Fish processing boat;
- Fishery training boat;
- Fishery research/exploration boat; and
- Boat supporting fish catching and/or fish breeding.

(2) Further provisions regarding fishing boat, as set forth

in paragraph (1), will be stipulated in a Government Regulation.

Article 35

(1) Every person constructing, importing, or modifying fishing boat must obtain prior approval of the Minister.

(2) The construction and modification of fishing boat, as set forth in paragraph (1), can be done locally or abroad after receiving considerations regarding techniques of sea worthiness from the Minister for shipping affairs.

Article 36

(1) Fishing boat owned by an Indonesian person operated within the Indonesian Fish Cultivation Territory must first be registered as an Indonesian fishing boat.

(2) The registration of fishing boat, as set forth in paragraph (1), shall be completed with the following documents:

- Certificate of ownership;
- Owner's identity; and
- Measurement certificate.

(3) The registration of a fishing boat purchased or obtained from abroad and has been registered in the country of origin to be registered as an Indonesian fishing boat, it must be completed with the documents as set forth in paragraph (2), and certificate of elimination from ships' register issued by the country of origin.

(4) Further provisions regarding registration, as set forth in paragraphs (1), (2), and (3), will be stipulated in a Regulation of the Minister.

(5) Registered fishing boat, as set forth in paragraph (1), will be given a certificate of nationality in accordance with the provisions of the applicable laws.

Article 37

Every Indonesian fishing boat must be given an identification in the form of sear, identification of fish catching area, identification of fish catching belt, and/or identification of fish catching tools.

Article 38

- (1) Every fishing boat with foreign flag not having license to catch fish when operating in the Indonesian Fish Cultivation Territory must keep the fish catching tools in the hold.
- (2) Every fishing boat with foreign flag having license to catch fish with a certain type of fish catching tool in a certain part of ZEEI shall not bring any other fish catching tools.
- (3) Every fishing boat with foreign flag having license to catch fish must keep the fish catching tools in the hold when operating outside the permitted fish catching territory within the Indonesian Fish Cultivation Territory.

Article 39

A fishing boat with Indonesian flag and with certain size and type may use 2 (two) types of fish catching tools by turns based on catching seasons and areas.

Article 40

Further provisions regarding ship construction, import, modification, measurement of fishing boat, issuance of certificate of identification of fishing boat, and utilization of 2 (two) types of fish catching tools by turns, as set forth in Articles 35, 36, 37, 38, and 39 will be stipulated in a Regulation of the Minister.

Article 41

- (1) The government operates and develops fishery port.
- (2) The Minister determines:
 - a. National mother plan of fishery port;
 - b. Classification of fishery port and a place being part of certain waters and land becoming fishery port work and operational territory;
 - c. Conditions and/or technical standards and accreditation of competence in planning, construction, operation, development, and monitoring of fishery port;
 - d. Work and operational territory of fishery port; and
 - e. Fishery port not constructed by the government.
- (3) Fish catching boat and fish transporting boat must put their catch ashore at the determined fishery port.

- (4) Every person having and/or operating fish catching boat and/or fish transporting boat and not loading and unloading any fish at the determined fishery port, as set forth in paragraph (3), will be imposed with administrative sanctions in the form of reminder, freeze of license, or annulment of license.

Article 42

- (1) In the framework of marine safety a port authority shall be appointed at the fishery port.
- (2) Every fishing boat which will sail from a fishery port must have a shipping license issued by the port authority.
- (3) Other than issuing shipping license, the port authority at the fishery port, as set forth in paragraph (1), shall have any other authorities, as follows:
 - a. To review the completeness and validity of fishing boat documents; and
 - b. To review the fish catching tools available on the fishing boat.
- (4) The port authority, as set forth in paragraph (1), is appointed by the Minister.

Article 43

Every fishing boat, which will operate, will have a certificate of sea worthiness from the fishery supervisor.

Article 44

- (1) The shipping license, as set forth in Article 42 paragraph (2), is issued by the port authority after the respective fishing boat has obtained a certificate of operational worthiness.
- (2) The certificate of operational worthiness, as set forth in paragraph (1), is issued by the fishery supervisor after administrative requirements and technical worthiness have been completed.
- (3) Further provisions regarding administrative requirements and technical worthiness, as set forth in paragraph (2), will be stipulated in a Regulation of the Minister.

Article 45

In case that a fishing boat stays and/or operates outside fishery port, the shipping license will be issued by the local port authority after certificate of operational worthiness is obtained from the fishery supervisor in charge of the local port.

CHAPTER VI

FISHERY INFORMATION SYSTEM AND STATISTICS

Article 46

(1) The government shall arrange and develop fishery information system and statistics and arrange the compilation, processing, analysis, storage, review, and distribution of data on potentiality, facilities and infrastructure, production, handling, processing and marketing of fish, and socio-economic data relating to the cultivation of fish resources and development of fishery business system.

(2) The government shall establish a fishery data and information center for the arrangement of fishery information system and statistics.

Article 47

- (1) The government shall construct fishery information network with other institutions, locally or abroad.
- (2) The fishery information system and statistics must easily and rapidly be accessed by all users of fishery statistics and information.

CHAPTER VII

LEVIES

Article 48

(1) Every person enjoying direct benefit of fish resources and the environment thereof in the Indonesian Fish Cultivation Territory, will be imposed with levies.

(2) The levies, as set forth in paragraph (1), are not imposed on small fishermen and small fish breeders.

Article 49

Every foreigner obtaining license to catch fish in ZEII will be imposed with levies.

Article 50

The levies, as set forth in Articles 48 and 49, will

be used for fishery development and conservation of fish resources and the environment thereof.

Article 51

Further provisions regarding the levies and the utilization of which, as set forth in Articles 48, 49, and 50, will be stipulated in a Government Regulation.

CHAPTER VIII

FISHERY RESEARCH AND DEVELOPMENT

Article 52

The government shall regulate, encourage, and/or hold research and development to produce knowledge and technology needed in the development of fishery business to be more effective, efficient, economic, highly competitive, environment-friendly, and shall respect local tradition/culture.

Article 53

- (1) Fishery research and development may be implemented by individuals, higher learning institutions, non-governmental institutions, and/or state-owned and private research and development institutions.
- (2) The individuals, higher learning institutions, non-governmental institutions, and/or state-owned and private research and development institutions, as set forth in paragraph (1), may cooperate with:
- Research and development performers;
 - Fishery business performers;
 - Fishery association; and/or
 - Foreign research and development institutions.

Article 54

Results of the research are open for all parties, especially certain results, which, by the government, are not permitted to be published.

Article 55

- (1) Every foreigner performing fishery research in the Indonesian Fish Cultivation Territory must obtain prior approval of the government.
- (2) Research, which is conducted by a foreign individual and/or corporation, as set forth in paragraph (1), must involve Indonesian researchers.

- (3) Every foreigner conducting research on fishery within the Indonesian Fish Cultivation Territory must hand over results of the research to the government.

Article 56

Further provisions regarding the arrangement of fishery research and development, as set forth in Articles 52, 53, 54, and 55, will be stipulated in a Government Regulation.

CHAPTER IX

FISHERY EDUCATIONS, TRAININGS, AND ELUCIDATIONS

Article 57

- (1) The government shall arrange educations, trainings, and elucidations on fishery affairs to improve the development of human resources in the field of fishery.
- (2) The government shall arrange at least 1 (one) educational and/or training unit on fishery to be developed to international-standard educational and/or training educational unit.

Article 58

The government may cooperate with the relevant institutions, either local or international, in arranging educations, trainings, and elucidations on fishery.

Article 59

Further provisions regarding the arrangement of educations, trainings, and elucidations, as set forth in Articles 57 and 58, will be stipulated in a Government Regulation.

CHAPTER X

EMPOWERMENT OF

SMALL FISHERMEN AND SMALL FISH BREEDERS

Article 60

- (1) The government shall empower small fishermen and small fish breeders through:
- a. Loans for small fishermen and small fish breeders, either for working capital or cost of operation with easy requirements, low interest rate, and in accordance with the financial condition of small fishermen and small fish breeders;

- b. Arrangement of educations, trainings, and elucidations for small fishermen and small fish breeders to improve knowledge and skill in the fields of fish catching, breeding, processing, and marketing; and
- c. Development of small fishermen, small fish breeders, and fish cooperatives.

- (2) The empowerment of small fishermen and small fish breeders, as set forth in paragraph (1), may also be implemented by the society.

Article 61

- (1) Small fishermen are free to catch fish in the entire Indonesian Fish Cultivation Territory.
- (2) Small fish breeders may cultivate selected commodities of fish in the entire Indonesian Fish Cultivation Territory.
- (3) The small fishermen and small fish breeders, as set forth in paragraphs (1) and (2), must obey rules on conservation and other rules determined by the Minister.
- (4) Small fishermen or small fish breeders must maintain conservation of fishery environment and security of food from fish meat according to the applicable regulations.
- (5) Small fishermen and small fish breeders must register themselves, their businesses and activities to the local fishery institution without being imposed with charges for statistical purposes and empowerment of small fishermen and small fish breeders.

Article 62

The government shall supply and try to obtain fund for the empowerment of small fishermen and small fish breeders, either from local or foreign sources, in accordance with the applicable laws.

Article 63 . . . (TO BE CONTINUED)

—==(E)==—

F I S H E R Y

(Law No. 31/2004 dated October 6, 2004)

[Continued from Business News No. 7158 - 7159 Pages 6A - 17A]

Article 63

Fishery entrepreneurs shall encourage business partnership based on mutual benefit with small fishermen or small fish breeders in the fishery business.

Article 64

Further provisions regarding empowerment of small fishermen and small fish breeders, as set forth in Articles 60, 61, 62, and 63 will be stipulated in a Government Regulation.

CHAPTER XI

DELEGATION OF DUTY AND ASSISTANCE

Article 65

(1) The delegation of part of fishery business from the government to the regional government and the withdrawal of which will be stipulated in a Government Regulation.

(2) The government may assign the regional government to implement assistance in fishery affairs.

CHAPTER XII

MONITORING OF FISHERY AFFAIRS

Article 66

(1) The monitoring of fishery affairs shall be conducted by supervisors.

(2) The supervisors, as set forth in paragraph (1), are in charge of monitoring of the enforcement of laws on fishery.

(3) The supervisor, as set forth in paragraph (1), consist of civil servant investigators of fishery affairs and non-civil servant investigators of fishery affairs.

Article 67

The society may assist the monitoring of fishery affairs.

Article 68

The government shall provide facilities and in-

frastructures for the monitoring of fishery affairs.

Article 69

(1) The supervisors, as set forth in paragraph (1), in performing their duties may be equipped with firearm and/or any other security equipments supported with fishery monitoring boat.

(2) The fishery monitoring boat, as set forth in paragraph (1), functions to implement monitoring and law enforcement in fishery affairs.

(3) The fishery monitoring boat may stop, inspect, bring, and detain ships, which are deemed or properly deemed to have committed violations within the Indonesian Fish Cultivation Territory at the nearest port to be further processed.

(4) The fishery monitoring boat, as set forth in paragraph (1), may be equipped with firearm.

Article 70

Further provisions regarding monitoring of fishery affairs, participation of the society in assisting the monitoring, fishery monitoring boat, firearms, and/or other security equipments used by the supervisors and/or installed on the fishery monitoring boat, as set forth in Articles 66 paragraphs (1) and (2), 67, 68, 69 paragraphs (1), (2), and (4), will be stipulated in a Government Regulation.

CHAPTER XII

COURT OF FISHERY AFFAIRS

Article 71

(1) By virtue of this Law, a court of fishery affairs authorized to examine, hear, and rule criminal cases in fishery affairs, is established.

(2) The court of fishery affairs, as set forth in paragraph (1), is within the jurisdiction of the general judicature.

(3) For the first time, the court of fishery affairs, as set forth in paragraph (1), is established at the Lower Courts of North Jakarta, Medan, Pontianak, Bitung, and Tual.

(4) The jurisdiction of the court of fishery affairs, as set forth in paragraph (3), is in accordance with the jurisdiction of the respective lower court.

(5) The court, as set forth in paragraph (3), not later than 2 (two) years since the enforceability of this Law, must have implemented its duties and functions.

(6) The establishment of the court, as set forth in paragraph (1), shall be done gradually according to the conditions as stipulated in a Presidential Decree.

CHAPTER XIV INVESTIGATION, PROSECUTION, AND EXAMINATION IN THE SESSIONS OF THE COURT OF FISHERY AFFAIRS

Part One

Investigation

Article 72

Investigation into criminal acts in the field of fishery is performed based on the applicable procedure law, except if stipulated otherwise in this Law.

Article 73

(1) Investigation into criminal acts in fishery affairs shall be performed by Civil Servant Investigators of fishery affairs, Indonesian Naval Officers, and Indonesian Police Officers.

(2) The investigators, as set forth in paragraph (1), may implement coordination.

(3) To implement coordination in handling of criminal acts in fishery affairs, the Minister may form a coordination forum.

(4) The investigators, as set forth in paragraph (1), are authorized:

- a. To receive information or complaint from a person on the occurrence of criminal acts in fishery affairs;

- b. To summon and examine the suspects and/or witnesses;
- c. To bring a person as suspect and/or witness to be heard;
- d. To search facilities and infrastructure, which are deemed to be used in or to become a place for committing criminal acts in fishery affairs;
- e. To stop, examine, arrest, bring, and/or detain ships and/or individuals deemed as having committed criminal acts in fishery affairs;
- f. To examine the completeness and validity of documents of fishery business;
- g. To take photograph of the suspects and/or material evidence of criminal acts in fishery affairs;
- h. To bring experts in relation to criminal acts in fishery affairs;
- i. To make and sign minutes of investigation;
- j. To seize material evidence used and/or as a result of criminal acts;
- k. To stop investigation; and
- l. To take any other actions according to the laws.

(5) The investigators, as set forth in paragraph (4), shall inform the start of investigation and forward results of the investigation to the general prosecutor.

(6) For the purposes of investigation, the investigators may arrest a suspect for no more than 20 (twenty) days.

(7) The time, as set forth in paragraph (6), if necessary for the intention of uncompleted investigation, may be extended by the general prosecutor for no more than 10 (ten) days.

(8) The provisions of paragraphs (6) and (7) do not close the possibility to release the suspect from detention before the end of the detention period, if investigation has been completed.

(9) After the 30-(thirty)-day period, the investigators must have released the suspect from detention for the sake of the law.

Part Two Prosecution

Article 74

Prosecution of criminal acts in fishery affairs shall be implemented based on the applicable laws, except if stipulated otherwise in this Law.

Article 75

- (1) Prosecution shall be done by a general prosecutor authorized by the Attorney General and/or his or her authorized officer.
- (2) The general prosecutor, as set forth in paragraph (1), must meet the following qualifications:
 - a. Having experienced as general prosecutor for at least 5 (five) years;
 - b. Having attended educations and trainings in fishery affairs; and
 - c. Being capable and having high integrity during the performance of his or her duties.
- (3) The qualifications, as set forth in paragraph (2) clause b, must have been implemented not later than 3 (three) days since the enactment of this Law.

Article 76

- (1) The general prosecutor, after receiving the result of investigation from the investigators, must inform result of his or her review to the investigators within 5 (five) days since receipt of the investigation documents.
- (2) In case that the submitted result of investigation is incomplete, the general prosecutor must return it to the investigators accompanied with instructions on the items that must be completed.
- (3) Within a period of not later than 10 (ten) days since date of receipt of the incomplete investigation document, the investigators must return the document to the general prosecutor.
- (4) The investigators are deemed to have completed their duties if, within 5 (five) days, the general prosecutor does not return the result of investigation or if, before the 5 (five)-day period has ended, there has been a notice on that matter from the general prosecutor to the investigators.

(5) In case that the general prosecutor declares that the result of investigation is complete, within not later than 10 (ten) days from date of declaration by the general prosecutor, the general prosecutor must submit the case to the court of fishery affairs.

(6) For the purposes of prosecution, the general prosecutor is authorized to do detention or extended detention for 10 (ten) days.

(7) The period of time, as set forth in paragraph (6), if necessary for the purposes of uncompleted investigation, may be extended by Chief of the Lower Court for not later than 10 (ten) days.

(8) The provisions of paragraphs (6) and (7) shall not close the possibility to release the suspect from detention prior to the end of the detention period if the investigation has been completed.

Part Three

Examination in Court Session

Article 77

Examinations in court sessions on criminal acts in fishery affairs shall be implemented based on the applicable procedural law, except if stipulated otherwise in this Law.

Article 78

- (1) The judges of the court of fishery affairs consist of career and ad-hoc judges.
- (2) The panel of judges consists of 2 (two) ad-hoc judges and 1 (one) career judge.
- (3) The career judges, as set forth in paragraph (1), are authorized based on Decree of the Supreme Court Chief Justice.
- (4) The ad hoc judges, as set forth in paragraph (1), are appointed and dismissed by the President at the proposal of the Supreme Court Chief Justice.

Article 79

Examinations in court sessions may be implemented without the presence of the defendant.

Article 80

- (1) Within not later than 30 (thirty) days from date of acceptance of the delegation of case from the general prosecutor, the panel of judges must have issued a verdict.
- (2) The court verdict, as set forth in paragraph (1), may be read by the panel of judges without the presence of the defendant.

Article 81

- (1) For the purposes of examination, the judges in the court sessions, are authorized to determine detention for 20 (twenty) days.
- (2) The detention period, as set forth in paragraph (1), if necessary for the purposes of incomplete examination, may be extended by Chief of the Lower Court for not later than 10 (ten) days.
- (3) The provisions of paragraphs (1) and (2) do not close the possibility to release the defendant from detention prior to the end of the detention period if examination has been completed.

Article 82

- (1) In case that the court verdict appealed to the high court, the case is examined and ruled within a period of not later than 30 (thirty) days since date of receipt of the case documents by the high court.
- (2) For the purposes of examination, judges of the high court are authorized to determine detention for 20 (twenty) days.
- (3) The detention period, as set forth in paragraph (2), if necessary for the purposes of incomplete examination, may be extended by Chief of the High Court for not later than 10 (ten) days.
- (4) The provisions of paragraphs (2) and (3) do not close the possibility to release the defendant from detention prior to the end of the detention period if examination has been completed.

Article 83

- (1) In case that high court verdict is appealed to the Supreme Court, the case shall be examined and ruled within not later than 30 (thirty) days since date of receipt of the case documents by the Supreme Court.
- (2) For the purposes of examination, judges in the Supreme Court sessions are authorized to determine detention for 20 (twenty) days.
- (3) The detention period, as set forth in paragraph (2), if necessary for the purposes of incomplete examination, may be extended by Chief of the Supreme Court for not later than 10 (ten) days.
- (4) The provisions of paragraphs (2) and (3) do not close the possibility to release the defendant from detention prior to the end of the detention period if examination has been completed.

CHAPTER XV

CRIMINAL PROVISIONS

Article 84

- (1) Every person who, intentionally, within the Indonesian Fish Cultivation Territory, catches and/or breeds fish using chemical substances, biological substances, explosives, tools and/or means, and/or structures, which may damage and/or endanger conservation of fish resources and/or the environment thereof, as set forth in Article 8 paragraph (1), will be penalized with imprisonment of maximum 6 (six) years and monetary charge of maximum Rp. 1.200.000.000,00 (one billion two hundred million Rupiah).
- (2) Masters or captains of fishing boats, fish catching specialists, and ship crews who, intentionally, within the Indonesian Fish Cultivation Territory, catch and/or breed fish using chemical substances, biological substances, explosives, tools and/or means, and/or structures, which may damage and/or endanger conservation of fish resources and/or the environment thereof, as set forth in Article 8 paragraph (2), will be penalized with imprisonment of maximum 10 (ten) years and monetary charge of maximum

Rp. 1.200.000.000,00 (one billion two hundred million Rupiah).

- (3) Owners of fishing boats, owners of fishery companies, managers of fishery companies, and/or fishing boat operators, who, intentionally, catch and/or breed fish using chemical substances, biological substances, explosives, tools and/or means, and/or structures, which may damage and/or endanger conservation of fish resources and/or the environment thereof, as set forth in Article 8 paragraph (3), will be penalized with imprisonment of maximum 10 (ten) years and monetary charge of maximum Rp. 2.000.000.000,00 (two billion Rupiah).
- (4) Owners of fish cultivation companies, authorities of fish cultivation companies, and/or managers of fish cultivation companies, who, intentionally, catch and/or breed fish using chemical substances, biological substances, explosives, tools and/or means, and/or structures, which may damage and/or endanger conservation of fish resources and/or the environment of which, as set forth in Article 8 paragraph (4), will be penalized with imprisonment of maximum 10 (ten) years and monetary charge of maximum Rp. 2.000.000.000,00 (two billion Rupiah).

Article 85

Every person who, intentionally, within the Indonesian Fish Cultivation Territory, owns, controls, brings, and/or uses fishing gears (fish catching tools) and/or fish catching means (fish catching instruments) on a fishing boat which measures are not in accordance with standards, fishing gears not in accordance with standards, or standards determined for certain prohibited tools and/or fishing gears, as set forth in Article 9, will be penalized with imprisonment of maximum 5 (five) years and monetary charge of maximum Rp. 2.000.000.000,00 (two billion Rupiah).

Article 86

- (1) Every person who, intentionally, within the Indonesian Fish Cultivation Territory, commits an act causing pollution and/or damage to fish resources and/or the environment thereof, as set forth in Article 12 paragraph (1), will be penalized with imprisonment

of maximum 10 (ten) years and monetary charge of maximum Rp. 2.000.000.000,00 (two billion Rupiah).

- (2) Every person who, intentionally, within the Indonesian Fish Cultivation Territory, breeds fish that endangers fish resources and/or the environment thereof, and/or human health, as set forth in Article 12 paragraph (3), will be penalized with imprisonment of maximum 6 (six) years and monetary charge of maximum Rp. 1.500.000.000,00 (one billion five hundred million Rupiah).
- (3) Every person who, intentionally, within the Indonesian Fish Cultivation Territory, breed fish as a result of genetic engineering, which may endanger fish resources and/or the environment thereof and/or human health, as set forth in Article 12 paragraph (3), will be penalized with imprisonment of maximum 6 (six) years and monetary charge of maximum Rp. 1.500.000.000,00 (one billion five hundred million Rupiah).
- (4) Every person who, intentionally, within the Indonesian Fish Cultivation Territory, uses medicines for breeding fish, which may endanger fish resources and/or the environment thereof and/or human health, as set forth in Article 12 paragraph (4), will be penalized with imprisonment of maximum 6 (six) years and monetary charge of maximum Rp. 1.500.000.000,00 (one billion five hundred million Rupiah).

Article 87

- (1) Every person who, intentionally, within the Indonesian Fish Cultivation Territory, damages sperm plasma relating to fish resources, as set forth in Article 14 paragraph (4), will be penalized with imprisonment of maximum 2 (two) years and monetary charge of maximum Rp. 1.000.000.000,00 (one billion Rupiah).
- (2) Every person who, because of his or her negligence, within the Indonesian Fish Cultivation Territory, causes damage to sperm plasma relating to fish resources, as set forth in Article 14 paragraph (4), will be penalized with imprisonment of maximum 1 (one) year and

monetary charge of maximum Rp. 500.000.000,00 (five hundred million Rupiah).

Article 88

Every person who, intentionally, introduces, exits, procures, distributes, and/or breeds fish causing damage to the society, fish breeders, fish resources and/or the environment thereof into and/or from the Indonesian Fish Cultivation Territory, as set forth in Article 16 paragraph (1), will be penalized with imprisonment of maximum 6 (six) years and monetary charge of maximum Rp. 1.500.000.000,00 (one billion five hundred million Rupiah).

Article 89

Every person who handles and processes fish not in accordance with fish processing standards, quality guarantee system, and safety of fishery products, as set forth in Article 20 paragraph (3), will be penalized with imprisonment of maximum 1 (one) year and monetary charge of maximum Rp. 800.000.000,00 (eight hundred million Rupiah).

Article 90

A person who, intentionally, introduces or exits fish and/or fishery products from and/or into the Indonesian territory not completed with a certificate of health for human consumption, as set forth in Article 21, will be penalized with imprisonment of maximum 1 (one) year and monetary charge of maximum Rp. 800.000.000,00 (eight hundred million Rupiah).

Article 91

Every person who, intentionally, uses raw materials, additives, auxiliary materials, and/or tools, which endanger human health and/or the environment, in handling and processing fish, as set forth in Article 23 paragraph (1), will be penalized with imprisonment of maximum 6 (six) years and monetary charge of maximum Rp. 1.500.000.000,00 (one billion five hundred million Rupiah).

Article 92

Every person who, intentionally, within the Indonesian Fish Cultivation Territory, operates fishery busi-

ness in the fields of fish catching, breeding, transportation, processing, and marketing and does not have SIUP, as set forth in Article 26 paragraph (1), will be penalized with imprisonment of maximum 8 (eight) years and monetary charge of maximum Rp. 1.500.000.000,00 (one billion five hundred million Rupiah).

Article 93

(1) Every person who owns and/or operates fishing boat with an Indonesian flag catching fish in the Indonesian Fish Cultivation Territory and/or the open seas and does not have SIPI, as set forth in Article 27 paragraph (1), will be penalized with imprisonment of maximum 6 (six) years and monetary charge of maximum Rp. 2.000.000.000,00 (two billion Rupiah).

(2) Every person who owns and/or operates fishing boat with a foreign flag and does not have SIPI, as set forth in Article 27 paragraph (2), will be penalized with imprisonment of maximum 6 (six) years and monetary charge of maximum Rp. 20.000.000.000,00 (twenty billion Rupiah).

Article 94

Every person who owns and/or operates fish transporting boat within the Indonesian Fish Cultivation Territory transporting fish or doing the relevant activities and not having SIKPI, as set forth in Article 28 paragraph (1), will be penalized with imprisonment of maximum 5 (five) years and monetary charge of maximum Rp. 1.500.000.000,00 (one billion five hundred million Rupiah).

Article 95

Every person who constructs, imports, or modifies fishing boat without prior approval, as set forth in Article 35 paragraph (1), will be penalized with imprisonment of maximum 1 (one) year and monetary charge of maximum Rp. 600.000.000,00 (six hundred million Rupiah).

Article 96

Every person who operates fishing boat within the Indonesian Fish Cultivation Territory not registering the fishing boat as an Indonesian fishing boat, as set

forth in Article 36 paragraph (1), will be penalized with imprisonment of maximum 1 (one) year and monetary charge of maximum Rp. 800.000.000,00 (eight hundred million Rupiah).

Article 97

- (1) Ship master who operates fishing boat with a foreign flag and does not have a license to catch fish, who, up to this time, operates in the Indonesian Fish Cultivation Territory, stores fish catching tools in the hold, as set forth in Article 38 paragraph (1), will be penalized with monetary charge of maximum Rp. 500.000.000,00 (five hundred million Rupiah).
- (2) Ship master who operates fishing boat with a foreign flag and does not have a license to catch fish with a certain type of fish catching tool within a certain part of ZEII bringing any other fish catching tool, as set forth in Article 38 paragraph (2), will be penalized with monetary charge of maximum Rp. 1.000.000.000,00 (one billion Rupiah).
- (3) Ship master who operates fishing boat with a foreign flag and has possessed license to catch fish, but does not keep fishing gears in the hold during operating outside the permitted fish catching area within the Indonesian Fish Cultivation Territory, as set forth in Article 38 paragraph (3), will be penalized with a monetary charge of maximum Rp. 500.000.000,00 (five hundred million Rupiah).

Article 98

A shipmaster who does not have a license to sail fishing boat issued by the port authority, as set forth in Article 42 paragraph (2), will be penalized with imprisonment of maximum 1 (one) year and monetary charge of maximum Rp. 200.000.000,00 (two hundred million Rupiah).

Article 99

Every foreigner who performs fishery research in the Indonesian Fish Cultivation Territory and does not have a license from the government, as set forth in Article 55 paragraph (1), will be penalized with imprison-

ment of maximum 1 (one) year and monetary charge of maximum Rp. 1.000.000.000,00 (one billion Rupiah).

Article 100

Every person who breaches the provision of Article 7 paragraph (2) will be penalized with monetary charge of maximum Rp. 250.000.000,00 (two hundred fifty million Rupiah).

Article 101

In case that the criminal acts, as set forth in Articles 84 paragraph (1), 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, and 96, are committed by a corporation, the claims and penalty will be imposed on its managers plus a monetary charge of 1/3 (one-third) of the penalty imposed.

Article 102

The provisions on imprisonment in this Law shall not be applicable for criminal acts in fishery occurring within the Indonesian Fish Cultivation Territory, as set forth in Article 5 paragraph (1) clause b, except if there is an agreement between the Indonesian government and the government of the relevant country.

Article 103

- (1) The criminal acts, as set forth in Articles 84, 85, 86, 88, 91, 92, 93, and 94 are construed as crimes.
- (2) The criminal acts, as set forth in Articles 87, 89, 90, 95, 96, 97, 98, 99, and 100 are construed as violations.

Article 104

- (1) The request to free a detained ship and/or a person because of committing criminal acts in the Indonesian Fish Cultivation Territory, as set forth in Article 5 paragraph (1) clause b, may be submitted at any time prior to the issuance of verdict of the court of fishery affairs by giving a reasonable amount of guarantee, which will be ruled by the court of fishery affairs.
- (2) Materials and/or tools used in and/or as a result of criminal acts in the fishery field may be seized for the state.

Article 105

- (1) Materials and/or tools seized as a result of criminal acts in the fishery field, as set forth in Article 104, will be auctioned for the state.
- (2) Law enforcers who have successfully implemented their duties and parties who have successfully completed the effort to safe state assets, as set forth in paragraph (1), will be given an incentive, which is set aside from proceed of auction.
- (3) Further provisions regarding payment of incentive will be stipulated in a Regulation of the Minister.

CHAPTER XVI

TRANSITORY PROVISIONS

Article 106

Prior to the establishment of court of fishery affairs other than that as set forth in Article 71 paragraph (3), criminal cases in the fishery field occurring outside the legal domicile of the court of fishery affairs, as set forth in Article 71 paragraph (3), will still be examined, heard, and ruled by the authorized lower court.

Article 107

Investigation, prosecution, and examination in court sessions of criminal acts in the fishery field, which are examined, heard, and ruled by the lower court, shall be implemented according to the procedural law as set forth in this Law.

Article 108

Upon the enforceability of this Law:

- a. Criminal cases in the fishery field occurring in the legal domicile of the court of fishery affairs, as set forth in Article 71 paragraph (3), which are still in the stage of investigation or prosecution, shall be ruled according to the procedural law applicable prior to the enforceability of this Law;
- b. Criminal cases in the fishery field occurring in the legal domicile of the court of fishery affairs, as set forth in Article 71 paragraph (3), which have been examined, but have not been ruled by the lower court, shall still be examined and ruled by the authorized

lower court according to the procedural law applicable prior to the enforceability of this Law;

- c. Criminal cases in the fishery field occurring in the legal domicile of the court of fishery affairs, as set forth in Article 71 paragraph (3), which have been submitted to the lower court, but have not been examined, shall be brought to the authorized court of fishery affairs.

Article 109

When this Law starts to be in effect, all enforcement regulations of Law No. 9/1985 on Fishery is still applicable as far as they are not in violation with or have not been amended pursuant to this Law.

CHAPTER XVII

CLOSING PROVISIONS

Article 110

When this Law starts to be in effect:

- a. Law No. 9/1985 on Fishery (Statute Book of 1985 No. 46, Supplement to Statute Book No. 3299);
- b. Provisions on penalty in Article 16 paragraph (1) of Law No. 5/1983 on Indonesian Exclusive Economic Zone (Statute Book of 1983 No. 44, Supplement to Statute Book No. 3260), especially those relating to criminal acts in the fishery field are revoked and declared inapplicable.

Article 111

This Law starts to be in effect from the date of enactment.

For public cognizance this Law is enacted by placing it in the Statute Book of the Republic of Indonesia.

Ratified in Jakarta

On October 6, 2004

PRESIDENT OF THE REPUBLIC OF INDONESIA

Sgd

MEGAWATI SOEKARNOPUTRI

Enacted in Jakarta

On October 6, 2004

STATE SECRETARY OF THE REPUBLIC OF INDONESIA

Sgd

BAMBANG KESOWO

STATUTE BOOK OF
THE REPUBLIC OF INDONESIA OF 2004 NO. 118

**ELUCIDATION
OF
LAW NO. 31/2004
ON
FISHERY**

GENERAL

The Unitary State of the Republic of Indonesia as set forth in 1945 Constitution has sovereignty and jurisdiction over the Indonesian water territory and authority in the framework of stipulating of provisions on utilization of fish resources, either for fish catching or fish breeding and to improve prosperity and justice for optimal utilization for the sake of the nation and the state according to conservation of fish resources and the environment thereof and sustainable national fishery development.

Furthermore, as a legal consequence of the ratification of United Nations' Convention on Law of the Sea of 1982 by virtue of Law No. 17/1985 on United Nations' Convention on the Law of the Sea of 1982 places Indonesia to have the right to utilize, to conserve, and to process fish resources in the Indonesian Exclusive Economic Zone and the open seas implemented according to the applicable international conditions or standards.

Fishery plays an important and strategic role in national economic development, especially in improving of extension of work opportunities, even distribution of income, and improvement of living standards of the nation in general, small fishermen, small fish breeders, and business performers in the fishery business in observance of environmental conservation, conservation and availability of fish resources.

Law No. 9/1985 on Fishery could not anticipate fishery development at present and in the future, because in the fishery field, there has been very significant changes, either those relating to the availability of fish resources, conservation of fish resource environment, or development of fishery cultivation methods more effectively, efficiently, and up-to-date so that fishery cultivation needs to be implemented carefully based on the principles of benefit, justice, partnership, even distribution, integration, openness, efficiency, and sustainable conservation.

To guarantee optimal and sustainable cultivation of fish resources, the role of fishery supervisors and the society in the monitoring of fishery affairs have to be improved efficiently and effectively.

Law enforcement in the field of fishery becomes very important and strategic in the framework of supporting of fishery development effectively and according to the fishery cultivation methods so that fishery development may run sustainably. Therefore, legal certainty is one of the absolute requirements, which is necessary. This Law provides more clarity and legal certainty on law enforcement of criminal acts in fishery affairs consisting of investigation, prosecution, and examination in court sessions, therefore the authorities of investigators, general prosecutors, and judges in handling criminal acts in the fishery affairs have to be stipulated.

In performing investigation, prosecution, and examination in court sessions, other than acting in accordance with the procedural law as set forth in Law No. 8/1981 on Criminal Procedural Law, this Law also stipulates Criminal Procedural Law and any other procedural law (*lex specialis*). Law enforcement on criminal acts in the fishery field occurring up to this time proves that it is facing various obstacles. Therefore, a specific law enforcement relating to the material and formal laws is required. To guarantee legal certainty, either on the stages of investigation, prosecution, or examination in court sessions, a time span will be determined so that in this Law, procedural law (formal law) will more rapidly be formulated.

To increase efficiency and effectiveness of law enforcement on criminal acts in the fishery field, this Law rules about the establishment of court of fishery affairs within the environment of the general judiciary, which, for the first time, is established at the Lower Courts of North Jakarta, Medan Pontianak, Bitung, and Tual. Yet, however, considering that it requires some preparations, the established court of fishery affairs will start to operate not later than 2 (two) years since the date of enforceability of this Law. The court of fishery affairs is authorized to examine, hear, and rule criminal acts in the fishery field, which will be conducted by a panel of judges consisting of 1 (one) career judge of the lower court and 2 (two) *ad hoc* judges.

Keeping in mind the fishery development at present and in the future, this Law rules about matters

relating to:

- a. Fish cultivation implemented based on the principles of benefit, justice, partnership, even distribution, integration, openness, efficiency, and sustainable conservation;
- b. Fish cultivation based on planning and integration of the control of which;
- c. Fish cultivation in observance of division of authorities between the central government and the regional government;
- d. Fish cultivation fulfilling the element of sustainable development supported by research and development of fishery and integrated control;
- e. Fish cultivation by improvement of educations and trainings and elucidation in fishery affairs;
- f. Fish cultivation supported by fishery facilities and infrastructures and system of information and statistics on fishery;
- g. Strengthening of institutions of fishery port, port authority, and fishing boat;
- h. Fishery cultivation encouraged the giving of contribution to marine and fishery developments;
- i. Fish cultivation in observance of and by empowerment of small fishermen or small fish breeders;
- j. Fish cultivation in the Indonesian waters, Indonesian Exclusive Economic Zone, and open seas as stipulated in the laws in observance of the applicable international requirements or standards;
- k. Cultivation and utilization of fish resources, either those in the Indonesian waters, Indonesian Exclusive Economic Zone, and the open seas shall be done with control through licensing development in observance of national and international interests according to the available fish resources;
- l. Monitoring;
- m. Grant of similar authority in the investigation of criminal acts in the fishery field to civil servant investigators in fishery affairs, Indonesian naval officers, and Indonesian police officers;
- n. Establishment of court of fishery affairs; and
- o. Establishment of national fishery development advisory council.

Based on the foregoing considerations, this Law is the renewal and perfection of regulations in fishery affairs to replace Law No. 9/1985 on Fishery.

ARTICLE BY ARTICLE

Articles 1-4

Sufficiently clear.

Article 5

Paragraph (1)

Sufficiently clear.

Paragraph (2)

"Fish cultivation outside the Indonesian Fish Cultivation Territory" is fish cultivation in the open seas.

Article 6

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Traditional law and/or local point of view used as consideration in fish cultivation shall not be in violation with the national law.

Article 7

Paragraph (1)

Clause a

Sufficiently clear.

Clause b

"Potentiality and allocation of fish resources" includes migrating fish.

Clause c

"Permitted quantity of fish caught" is the quantity of fish resources, which are allowed to be caught within the Indonesian Fish Cultivation Territory in observance of the conservation thereof so that accurate data and information on the availability of fish resources, which are accountable, are necessary, either scientifically or factually in each catching area. Additionally, the application of the permitted quantity of fish caught must observe international liabilities in the fishery field.

Clause d

Sufficiently clear.

Clause e

"Potentiality and allocation of mothers and germs of certain kinds of fish" is the mothers and germs of certain kinds of fish caught from nature.

Clause f

"Size of fishing gears" also includes measures of seine head.

Clause g

"Fish catching means" is facilities, equipments, or other materials used to assist in the framework of efficiency and effectiveness of fish catching, such as lights, artificial breeding place and artificial ridges of rocks.

Clause h

"Fish catching time or season is the decided opening and closing of area or season of catching to give an opportunity for the recovery of fish resources and the environment thereof.

Clause i

Sufficiently clear.

Clause j

"Fishing boat monitoring system" is a form of system of monitoring in fish catching using a fishing boat monitoring unit.

For example: Vessel Monitoring System (VMS).

Clause k

In the effort to increase productivity of the waters, new kinds of fish can be spread, which will possibly bring a negative effect on the conservation of the local fish resources that it must be considered so that the new kinds/species of fish can adapt to the local fish resource environment and/or do not harm the originality of fish resources.

Clause l

"Breeding-based fish catching" is the catching of fish resources grown as a result of re-spreading of fish.

Clause m

According to technological development, fish breeding is no longer limited to ponds or coastal ponds, but is also done in rivers, lakes, and seas. Because those waters relate to public interest, designation of location and size of area and the methods used are necessary so that it will not disturb public interest. Other than that, provisions with the intention to protect fish breeding, for example, pollution to fish resource environment, have to be stipulated.

Clause n

Sufficiently clear.

Clause o

There are several methods, which may be used

in implementing rehabilitation and improvement of fish resources and the environment thereof, among other things, by planting or reforestation of mangrove forests, installation of artificial rock ridges, making of protecting/breeding places for fish, increase of fertility of the waters by fertilizing or adding of types of food, making of fish migrating channel, or dredging of water surface.

Clause p

Sufficiently clear.

Clause q

"Fish sanctuary" is a certain water area, either fresh water, brackish water, or salt water with certain conditions and characteristics, as places for protection/breeding of certain fish resources functioning as a protecting area

Clause r

The designation of epidemics and areas of fish epidemics is intended so that the society will learn that there are epidemics in certain areas, and the Minister will determines steps for the prevention of spread of the epidemics from one area to another.

Clauses s and t

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

"National commission" means a group, which reviews the potentiality of fish resources consisting of experts, higher learning institutions, and the relevant government institutions having specialty in fish resources.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

"Types of fish" are:

- a. Pisces (Fish with fins);
- b. Crustaceans (shrimps, small crabs, crabs, and other similar animals);
- c. Mollusks (mussels, oysters, squids, octopus, snails, and other similar animals);
- d. Coelenterates (jelly fish and other similar animals);
- e. Echinoderms (sea cucumbers, sea urchins, and other similar animals);

- f. Amphibians (frogs and other similar animals);
 - g. Reptiles (crocodiles, turtles, monitor lizards, snakes, and other similar animals);
 - h. Mammals (whales, dolphins, porpoises, dugongs, and other similar animals);
 - i. Algae (seaweeds and other plants living in water); and
 - j. Other water biota relating to the foregoing species.
- All includes the parts thereof and protected fish.

Paragraphs (6) and (7)

Sufficiently clear.

Article 8

Paragraph (1)

The use of chemical substances, biological substances, explosives, means and/or methods, and/or structures, which may harm and/or damage conservation of fish resources and the environment thereof not only kills fish directly, but also endangers human health and harms fishermen and fish breeders. If damage occurs as a result of use of the foregoing substances and materials, recovery into the original condition requires a long time, even may cause extinction.

Paragraphs (2)-(6)

Sufficiently clear.

Article 9

The prohibition to use fishing gears and/or fish catching means is necessary to prevent the use of tools, which may harm the conservation of fish resources and the environment thereof because the Indonesian Fish Cultivation Territory is very vulnerable to use of fishing gears, which are not according to the characteristics of the nature and the availability of various types of fish resources in Indonesia, and to prevent the catching of types of fish, which are not the target of fish catching.

The prohibition as set forth in clauses a, b, and c is contained in the license to catch fish and is an integral part of the boat used to catch fish.

Article 10

Paragraph (1)

Clause a

Sufficiently clear.

Clause b

"Closed or semi-closed open seas" is bay, basin, or sea surrounded by two or more countries connected to another sea territory or ocean by a narrow channel or consisting entirely or mainly of territorial waters and exclusive economic zones of two or more coastal countries.

"Pocket area" is an open sea surrounded by exclusive economic zones of several countries, for example, northern part of Papua where there is an open sea bordered with Indonesian Exclusive Economic Zone, Papua New Guinean Exclusive Economic Zone, Palau Economic Zone, and Exclusive Economic Zone of Federation State of Micronesia.

Clause c

Sufficiently clear.

Paragraph (2)

Membership of the government in regional and international cooperation shall be implemented selectively.

In certain cases, the government is expected to actively sponsor the establishment of regional and international institutions for the progress of fishery development in Indonesia.

Article 11

Paragraph (1)

"Critical condition" means a serious decline as a result of over-catching of certain types of fish, the condition where fish epidemics spread, or big changes as a result of environmental changes due to pollution affecting the availability of fish resources that must be handled and requires immediate settlement.

Paragraph (2)

Sufficiently clear.

Article 12

Paragraph (1)

"Pollution to fish resources" means the mixing of fish resources, living creatures, substances, energy,

and/or

and/or other components as a result of human act so that the number of fish resources is declining, not functioning properly, and/or dangerous for those who exploit them.

"Damage to fish resources" means decline in the potentiality of fish resources, which may endanger the conservation thereof in certain water territories as a result of the act of a person and/or corporation causing disturbances to the biological balance or lifecycle of fish resources.

Paragraphs (2)-(5)

Sufficiently clear.

Article 13

Paragraph (1)

Conservation areas relating to fishery are, among other things, ridges of rock, *padang laum*, mangrove, swamps, lakes, rivers, and reservoir, which are deemed important to be conserved. In this case, the government may designate conservation areas, among other things, as natural water sanctuary, national water park, tourist water park, and/or fish sanctuary.

Paragraph (2)

Sufficiently clear.

Article 14

Paragraph (1)

"Sperm plasma" means a substance existing in a group of living creatures and is a resource or generative characteristics, which may be utilized and developed or assembled into new leading species.

This provision is intended to protect the existing sperm plasma so that it will not be lost, extinct, or damaged, other than to protect the existing ecosystem.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

"New types of fish" means non-original fish and/or fish not originating from nature (land and sea territory of Indonesia) familiar and/or known to be introduced

into the Indonesian Fish Cultivation Territory or fish as a result of purification, either locally or abroad.

Paragraphs (4) and (5)

Sufficiently clear.

Article 15

"Candidate mothers" is fish as a result of selection, which is prepared to become mothers.

"Fish mothers" is fish, which, at certain age and size, has been matured and is used to produce germs; and fish germs are fish, at certain age, form, and size, which is not yet matured.

For the purpose of increase of production through fish quality improvement as a result of breeding, new types and/or species of fish, which are not available locally, are required. Yet, the introduction of new types of fish from abroad may introduce and spread dangerous pests and epidemics and/or may become predators or competitors causing scarcity of types of local fish. Therefore, the introduction of which must be done pursuant to the applicable regulations. Regulations on exit of types of candidate mothers, mothers, and germs of fish from the Indonesian Fish Cultivation Territory shall be done to guarantee breeding of new types of fish sustainably.

Article 16

Paragraph (1)

This prohibition is intended to protect the existing fish resources so that they will not be lost or become extinct, especially Indonesian indigenous fish species and also intended to protect Indonesian indigenous ecosystem.

Paragraph (2)

Sufficiently clear.

Article 17

"Facilities for fish breeding" consist of, amongst others, fish food, fish medicine, fertilizers, and fish baskets.

"Infrastructures for fish breeding" are, amongst others, ponds, coastal ponds, and coastal pond channels.

In regulating and developing of fish breeding

facilities and infrastructures, the Minister will coordinate with the relevant institution.

Article 18

Paragraph (1)

Each type of fish cultivated/bred requires different requirements and technological class. Therefore, arrangement of water utilization and fish breeding area are required so that the distribution and utilization of water can be done optimally according to the technical requirements for fish breeding and the use of areas endangering fish breeding may be prevented, including the availability of green belt.

Paragraph (2)

Sufficiently clear.

Article 19

Paragraph (1)

"Management of health of fish and the environment thereof" is an effort conducted in the framework of maintaining and recovering of balance of the environment, fish security, and fish epidemics by implementing prevention, medication, and arrangement of use of medicine for fish.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

The management of health of fish and the environment thereof must be implemented collectively by the government and the relevant institution and by placing the society as the main performer in identifying fish pests and epidemics, identification, prevention, elimination, and control of health of fish, and problems of breeding environment.

Paragraph (4)

Sufficiently clear.

Article 20

Paragraph (1)

"Cultivation of fish" is a series of activities and/or treatments from fish raw materials up to finished products for human consumption.

"Fishery product" means a product in the form

of whole fish or a product containing parts of fish, including those processed by any means with fish as the main raw material.

"Cultivation worthiness" is a condition fulfilling the basic principles of processing consisting of construction, location arrangement, sanitation, hygiene, raw material selection, and processing techniques.

"Quality guarantee system and safety" is a prevention effort that must be observed and implemented since pre-production up to distribution to produce qualified fishery products, which are safe for human consumption.

Paragraph (2)

Clause a

"Quality monitoring and control" is all activities of evaluating, examining, monitoring, sample taking, testing, correcting, validating, auditing, verifying, and calibrating in the framework of providing of quality guarantee and safety of fishery products.

Clause b

"Standards of quality" consist of, amongst others, size, quantity, appearance, specifications of fishery products, and fish processing output.

Clause c

Sufficiently clear.

Paragraph (3)

"Handling" is a series of activities and/or treatments of fish without changing the structure and basic form.

Paragraphs (4) and (5)

Sufficiently clear.

Paragraph (6)

To guarantee rights of consumers of fish and fishery products, the products must be safe, healthy, and not expired.

Paragraphs (7) and (8)

Sufficiently clear.

Article 21

"Certificate of health for human consumption" is a certificate issued by a laboratory appointed by the

government indicating that fish and fishery products have fulfilled the requirements of quality guarantee and safety for human consumption.

Articles 22-27

Sufficiently clear.

Article 28

Paragraph (1)

SIKPI, as set forth in this Article, is original copy of SIKPI and not the photocopy and/or copy, which is in conformity to the original copy.

Paragraph (2)

Sufficiently clear.

Articles 29 and 30

Sufficiently clear.

Article 31

Paragraph (1)

SIKPI, as set forth in this Article, is original copy of SIKPI and not the photocopy and/or copy, which is in conformity to the original copy.

Paragraph (2)

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

"Fish catching and/or fish breeding not for commercial purposes" is an activity operated by an individual or government institution or private institution in the framework of education, elucidation, research or other scientific activities, hobbies, and/or recreations.

Article 34

Sufficiently clear.

Article 35

Paragraph (1)

In the framework of control of utilization/exploitation of fish resources, arrangement and control over the procurement of new and/or old boats have to be

done so that it is in accordance with the supporting power of fish resources.

Paragraph (2)

Sufficiently clear.

Article 36

Paragraph (1)

Registration of fishing boat in the fishing boat register book is to comply with the required issuance of SIPI/SIKPI. The register book is intended not as grosse akta (deed, which can directly be executed) of registration of vessel, which is a condition for the issuance of Certificate of Nationality of Indonesian Vessel, for boats sailing with an Indonesian flag.

Paragraphs (2) and (3)

Sufficiently clear.

Paragraph (4)

A fishing boat, which will obtain certificate of nationality, must first be registered in the fishing boat register book.

Article 37

"Certification of identification" is a certificate or statement indicating, amongst others, identity of type of boat, size of boat, catching area, register number, and place of registration.

Article 38

Paragraph (1)

The obligation to keep fishing gears in the hold is applicable for all fishing boats with a foreign flag crossing the Indonesian water territory, Indonesian Island Seaweed (ALKI), and ZEII.

Paragraphs (2) and (3)

Sufficiently clear.

Article 39

"Fishing boat with certain size and type" is a boat used by small fishermen.

ARTICLE 40 (TO BE CONTINUED)

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