

PHILIPPINE FISHERY LEGISLATIONS

The importance to the economy of the country's marine wealth and the potentials of its 200-mile Exclusive Economic Zone calls for the proper management thereof through judicious husbanding and conservation of its fisheries and aquatic resources. All the plans and programmes to manage the same, taking into account the requirements of ecology, economic and physical constraints, environmental, social and even political impacts including integrated and futuristic planning, should therefore be embodied in laws and regulations, the importance of which cannot be over-emphasized, for strict implementation and compliance by all considering that it is the country's very survival which is at stake, both present and to come.

The first Philippine legislation on fisheries was the "Law of Waters" of 1866, extended by the Spanish Royal Decree of August 8, 1866 during the reign of Queen Esabella II, which made classifications of public waters or of public ownership. In 1912 the Philippine Legislature passed Act 2152, otherwise known as the Irrigation Act, which provided that the Spanish Law of Waters, the Civil Code then in force and all other existing laws dealing with waters and irrigation system, shall continue in force insofar as they are not incompatible with the Irrigation Act.

Act No. 4003, as amended, otherwise known as the Fisheries Act of 1932, was enacted on December 5, 1932 authorizing the compilation of all laws and regulations relating to fisheries and aquatic resources. It classified public fisheries according to their government and disposition: national, municipal and reserve fisheries. Falling under national fisheries are: 1) deepsea or offshore fishing; 2) marine mollusca fisheries; 3) sponge fisheries; 4) hawksbill turtle fisheries; and 5) inland fisheries. Under municipal fisheries Section 6 defined the extent thereof which is three nautical miles at most from the shoreline of the municipality, while Section 7 dealt on the authority of the municipal council to grant the exclusive fishery privileges of erecting fish corrals, operating fishponds, or taking or catching of bangus fry (kawag-kawag) or fry of other species. For the reserve fisheries, Sections 73 to 73-B provided for the establishment thereof in any of the Philippine waters by presidential proclamation for the exclusive use of the government or of the inhabitants, for the culture of fish and other aquatic animals, for educational and scientific purposes, while communal fisheries may be established by the Secretary of Agriculture and Natural Resources in any municipal waters.

The Philippine Constitution of 1935 provided for the conservation and development of its natural resources, fisheries included, all of which are State-owned, reserving the same exclusively to Filipino citizens or to entities 60 percent of the capital stock of which should be owned by Filipino citizens. Fisheries, among the natural resources, cannot be alienated but may be granted only through licensing, lease or concession.

Republic Act No. 428, enacted on June 7, 1950, declared illegal the possession, sale or distribution of fish and other aquatic animals caught by explosives or poisonous substances, or the law enforcer who refuses to act and prosecute the parties violating the said law.

With the advent of the martial law regime, several promulgations were issued under the avowed aim of "accelerating the development of fishing industry of the country."

Presidential Decree No. 43, known as the Fishery Industry Development Decree of 1972, was issued on November 9, 1972 providing for the accelerated development of the fishing industry of the Philippines and the creation of the Fisheries Industry Development Council (FIDC).

The Philippine Constitution of 1973 copied the previous Constitution of 1935 in its treatment of natural resources in that the same, including fisheries, shall not be alienated by may be granted only by means of licensing, lease or concession. Entities, however, may enter into service contracts for financial, technical, management, or other forms of assistance with any foreign person or entity for the exploration, development, exploitation or utilization of any of the natural resources.

Presidential Decree No. 704, otherwise known as the Fisheries Decree of 1975, was issued on May 16, 1975 and became the basic law on fishing and/or fisheries, the salient features of which are:

- i. To accelerate and promote the integrated development of the fishery industry and keep the fishery resources in optimum productive condition through proper conservation and protection;
- ii. To promote the organization and assistance and help integrate activities of persons and entities of the industry so that the nation may achieve the maximum economic utilization of its fishery resources;
- iii. To encourage the exportation of fish so that the fishery industry may contribute positively to the development of the national economy;
- iv. The BFAR assumed jurisdiction and responsibility in the management, conservation, development, production, utilization and disposition of fishery and aquatic resources, except municipal waters under the municipal governments concerned;
- v. Amendment of composition of the Fishery Industry Development Council (FIDC);
- vi. Banned bangus fry exportation except those of other species, but only after satisfaction of local fishing industry needs;
- vii. Allowed person and entities to enter into charter contracts, lease or lease-purchase agreements with any foreign person or entity, or contracts for financial, technical or other forms of assistance regarding the various phases of the fishing industry;
- viii. That BFAR shall identify and set aside public lands to be subdivided into family-size fishponds to be leased in accordance with guidelines established by the FIDC;
- ix. Named certain banking and lending institutions to grant loans to eligible borrowers of the fishery industry; and
- x. Financing of municipal and/or small-scale fishing.

Amendments of Presidential Decree No. 704 and additional fishery decrees were also issued:

- i. Presidential Decree No. 1015 was promulgated on September 22, 1976, amending Sections 17 and 35 of PD 704 wherein the President of the Philippines, upon recommendation of the Secretary of Natural Resources, may ban the operation of commercial or other fishing gear in waters within a distance of seven kilometers from the shoreline if public interest requires or the ecology of marine resources may be impaired.
- ii. Presidential Decree No. 1058 was also issued on December 1, 1976, stiffening the penalties for dynamite fishing, dealing in illegally caught fish and possession of explosives for such kind of fishing.

- iii. On June 11, 1978, PD 1599 was issued establishing the 200-mile Exclusive Economic Zone of the Philippines, extending 200 miles beyond and from the baselines from which the territorial sea is measured wherein the Philippines reserves the sovereign right therein. By virtue, hereof, the Philippines now exercise jurisdiction over 652,600 square nautical miles which show an increase of 132,100 nautical miles from the Treaty of Paris limits.
- iv. Presidential Decree Nos. 1219 and 1698 are the laws for the exploration, exploitation, utilization and conservation of coral resources of the country. These decrees prohibit the gathering, harvesting, collecting, transporting, possession, sale and/or exporting of ordinary corals in raw or processed form. The use of corals as material in building and other man-made structures like dams, dikes, piers, etc., is likewise prohibited.
- v. Executive Order No. 1047, dated August 7, 1985, encouraged the Philippine commercial fishing fleet to engage in distant water fishing. Fish caught there by vessels of Philippine registry are considered Philippine-caught fish exempt from import license requirements and not subject to quota restrictions and other charges. It also declared that such vessels shall be considered as international vessels in order to avail of duty drawback on the fuel oil used in fishing operations outside the Philippines.

There are also other related promulgations on fisheries and aquatic resources:

- i. PD No. 979 – known as the Marine Pollution Decree of 1976;
- ii. PD No.1067 – known as the Water Code of the Philippines;
- iii. PD No. 1151 – formulates a Philippine environmental policy holding each individual responsible for the preservation and enhancement of the Philippine environment and submission of individual environmental statements of all agencies of the government in every action, project or undertaking significantly affecting the quality of the environment;
- iv. PD No. 1152 – creates the Philippine Government Code; and
- v. PD 1016, dated March 25, 1985 – withdraws the inspection, commodity and export clearance requirements on certain Philippine exports.

The new Constitution of 1986 gave prominence to the marine wealth of the country over all the other natural resources by reserving its use and enjoyment exclusively to Filipino citizens.

The provisions of the new Constitution of the Philippines are as follows:

- i. Article XII, Sec. 2 – “The State shall protect the nation’s marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.”
- ii. Article XII, Sec. 7 – “The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research, adequate financial, production and marketing assistance and other services. The State shall also protect, develop and conserve such resources. The protection shall extend to offshore fishing grounds or subsistence fishermen against foreign intrusion. Fishworkers shall receive a just share from their labor in the utilization of marine and fishing resources.