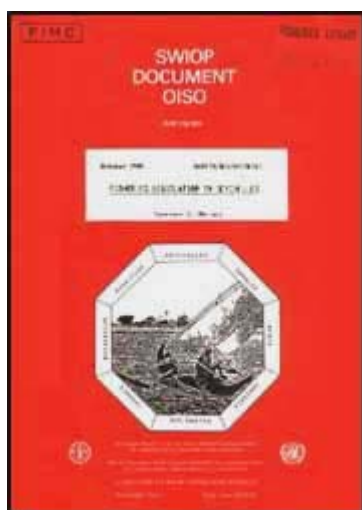


---

# SWIOP/WP/21 - Fisheries Legislation in Seychelles

---



## Table of Contents

Lawrence C. Christy

October 1985 RAF/79/065/WP/21/85

The designations employed and the presentation of material in this publication do not imply the expression of any opinion whatsoever by the Food and Agriculture Organization of the United Nations concerning the legal status of any country, territory, city or area or of its authorities, or concerning the delimitation of its frontiers or boundaries. The views expressed are those of the authors.

*This electronic document has been scanned using optical character recognition (OCR) software and careful manual recorection. Even if the quality of digitalisation is high, the FAO declines all responsibility for any discrepancies that may exist between the present document and its original printed version.*

---

## **Table of Contents**

---

### **CHAPTER I - INTRODUCTION**

#### 1.1 Country Background

#### 1.2 Previous FAO Assistance in Fisheries Legislation

### **CHAPTER II - THE LEGAL SETTING**

#### 2.1 Law of the Sea

#### 2.2 International Organizations Dealing with Fisheries

- 2.3 Constitution
- 2.4 Fisheries Jurisdiction

### **CHAPTER III - FISHERIES LEGISLATION**

- 3.1 The Structure of Fisheries Law
- 3.2 Administration
- 3.3 The Contents of Fisheries Law
- 3.4 Fisheries Management

- 3.4.1 Planning
- 3.4.2 Statistics
- 3.4.3 Management Measures

#### 3.5 Licensing

- 3.5.1 Issue of Licences
- 3.5.2 Foreign Fishing
- 3.5.3 Local Fishing
- 3.5.4 Other Licences
- 3.5.5 Scientific Research
- 3.5.6 Validity of Licences

#### 3.6 Licence Conditions

- 3.6.1 Conditions Relating to Fishing Operations
- 3.6.2. Conditions Relating to Benefits
- 3.6.3 Conditions Relating to Enforcement

#### 3.7 Special Provisions for Marine Turtles, Marine Mammals, Shells and Aquaculture

- 3.7.1 Marine Turtles
- 3.7.2 Marine Mammals
- 3.7.3 Shells
- 3.7.4 Aquaculture

#### 3.8 Offences and Enforcement

### **ANNEXE A - OTHER LEGISLATION AFFECTING FISHERIES**

1. The operation of fishing vessels
2. Industrial fishing enterprises
3. Customs laws
4. Fish processing plants and sanitary controls
5. Fish marketing
6. Cooperatives
7. Nature protection

## ANNEXE B - FISHERIES BILL, 1985

## ANNEXE C - FISHERIES REGULATIONS, 1985

---

---

# CHAPTER I - INTRODUCTION

---

---

## 1.1 Country Background

## 1.2 Previous FAO Assistance in Fisheries Legislation

---

### **1.1 Country Background**

The Republic of Seychelles comprises 115 named islands (National Development Plan 1985-89) scattered over a 1200-kilometre swath of the Western Indian Ocean just south of the equator. The total land mass is only 444 square kilometres (308 if Aldabra lagoon is excluded), but the territorial sea and exclusive economic zone extend to some 800,000 square kilometres, including significant areas of continental shelf (the Mahé Plateau is the largest at 38,690 square kilometres). The population is 65,000 (1984 estimate), of which 98 per cent live on the three islands of Mane, Praslin and La Digue. The gross domestic product of Seychelles was 965 million rupees in 1982 (1 rupee is currently worth about 7 to the dollar), the latest year for which figures are available. Imports in 1983 were 594 million rupees, exports and re-exports were 137 million and tourist income was 233 million.

Fisheries have always been important in Seychelles. Estimates of the number of fishermen vary considerably on either side of 1,000. They land approximately 4,000 tonnes of fish annually (3,750 tonnes in 1983). Most of the catch is landed by the artisanal fleet but an offshore fleet of "schooners" (9- to 14-metre hand-liners) landed 1,100 tonnes in 1983. Around 450 tonnes of fresh and frozen fish (mostly demersal species) were exported in 1983, representing 37.5 per cent of all domestic exports.

Since the 1960s there has been a significant long-line fishery for tuna in the South West Indian Ocean. This was conducted first by Japanese, then, as profitability declined, by an increasing proportion of Korean and Taiwanese vessels. Seychelles has been licensing long-liners, mainly from Korea, since 1979. Fees from long-line licensing were an estimated Rs. 5,500,000 in 1984. In addition a number of unlicensed Japanese long-liners tranship in Port Victoria, paying a transhipment fee of \$ 15 a ton in addition Co normal harbour dues. Since 1981 one Seychellois long-liner has operated from Port Victoria. It caught 360 tons in 1983.

Purse-seining for tuna began rather tentatively in 1982 with four French vessels. Successful results led to a series of agreements for a total of 53

seiners (27 French, 5 Ivorian, 21 Spanish and one Mauritian) of which a maximum of 48 have operated at any one time. These vessels fish both in the Seychelles EEZ and on the high seas to the East. Many of the French, Ivorian and Spanish seiners return to the Atlantic during the season of poor fishing in the Indian Ocean. Almost the entire catch is transhipped in Port Victoria at a transhipment fee of \$ 6 per ton. Total catches in 1984 were 98,000 tonnes on an effort of 361 vessel-months, or over 3,000 tonnes on an annual basis. Fees are calculated in a number of different ways and are not easy to estimate, but they should approach \$ 3,000,000 a year at current catch rates. Total fishing and transhipment fees from foreign long-liners and purse-seiners should exceed 5% of public revenues in 1985.

Future fisheries development depends greatly on the resources, about which there seem to be limited knowledge and correspondingly great differences of opinion. Demersal fisheries may or may not be susceptible of higher economic yields. The analysis is complicated by the aging of the fishing population, rather large fluctuations in alternative employment, the influence of export markets and - prospectively - nationalization of fish marketing. In any case, the National Development Plan has established a target for 1989 of 5,500 tonnes of demersal catch. It also foresees the modernization of the fleet, in particular the larger hand-liners. (Current production of small pelagics is only 400 tonnes per year and there is no separate production target for it).

The surface tuna fishery is so recent and has grown so fast that there is hardly any basis for estimating sustainable yields except by analogy with other oceans. At present the limiting factor is the capacity of the port, but the Government is also worried about the possibility of over-fishing. For both reasons, the number of licences is not likely to be increased in the next year or so, and if catch rates fall, the number could be reduced. The number of long-liners is likely to continue to decline as a consequence of high costs and competition with the purse-seiners (which fish the yellowfin stock at an earlier age). Efforts will be made, however, to attract a larger share of the transhipment business, which is based on catches throughout the Indian Ocean.

## **1.2 Previous FAO Assistance in Fisheries Legislation**

In January 1978, the Government of Seychelles requested advice from FAO on how to deal with applications from foreign governments and companies concerning fishing in the EEZ. An advisory mission consisting of a fisheries development adviser, Robert Payne, and a legal adviser, Michel Savini, was accordingly sent to Seychelles in March 1978. One of the recommendations of their report (IOP/TECH/78/20) was to establish a more adequate legal framework for fisheries development.

The Government requested FAO's assistance in drafting the necessary legislation and Mr. Savini was again sent to Seychelles, together with Barry Dubner, to provide the assistance. Following several missions in 1978 and 1979 the report Legal and Institutional Aspects of Fisheries Management

and Development in the Exclusive Economic Zone of the Republic of Seychelles (IOP/TECH/79/30) was presented to the Government. It contained proposals for a foreign fishing decree and regulations, local fisheries decree and regulations and instruments concerning a fisheries joint venture. The foreign fishing proposals are the basis of the present Control of Foreign Fishing Vessels Decree, 1979 and Foreign Fishing Vessels Regulations, 1979.

In 1983 the Government decided to consolidate and update the local and foreign fishing legislation and again requested FAO's assistance. FAO Legal Officer Lawrence Christy discussed this matter in the course of several visits during 1983 and 1984. He was then sent to Seychelles as a consultant to the Southwest Indian Ocean Project and the FAO/Norway Fishery Law Advisory Programme with specific terms of reference to advise on revision of the fisheries legislation on several occasions between November 1984 and August 1985. During those visits he held discussions with numerous Seychellois officials, to whom FAO extends its appreciation for so generously sharing their time and knowledge with the consultant. The present report is based in part on those discussions, as well as on the earlier FAO reports mentioned above.

---

## **CHAPTER II - THE LEGAL SETTING**

---

### 2.1 Law of the Sea

### 2.2 International Organizations Dealing with Fisheries

### 2.3 Constitution

### 2.4 Fisheries Jurisdiction

---

The international and national law affecting fisheries in Seychelles was described in detail in the previous FAO legislation report (IOP/TECH/79/30). Since then the UN Conference on the Law of the Sea has concluded and Seychelles has substantially modified its national legislation. The main changes in international and national law governing fisheries are described below. A number of other provisions which affect fisheries less directly are described in Annex A, which is a revised version of Michel Savini's analysis in the previous report.

### **2.1 Law of the Sea**

The UN Convention on the Law of the Sea was signed by 119 parties, including Seychelles, on 10 December 1982. It is due to enter into force a year after the sixtieth ratification or accession is received. Most of the provisions relevant to fisheries are substantially unchanged since the Informal Composite Negotiating Text of 1977. The exceptions are articles 69 and 70 concerning access by land-locked and geographically disadvantaged

states, articles 74 and 83 concerning delimitation of the EEZ and continental shelf between adjacent or opposite states and article 76 defining the continental shelf.

The Convention recognizes every coastal state's right to establish a 12-mile territorial sea and beyond that an exclusive economic zone (EEZ) extending up to 200 miles from the low-water mark or other baseline. The coastal state has sovereignty over the territorial sea, subject to the right of innocent passage. In the EEZ it has "sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources" as well as certain other rights, subject to rights of other states, of which the most important for fisheries are freedom of navigation and, under certain conditions, access to fisheries. (The Convention also provides for a number of other regimes, including archipelagic waters and the continental shelf. These and related issues of delimitation are already the subject of a study by the Government and will not be further discussed here.)

In the exclusive economic zone the coastal state is responsible for the conservation of living resources (the minimum duty in this regard is probably to prevent irreversible reductions in populations). The coastal state is required to establish an "allowable catch" of the resources in its EEZ (art. 61), but it is free to establish the allowable catch at any level it chooses. It is then required to determine its own harvesting capacity and, if this is less than the allowable catch, to allow other states access to the "surplus" (art. 62). In granting access, the coastal state "shall take into account all relevant factors" include its own and other states' interests and the rights of land-locked and geographically disadvantaged states in the region. (The latter have the right "to participate, on an equitable basis, in the exploitation of an appropriate part of the surplus of the living resources of the exclusive economic zones of coastal states of the same subregion or region", art. 69, 70. When the harvesting capacity of the coastal State approaches the entire allowable catch, it should make "equitable arrangements" for continued access to EEZ resources in the region by developing land-locked or geographically disadvantaged countries.) The coastal state can subject access to conditions consistent with the Convention, including payment of fees, management and control measures, joint ventures, local landing and processing (art. 62).

Where stocks of fish occur in two or more EEZs the states concerned are required to seek agreement on necessary measures, "either directly or through appropriate subregional or regional organizations". Similar provisions apply to coastal and fishing states where stocks occur both in the EEZ and the high sea (art. 63). In the case of "highly migratory species", coastal and fishing states are to co-operate on management and utilization measures directly or through international organizations (art. 64).

While coastal states have power under the Convention to enforce their fisheries legislation in the EEZ, they are subject to certain limitations. The overriding one arises from latent conflict between the needs of fisheries law enforcement and the right of free navigation. There are different ways of analysing this conflict, but in all cases it must be recognized that each

interest must accommodate the other to some extent. This balance is also reflected in article 73 of the Convention, which recognizes coastal states powers of arrest and prosecution, but requires them "promptly" to release arrested vessels and their crews on "reasonable bond or other security." Penalties for violations of fisheries laws in the EEZ may not include imprisonment.

## **2.2 International Organizations Dealing with Fisheries**

Seychelles is a member of the Indian Ocean Fishery Commission, a subsidiary body of FAO, and of the Commission's Committee for the Development and Management of Fisheries in the Southwest Indian Ocean. It is also a member of the Commission de l'Océan Indien, along with Madagascar, Mauritius and Comoros. Reunion has been invited to participate in activities of the Commission on a basis to be defined. Seychelles has decided not to participate in the regional tuna project being established by the Commission together with the European Development Fund.

## **2.3 Constitution**

The present Constitution of Seychelles was enacted as the Schedule to the Constitution of the Republic of Seychelles Decree 1979 (No. 14). It provides for a one-party presidential republic and, rather extensively, for the judicial system of Seychelles, establishing a Supreme Court and Court of Appeal and their respective judicial offices (sec. 63-83).

There are no constitutional provisions of direct relevance to fisheries, but there is a definition of the "area of Seychelles". It consists of a number of islands (the list, as amended by the Constitution (Amendment of List of Seychelles Islands) Proclamation 1982, is not precisely the same as the list in the previous constitution) and "the territorial waters and historic waters of Seychelles and the seabed and subsoil underlying those waters" (sec. 2). No historic waters appear ever to have been declared in Seychelles, and the concept has not been incorporated in the UN Convention on the Law of the Sea, but it is found in the maritime zones legislation of Seychelles and several other countries. The Constitution does not mention either the EEZ or continental shelf.

## **2.4 Fisheries Jurisdiction**

The Maritime Zones Act, 1977 extends the limits of the territorial waters of Seychelles up to a distance of twelve nautical miles from the nearest point of the baseline. Such limits may be amended by order when the President considers it necessary to do so having regard to international law and State practice. Seychelles exercises its sovereignty over these waters, the seabed and subsoil underlying and the air space over. Except in certain circumstances (connected with public safety, public order, defence and security) foreign ships enjoy the right of innocent passage through the territorial waters.

The Republic of Seychelles also claims rights over a continental shelf and an exclusive economic zone. The continental shelf is defined as the seabed and subsoil of the natural prolongation of the land territory of Seychelles to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baseline where the outer edge of the continental shelf does not extend up to that distance. The exclusive economic zone is the area beyond and adjacent to the territorial waters, extending to a distance of two hundred nautical miles from the baseline. This limit may be amended by the President if he considers it necessary to do so having regard to international law and State practice. Such an amendment has been made by the Exclusive Economic Zone (No. 2) Order, 1978, which established the limit of the southern part of the Seychelles' EEZ at the median line equidistant between Seychelles on one hand and on the other the territories of Mauritius, the Malagasy Republic, the Glorieuses Islands (France), Mayotte Island, Comoros Islands and Mafia Island (Tanzania).

As far as fisheries are concerned, Seychelles claims the following rights over the continental shelf and exclusive economic zone:

- sovereign rights and jurisdiction for the purpose of exploration, exploitation, conservation and management of all resources;
- exclusive jurisdiction to authorize, regulate and conduct scientific research;
- exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution;
- such other rights as are recognized by international law and State practice.

Except in accordance with the terms of an international agreement entered into with Seychelles or of a licence, it is prohibited to explore or exploit any resource and to conduct any research in this zone. Such provision does not apply in relation to fishing by a citizen of Seychelles or a body corporate registered in Seychelles and approved by the Minister of Fisheries.

The Act also provides for the rights of Seychelles in historic waters and for the establishment of designated areas of the continental shelf and exclusive economic zone in which the President may, *inter alia*, prescribe certain measures restricting the freedom of navigation proclaimed by Section 7(6).

Penalties for offences against the Act may reach Rs. 250 000 and five years' imprisonment.

Under Section 15, the President is empowered to make such regulations as he considers necessary for carrying out the purposes of the Act. Apart from



the Exclusive Economic Zone Order, defining limits, regulations have been made to control discharges of oil (Marine Pollution Regulations, 1981).

Two other texts concerning marine spaces are still theoretically in force, but have been superseded by the Maritime Zones Act. Proclamation No. 6 of 1969 established a "fisheries zone" extending beyond the territorial sea (then three miles) to a distance of 12 miles from the coast. Since the territorial sea itself now extends to 12 miles, the fisheries zone serves no further purpose. The Control of Natural Resources of the Seabed and Subsoil Act (cap. 148) allows regulation of the exploration and exploitation of the non-living resources of the continental shelf. The Maritime Zones Act now provides for these matters more comprehensively and more in accordance with the language used in the Convention on the Law of the Sea. It is recommended that both Proclamation No. 6 and chapter 148 be repealed. At the same time it would be well formally to repeal the Seas and Submerged Lands Act, 1976, which was never brought into force.

---

## **CHAPTER III - FISHERIES LEGISLATION**

---

[3.1 The Structure of Fisheries Law](#)

[3.2 Administration](#)

[3.3 The Contents of Fisheries Law](#)

[3.4 Fisheries Management](#)

[3.5 Licensing](#)

[3.6 Licence Conditions](#)

[3.7 Special Provisions for Marine Turtles, Marine](#)

[Mammals, Shells and Aquaculture](#)

[3.8 Offences and Enforcement](#)

---

### **3.1 The Structure of Fisheries Law**

"Fisheries law" includes legislation, regulations, administrative and judicial decisions, and international agreements. All of these have proper roles to play, and - except for judicial decisions - all can be shaped by the Government as a coherent set of instruments for implementing fisheries policy. If the single instruments are properly drafted, judicial decisions should reflect the shape they have been given.

The present elements of Seychelles' fisheries law have been produced at different times, and not always taking account of each other. The Fisheries Act (cap. 134) was originally enacted in 1942, although it has been amended a number of times, including recently Fisheries (Amendment) Act, 1985 (No. 5)). It is characterized by the number of rather detailed measures it

contains and the lack of a general framework for exercising management powers flexibly to meet changing situations.

The Fisheries Act was superseded in respect of foreign fishing by the control of Foreign Fishing Vessels Decree, 1979. A companion bill for a local fishing decree was recommended but not accepted at that time. The draft bill would also have governed marine mammals and shells, which along with marine turtles, continue to be covered by separate laws.

The 1979 Decree has been consistently and successfully applied to long-liners, although few of the licence conditions established by the regulations have been used. When purse-seining was first attempted it was treated - quite properly - as an experiment and governed by temporary agreements outside the framework of the decree. The practice took root, so that when long-term agreements were concluded in 1984, they were drafted without apparent regard to the actual contents of the Control of Foreign Fishing Vessels Decree. The agreements refer to compliance with national fisheries regulations, but they do not mesh with them very well in several respects, including fees, reporting, and the role of agents.

Useful provisions could have been included in the agreements themselves, in licences issued pursuant to the agreements or in modified regulations. To shore up the present agreements, it is recommended that the law recognize agreements and make their provisions binding on licensees, at least to the extent that they are consistent with the law. Regulations and licence conditions should provide for details that may have been omitted from the agreements. For the future, regulations could provide a checklist of optional conditions that might be included in agreements. This will guard against unintentional omissions.

### **3.2 Administration**

The administration of fisheries (and thus the execution of fisheries legislation) in Seychelles is complicated by the existence of two agencies, the Seychelles Fishing Authority (SFA) and the Ministry of National Development. The Ministry (and to some extent law enforcement agencies) is responsible under the existing fisheries laws for their execution. The SFA's mandate is defined by the Seychelles Fishing Authority (Establishment) Act, 1984 (No. 10; amended by the Seychelles Fishing Authority (Establishment) (Amendment) Act, 1985 (No. 9)). The powers of the Authority are rather complete on the commercial side but carefully limited on the regulatory. SFA is empowered to "conduct surveillance operations, in conjunction with the Ministry of Defence", and to monitor catches, but it is not given powers to enforce fisheries legislation or require reports. SFA also has the powers necessary to carry out its functions but the functions are equally carefully tailored. They include "to conduct negotiations" but not to conclude agreements or issue licences.

The limitation on SFA powers is perfectly consistent with traditional wisdom concerning mixture of regulatory and commercial functions. In

Seychelles, however, this creates a peculiar situation because all the fisheries personnel of the Ministry has been transferred to SFA, so there is no qualified staff to exercise the regulatory powers. In practice these are exercised by the Minister of National Development on the advice of SFA and by officers of SFA on delegation from the Minister. The defence forces undertake surveillance in cooperation with SFA, but there does not appear to be any joint long-term planning of the surveillance effort, nor can SFA rely on having any definite amount of flying time available. The police enforce local fisheries measures.

Although there is no express power for the Minister to direct SFA in policy matters, he is empowered to make regulations for implementation of the Act. This gives some warrant for the current relationship, but it would be better form to add an explicit power Co give policy directions.

In the proposed fisheries law, the same basic structure can be carried forward. The Minister should be responsible for administering the act; police and armed forces officers and other persons authorized by the Minister should be responsible for enforcement. The Minister should also be able to authorize persons for the purpose of issuing licences, obtaining information and acting as observers. In the normal course of events he would authorize named SFA employees for these purposes. It would not be appropriate to authorize SFA as an entity unless the Authority's statute were amended.

### **3.3 The Contents of Fisheries Law**

The main purpose of fisheries legislation is to provide the legal basis for management of fisheries. At the very least, therefore, it must define fisheries, assign responsibility for their management and grant the necessary powers to control their exploitation. To some extent the legislation will contain the actual rules governing exploitation; for the rest it will create a legal framework for more detailed rule-making.

The fisheries to which the proposed Seychelles fisheries law should apply include all aquatic plants and animals except birds (which are already subject Co separate regulation under the Wild Animal and Birds Protection Act (cap. 143) and the Birds' Eggs Act (cap. 132)). A further exception should be made in the regulations for the Seychelles Pond Turtle, which is satisfactorily protected by the Wild Animal (Seychelles Pond Turtle) Protection Regulations (cap. 143 subsid.). There seems no point in tampering with a well-known and respected provision.

The Government has already decided to regulate marine turtles under the proposed fisheries law. It is suggested Chat shells and marine mammals could conveniently be included as well. This would have the advantage of grouping the principal legislation on living aquatic resources in one text where the relevant provisions can easily be located. The resources included could be called "aquatic organisms" and the main activity regulated would be "fishing". They should be defined in the law as follows:

## Law

"aquatic organism" means any aquatic plant or animal with the exception of birds, and includes any fish, crustacean, mollusc, coral, echinoderm, holothurian, aquatic reptile or aquatic mammal and its shells, eggs and other naturally occurring products;

"fishing" means fishing for, catching, taking or killing fish or other aquatic organisms by any method and includes searching for fish and placing any fish aggregating device.

Aquaculture is not included in this definition. Present legislation already protects exclusive rights to oyster beds (Fisheries Act sections 15-17) and similar provisions can be applied to aquaculture. To the extent that aquaculture required the occupation of public land, existing provisions under the Crown Land and River Reserves Act (cap. 150) and the Coast Reserves and Foreshore Leases Act (cap. 197) should be adequate to allow the land to be leased for aquaculture.

The coverage of current fisheries legislation is generally limited to the management of the resources and conditions of their exploitation. It is recommended that this be continued and that matters such as vessel construction and operating standards, trade in fishery products, labour relations in the fishing industry not be included in fisheries legislation. In fact, it is recommended that the present Fish Export Act (cap. 135) be repealed, since adequate powers to regulate trade already exist under the Seychelles Marketing Board Act, 1984, and the Control of Goods Decree, 1977. On the other hand, a permit for import or export of live fish is recommended because of sanitary and resource considerations.

Provisions to implement the endangered species convention are also required. It was initially recommended that they be placed in regulations under the Customs Management Decree, 1979, but since then the relevant sections (36 and 93) of the Decree have been repealed by the coming into operation of section 27 of the Seychelles Marketing Board Act, 1984. The latter Act only regulates commercial imports and exports, rendering it ineffective to control the tourist trade in endangered species artifacts. There is some possibility that this gap will be filled by amending the Seychelles Marketing Board Act. Otherwise, regulations could be made under the Control of Goods Decree, 1977, which empowers the President to control the import and export of "any goods" (sec. 3). The best solution, however, and the only one advisable in the long run, is to enact an endangered species law.

There are two great distinctions that a fisheries law should make. One is between local and foreign vessels, the other between provisions that apply to the whole world and those that only apply to holders of licences (or other forms of permission) under the law. The distinction based on possession of a licence is simpler. It is particularly important in the control of foreign fishing where all fishing activity is typically forbidden except where authorized. This

is already provided by section 3 of the Control of Foreign Fishing Vessels Decree (except that the Decree does not apply to the territorial sea, which is only regulated by the Fisheries Act). The highest penalties under the law would be imposed for violation of this provision. (If, as recommended, local vessels are licensed as well, it would also be a violation to use an unlicensed local vessel for fishing, but this would not necessarily be considered more serious than fishing with explosives).

The treatment of unlicensed vessels or activities is essentially penal, consisting in prohibitions and sanctions (no fishing without a licence, no fishing in reserves, no fishing with small-mesh traps, etc.) The treatment of licensed activity, on the other hand, is essentially regulatory. Enforcement is not the major problem (although there are obviously still enforcement problems) because the licensee is already identified and has a certain stake in staying in the fishery. It is from the licensed activities that fees are collected and information is gathered. Because of the volume of their catch, it is mainly Co them that management measures are directed. The main task is to set conditions of fishing that are conducive to proper fisheries management, are not too difficult for the fishermen to comply with, facilitate collection of fees and data and, finally, are easy to enforce (or administer).

The distinction between local and foreign fishing is of even greater importance. It essentially determines which vessels, investors and fishermen gain access to fishery resources on preferential terms. The distinction would be of less importance if local fishermen were charged significant fees, which many fisheries economists have recommended as a fisheries management tool. Explicit fees for local fishing are not, however, among the measures the Government is prepared to take. In any case, they could only be considered in relation to the prices at which the Fish Marketing Board will purchase fish. To the extent these are lower than a market price, they serve the same function as a fishing fee. There is also the fact that considerable expansion of effort appears economic, especially in response to growing export markets for high-value fish and the discovery of untapped resources at the edge of the Mahé plateau. The Government has no intention - and there would be little or no advantage - of allowing foreign access Co resources that can be exploited by local effort.

Having decided to accord significantly different treatment to local and foreign fishing, the legislator has a problem distinguishing the two. At one extreme are foreign-owned and -operated, foreign-flag vessels with foreign crews: the licensed long-liners and purse-seiners. At the other are traditional local vessels (as well as fishermen who do not use vessels). In between there can be any number of joint-venture and other arrangements which are neither entirely local nor entirely foreign. Under the Control of Foreign Fishing Vessels Decree, the important definition is "local fishing vessel", which is primarily defined in terms of ownership: if owned by a company, 51% of the shares must be owned by seychellois for the vessel to be considered "local".

The 51% ownership requirement has not created any problems yet, because there are no vessels operating that are not either wholly local or wholly

foreign. In the future, however, Seychelles is likely to face situations where a vessel that is 51% Seychelles-owned will be under essentially foreign management, even operated as part of a foreign fleet. If the vessel is exempt from fees, much of the benefit of the exemption will be realized by the foreign partner and operator. In many cases Seychelles may be able to negotiate more valuable benefits in exchange for free access to resources, but it is suggested that this be determined case by case rather than form the basis of a general exemption. On the other side of the coin, Seychelles companies with no foreign participation may find it advantageous to charter or lease foreign vessels from time to time. Some charter arrangements are no more than camouflaged foreign fishing, but others are perfectly normal methods of fleet expansion. Again, these can only be judged on a case-by-case basis. It is suggested that where there is effective Seychellois control of operations using foreign-owned chartered vessels, or where there is less than 49% foreign ownership of a Seychellois vessel, the Minister be authorized but not required to treat the vessel as local for purposes of fisheries.

#### Law

"local fishing vessel" means any fishing vessel which -

(a) is wholly owned by one or more citizens of Seychelles or public bodies;

or

(b) is wholly owned by a company, society or other association of persons established under the laws of Seychelles, of which all of the shares are owned by citizens of Seychelles or public bodies; or

(c) is wholly owned or chartered by a company, society or other association of persons established under the laws of Seychelles, of which at least 51 per cent of the voting shares are held by citizens of Seychelles or public bodies; and which the Minister determines should be treated as a local fishing vessel.

### **3.4 Fisheries Management**

---

[3.4.1 Planning](#)

[3.4.2 Statistics](#)

[3.4.3 Management Measures](#)

---

### 3.4.1 Planning

Planning is the logical link between fisheries policy and fisheries management. It is the process (under whatever name) whereby available information about a fishery is gathered, objectives are stated for the fishery, and licensing, management and development measures are devised in order to reach the objectives. Planning can be a very simple exercise, and normally it should be: the aim is to lighten the task of fisheries management, not to make it harder.

Simple examples of fisheries planning are available in the decisions to ban foreign fishing in territorial waters, to prohibit lobster fishing and to regulate the use of nets in the fishing reserves. A more complex example is the series of decisions on protection of turtles.

On the other hand, there has only been incomplete planning in the purse-seine fishery. Objectives have been stated, but measures to achieve them remain to be spelled out. It is suggested that the time has come to round out the planning of this enormous fishery. Not much information *is* available about the biological potential of the fishery, but enough is known about catches, fees, employment and the port situation to indicate a short-term licensing policy.

Present legislation does not mention planning (nor management, except as a justification for revoking licences). In part this is because the decisions of what measures to apply are already incorporated in the Fisheries Act, leaving little else to plan. As conditions change, however, the rules governing fishing need to change, and in that case some simple planning will be necessary. A provision along the following lines would be suitable:

#### Law FISHERIES MANAGEMENT AND DEVELOPMENT PLANS

- (1) SFA shall prepare and keep under review plans for the management and development of fisheries.
- (2) The plans shall indicate the current state of fisheries, the objectives to be achieved and the management, development and licensing measures to be applied, including the amount of fishing, if any, to be allocated to foreign fishing vessels.
- (3) In the preparation of each fisheries management and development plan, SFA shall consult with the local fishermen and other persons affected by the plan.
- (4) SFA shall when practical consult with the fisheries management authorities of other States in the Indian Ocean, and in particular with those sharing the same or related stocks, with a view to ensuring the harmonization of their respective fisheries management and development plans.

(5) Each fisheries management and development plan or review thereof shall be submitted to the Minister for approval.

### **3.4.2 Statistics**

From 1978 to 1985 the Statistics Division (Ministry of National Development) has conducted the Fisheries Survey on Mahé, Praslin and La Digue Islands. Originally intended simply to report total landings, the Survey has also produced some catch-and-effort and price data. A final report of the Survey is now in preparation.

SFA is now taking over responsibility for fisheries statistics. It will seek complete coverage of Mahé, Praslin and La Digue artisanal landings, the semi-industrial catch, purse-seine and long-line catches, transshipments and exports.

The Statistics Division has based its work on the authority of the Statistics Act (cap. 29), authorizing the collection of statistics on a number of subjects, including fisheries and "any other matter which may be prescribed" (sec. 4). Although SFA could continue to collect statistics under the same law, it is recommended instead that basic provisions concerning statistics be included in the proposed Fisheries Act.

There are two main reasons for this recommendation. First, statistics and other information are an essential element, and usually the limiting factor in fisheries management, which is the main purpose of the proposed Act. It is therefore important for a coherent presentation of the law that this element be dealt with. Secondly, there are some peculiarities of fisheries, particularly foreign fishing, that deserve special mention. One is the keeping and inspection of logbooks; another is the use of reports for enforcement purposes; a third is the potential for regional statistics and thus the necessity for revealing information to appropriate foreign agencies.

The first statistical provision suggested for the proposed law is the general duty to supply, in the required form, such information regarding fishing operations and related activities as the SFA may require. Regulations would specify requirements concerning log-books, catch returns and radio (or telex) reports. This should be complemented by the duty (and appropriate powers) of SFA to collect and analyse statistical and other information, including to inspect vessels, gear, catches and documents. The confidentiality of information should be specified with appropriate exceptions for official (fisheries) use and for disclosure as part of a regional or broader scheme. Failure to supply required information and breach of confidentiality should both be offences under the proposed law.

Suggested provisions are:

Law INFORMATION



(1) SFA shall collect and analyse statistical and other information on fisheries.

(2) Every person engaged in fishing, related activities or aquaculture shall supply such information regarding such activities in such form as the SFA may require,

(3) No person who receives information pursuant to this Act shall use or disclose it except for the purposes of this Act.

(4) The Minister may enter into arrangements or agreements with other States in the Indian Ocean, either directly or through an international organization, providing for the exchange of fisheries information and for the harmonization of systems for its collection.

The Fisheries Act contains no provisions relating to statistical or other information but the present Control of Foreign Fishing Vessels Decree and regulations contain most of the suggested provisions except those relating to confidentiality. They also naturally do not mention SFA. The main requirements are imposed as conditions of licences (sec. 5(2)(h), 19 (1)(a)), and they include monthly catch and effort reports (Foreign Fishing Vessel Regulations reg. 6(f) (iv), 6(h)) and radio reports of position (every third day) and catch (weekly), (id. reg. 6 (i)). Officers authorized by the Minister may inspect vessels, catch, log books and other papers, although this is for enforcement rather than statistical purposes (sec. 9(1)). It is an offence to use a vessel in contravention of a condition of the licence (sec. 12(3)), as well as to obstruct an authorised officer (sec. 14).

### **3.4.3 Management Measures**

Management measures, such as closed seasons and minimum sizes are, together with licence conditions, the principal means of managing fisheries. Like licences, they ought to be adjusted as necessary to keep pace with changing conditions in the fishery as well as attempts by fishermen to find a legal way to get around regulatory limits.

Management measures are currently contained in a number of both laws and regulations (Fisheries Act and Regulations, Turtles Act and Regulations, Marine Mammals Sanctuary Decree and Conservation of Marine Shells Act). Much of the substance of the Fisheries Act, as well as of the Turtles-Act, is concerned with the details of fisheries management. Most of these provisions should be contained in regulations rather than primary legislation, in order to permit the necessary adjustments already mentioned. Some provisions, such as prohibitions of destructive fishing methods, should be retained in the law because of their importance and stability. Similarly the policy decision to protect marine mammals is not likely to change and could appropriately be included in the law as well. But otherwise the law should only provide the framework under which appropriate regulations can be made;

## Law MANAGEMENT MEASURES

(1) The Minister may make regulations prescribing measures for the proper management of fisheries including closed seasons and closed areas, specifications of gear that may be used (including the mesh size of nets), prohibited fishing methods and gear, the species, sizes and other characteristics of fish and other aquatic organisms that it is permitted or forbidden to catch and schemes for the limitation of entry into all or any specified fisheries.

(2) A regulation prescribing management measures may also prohibit the possession, purchase, sale, import or export of any gear or fish or other aquatic organism.

## Law CONDITIONS OF LICENCES

(1) Any licence issued under this Act shall be subject to such general conditions as the Minister may prescribe, to the conditions made applicable to the licence by any agreement under section 6, and to any special conditions which may be endorsed on the licence by the licensing officer including conditions relating to -

(a) the type and method of fishing or related activity authorized;

(b) the areas within which such fishing or related activity is authorized; and

(c) the target species and amount of fish or other aquatic organisms authorized to be taken, including any restriction on by-catch.

(2) A licensing officer may from time to time, where he is satisfied that it is expedient for the proper management of fisheries, vary any special condition attached to any licence.

(3) Where a licensing officer varies any special condition attached to any licence, he shall notify the licensee of such variation as soon as practical.

In drafting the new fisheries regulations, a number of existing provisions should be revised. The turtle provisions must be adapted in accordance with the Government's decisions on turtles, (See section 3.7.1 below). If a total ban on lobster-fishing is included, there will be no need for the ban on light-fishing. The whole matter of minimum fish sizes needs to be reconsidered,

since there are conflicting opinions as to both the need and the means of limiting catches of small fish.

## **3.5 Licensing**

---

[3.5.1 Issue of Licences](#)

[3.5.2 Foreign Fishing](#)

[3.5.3 Local Fishing](#)

[3.5.4 Other Licences](#)

[3.5.5 Scientific Research](#)

[3.5.6 Validity of Licences](#)

---

Licensing is the pivotal moment in fisheries management. Granting the licence grants access to the fishery; imposing conditions on the licence is one of the most effective ways of regulating the fishery; revoking a licence is a powerful instrument for enforcing the conditions; licence applications are a mine of information about the fishery. These are among the reasons why fisheries legislation almost always provides for licences, with exceptions for artisanal, recreational and other categories of fishing according to local circumstances.

### **3.5.1 Issue of Licences**

The present licensing system needs revision. Currently the net licence is issued by the police. In the future, all local licences should be issued by the fisheries administration (SFA or officers of SFA authorised by the Minister). Criteria for licensing should be stated in terms of fisheries management and the record of the applicant. There should be similar criteria for revocation or suspension of licences. It could eventually be useful to charge meaningful fees as a means of discouraging excessive effort in certain fisheries, but except for lobster and turtles, no fishery has yet approached that point. A general provision for fees could be implemented by regulations when the time came.

Licensing under a number of laws (none of them very relevant to fishing) has recently been taken over by the Seychelles Licensing Authority. (Seychelles Licensing Authority Act, 1984 (No. 9), amended by Seychelles Licensing Authority (Amendment) Act, 1985 (No. 10).) It is not recommended that this system be extended to fisheries, and especially not to the issue of foreign fishing licences. They are issued under agreements which typically provide for a number of matters. Upon signature of an agreement, Seychelles is obligated to issue the agreed licences. This is not compatible with the relative independence of the Licensing Authority, especially with the provision that the Minister (of Finance) "shall not give a direction to the Authority with respect to a particular application[,] licence or case". (Act 9 of 1984, sec. 10(2).) There is a provision for subjecting actions

of the Authority to the approval of the Minister responsible for a matter (sec. 8(2)), but there is no power to require the Authority to act, except on appeal to the Minister of Finance (sec. 13). The law provides an opportunity for licence applicants to be heard (sec. 11 (8)), which is a considerable improvement over the current law for local licences, but is not appropriate for foreign licences.

In the latter case, there is no right to fish in Seychellois waters, and no principle requiring Seychelles to assign a good reason for refusing any particular foreign application. There may be any number of valid political, military and other considerations which a state would not wish to discuss at a hearing.

Finally, the close and rather subtle relationship between SFA and the foreign fishermen is based on its being able to speak authoritatively for the Government. Agreements continue to evolve after they are signed and the conditions surrounding licences (even if they are not attached to the licences) change accordingly. It is exceedingly unlikely that an independent licensing authority, enjoying no particular relationship with the fishery, could make the continuous subtle adjustments required. The consequence would be either that the licence became more and more irrelevant, thus losing a valuable legal tool, or that conflicts arose between the licensing authority on one hand and the SFA and the fishermen on the other. Neither would be desirable.

Local vessel licensing is less likely to generate conflicts and contradictions in the licensing system, although some of the main functions of licensing - providing information, controlling and directing fishing effort - will be made a little more difficult if the fisheries administration does not make the licensing decisions. Other functions, such as collecting revenue or maintaining acceptable standards, are traditionally performed by licensing boards, but they are not likely to be significant for local fisheries in Seychelles.

### **3.5.2 Foreign Fishing**

The most important category of fishing licence currently issued in Seychelles is the foreign fishing vessel licence issued under the Control of Foreign Fishing Vessels Decree, 1979. These licences are all issued by the Minister of National Development. The applications are made to SFA, which also maintains the files of licences granted. Those for long-liners are issued under standard conditions. For purse-seiners the situation is much more complex.

All but one of the purse-seine licences have been issued on the basis of agreements negotiated by SFA with the following: The European Communities in respect of 18 vessels; le Syndicat national des armateurs de thoniers congélateurs in respect of a unspecified member of vessels (9 currently licensed) (there is another agreement with the Syndicat concerning activities of the 18 European Communities vessels, but it is not a licensing

agreement); Spain in respect of 15 vessels, since increased to 19; two Spanish-owned companies incorporated in Cayman Islands and Jersey in respect of 2 vessels; three Ivorian companies in respect of 5 vessels, later increased to 6 (5 currently licensed). The Mauritian vessel has a licence but no formal agreement.

The agreements vary widely, some of them providing for technical assistance, the formation of joint ventures and scientific research. One provision they all contain is that, in return for certain payments and other considerations, Seychelles shall issue licences to the qualifying vessels. The agreements generally provide that operations must be conducted in accordance with Seychelles fisheries regulations. The licences issued pursuant to the agreements also provide that operations must be conducted in conformity with the foreign fishing decree and regulations. The licences do not, however, contain any reference to the agreements. This creates some perplexity, since the most important conditions of foreign fishing, regarding the payment of fees, are only mentioned in the agreements and not in the decree or regulations.

In the future it is recommended that the law explicitly require licensees to comply with the law, regulations and conditions of their licence and with the terms of any agreement entered into by the Seychelles in their regard. At the same time, it would be useful if the principal obligations under the agreements were endorsed on the licences.

In general, it would be preferable for all foreign vessels to be subject to bilateral agreements. This has the great legal advantage that the flag state can be made responsible for its vessels' compliance with the Seychelles' laws and licence conditions. Agreements are also a practical way of dealing with large numbers of vessels. In some cases they are a way of obtaining an official contribution to fishing fees, although in Seychelles' experience this has not made for higher total fees.

It is recommended that an agreement be required as a condition of foreign fishing wherever possible. In the case of governments which Seychelles does not recognize, similar advantages can be secured through an agreement with a fishing owners association. Independent or flag-of-convenience vessels have to be dealt with individually if it is not practical to exclude them. In such cases, financial guarantees (bonds or bank guarantees), local basing of operations, a history of satisfactory compliance can all be required and taken into account in deciding whether to issue a licence.

It is evident that only the SFA is equipped to negotiate fishing agreements, draft appropriate licences, monitor performance and decide necessary management and enforcement measures (including revocation of licences in certain circumstances). Because of the larger repercussions of these matters on foreign relations and the general economy, it is appropriate that the actual grant of licences be done by the Minister. This is the present system. It would also be better practice, and in accordance with SFA's statute, if the Minister signed the fishing agreements.

The following provisions on foreign fishing agreements and licensing are recommended:

Law FISHING AGREEMENTS

(1) The Minister may enter into agreements with other States, with intergovernmental organizations and with associations representing foreign fishing vessel operators allocating fishing rights to vessels of those States, organizations and associations.

(2) The total fishing rights allocated by agreements made under this section shall not exceed the total resources or amount of fishing permitted to foreign fishing vessels by the applicable fisheries management and development plan.

(3) Any agreement made under this section shall include -

(a) a provision establishing the responsibility of the other State, organization or association to take all necessary measures to ensure compliance by its vessels with the agreement and with the laws relating to fishing in Seychelles waters; and

(b) such other provisions as may be prescribed.

Law FOREIGN FISHING VESSEL LICENCE

(1) No foreign fishing vessel may be used for fishing in Seychelles waters or for fishing for sedentary species on the continental shelf except under and in accordance with a licence issued under this section or an authorization under section [scientific].

(2) An application for a licence under this section shall be made in the prescribed form and manner.

(3) Subject to this Act, the Minister may issue a licence in respect of a foreign fishing vessel authorizing that vessel to be used in Seychelles waters and, in respect of sedentary species, on the continental shelf for such fishing activities as may be specified in the licence.

(4) No licence shall be issued under this section unless -

(a) there is in force with the Government of the flag state of the vessel, with an intergovernmental organization to which the flag state has delegated the power to negotiate fishing agreements, or with an association of which the operator is a member, an agreement entered into under section [agreements] to which the Government of Seychelles is a party; or

(b) the Minister determines that an agreement under section 6 in respect of the vessel is not practical and the applicant provides sufficient financial and other guarantees for the fulfilment of all obligations under this Act.

Regulations (2) A licence issued under section [foreign] of the Act shall be subject to such of the following additional conditions as are made applicable to the licence by a fishing agreement under section [agreements] of the Act or, where there is no such agreement applicable to the licence, as are endorsed on the licence by the licensing officer -

(a) no fishing shall be conducted in the territorial waters of Seychelles nor in waters less than 200 meters deep;

(b) all catches taken from the Western Indian Ocean shall be landed or transhipped in Port Victoria except as otherwise authorized by SFA;

(c) all supplies and services required for the operation of the vessel shall be procured in Seychelles except if such supplies or service are not available locally;

(d) the exact position of the vessel shall, whenever the vessel is in the Western Indian Ocean, be reported twice weekly to SFA -

(i) directly by radio or telex when the vessel is in Seychelles waters;

(ii) directly or by a representative when the vessel is elsewhere in the Western Indian Ocean.

### **3.5.3 Local Fishing**

The principal licence under the Fisheries Act is a net licence, and it is illegal to use any net for fishing unless it is licensed and marked. Half-yearly fees range from 50 cents for a mosquito net to 50 rupees for a net over 100 metres long (Fisheries Regulations, 1942, Cap. 134 subsid.) The licensing authority is not named in the law or regulations, but in practice net licences are issued by the police. The law provides that the licensing authority may, "in its absolute discretion and without assigning any reason, refuse to grant a licence or revoke a licence" subject to appeal to the Minister (sec. 5). Fishing boats are required to be registered with the Collector of Customs, but there is no fee nor power to refuse or revoke registration. The requirement is apparently not enforced. Registered boats are to be marked in a specified manner. (Sec. 19.) There is also a provision prohibiting fishing at night without permission (sec. 11(2)), which is implemented through licences issued by the former Fisheries Officer, now on the staff of SFA.

The licensing provisions of the Fisheries Act should be completely revised. The principal licences should be for vessels and beach seines, but not for other nets. The vessel is a practical necessity for most fishing and it usually defines the size of the operation. Conditions relating to the use of gear can be attached to the vessel licence.

Whether canoes should be licensed or exempt from licensing is essentially a practical question. Since Seychelles operates a rather thorough fisheries statistics system, it would be useful to have a list of all vessels including canoes, and licensing would provide Chat. If canoes are licensed, arrangements should be made for the issue of licences at the principal beaches, in line with the way statistics are collected. If the manpower is not available to license canoes, it should not be required except in the case of particularly delicate fisheries. In any case, the law should provide both for exemptions from licensing requirements and for special kinds of licences to be defined by regulations.

Among the special categories should be both local and foreign pleasure craft. In most cases it would not be practical to license these, but the power to do so should be retained in case it becomes necessary to license game fishing or to prevent commercial fishermen from claiming amateur status. Currently a vessel of any flag "let out for hire for fishing as a sport or for pleasure purposes" is required to have a licence under the Control of Hire Craft Act (cap. 208, amended by Act No. 24 of 1973 and Decree No. 23 of 1978).

The following provisions are recommended:

#### Law LOCAL FISHING VESSEL LICENCE

- (1) No local fishing vessel may, unless it has been exempted under subsection (2), be used for fishing except in accordance with a licence issued under this section or an authorization under section [scientific].



(2) The Minister may make regulations exempting any category of local vessel from the requirements of this section, subject to such conditions as he may prescribe.

(3) An application for a licence under this section shall be made in the prescribed form to a licensing officer and shall be accompanied by the prescribed fee.

(4) A licensing officer shall, upon application in accordance with the preceding subsection, issue a licence under this section if he is satisfied that -

(a) the vessel is a local fishing vessel as defined;

(b) the issue of the licence is consistent with any licensing programme specified in the applicable fisheries management and development plan;

(c) the applicant is able and willing to comply with the conditions of the licence.

#### Law PLEASURE CRAFT

The Minister may make regulations prescribing the conditions under which pleasure craft may be used for fishing. Such regulations may require that pleasure craft be licensed.

Regulations A local fishing vessel not exceeding seven meters in overall length or of any size but mechanically propelled, is exempted from the requirement of a licence under section [local] of the Act.

#### **3.5.4 Other Licences**

Not all fishing uses boats, not all boats are strictly used for fishing, and in any case the boat is not always the most appropriate unit for licensing. Current activities that should be licensed in a different manner are fishing with beach seines, capture of turtles, and possession and export of shells. In the future, it could become necessary to license other activities, such as capture of aquarium fish. It could also be necessary to license support vessels that do not actually catch fish, but this would only be a burden at present.

The best way to deal with these activities is to enact a general authority to require licences for any fishing or related activity with or without the use of a vessel. Then regulations could be framed to require the kinds of licences

that were relevant at the time. Presently these would be beach seines (below), turtles (section 3.7.1) and shells (section 3.7.3).

#### Law OTHER LICENCES

(1) The Minister may make regulations requiring a licence for -

- (a) any kind of fishing, with or without the use of a vessel;
- (b) the use of a vessel for any related activity.

(2) A licensing officer may, upon application in the prescribed form and subject to such conditions as may be prescribed, issue a licence authorizing any person to conduct any kind of fishing or related activity for which a licence is required by regulations made under this section.

#### Law OFFENCES

(5) Any person who, in Seychelles or Seychelles waters, conducts any fishing or related activity for which a licence is required by regulations made under this Act, otherwise than under the authority of and in accordance with the terms of a valid licence, shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

#### Regulations Large Nets

(1) No person shall fish in the territorial waters with the use of a net or combination of nets exceeding 50 meters in length except pursuant to a valid licence issued by a licensing officer under this regulation or under section [foreign] or section [local] of the Act.

(2) Every licence issued under this regulation shall be in the form set out in the Thirrd Schedule and shall specify the size of net and the location and manner of use for which it is valid.

(3) A licence issued under this regulation shall be valid for one year, unless sooner suspended or revoked.

(4) A net licensed under this regulation shall be marked by the licensing officer with a lead seal or other mark bearing the licence number of the net.

(5) Any person who -

- (a) removes or alters a mark made under sub-regulation (4); or
- (b) marks an unlicensed net in such a way as to make it appear to have been marked under sub-regulation (4);

shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

### **3.5.5 Scientific Research**

It is frequently desirable to permit activities for research purposes that would not ordinarily be allowed. Examples would include taking immature fish or protected species, investigating protected areas, fishing in closed seasons or using gear that is normally prohibited. It may also be appropriate to waive fees and standard licensing procedures for research vessels, while at the same time imposing conditions peculiar to the research purposes, in particular that research findings be communicated to Seychelles. In all cases it must be clear that the proposed activity is based on a serious research plan, and that it is not simply a ruse to avoid payment of fees.

Section 8 of the Control of Foreign Fishing Vessels Decree, 1979 deals with scientific research by foreign vessels. It should be broadened to apply generally to research fishing in Seychelles waters, and it should specify that research activities may be exempted from normal conditions, as follows:

#### Law SCIENTIFIC RESEARCH

The Minister may in writing authorize any person or vessel to fish for the purpose of scientific research, subject to such conditions as he may prescribe or specify. An authorization under this section may exempt any person or vessel from any provision of this Act.

Regulations An authorization under section [scientific] of the Act shall be subject to the following conditions -

- (a) no operations may take place until a research plan has been approved by the Minister or other person named by him;
- (b) copies of all data derived from the research and any analysis, report or other result of the research shall be communicated in full to SFA as soon as they **are** produced, whether or not they are available to any other person.

### 3.5.6 Validity of Licences

Annual licences are very common in fisheries even though a much longer period is required to amortize the investment in vessels, gear and possibly shore facilities. The flexibility offered by short licences is really spurious where the vessels are locally owned or based, since they would only fail to be renewed in circumstances that would probably justify their cancellation. Similarly, foreign vessels operating under multiple-year agreements can count on obtaining licence renewals as long as the agreement remains in force. In other cases, typified by the long-liners, very short licences accurately reflect fishing patterns and the relationship between Seychelles and the licensees.

With such variation in circumstances, a provision similar to section 5(1) of the Control of Foreign Fishing Vessels Decree is suggested, whereby the Minister may determine the length of licences. They should not, however, exceed an economically justifiable period, which it is suggested would be five years.

Whatever period of time a licence may be issued for, it is always possible either that circumstances will change or that the licensee will fail to comply with the conditions of the licence. In such cases, the fisheries administration should be able to suspend or cancel the licence.

The following provisions are recommended for the law:

#### Law VALIDITY OF LICENCES

(1) A licence issued under this Act shall be valid for such period not exceeding five years as may be prescribed by regulations or specified in the licence.

(2) Where a vessel licensed as a local fishing vessel ceases to be a local fishing vessel, the licence shall automatically terminate.

(3) The term of a foreign fishing vessel licence shall not extend beyond the term of any applicable agreement under section [agreements].

(4) No licence shall be transferable except with the written permission of a licensing officer or as may be prescribed by regulations for the limitation of entry into any fishery.

#### Law SUSPENSION AND CANCELLATION OF LICENCES

(1) A licensing officer may suspend or cancel any licence issued under this Act -

(a) where the vessel or any gear in respect of which the licence was issued has been used, or any activity has been conducted, in contravention of this Act or any condition of the licence;

(b) where such action is necessary or expedient for the proper management of fisheries.

(2) In the event of suspension or cancellation of a licence for the reasons set out in paragraph (1)(b), the proportion of any fees paid with respect to the unexpired portion of the licence shall be refunded to the licensee.

### **3.6 Licence Conditions**

---

[3.6.1 Conditions Relating to Fishing Operations](#)

[3.6.2. Conditions Relating to Benefits](#)

[3.6.3 Conditions Relating to Enforcement](#)

---

The conditions under which fishing vessels are required to operate can be specified in a number of ways: legislation, regulations, bilateral agreements, regional agreements, investment (joint-venture) contracts, general and special conditions of fishing licences. Frequently the same condition is imposed in several ways. For example the Seychellois requirement that foreign vessels report their position and catch is imposed by regulation 6 (i) of the Foreign Fishing Vessels Regulations (as amended by SI No. 88 of 1981), by the agreements with Spain and the EEC and as a condition of the licence issued to each vessel.

General conditions, such as the reporting requirement, that apply to all licensed vessels can be imposed as licences are issued or by general notice or embodied in the law or regulations. It is largely a matter of flexibility: conditions that are not expected to remain stable should be imposed by notice or endorsement. In order to take full advantage of this flexibility, it should be made clear in the law that conditions can be amended during the term of a licence. Otherwise, long licences (the longest now in force have a five-year validity) may lead to an unworkable rigidity.

Where stable conditions are embodied in the law or regulations, it is a matter of style whether they are called licence conditions, as in regulation 6 of the Foreign Fishing Vessels Regulations, or simply imposed as legal or regulatory requirements, as in the case of all restrictions under the Fisheries Act and Regulations. Even if the term "licence condition" is meant to make

the licence revocable for non-compliance, this has no significance today when it is standard practice to make licences equally revocable for non-compliance with the law or regulations. To the extent conditions are actually written on the licence, on the other hand, expressing them in this form has some publicity value.

Special conditions are those that apply to less than all of a class of licences, even to a single licence. With vessels of nine different nationalities (including seychelloise) and with joint ventures in prospect, with five different agreements in force for these vessels (some, including the long-liners, operate without agreements), it is apparent that different conditions must apply to different vessels. To some extent the conditions can be contained in agreements (for vessels operating under agreements), but it is still desirable to retain the power to impose and alter conditions insofar as this is not incompatible with the agreement. It is also recommended that the principal obligations of foreign vessels under bilateral agreements be written into the licences as conditions in order to make them unequivocally enforceable by administrative - as opposed to diplomatic - means.

There is an enormous variety of possible licence conditions. There are two central groups, one directed to fisheries management (e.g. specification of permitted fishing areas), the other to enforcement (e.g., marking of vessels). But licence conditions can also be an effective way to impose other conditions, from the payment of fees to the training of nationals. It is not suggested that licences be loaded with every condition that could possibly be useful, but illustrative lists of conditions could be included in the law and regulations (as at present in the Control of Foreign Fishing Vessels Decree). This would allow conditions to be applied in practice at the time and in the cases where they seemed particularly useful.

#### Law CONDITIONS OF LICENCES

(1) Any licence issued under this Act shall be subject to such general conditions as the Minister may prescribe, to the conditions made applicable to the licence by any agreement under section 6, and to any special conditions which may be endorsed on the licence by the licensing officer including conditions relating to -

- (a) the type and method of fishing or related activity authorized;
- (b) the areas within which such fishing or related activity is authorized; and
- (c) the target species and amount of fish or other aquatic organisms authorized to be taken, including any restriction on by-catch.

(2) A licensing officer may from time to time, where he is satisfied that it is expedient for the proper management of fisheries, vary any special condition attached to any licence.

(3) Where a licensing officer varies any special condition attached to any licence, he shall notify the licensee of such variation as soon as practical.

### **3.6.1 Conditions Relating to Fishing Operations**

Foreign fishing licences would normally be issued for a particular method of fishing and target species or group of species. It may be appropriate to include specifications of the gear that may be used, the percentage and disposition of by-catch and other measures. So far the only such limitation that has appeared relevant is the exclusion of foreign fishing from the continental shelf (waters less than 200 meters deep) and in the vicinity of FADs placed by Seychellois. The exclusion of tuna vessels from shelf areas has not created any problems so far, but there are possibilities that bait-fishing and fishing with new techniques could be beneficially conducted there by foreign vessels, at least on an experimental basis. For that reason it is not recommended that the restriction be incorporated in the law, since this would make it practically impossible to grant exceptions. The protection of FADs could probably be reduced to one mile, and at the same time it should be extended to those placed by other foreigners as well, in order to avoid unpleasantness between competing fleets. A condition that has been inserted in a number of licences is a requirement to land by-catch, but it has not been enforced for practical reasons. Until Seychelles really wishes to enforce this condition, it is probably better not to put it in the licences.

Licence No fishing shall be conducted in the territorial waters of Seychelles nor in waters less than 200 meters deep.

Regulations The vessel shall not be used for fishing within one nautical mile of a fish aggregating device except with the permission of the person who has placed the device.

Local fishing is already subject to a number of limitations. Those that should be included in licences would be the location of beach seines and the specification of species and numbers in the case of turtles. Other conditions could be added in particular cases. Minimum mesh or opening sizes would normally be done by regulation rather than licence conditions, since the nets and traps would probably not be individually licensed. In the case of a sufficiently specialized vessel, however, gear specifications would be appropriate.

### **3.6.2. Conditions Relating to Benefits**

Foreign fishing - and more rarely fishing by nationals - is usually only permitted in exchange for fees and other benefits. These conditions of foreign fishing are often reflected by conditions in fishing licences, although

where they are very complex, such as training or shore investment, the licence can do no more than refer to a more comprehensive document. Two kinds of benefits deserve particular consideration in the context of Seychelles licence conditions: fishing fees and transshipping in Port Victoria.

The matter of fees is very simple in the case of the long-liners, which pay a monthly fee per gross registered ton in advance. The "condition" is simple: no payment, no licence. A number of different arrangements are in effect for the purse-seiners. For those that pay fees on the basis of catch, it is recommended that the licence should state explicitly how the fee is determined, how it must be paid and that the licence will be automatically suspended during any time that fees are not fully paid and that it may be cancelled for non-payment. The law in turn should authorize this sort of condition.

#### Law FEES

There shall be payable in respect of every licence such fees and other payments as may be prescribed by regulations or provided for by an agreement under section [agreements].

#### Licence (in cases where the fee is based on the value of the catch)

The amount of fee shall be calculated by SFA for the six-month period ending on the last days of February and August of each year and shall be paid in full within 15 days of demand made to the licensee or his appointed representative. If payment is not received within that time, this licence will be automatically suspended until such time as the fee is paid.

Law A licensing officer may suspend or cancel any licence issued under this Act where the vessel or any gear in respect of which the licence was issued has been used, or any activity has been conducted, in contravention of this Act or any condition of the licence.

Transshipment provides one of the main benefits of foreign fishing. It cannot be made a universal requirement, however. Some licensed vessels catch few or no fish in Seychelles during a licensing period, so mandatory transshipment would only drive them away from licensing. Others have agreements which would make it difficult to require transshipment. In any case, for the purse seiners, which generally operate beyond the EEZ but within convenient range of Port Victoria, access to the port is more attractive than access to the resources. Still, the two go together, and where Seychelles is able to insist on transshipment, it should also have the power to enforce the requirement as a condition of the fishing licence, as follows:



Licence All fish caught in [Seychelles waters] [the Western Indian Ocean] shall be landed or transhipped in Port Victoria under the supervision of SFA. The fish shall be sorted and handled in such a way as to allow accurate determination of the quantity by species and size classes.

Later on, when there are appropriate shore facilities, it may be useful to require some vessels to land a certain amount of their catch. This could be a useful way of ensuring supplies to a cannery without the risk and cost of vessel ownership.

Other requirements including shore processing and facilities, training and employment and local purchasing, can be made licence conditions, but they would probably be part of more elaborate arrangements, in particular joint ventures. They also are not conditions that can necessarily be fulfilled by unilateral action of the licensee. It would not be easy to ascertain whether a condition of this sort had been "violated" and thus it would not be very useful as a basis for cancelling a licence.

A requirement to employ a given number of local crew can be simply stated (and is part of the EEC agreement), and should be authorized so that local employment can be maximized where appropriate. It has to be recognized, however, that insertion of a few nationals into a rather specialized fishing crew is not always successful. Local purchase (e.g., of bait) is sometimes a suitable licence condition, but only when suitable supplies are available locally. This is likely to be more appropriate for an agreement than a licence condition.

Licence/Agreement All supplies and services required for the operation of the vessel shall be procured in Seychelles except if such supplies or service are not available locally.

### **3.6.3 Conditions Relating to Enforcement**

A large number of conditions related to enforcement are included in the current foreign fishing legislation, but most of them are not used in practice. Some that are, however, form the core of an effective enforcement system. The system is based on vessels' self-reporting their location and catch, with aerial surveillance to verify the accuracy of position reports and in-port inspection to monitor actual catches.

#### **a. Reporting**

Licensed foreign vessels are required by regulation 6 (i) of the Foreign Fishing Vessels Regulations to radio their location every three days, and their location and catch weekly. The agreements for purse-seiners differ slightly, requiring both catch and position to be reported every three days. In practice, both reports are required twice a week. Some vessels report even when they are beyond the EEZ, but most do not. The radio reports are complemented by catch and effort forms which vessels are required to file each trip.

The purse-seiners are sometimes reluctant to file radio reports. It has been suggested that they especially dislike reporting their catches, since if they are doing well the competition descends on them. Since the catch reports have not been very accurate and in any case cannot be verified (except for the total, which is transhipped at the end of the trip) it is suggested that the Government consider deleting catch data from the radio reports. If this is not successful, the catch data can be required anew. It would be useful if positions outside the EEZ were also reported by radio. This could be made a condition of the licence (it could not be imposed on unlicensed vessels), but until compliance with the basic requirement is improved, it may be counter-productive to add new requirements. There is no harm, however, in requiring licensed vessels to report when (and where) they enter and leave Seychelles' EEZ. In theory they should do this already, but the requirement is not very explicit in present regulations and administrative practice.

Regulations The master of the vessel shall cause its position to be reported by radio or other means of communication approved by SFA -

- (i) upon entering or leaving Seychelles waters;
- (ii) every three days while in Seychelles waters;
- (iii) at all other times when requested by SFA to do so.

Licence/Agreement The exact position of the vessel shall, whenever the vessel is in the Western Indian Ocean, be reported twice weekly to SFA -

- (i) directly by radio or telex when the vessel is in Seychelles waters;
- (ii) directly or by a representative when the vessel is elsewhere in the Western Indian Ocean.

Written catch and effort data are always difficult to obtain, but the data are necessary for management purposes. Most of the licensed vessels already make reports to their national institutions, such as ORSTOM, and it is suggested that Seychelles should continue its co-operation with these institutions to agree on common forms and sharing of data. The catch-and-effort forms are not necessary for enforcement. Position and catches (required for those vessels whose fees are based on the catch inside the EEZ) can be transcribed from existing logs, which is current practice. There is no way directly to check the reliability of these logs, but they have indicative value, and they are certainly cheaper than directly monitoring catches.

Regulations The vessel shall maintain a logbook in which are recorded the nature, time and position of all fishing operations in the Western Indian Ocean, and the quantity of catch by species, including fish caught but not landed or retained on board.

b. Vessel marking

The radio reports can be directly verified by aerial surveillance if the vessels can be identified from the air. The current marking requirements, imposed as licence conditions by the Foreign Fishing Vessels Regulations, have proved satisfactory for aerial identification. If a regional marking system or other improvements are instituted, there should be no difficulty in modifying the regulations (or licence conditions, as the case may be).

Regulations The vessel shall at all times while in Seychelles waters

- (i) fly the flag of its flag state and
- (ii) display on both sides of the vessel, so as to be clearly visible both from the sea and from the air, the licence number in white markings at least one metre in height in the case of a vessel whose overall length exceeds 18 metres, or 45 centimetres in height in any other case, on a black background.

c. Port inspection

Fishing and transshipment fees under several agreements depend on the amount of fish that is off-loaded in Port Victoria (any amount that remains on board in brine tanks cannot be accurately determined). So far monitoring of transshipments has given rise to minor difficulties, which could be avoided through explicit provisions creating a duty to facilitate monitoring of transshipments, including to sort the fish as necessary to allow accurate determination of catch by categories (species and size). The current regulations, which provide for initial and final inspections, are oriented more toward inspection of vessels that pass through Seychelles in the course of a campaign, typical of the long-liners. The purse-seiners, on the other hand make several trips in a row from Port Victoria, so they need to be inspected at the end of each trip, not at the end of their stay in Seychelles.

Regulations The master of the vessel shall, whenever requested to do so by an authorized officer or SFA, bring the vessel into port.

Licence

- (1) The vessel shall be inspected by SFA each time that it enters port.
- (2) No fish shall be landed or transhipped anywhere except Port Victoria [without the approval of SFA].
- (3) All fish landed or transhipped shall be sorted by species and size and presented for inspection as required by SFA.

d. Other enforcement conditions

A number of other conditions are imposed on licensed fishing vessels for the main purpose of ensuring compliance with primary norms of fishing conduct. It is suggested that all potentially useful conditions be authorized by the law and regulations, but that only the actually useful ones be imposed.

(i) Stowage of gear is now required of licensed (and unlicensed) vessels when they are in areas where they are not authorized to fish - in practice waters less than 200 metres deep. The provision is not actually used for enforcement, so it is not recommended that it be imposed as a licence condition at present. The greater use of stowage is as an evidentiary presumption against unlicensed vessels, discussed in section 3.8 below.

(ii) Bonds. Licensees may be required to post bonds, and this could be a useful provision in the case of vessels not operating under an agreement and to ensure collection of fees paid after fishing. The law should authorize bonding although a bonding requirement could only be imposed in practice after consulting the licensees and the signatories of fishing agreements.

Law The Minister may make regulations requiring the holder of any licence to execute a bond or give other guarantee of his obligations under the licence.

(iii) Agents. Agents with legal responsibility are required under the current foreign fishing regulations and all or most of the vessels have agents. In the case of the long-liners the agent is able to apply for a licence and make notifications on behalf of the vessel. In the case of the purse-seiners, the agents have essentially been named by SFA, and they restrict themselves to the normal functions of shipping-agent. All matters concerning fishing, including filing of position reports and implementation of the agreements, are handled by owners' representatives who have no official status. Even without this status the representatives have been extremely useful to both the owners and SFA. It is recommended that the agreements (and regulations) be brought into conformity with practice and the owner's representatives given the legal responsibilities of agent, at least for the matters they actually handle. The question of shipping-agent, on the other hand, is not one that means much to fisheries management.

Law The Minister may make regulations requiring the holder of a licence under section [foreign] to appoint a local agent in Seychelles with authority to represent the licensee in respect of the vessel.

Regulations The licensee shall appoint an agent approved by SFA who shall be authorized to accept legal and financial responsibility and service of any notice, summons or other document, on behalf of the licensee in relation Co activities of the vessel.

(iv) Position-fixing and communication equipment. Position-fixing equipment (transponders) has not been used for fisheries enforcement, but it may become practical before long. Some form of radio communication is already both standard and useful. Both should be among the conditions

authorized, but neither should be imposed as a general condition. The only vessels that do not have adequate equipment now are some of the long-liners that lack a VHF (short-range) radio, and it may be counter-productive to ask a long-liner with a one-month licence to instal a VHF radio.

Law The Minister may make regulations requiring any licensed vessel to be equipped with specified communications and position-fixing equipment.

(v) At-sea inspection. Although at-sea inspections are not a primary means of compliance control, they do need to be authorized for the occasions when they are undertaken. An important element of the inspection provisions is the duty of the vessel to co-operate with the inspecting officers. This should apply to licensed and unlicensed vessels and be stated in the law, rather than in a licence.

#### Law POWERS OF AUTHORIZED OFFICERS

(1) For the purpose of enforcing this Act, an authorized officer may, without a warrant -

(a) stop, board and search any fishing vessel in Seychelles waters;

(b) require to be produced, examine and make copies of any licence, logbook or other document required under this Act;

(c) require to be produced and examine any net or other fishing gear and any fish.

(2) The master of any fishing vessel ordered to stop by an authorized officer shall stop the vessel and take all necessary measures to facilitate its boarding.

Regulations The master of the vessel shall, whenever requested by an authorized officer or by SFA, permit boarding and inspection of the vessel, produce for examination licences, logbooks and other documents required to be maintained, and all nets and other fishing gear and fish, and bring the vessel into port.

Observers are sometimes considered an enforcement tool, but they are not recommended for that purpose in Seychelles. Scientific observers and familiarization cruises by administrators are recommended and it should be a licence condition that they be carried and given co-operation and facilities. The EEC agreement contains a rather restrictive provision for observers, but in practice the owners have been very co-operative in agreeing to an observe programme.

Regulations The master of the vessel shall permit observers designated by SFA to go and remain on board the vessel for any or all of the period of validity of the licence, and shall -

- (i) provide the observers with suitable food and accommodation while on board;
- (ii) cooperate fully with the observers in the performance of their duties;
- (iii) arrange for the observers to send and receive messages by way of the communications facilities on board the vessel.

### **3.7 Special Provisions for Marine Turtles, Marine Mammals, Shells and Aquaculture**

---

[3.7.1 Marine Turtles](#)

[3.7.2 Marine Mammals](#)

[3.7.3 Shells](#)

[3.7.4 Aquaculture](#)

---

#### **3.7.1 Marine Turtles**

Seychelles is home to two principal species of marine turtle, green and hawksbill (loggerhead and leatherback turtles may be found in transit but do not breed in Seychelles). Green turtles are traditionally eaten and highly esteemed by the Seychellois. They are mainly found on the coralline (outlying) islands and brought to Mahé for sale. Hawksbill turtles are mainly found on the granitic islands. Traditionally they were used only for their shells, which were worked into objects and exported whole, either by tourists as souvenirs or commercially for further manufacture. Hawksbill meat is generally considered toxic in Seychelles, which has understandably limited consumption, but there is evidence that consumption has begun to increase.

Both hawksbill and green turtles are governed by the rather detailed provisions of the Turtles Act (cap. 141) (other turtle species are not included in the act's definition of "turtle"). The act establishes minimum lengths of 24 inches for hawksbill and 30 inches for green turtles (sec. 3), protects turtle eggs and forbids their sale (sec. 4) and regulates the manner of catching and killing turtles (sec. 3(4), 5, 6, 7). Regulations may be made providing for, amongst other things, closed seasons (sec. 12) and prohibiting the harpooning, killing, destruction or taking possession of turtles or of eggs thereof, within the whole or any part of Seychelles either absolutely or subject to such conditions, exceptions or limitations as may be prescribed (sec. 11). Extensive regulations have in fact been made establishing protected areas on certain islands and in the sea within 16 kilometers of any

island. (Turtles (Protection) Regulations, 1979 (S.I. 115) reg. 3; Turtles (Extention) Order, 1979 (S.I. 114)). There is a closed season for green turtles from November through February and females are protected at all times (Green Turtles Protection Regulations, 1976 (S.I. 43), reg. 2, 4, 5).

Trade in turtles and their products is extensively regulated. Anyone coming into possession of a hawksbill turtle is required to declare it and obtain a permit before selling, exporting or otherwise disposing of it (sec. 8). A similar provision applies to green turtles brought to Mahé (sec. 9). Regulations may prohibit sale, export or possession of turtles, either absolutely or subject to "such conditions, exceptions or limitations as may be prescribed" (sec. 11). It is in fact forbidden to sell or export stuffed hawksbill turtles unless authorized by the Minister (Turtles (Protection) Regulations, 1979 (S.I. 115), reg. 5), and a licence is required to export raw hawksbill shell (Customs Management Regulations, cap. 100 subsid.), in addition to the "permit" required by the Turtles Act. (The provision of the Customs Management Decree under which exports are licensed has recently been repealed, so it may be necessary to remake the regulation under the Control of Goods Decree, 1977.)

Exportation of green turtles is not permitted except for rearing purposes (Green Turtles Protection Regulations, 1976 (S.I. 43) reg. 8). Sales on the inner islands are limited to two kilogrammes per person and hotels and restaurants are not permitted to sell turtle meat (id. reg. 8; Green Turtles Protection (Amendment) Regulations, 1977 (S.I. 51)). Sales during the closed season and sale of female turtles are prohibited (Green Turtles Protection Regulations, 1976 (S.I. 43), reg. 4, 5). There is provision for a licence to catch and rear turtles, and the regulations make appropriate exceptions for farm-reared green turtles. (Turtles Act sec. 18; Green Turtles Protection Regulations, 1976 reg. 9).

It has recently become apparent that existing turtle regulation is not adequate in several respects. First, while populations are increasing in areas, such as Aldabra, where turtles are totally protected, they are declining, despite the restrictions, where exploitation is allowed. Secondly, both native sea turtles are subject to regulation of trade under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), to which Seychelles is a party.

Regulation of turtle exploitation to protect declining populations can be undertaken under an appropriately drawn fisheries act. The current mass of turtle regulations are repetitive and poorly organized while the Turtles Act itself may not contain sufficient powers for new regulatory methods such as annual limits. It is recommended the act and regulations be replaced by simpler regulations embodying the decisions concerning turtles taken by the government in 1984, as follows;

#### Regulations Green Turtles

- (1) No person shall fish for, catch, kill, disturb or possess a female green turtle.
- (2) No person shall, in any place other than an outer island, fish for, catch, kill, sell or expose for sale any green turtle or be in possession of more than two kilogrammes of green turtle meat except pursuant to a valid licence issued under this regulation.
- (3) Subject to the provisions of this regulation, a licensing officer may issue a licence for the removal of male green turtles from outer islands and their possession and sale.
- (4) A licence under this regulation shall not authorize the removal of salted turtle meat from outer islands.
- (5) Every licence issued under this regulation shall specify the number of green turtles for which it is valid, their destination and the manner of sale or other disposition of the meat.
- (6) The number of green turtles for which licences may be issued in any year shall not exceed an aggregate number which shall be determined by the Minister at the beginning of each year.
- (7) A licence under this regulation shall, unless sooner suspended or revoked, be valid for such period not exceeding one year as the licensing officer may specify.

#### Regulations Hawksbill Turtles

- (1) No person shall fish for, catch, kill or disturb a female hawksbill turtle.
- (2) No person shall fish for, catch or kill a male hawksbill turtle except pursuant to a valid licence issued under this regulation.
- (3) If a hawksbill turtle is unintentionally wounded or caught, it shall be returned to the sea except that, if it is dead or so severely injured as to render its recovery unlikely, it shall be delivered forthwith to the Ministry or to a licensee under this regulation.
- (4) Subject to the provisions of this regulation a licensing officer may issue a licence for the capture of male hawksbill turtles on outer islands and in the waters surrounding them.



(5) The holder of a licence under this regulation may dispose of hawksbill turtles only in the form of shell sold to artisans in the business of working such shell.

(6) Every delivery of hawksbill turtle shell to an artisan shall be accompanied by a certificate of the licensee stating the quantity of shell delivered.

(7) A licensee under this regulation shall maintain records of all capture and acquisition of hawksbill turtles and of all dispositions of shell.

(8) No person shall possess unworked hawksbill turtle shell except pursuant to a licence issued under this regulation, provided that an artisan in the business of working such shell may possess unworked shells for the purpose of such business if they are accompanied by a certificate issued under sub-regulation (6).

The Convention on International Trade in Endangered Species of Wild Fauna and Flora regulates international trade in endangered species and "any readily recognizable part or derivative thereof". Species listed in Appendix I to the Convention are subject to strict control over import, export, re-export and introduction from the sea. The principal requirement is an import permit which can only be issued upon findings that import will not be detrimental to the survival of the species and is not for "primarily commercial purposes". An import permit is required in order to get an export permit (Art. III). For species in Appendix II, only the export permit is required and there is no requirement of non-commercial purpose (Art. IV). Appendix III contains species that any party identifies for regulation. Appendix III species require an export permit, certificate of origin or certificate of processing or re-export. Seychelles does not presently have adequate information to know if significant quantities of Appendix III species might reach it, and accordingly no recommendation is made concerning their regulation at this time. When it is desired to regulate them, they can be treated analogously to Appendix II species.

Implementation of CITES is not a serious problem for green turtles, both because there is no demand for their export and because exports are generally forbidden. But export of hawksbill turtles is only restricted in the case of raw shells and stuffed turtles. (The Turtles Act requires a permit for exporting hawksbill shells and products, but contains only limited powers to refuse the permit.) Furthermore, loggerhead and leatherback turtles, which occasionally occur in Seychelles, are not regulated at all.

Control of trade in endangered species goes beyond turtles, or even marine resources, since Seychelles also has birds, terrestrial reptiles and plants listed in the Convention. It is suggested that the most effective approach would be an endangered species act comprehensively regulating trade in species listed in the convention as well as other species Seychelles may wish to protect

through trade restrictions. As an interim measure to achieve most of the same results, Seychelles could adopt the following regulations under the Control of Goods Decree, 1977:

1. The exportation of any animal or plant, whether alive or dead, or of any readily recognizable part or derivative thereof, belonging to any species listed in the Schedule, is prohibited except in accordance with a licence issued by the Minister of National Development.

The Schedule would reproduce Appendices I and II to the Convention on International Trade in Endangered Species of Wild Fauna and Flora as of 14 March 1984. Alternatively, it could list the known endangered species of Seychelles and others trade in which must be regulated.

2. The importation of any animal or plant, whether alive or dead, or of any readily recognizable part or derivative thereof, belonging to any species listed in the Schedule, is prohibited except in accordance with a licence issued by the Minister of National Development.

At the same time, this would control trade in giant land tortoises, hawksbill turtles and certain orchidaceae, which were regulated under sections of the Customs Management Decree that have since been repealed.

Proper implementation of the foregoing will require the Minister of National Development to have regard to the requirements of CITES in issuing licences. This condition seems likely to be fulfilled, since the Minister is well aware of these requirements and concerned that they be met. This situation cannot be counted on for the future, however, so the recommendation of a more comprehensive act and regulations embodying the main requirements of the Convention is maintained.

### **3.7.2 Marine Mammals**

The Marine Mammals Sanctuary Decree, 1979 (No. 28) declares the territorial waters and EEZ of Seychelles to be a "Marine Mammals Sanctuary" in which killing, capturing and disturbing marine mammals are prohibited except with the President's permission. Penalties may reach Rs. 200,000 five and five years imprisonment as well as forfeiture of vessels and gear.

A number of other enactments are still in force, although they have little present application. Under the Whale and Other Fishery Act, dated 6 April 1926, a licence is required for hunting, capturing or killing any whale in the "territorial and colonial waters of the Seychelles". Land factories, floating factories and whaling vessels operating in the said waters must also be

licensed. Regulations made under this Act prohibit the killing of any whale calf or any female whale which is accompanied by a calf. In 1936, the British Whaling Industry (Regulation) Act, 1934 was extended to the Seychelles by the Whaling Industry (Regulation) Act (Newfoundland, Colonies, Protectorates and Mandated Territories) Order in Council (U.K., SR & O. 1936, No. 716). The amendments made by Part III of the British Sea Fish Industry Act, 1938, were also extended by an Order in Council in 1941 (U.K., S.I. 1941, No. 790). These Acts introduced the provisions of the 1930 and 1937 Whaling Conventions into domestic legislation. These provisions do not apply to "aborigines dwelling on the coasts of the Seychelles and hunting with artisanal gear".

The Seal Fisheries (Crown Colonies and Protectorates) Order in Council, 1913, extended to the Seychelles Sections 3 and 4 of the Seal Fisheries (North Pacific) Act, 1912, prohibiting; (a) all persons from using any port within the U.K. for purposes of pelagic sealing contrary to any order in Council made under the Sea Fisheries (North Pacific) Acts, 1895 and 1912; and (b) the importation of the skins of seals captured in contravention of any such order.

The simplest way to carry forward the policy of protecting marine mammals is to prohibit their hunting in the fisheries law and repeal the old legislation, as follows;

#### Law OFFENCES

(a) Any person who, in Seychelles waters, kills, chases or takes any marine mammal, alive or dead, shall be guilty of an offence and liable on conviction to a fine of

(b) It shall be a defence to a charge under paragraph (a) that either -

(i) if taken alive, the marine mammal was returned to the sea with the least possible injury; or

(ii) if taken dead or so seriously injured as to render its recovery unlikely, the taking of the marine mammal was reported to the Principal Secretary of the Ministry as soon as practical and the body disposed of in accordance with his instructions.

#### Law REPEALS

(1) The following are repealed -

Cap. 142 (d) Whale and Other Fishery Act;

Decree 8 of 1979 (i) Marine Mammals Sanctuary Decree, 1979;

(2) The Seal Fisheries (North Pacific) Act, 1912, and the Whaling Industry (Regulation) Act, 1934, of the United Kingdom shall cease to apply to Seychelles or Seychelles waters.

### **3.7.3 Shells**

The Conservation of Marine Shells Act, 1981 (Act 4) regulates collecting, possession, trade and export of seashells. It protects living and dead triton conch shells absolutely and establishes shell reserves in which most species of live molluscs are protected. The Act also prohibits blasting of coral or reefs in any part of Seychelles except under a licence.

It is recommended that these provisions be incorporated in regulations under the fisheries law as follows;

#### Regulations Marine Shells

(1) Subject to sub-regulation (2), no person shall, in any place specified in the Fourth Schedule to these Regulations, collect or disturb any shell other than a shell specified in the Fifth Schedule.

(2) No person shall in any part of Seychelles collect or disturb any triton conch (lancive) shell.

(3) No person shall purchase, sell, offer or expose for sale or export or attempt to export any triton conch (lancive) shell.

(4) No person shall purchase, sell or offer or expose for sale an unworked shell, except for a shell specified in the Fifth Schedule.

(5) No person shall export more than two kilogrammes of shells except pursuant to a licence.

(6) No person shall possess more than 20 kilogrammes of shells except pursuant to a licence.

(7) No person shall use any explosive for the purpose of blasting any coral or reef except pursuant to a licence.

(8) A licensing officer may issue a licence permitting the holder to export such quantity and description of shells, other than triton conch (lancive) shells, as are stated in the licence.

(9) A licensing officer may issue a licence permitting the holder to possess such quantity and description of shells as are stated in the licence.

(10) A licensing officer may, if he finds that such action is consistent with the preservation of the marine environment, issue a licence to blast any area of reef or coral that is not within an area designated under section 4 of the National [cap. 159] Parks and Nature Conservancy Act.

### **3.7.4 Aquaculture**

Aquaculture is not yet practised in Seychelles, but there are several projects to begin it. Without knowing what sort of aquaculture will become most important it is not really possible to recommend detailed provisions. Those that appear essential concern the exclusive right to occupy an area of sea (land can be leased under existing laws) and to harvest the produce. Because of the possible interference of aquaculture with other land and water uses, it is recommended that aquaculture concessions be approved by the Town and Country Planning Authority. Further provisions can be made by regulations.

#### Law AQUACULTURE

(1) A licensing officer may in writing grant to any person the exclusive right of propagating, raising and taking fish and other aquatic organisms, in any area of Seychelles waters.

(2) An application for a grant under this section shall be made in the prescribed form to a licensing officer.

(3) The licensing officer shall, at the expense of the applicant, publish in the Gazette notice that an application has been made under this section and that any objection to its being granted must be filed with the licensing officer within 15 days of the date of publication of the notice.

(4) The licensing officer shall forward an application under this section, together with any objections thereto, any further submissions by the applicant and his own observations and recommendations, to the Town and Country Planning Authority established by section 3 of the Town and Country Planning Act.

[Cap. 160]

(5) A grant under this section shall not be made without the prior approval of the Town and Country Planning Authority.

(6) A grant under this section shall be valid for such period and subject to such conditions and the payment of such fees as may be specified in the grant.

(7) The Minister may make regulations further providing for the licensing and control of aquaculture in any part of Seychelles or Seychelles waters.

### **3.8 Offences and Enforcement**

Seychelles is fortunate in that national fishermen do not generally use destructive fishing methods. Explosives, which are the cause of so much damage in other countries, are practically unobtainable in Seychelles. The openings of basket traps have long been subject to control, although there is a feeling that compliance is less than it used to be. Since this provision is considered useful and is not intrinsically hard to comply with or enforce, closer consultation between fishermen, fisheries administration and the police seems called for. Other provisions are not easy to enforce (quantity limits on small fish, protection of female lobsters) and should be reviewed.

Control of foreign fishing is mainly directed to assuring that only licensed vessels fish in Seychelles' waters. The existing system is based on self-reporting of location (and, less importantly, catch) by licensed vessels. This is reinforced by aerial spot-checks, monitoring of transshipments and inspection of log-books. It is a practical, cost-effective system. The requirements that vessels must comply with for the enforcement system to work are discussed in section 3.6.3.

The oceanic character of most fishing around Seychelles suggests that further improvements in the effectiveness of enforcement could be obtained through co-operation with neighbouring coastal states. The following provision could facilitate those co-operative arrangements that were found desirable:

#### Law REGIONAL ARRANGEMENTS

The Minister may enter into arrangements or agreements with other States in the Indian Ocean, either directly or through an international organization, providing for joint or harmonized surveillance and enforcement measures in respect of foreign fishing vessels.

Enforcement powers that are essential to the current system are relatively few; powers to inspect vessels, gear, catch and records are all that are usually exercised. In addition, powers are required to stop and board vessels, to arrest them and bring them into port where necessary and to seize gear and catch.

Ordinarily, routine inspections would be conducted by SFA personnel and actions leading to prosecution would be undertaken by the police, as at present. SFA would be able to notify the police when its administrative observations indicated that prosecution was desirable. In the (probably rare) case of boardings at sea, it would be necessary for naval officers to have police powers as well. It is not recommended that SFA, as a parastatal body, have enforcement powers, but the Minister should be able to authorize named employees of the Authority to exercise enforcement powers if and when the necessity appears.

Where a vessel is arrested for purposes of fisheries enforcement, it is essential that there be clear procedures that effectively preserve the ability of Seychelles to exact punishment without unduly idling the vessel. Such procedures are required by the UN Convention on the Law of the Sea in the case of foreign vessels. ("Arrested vessels and their crews shall be promptly released upon the posting of reasonable bond or other security". Art. 73(2).) They are obviously desirable in the case of local vessels as well, although there is hardly ever need to arrest a local or a licensed foreign vessel.

The following enforcement provisions are suggested for inclusion in the law:

Law "authorized officer" means -

- (a) any police officer not below the rank of sergeant or any member of the Seychelles People's Navy not below the rank of petty officer; or
- (b) any public officer or any employee of SFA designated by the Minister by notice in the Gazette to be an authorized officer for the purposes of this Act.

Law PUBLIC OFFICERS

(1) The Public Officers (Protection) Act, 1976 is hereby extended to all Seychelles waters.

[Act 24 of 1976]

(2) Employees of SFA exercising functions under this Act shall be deemed to be public officers for the purposes of the Public Officers (Protection) Act, 1976 and of sections 372 and 373 of the Penal Code.

[Cap. 73]

Law POWERS OF AUTHORIZED OFFICERS

(1) For the purpose of enforcing this Act, an authorized officer may, without a warrant

(a) stop, board and search any fishing vessel in Seychelles waters;

(b) require to be produced, examine and make copies of any licence, logbook or other document required under this Act;

(c) require to be produced and examine any net or other fishing gear and any fish.

(2) The master of any fishing vessel ordered to stop by an authorized officer shall stop the vessel and take all necessary measures to facilitate its boarding.

(3) Where an authorized officer has reasonable grounds to believe that an offence against this Act has been committed, he may, without a warrant, seize and detain any vessel (together with its gear, stores and cargo), fish, fishing gear or other article which he has reason to believe has been used in the commission of the offence or in respect of which the offence has been committed.

(4) Any vessel seized under subsection (3) and the crew thereof shall be taken forthwith to the nearest or most convenient port.

(5) Any vessel or other article seized under subsection (3) shall be delivered into the custody of the magistrates' court and shall be dealt with in accordance with section [custody].

Law CUSTODY OF SEIZED ARTICLES

(1) The court may order any fish or other perishable articles seized under this Act to be sold.

(2) The court may order the release of any vessel or other article seized under this Act on receipt of a satisfactory bond or other security for its value.

(3) The proceeds of any sale under sub-section (1), and any bond or other security received under sub-section (2) shall



be held and dealt with in accordance with this Act as though they were the article which has been sold or released.

(4) If no proceedings in respect of a seized article are instituted within 15 days of its delivery to the court, it shall be released on demand to any person who appears to be entitled thereto.

(5) Where proceedings are instituted in respect of a seized article, the court may retain it pending the outcome of such proceedings and, where proceedings are instituted in any other court, may deliver it into the custody of that court which shall deal with it in accordance with this section.

#### Law HOT PURSUIT

Where, following the commission in Seychelles waters of an offence against this Act with the use of a vessel, the vessel is pursued beyond the limits of Seychelles waters, the powers conferred on authorized officers under section [powers] shall be exercisable in respect of such vessel beyond the limits of such waters in the circumstances and to the extent recognized by international law.

#### Law OFFENCES

Any person who, contrary to section [powers, subsection (2): duty to stop] or in any other way, prevents or hinders an authorized officer's exercising the powers conferred on him under this Act shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

The following licence condition may be a useful addition to enable SFA to conduct routine inspections on an administrative rather than enforcement basis:

Regulation The master of the vessel shall, whenever requested by an authorized officer or by SFA, permit boarding and inspection of the vessel, produce for examination licences, logbooks and other documents required to be maintained, and all nets and other fishing gear and fish, and bring the vessel into port.

Offences under the Act should be divided into two great categories. The more severe includes fishing by foreign vessels without a licence - poaching in other words. Several reasons converge to suggest high penalties for this offence. First, the practical difficulty of apprehending an unlicensed vessel

justifies a deterrent penalty as well as adequate compensation to Seychelles in case it succeeds. Secondly, cost-effective fisheries control is based on self-reporting and voluntary compliance rather than extensive surveillance and enforcement. Heavy penalties for outlaws are an important incentive to fishermen to join the licensing system. Finally, an unlicensed fishing vessel is unlikely to present itself for a second prosecution, so scaling penalties according to past record is not a useful way to fit them to the culpability of the offender.

The other offences, including unlicensed fishing by a local vessel, use of prohibited substances, and violation of management measures or licence conditions by either local or foreign vessels, may be grouped together as not involving such extreme difficulties of apprehension as unlicensed foreign fishing. The penalties can therefore be scaled more in proportion to culpability and harm.

In line with the UN Convention on the Law of the Sea and the present Control of Foreign Fishing Vessels Decree, it is recommended that penalties for fishing offences by foreign vessels be limited to fines and forfeitures. The Convention does not limit punishment for offences in the territorial sea, nor for those committed by nationals, but if the most serious offence is not punished with imprisonment, neither should the less serious ones. Punishment for non-fishing offences, such as assaulting an officer, is not limited by the Convention. Within the national territory it would be governed by generally applicable law. For the EEZ a decision has to be made whether to extend some existing laws or to settle for a provision on obstruction of officers such as section 14 of the Control of Foreign Fishing Vessels Decree. Pending a full-scale review of the question what legislation to extend to the EEZ the solution of section 14 is recommended. The following offences and penalties and forfeiture and compounding provisions are recommended:

Law "fishing" means fishing for, catching, taking or killing fish or other aquatic organisms by any method and includes searching for fish and placing any fish aggregating device.

#### Law OFFENCES

(1) Where any foreign fishing vessel that is not licensed under section [foreign] or authorized under section [scientific] is used for fishing in Seychelles waters or for fishing for sedentary species on the continental shelf, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(2) Where any vessel that is licensed under section [foreign] or that is a foreign vessel authorized under section [scientific] is used in contravention of any condition of the

licence or authorization, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(3) Where any local fishing vessel that is required to be licensed under section [local] is not so licensed and is used for fishing in Seychelles waters, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(4) Where any vessel that is licensed under section [local] or that is a local vessel authorized under section [scientific], is used in contravention of any condition of the licence or authorization, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(5) Any person who, in Seychelles or Seychelles waters, conducts any fishing or related activity for which a licence is required by regulations made under this Act, otherwise than under the authority of and in accordance with the terms of a valid licence, shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(6) Where any foreign fishing vessel that is not licensed under section [foreign] or authorized under section [scientific] is found in Seychelles waters without its gear stowed in the prescribed manner, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(7) Any person who uses any poisonous or explosive substance to kill, stun or disable fish in order to render them more easily caught shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(8) Any person who fishes in contravention of any management measure prescribed under section [management measures] shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(9) Any person who, contrary to section [powers, subsection (2): duty to stop] or in any other way, prevents or hinders an authorized officer's exercising the powers conferred on him under this Act shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(10)

(a) Any person who, in Seychelles waters, kills, chases or takes any marine

mammal, alive or dead, shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(b) It shall be a defence to a charge under paragraph (a) that either -

(i) if taken alive, the marine mammal was returned to the sea with the least possible injury; or

(ii) if taken dead or so seriously injured as to render its recovery unlikely, the taking of the marine mammal was reported to the Principal Secretary of the Ministry as soon as practical and the body disposed of in accordance with his instructions.

(11) Any person required to supply information under this Act who fails to supply such information or supplies false or misleading information shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(12) Any person who uses or discloses information received pursuant to this Act for any purpose except the purposes of this Act shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

#### Law FORFEITURE

(1) On convicting any person of an offence against this Act, the court, in addition to any other penalty imposed

-

(a) may order any fishing gear used in the commission of the offence, and any article in respect of which the offence has been committed, and in the case of an offence under section [unlicensed foreign fishing], any vessel (together with its gear, stores and cargo) used in

the commission of the offence, to be forfeited;

(b) shall order all fish and other aquatic organisms caught in the commission of the offence to be forfeited.

(2) All fish and other aquatic organisms found on board any vessel which has been used in the commission of an offence against this Act shall be presumed, unless the contrary is proved, to have been caught in the commission of the offence.

(3) Where an article in the custody of the court is not ordered to be forfeited, it shall be held until all fines imposed for any offence in the commission of which the article was used, or which was committed in respect of the article, have been paid. If within thirty days following a judgement of guilt, any part of such fines remains unpaid, such article may be sold, and the proceeds applied towards payment of the fines.

#### Law COMPOUNDING

(1) The Minister may, if he is satisfied that an offence has been committed under this Act and if the person admits the commission of the offence and agrees in writing to its being dealt with under this section -

(a) compound the offence by accepting a sum of money not exceeding the maximum fine specified for the offence;

(b) order the release of any vessel or other article seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other article.

(2) Any sum of money received under this section shall be dealt with as though it were a fine imposed by the court.

(3) In any proceedings brought against any person for an offence against this Act, it shall be a good defence if the person proves that the offence has been compounded under this section.

There are two provisions found in the present fisheries legislation of Seychelles and numerous other countries which are designed to avoid

evidentiary problems in prosecutions for illegal fishing. One is the requirement that unlicensed vessels keep their fishing gear stowed "in the prescribed manner" (Control of Foreign Fishing Vessels Decree, sec. 4, 13). This is a provision introduced in legislation to regulate trawl fisheries, where disconnecting the wires, boards and nets is practical for the vessel and at the same time reassures the authorities that the vessel cannot readily be - and has not recently been - used for fishing.

There is considerable debate about the value of similar provisions for surface fisheries. It is largely irrelevant for pole-and-line vessels which can stow and unstow instantly and for long-liners, which are more likely to be betrayed by lines in the water which take hours to retrieve. (What would be useful here is a requirement that gear be marked so that a vessel cannot cut its line and deny responsibility, but this probably could not be applied to transiting vessels.) Purse-seiners could be required to remove the wires from their nets, but the task of restringing a mile-long net is so great as to imply an unreasonable burden on freedom of navigation. The net can be tied down and the skiff can be hauled wholly inboard. If there is a helicopter, it can be tied down and covered and perhaps the rotor blades can be removed.

In the end, it does not appear that too much reliance can be placed on stowage requirements for tuna vessels. Their main utility is to rebut any contention that gear in the water is not being used for "fishing" and this could be better regulated by a direct prohibition. Still, the standard requirements for trawlers and the minimal requirements indicated for purse-seiners could be imposed, and the general authority to specify requirements should be included in the law to deal with future developments, as follows;

#### Law STOWAGE

Any foreign fishing vessel that is not licensed under section [foreign] or authorized under section [scientific] shall at all times that it is in Seychelles waters keep its fishing gear stowed in such manner as may be prescribed.

Law The Minister may make regulations prescribing the manner in which fishing gear is to be stowed and requiring any fishing vessel to stow its gear in the prescribed manner during anytime that it is in an area of Seychelles waters where it is not authorized to fish.

#### Regulations Stowage

Any foreign fishing vessel that is not licensed under section [foreign] or is not authorized under section [scientific] of the Act shall keep its fishing gear stowed in the following manner -

(a) in the case of purse seiners:

- the boom shall be lowered;
- all nets and ropes shall be carried wholly inboard and lashed to the deck or superstructure;
- all boats belonging to the purse seiner shall be carried wholly inboard;
- the helicopter shall be lashed down;

(b) in the case of long-liners;

- all lines shall be stowed below deck;

(c) in the case of trawlers:

- all nets, trawlboards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames and stowed below deck.

A legal technique related to stowage requirements, but more adapted to surface tuna-fishing is to prohibit searching for fish. A vessel in a search pattern is fairly obvious. Placing FADs or locating devices can be prohibited (and violations can be proved). It is recommended that such prohibitions be included in the law.

A second evidentiary provision of the present legislation is the presumption that fish found on board a foreign fishing vessel in the EEZ have been caught there (sec. 15). This can be rebutted by a radio report before entering the zone (or by proof that the fish is not caught there, but it is not clear what evidence would be persuasive on this question). In practice, some fishing vessels radio on entering the zone but many do not, and the reports that are received do not appear to be used by the surveillance system. In effect, those that do not report are presumed to have committed the most serious crime under the law, unauthorized foreign fishing. This seems rather extreme in light of the enforcement needs and intentions of Seychelles, the fact that many fishing vessels do cross the EEZ without fishing and that Seychelles encourages them to come in order to maintain the level of port utilization. It is recommended that the presumption be modified to that found in other countries, that where an offence has been committed, all fish found aboard the vessel are presumed to have been caught in the course of the offence. This does not presume the crime itself, but lays the ground for forfeiture of the whole catch unless the owner can prove he came by part of it legitimately.

---

# ANNEXE A - OTHER LEGISLATION AFFECTING FISHERIES

---

1. The operation of fishing vessels
  2. Industrial fishing enterprises
  3. Customs laws
  4. Fish processing plants and sanitary controls
  5. Fish marketing
  6. Cooperatives
  7. Nature protection
- 

## **1. The operation of fishing vessels**

### (a) The Merchant Shipping (Temporary Provisions) Act, 1976

This Act makes the British Merchant Shipping Acts, 1984 to 1970 applicable as a law of Seychelles to the extent set out in the Schedule. Part I of the British Act regarding qualification for owning British ships is, however, expressly excluded. Under section 5 of the Seychelles act, a ship is deemed to be a Seychelles ship if:

(a) it is owned wholly by persons qualified to be owners of a Seychelles ship, namely-

(i) a person who is resident in Seychelles;

(ii) a body corporate incorporated under and subject to the laws of the Seychelles and having its principal place of business in Seychelles; or

(iii) the Government; and

(b) the Minister, with the consent of any person wholly owning such ship, declares by order that such ship shall be deemed to be a Seychelles ship.

Every Seychelles ship, unless exempted, must be registered. As the British legislation concerning exemptions from registry has not been extended to the Seychelles, the relevant provisions are to be found in the Unseaworthy Vessels Act (Cap. 219) (see below). Provisions are also made for the provisional registration of ships purchased outside Seychelles.



The main provisions of Part II of the British Act concerning masters and seamen are extended to Seychelles. It may be noted that, under section 14 of the Seychelles Act, the Registrar of Shipping may accept certificates of competency issued by an authority outside Seychelles. Certificates of competency may also be issued in Seychelles. Part IV of the British Act concerning fishing boats is not extended to Seychelles but Part V concerning safety is extended in full.

(b) The Unseaworthy Vessels Act (Cap. 219)

The Unseaworthy Vessels (Prevention) Regulations require clearance from the port authorities for a vessel to sail from Mahé to islands named in the regulations. They can be detained if they are unseaworthy or lack required life-saving apparatus. There is also provision for registration of vessels, but none of the local fishing vessels (except Seykor, the long liner) is considered to be covered by registration requirements.

(c) The Harbour Act (Cap 210, amended by Harbour (Amendment) Decree, 1977 (No. 26) Seychelles Fishing Authority (Establishment) Act, 1984 (No. 10), Harbour (Amendment) Act, 1985 (No. 4) and Seychelles Fishing Authority (Establishment) (Amendment) Act, 1985 (No. 9))

Under this Act, the Minister may make regulations to provide for the control of traffic in the harbour, for the control of wharves, landing places, etc., for the prohibition, control and regulation of persons and goods entering and leaving the port security area, for the use of pilots, for the dues to be paid in respect of any vessel entering or leaving the harbour and for the control of the berthing, mooring and departure of ships. The Harbour Dues Regulations, 1977, fix the harbour dues and other charges payable in respect of any vessel entering or leaving the harbour of Victoria and any roadstead, bay or place within three nautical miles from any coast in Seychelles. They may include pilotage, port, light, towage, accostage, berthing and unberthing dues, freshwater charges, increases for operations performed outside normal hours and other dues and rates. The rate of dues is laid down in the Schedule to the Regulations. Special provisions are made for vessels registered in Seychelles: port dues, light dues and towage, maintenance and up-keep dues for such vessels may be commuted to **six** times the rate for a single call with a minimum charge of Rs. 900. For other vessels, port dues for a period not exceeding 72 hours are 50 ts per GRT (subject to a minimum charge of Rs. 50 and a maximum charge of Rs. 4,000). For each additional day, it is 10 cts per GRT (subject to a minimum charge of Rs. 20 and a maximum charge of Rs. 1,600 per 24 hours). The Harbour Regulations (cap. 210 amended by the Harbour (Amendment) Regulations, 1977 (S.I. 99)) made under the Act provide that every vessel of or exceeding 150 tons gross burden register entering or leaving the harbour or anchoring or berthing therein or moving from place to place shall do so under the charge of an authorized pilot and not otherwise. Vessels under 150 tons are not required to employ a pilot, but must be moored at the place and after the manner ordered by the harbour master.

If a Fishing Port is declared, it may be subject to regulations made by the President and charges and fees may be levied by SFA (sec. 8(A)). It is prohibited for any vessel coming from a foreign port to anchor or moor in the Seychelles at any place other than the harbour at Victoria.

(d) The Port (Interim Provisions) Act, 1974

The Act empowers the Minister to declare ports and make regulations for their management, including regulations for fees and charges payable for port services, for the control of port labour and for the control of vessels alongside. The Port (Port Victoria) (Management and Rates) Regulations, 1975 (last amended by S.I. 19 of 1984) vest general management of Port Victoria in the Port Manager. The regulations also set the rates for port services in thirteen categories from Shore Services to Transhipment for Fishing Vessels. For the latter, the standard rate is \$ 10 (presumably per ton of cargo) for receiving vessels and \$ 5 for discharging vessels, in addition to applicable shore-handling rates. Rates may be reduced or waived in the case of vessels licensed under the Control of Foreign Fishing Vessels Decree or of "an agreement between the owner of the fishing vessel and a public body". Upon the adoption of the proposed fisheries law, the reference in the regulation should be modified.

(e) The Local Trading Vessels Act (Cap. 212)

The provisions of this Act apply to vessels of 30 tons net register and over, registered in Seychelles, "engaged in trade or commercial fishing within the Seychelles and between the Seychelles and ports on the East African coast and ports in Mauritius, Reunion and Madagascar." It includes detailed provisions concerning the wages of the seamen. It also provides for penalties in case of desertion, absence without leave and general offences against discipline.

(f) Control of Hire Craft Act (Cap. 208, amended by Act No. 24 of 1973, Decree No. 23 of 1978)

The act requires a licence from the Port Officer (now called the Harbour Master) for the operation of hire craft, including sports fishing vessels.

## **2. Industrial fishing enterprises**

(a) The Development Loans Act, 1977 (No. 9)

The purpose of this Act is to provide for the future raising of loans for the purpose of financing the National Development Plan. The terms of any such loans must be approved by parliament. Any sum of money borrowed under the authority of this Act must be paid into the Development Fund which was established in 1974.

(b) The Development Bank of Seychelles Decree, 1977 (No. 21)

The purpose of this Decree is to establish a development bank whose functions are basically to promote development of industry, money or capital markets. The bank is given rather broad powers which include the power to acquire, hold and underwrite issues of securities, to make loans and to do anything incidental to any of its powers.

(c) The Companies Act, 1972 (Act No. 4, Amended by Act No. 13 of 1973)

This Act is based on the English Companies Act of 1948. Of special interest is Part VII (Sections 309-321) which regulates overseas companies.

An overseas company shall be considered as carrying on business in Seychelles if it:

(a) enters into two or more contracts with persons resident there, or with companies formed or incorporated there, being contracts which

(i) are entered into in connection with the business or objects which the overseas company carries on or pursues; and

(ii) by their express or implied terms are to be wholly or substantially performed in the Seychelles, or may be so performed at the option of any party thereto; or

(b) appoints an agent who resides or has a place of business in the Seychelles to represent the overseas company in connection with the making or performance of two or more contracts which fall within paragraph (a) of this subsection...

(c) owns, possesses or uses assets situated in the Seychelles for the purpose of carrying on or pursuing its business or objects...

An overseas company shall not be considered as entering into a contract within paragraph (a) of subsection (2) if it subscribes for, or purchases shares or debentures of, a company incorporated under this Act or of an existing company.

Overseas companies are required to register particulars, designate a managing agent, and file their accounts with the Registrar of Companies, although this can be dispensed with (e.g., S.I. 27/75).

(d) The Commercial Code Act, 1976 (Act No. 5 of 1976) This Act creates a new Commercial Code of Seychelles.

Overseas corporations are recognized as having corporate existence in the Seychelles and may sue and be sued under their corporate names (Art. 47 (3)).

Title IX of the Code sets forth provisions regarding the settlement of disputes by arbitration. The arbitral award is final unless set aside due to fraud, etc. (Article 134), and may be enforced in the same manner as a judgement or order (Article 138).

(e) The Arbitration (International Investment Disputes) Act, 1967, (Application to Colonies etc.) Order, 1967, (U.K. S.I. 1967 No. 159)

This Order extends the British Act to Seychelles.

(f) The Industrial Development Act (Cap 248)

The Act requires a licence of every person manufacturing for sale or reward any product at any place in Seychelles. Failure to have a licence is an offence punishable by fines and imprisonment. Under section 21, the Permanent Secretary may exempt certain enterprises. The canning and freezing of fish are covered by the Act.

(g) The Control of Goods Decree, 1977 (Decree No. 20)

The Decree permits the President to make regulations to control the import, export, trade and manufacture of goods, including rationing and price control. The Control of Goods (Price Control) Regulations, 1981 (SI 67 amended by SI 30 of 1985) subject all finished imports to mark-up control and authorize the Permanent Secretary of Finance to subject any goods, including imports, to price control. Controlled prices have been established for local fruits and vegetables and for pork, chicken, eggs and turtle meat. Control of Goods (Maximum Prices of Locally-produced Vegetables, Fruits, Tubers and Spices) Order, 1981 (SI 72); Control of Goods (Maximum Prices of Meat, Poultry and Eggs) Order, 1981 (SI 73).

(h) Trade Licences Act, 1981 (No. 2)

The act requires a licence for the sale or import for sale of "any goods" "in the course of a trade or business". The grant and revocation of the licence is the "absolute discretion" of the Permanent Secretary, Finance (sec. 5, 8). With the passage of licensing functions to the Seychelles Licensing Authority, it is not clear how and by whom the discretionary power is to be exercised. The Trade Licences Regulations, 1981 (SI 39, amended by SI 48 of 1982) make it "a condition of every trade licence that, unless the licence specifically permits the holder to act as a ship chandler, he shall not act as a ship chandler" (Reg. 6).

(i) The Income Tax Assessment Decree, 1978 (Decree No. 11) amended by the Income Tax Assessment (Amendment) Acts 1980 (No. 2) and 1984 (No. 12)

This Decree provides for the charge, assessment and collection of a tax upon incomes. Such tax is levied upon the taxable income derived during one year by any person (including companies) whether resident or non-resident. The Decree describes in detail how to assess the income and allowable deductions. The Minister may exempt a non-resident from income tax for services that contribute to the economic development of Seychelles (sec. 17(3)). Under the Income Tax (Rates) Decree, 1978 (Decree No. 13) the rate of the tax to be paid by a company is 35 percent on the whole of the taxable income.

(j) Turnover Tax Act, 1985 (Act 2)

The Act provides for a gross receipts tax, applying mainly to retail sales and services. The rate for most businesses, including "fisherman", is 5 per cent.

(k) Social Security Decree (No. 7 of 1979, amended by Acts 12 of 1980, 27 of 1980, 16 of 1982, 2 of 1983 and 8 of 1985)

The Decree establishes a Social Security Fund for the payment of sickness, disability and dependency benefits and old-age pensions. Both employers and employees are liable to pay contributions at rates established by regulation.

(l) The Employment Benefits Act (Cap 168)

This Act provides for benefits to employees of 21 days per year minimum annual leave and an aggregate of 60 days during 12 months for sick leave at half pay. After 60 days, no sick pay is provided under this Act but the employee would normally be covered under the Social Security Act.

(m) Employment Protection (Temporary Provisions) Act, 1983 (No. 8)

The Act establishes a procedure, concluding with review by the Minister, for the discharge of any employee except a domestic servant.

(n) The Immigration Decree, 1979 (Decree No. 18, amended by Act No. 17 of 1982)

The decree provides generally for the control of immigration and the powers of immigration officers. All persons arriving in the country are required to present themselves to an immigration officer (sec. 8). Ship's crew are not exempt from the requirement, but they are exempt from the requirement to have visitors' or similar permits (sec. 12(1)).

### **3. Customs laws**

(a) The Customs Management Decree 1979 (No. 27), amended by the Customs Management (Amendment) Act, 1980 (No. 29) and the Seychelles Marketing Board Act, 1984 (No. 8)

This provides generally for the collection of customs. It empowers the Collector of Customs to permit transshipment without payment of duty. Until recently sections 36 and 93 empowered the Minister to prohibit the import and export of any goods. Proclamation No. 3 of 1972 (SI 10) prohibits the import of any spear-gun as defined in the Fisheries Act. A number of Orders have been made to require a licence for the import of goods, including beef, mutton, goat meat (Customs (Prohibited Imports) (No. 5) Order (SI 51)), boats up to 10 meters long (Customs Prohibited Imports) (No. 3) Order, 1984 (SI 30)), pork, poultry, crustaceans, molluscs, most vegetables and all fruits (Customs (Prohibited Imports) (No. 3) Order, 1982 (SI 61)). The sections authorizing these orders have been repealed by the Seychelles Marketing Board Act, but there is no saving provision for orders made under the Customs Management Decree.

Imports are also subject to control under the Control of Goods Decree, 1977 (No. 20), the Trades Licensing Act, 1981 (No. 2) and the Seychelles Marketing Board Act, 1984 (No. 8).

(b) The Customs Tariff Act (CAP 101)

This Act sets the levels of customs duties payable on imports into Seychelles. Section 4(1) authorizes the Permanent Secretary (of Finance) to remit or refund any duty payable under the Act. The Customs Tariff (Amendment) (No. 2) Regulations, 1984 (SI 1).

	<b><u>Rates of Duty by Origin</u></b>	
	<b>Commonwealth, EEC, ACP countries</b>	<b>Other countries</b>
Fish	100%	100%
Crustaceans and molluscs, live, chilled, frozen	25%	30%
Fish, crustaceans and molluscs, prepared or preserved	100%	100%
Gas oil	Rs. 187/100 lt.	Rs. 187/100 lt.
Motor spirit (gasoline)	Rs. 239/100 lt.	Rs. 239/100 lt.
Marine diesel fuel	Rs. 21.15/100 lt.	Rs. 21.15/100 lt.
Lubricating oils	20%	20%
Cordage, ropes and twine; nets and netting	Free	Free
Power units	5%	10%
Compressors, pumps, vacuum pumps	25%	30%
Cold storage and freezing chambers refrigeration equipment	5%	10%

Food processing machinery	5%	10%
Cans	10%	15%
Salt	25%	25%
Vegetable Oils	10%	10%
	<b><u>Rates of Duty by Origin</u></b>	
	<b><u>Commonwealth, EEC, ACP countries</u></b>	<b><u>Other countries</u></b>
Fishing vessels	5%	5%
Inboard engines up to 50 BHP	Free	Free
Inboard engines over 50 BHP	30%	40%
Outboard engines up to 24 BHP	Free	Free
Outboard engines over 24 BHP	30%	40%

#### **4. Fish processing plants and sanitary controls**

(a) The Public Health Act (Cap 194, amended by Act No. 18 of 1980)

This Act provides, for the protection of water supplies and rood stuffs and the prevention of nuisances.

In connection with the protection of foodstuffs, all warehouses and buildings in regular use for the storage of foodstuffs for trade purposes are to be rat-proof. No person is permitted to collect, prepare manufacture, keep, transport, or expose for sale any foodstuffs without taking adequate measures to guard against and prevent any infection or contamination thereof. Health officers and inspectors and persons authorized by local authorities are empowered to enter premises for purposes of inspection. Unhealthy foods may be seized after inspection of premises, Regulations may be made in order to provide for the construction, equipment, maintenance, cleasing, inspection and control of places for storage and of vessels and vehicles for transport of carcasses of meat and fish. So far no regulations have been made covering fish. The Act also sets forth numerous definitions of nuisances and gives the inspector the power to investigate as well as to commence proceedings to abate any nuisance.

The Victoria Public Health Regulations (cap. 194 subsid) provide that no person shall fish, or gather shell-fish within a distance of 1 000 feet from the coffer-dam erected on the reef for the disposal of night soil (regs. 17, 18).

Also contained in the subsidiary legislation are market regulations for La Digue (30 March 1910); Victoria, Mont Fleuri and Mamelles (6 July 1926); Praslin (19 March 1947); South Mahé (8 October 1951). The regulations provide for the hygiene of fish-mongers' stalls and for the licensing of the selling of fish in the market (pursuant to the Licences Act). Unsound or tainted meat and fish is not to be sold or exposed for sale anywhere in the market and any meat, fish or any article which may have become tainted whilst exposed for sale, is to be removed forthwith and destroyed, if

necessary by the market keeper or any police officer. Rates are levied by the market keeper depending on the type of article (fish per packet are free). The regulations also prohibit the sale of dangerous fish (La Digue reg. 27, Victoria reg. 6, Praslin reg. 31, S. Mahé reg. 29).

Related provisions appear in the Quarantine Act, Cap 195, concerning the necessity of ships coming from foreign ports obtaining permission from a Medical Officer of Health. (Quarantine (Maritime) Regulations, cap. 195 subsid.)

(b) The Penal Code (CAP 73)

Sections 177 and 178 of the Penal Code prohibit the adulteration of food and drink intended for sale, and the sale of noxious food or drink. In addition, section 181 makes it a misdemeanour for any person to pollute the water of any river, stream, spring or reservoir, ("voluntarily corrupt or foul the water so as to render it less fit for the purpose for which it is ordinarily used").

## **5. Fish marketing**

(a) Seychelles Marketing Board Act, 1984, (No. 8)

The Act establishes the Seychelles Marketing Board which has broad powers over both foreign and internal trade. All commercial imports and exports require a permit from the Board (now issued by the Seychelles Licensing Authority) (sec. 11), and the Board may itself import or export goods (sec. 5). The President may designate local products which only the Board or a person it authorizes may buy (sec. 13-16). The Board is obligated to purchase all designated goods, subject to price, quantity and quality conditions it may establish. So far, swine, cattle and chicken have been designated (Seychelles Marketing Board (Designated Products) Notice 1984 (SI 45)), and it is intended to add fish to the list before long.

(b) The Licences Act (CAP 106)

The Act provides for the licensing of certain specified businesses, including that of "fishmonger". The Seychelles Licensing Authority Act, 1984 (No. 9 amended by Act 10 of 1985) establishes an authority to issue licences under a number of acts, including the Licences Act.

(c) The Fish Export Act (CAP 135)

This Act provides that no person shall export fish intended for human consumption except under a licence issued for each specified consignment. No licence is to be issued unless the applicant for a licence shall have secured registration of an exporter's mark. Broad powers of inspection are provided for together with right of seizure of goods and cancellation of licences:



(1) The Director of Agriculture may -

(a) refuse to issue or refuse to renew a licence on any of the following grounds:

(i) if the applicant for a licence has been convicted of any offence under this Act;

(ii) if he has reason to suppose that the applicant is a person applying in his own name for the purpose of procuring a licence for or on behalf of a person who has been convicted of any offence under this Act;

(iii) if the applicant is a minor;

(iv) if the fish in respect of which the licence is required is in the opinion of the Director of Agriculture unsuitable for export.....

Offences under the Act include exporting or preparing to export without a licence and making false representation in order to obtain a licence. There is also provision for the Minister to make regulations providing for the method of taking samples of fish; the mode of inspection and analysis of fish, the registration of exporters' marks; and the place where and the minimum period within which fish intended for export may be stored, so as to allow the inspection thereof before shipment. To date, no regulations have been made.

## **6. Cooperatives**

At present there are no fisheries cooperatives, although the Government has indicated a role for cooperatives in the operation of offshore schooners currently owned by SFA.

Cooperatives, including fisheries cooperatives, are governed by the Cooperatives Societies Act (Cap. 230 amended 1974). The essential requirement is a minimum membership of seven, which should pose no problem for cooperatives based on the larger local vessels or if the main purpose were to provide services to a number of vessels. Cooperatives can provide by bye-laws or contract for the exclusive marketing of all or a proportion of their members' produce (Sec. 15). Under Schedule 1 of the

Income Tax Assessment Decree, the income of a registered co-operative society is exempt from tax.

An apparent weakness of the Cooperative Societies Act is the provisions on distribution of profits. Normally, all net profits are to be credited to reserves, although the Registrar of Cooperatives can grant exceptions in the case of limited liability cooperative. In any case, dividends cannot exceed 10% of paid-up capital (sec. 39). Although there are no doubt ways to get around these provisions, they would tend to discourage any significant investment by cooperative members. This in turn would make it very difficult for cooperatives to operate complicated vessels. Purchase of vessels could probably be fully financed by the Development Bank of Seychelles, but the large requirement for working capital is not so easily met. Furthermore, an under-capitalized cooperatives will always be vulnerable to break-down and other misfortune and will have little chance of achieving real independence.

## **7. Nature protection**

a) The National Parks and Nature Conservancy Act (Cap. 159, amended by Act No. 7 of 1973 and Act No. 19 of 1982)

This Act establishes the Seychelles National Environment Commission, which is empowered to designate, with the approval of the Minister, any area as a National Park, a Strict Natural Reserve, a Special Reserve or an Area of Outstanding Natural Beauty. In a National Park or an Area of Outstanding Natural Beauty the Commission may set aside areas for the protection of any species of fauna, including those located in marine areas and reefs. In 1973, a Marine National Park was established around St. Anne Island (S.I. No. 21 of 1973 and S.I. No. 58 of 1973). Under the St. Anne Marine National Park Regulations, 1973, it is forbidden to kill, capture, take or injure any marine plant or animal in the park. However, the Commission may license residents to fish with casiers or handlines. Residents may also collect certain common species of shellfish. In 1979 three other Marine National Parks were established under this Act at Baie Ternay, Curieuse and Port Launay respectively. (S.I. No. 54, 55 and 56 of 1979). There are also three Special Reserves for the protection of wildlife, which expressly includes marine organisms in two cases. Aldabra Special Reserve is managed by the Seychelles Islands Foundation, created by the Seychelles Islands Foundation Decree, 1979, to "manage and conserve the natural life" of the Aldabra group.

In the areas designated by the Commission as Strict Natural Reserves, any form of hunting or fishing, any water pollution and generally any act likely to harm or disturb the fauna or flora is strictly forbidden.

The provisions of the Act may be enforced by any honorary park warden, any officer of the Commission or police officer. These officers may also arrest any person committing an offence under the Fisheries Act, the Conservation of Marine Shells Act, the Turtles Act, the Wild Animals and Birds Protection Act and the Birds Eggs Act.

The president is empowered to make regulations generally for carrying out the objects and provisions of this Act. Such regulations may in particular provide for the protection of wildlife.

---

## **ANNEXE B - FISHERIES BILL, 1985**

---

A Bill of an Act to revise and consolidate the laws relating to fisheries  
ENACTED by the President and the People's Assembly.

### PART I - PRELIMINARY

#### SHORT TITLE AND COMMENCEMENT

1. This Act may be cited as the Fisheries Act, 1985 and shall come into operation on such date as the President may, by order, appoint.

#### INTERPRETATION

2. In this Act -

"aquatic organism" means any aquatic plant or animal with the exception of birds, and includes any fish, crustacean, mollusc, coral, echinoderm, holothurian, aquatic reptile or aquatic mammal and its shells, eggs and other naturally occurring products;

"authorized officer" means -

(a) any police officer not below the rank of sergeant or any member of the Seychelles People's Navy not below the rank of petty officer; or

(b) any public officer or any employee of SFA designated by the Minister by notice in the Gazette to be an authorized officer for the purposes of this Act;

"continental shelf" [Act 15 of 1977] means the continental shelf of Seychelles as defined by section 5 of the Maritime Zones Act, 1977;

"fish aggregating device" means any device placed in the water to aggregate fish and includes any natural floating object upon which a device has been placed to facilitate its location;

"fishing" means fishing for, catching, taking or killing fish or other aquatic organisms by any method and includes searching for fish and placing any fish aggregating device;

"fishing vessel" means any vessel used for fishing other than a pleasure craft;

"foreign fishing vessel" means any fishing vessel other than a local fishing vessel;

"licensing officer" means, in the case of a licence under section 7, the Minister, and with respect to any other licence or category of licences, any person designated by the Minister by notice in the Gazette to be a licensing officer with respect to such licence or category of licences;

"local fishing vessel" means any fishing vessel which -

(a) is wholly owned by one or more citizens of Seychelles or public bodies; or

(b) is wholly owned by a company, society or other association of persons established under the laws of Seychelles, of which all of the shares are owned by citizens of Seychelles or public bodies; or

(c) is wholly owned or chartered by a company, society or other association of persons established under the laws of Seychelles, of which at least 51 per cent of the voting shares are held by citizens of Seychelles or public bodies; and which the Minister determines should be treated as a local fishing vessel;

"master" means the captain or any other person for the time being in charge of a vessel;

"operator" means, with respect to a vessel, the owner and charterer if any;

"pleasure craft" means a vessel operated or hired for the primary purpose of sport or recreation;

"related activities" in relation to fishing means -

(a) transshipping fish to or from any vessel;

(b) storing or processing fish;

(c) transporting fish except as part of a general cargo;

(d) refuelling or supplying fishing vessels or performing other activities in support of fishing operations;

(e) attempting or preparing to do any of the above;

"Seychelles waters" means the exclusive economic zone, territorial waters, internal waters and all other waters subject to the fisheries jurisdiction of Seychelles;

"SFA" [Act 10 of 1984] means the Seychelles Fishing Authority established by the Seychelles Fishing Authority (Establishment) Act, 1984.

## PART II - MANAGEMENT OF FISHERIES

### FISHERIES MANAGEMENT AND DEVELOPMENT PLANS

3. (1) SFA shall prepare and keep under review plans for the management and development of fisheries.

(2) The plans shall indicate the current state of fisheries, the objectives to be achieved and the management, development and licensing measures to be applied, including the amount of fishing, if any, to be allocated to foreign fishing vessels.

(3) In the preparation of each fisheries management and development plan, SFA shall consult with the local fishermen and other persons affected by the plan.

(4) SFA shall when practical consult with the fisheries management authorities of other States in the Indian Ocean, and in particular with those sharing the same or related stocks, with a view to ensuring the harmonization of their respective fisheries management and development plans,

(5) Each fisheries management and development plan or review thereof shall be submitted to the Minister for approval.

### MANAGEMENT MEASURES

4. (1) The Minister may make regulations prescribing measures for the proper management of fisheries including closed seasons and closed areas, specifications of gear that may be used (including the mesh size of nets), prohibited fishing methods and gear, the species, sizes and other characteristics of fish and other aquatic organisms that it is permitted or forbidden to catch and schemes for the limitation of entry into all or any specified fisheries.

(2) A regulation prescribing management measures may also prohibit the possession, purchase, sale, import or export of any gear or fish or other aquatic organism.

### INFORMATION

5. (1) SFA shall collect and analyse statistical and other information on fisheries.

(2) Every person engaged in fishing, related activities or aquaculture shall supply such information regarding such activities in such form as the SFA may require.

(3) No person who receives information pursuant to this Act shall use or disclose it except for the purposes of this Act.

(4) The Minister may enter into arrangements or agreements with other States in the Indian Ocean, either directly or through an international organization, providing for the exchange of fisheries information and for the harmonization of systems for its collection.

#### FISHING AGREEMENTS

6. (1) The Minister may enter into agreements with other States, with intergovernmental organizations and with associations representing foreign fishing vessel operators allocating fishing rights to vessels of those States, organizations and associations.

(2) The total fishing rights allocated by agreements made under this section shall not exceed the total resources or amount of fishing permitted to foreign fishing vessels by the applicable fisheries management and development plan.

(3) Any agreement made under this section shall include -

(a) a provision establishing the responsibility of the other State, organization or association to take all necessary measures to ensure compliance by its vessels with the agreement and with the laws relating to fishing in Seychelles waters; and

(b) such other provisions as may be prescribed. FOREIGN  
FISHING VESSEL LICENCE

7. (1) No foreign fishing vessel may be used for fishing in Seychelles waters or for fishing for sedentary species on the continental shelf except under and in accordance with a licence issued under this section or an authorization under section 17.

(2) An application for a licence under this section shall be made in the prescribed form and manner.

(3) Subject to this Act, the Minister may issue a licence in respect of a foreign fishing vessel authorizing that vessel to be used in Seychelles waters and, in respect of sedentary species, on the continental shelf for such fishing activities as may be specified in the licence.

(4) No licence shall be issued under this section unless -

(a) there is in force with the Government of the flag state of the vessel, with an intergovernmental organization to which the flag state has delegated the

power to negotiate fishing agreements, or with an association of which the operator is a member, an agreement entered into under section 6 to which the Government of Seychelles is a party; or

(b) the Minister determines that an agreement under section 6 in respect of the vessel is not practical and the applicant provides sufficient financial and other guarantees for the fulfilment of all obligations under this Act.

#### STOWAGE

8. Any foreign fishing vessel that is not licensed under section 7 or authorized under section 17 shall at all times that it is in Seychelles waters keep its fishing gear stowed in such manner as may be prescribed.

#### LOCAL FISHING VESSEL LICENCE

9. (1) No local fishing vessel may, unless it has been exempted under subsection (2), be used for fishing except in accordance with a licence issued under this section or an authorization under section 17.

(2) The Minister may make regulations exempting any category of local vessel from the requirements of this section, subject to such conditions as he may prescribe.

(3) An application for a licence under this section shall be made in the prescribed form to a licensing officer and shall be accompanied by the prescribed fee.

(4) A licensing officer shall, upon application in accordance with the preceding subsection, issue a licence under this section if he is satisfied that

-

(a) the vessel is a local fishing vessel as defined;

(b) the issue of the licence is consistent with any licensing programme specified in the applicable fisheries management and development plan;

(c) the applicant is able and willing to comply with the conditions of the licence.

#### PLEASURE CRAFT

10. The Minister may make regulations prescribing the conditions under which pleasure craft may be used for fishing. Such regulations may require that pleasure craft be licensed.

## OTHER LICENCES

11. (1) The Minister may make regulations requiring a licence for -

- (a) any kind of fishing, with or without the use of a vessel;
- (b) the use of a vessel for any related activity.

(2) A licensing officer may, upon application in the prescribed form and subject to such conditions as may be prescribed, issue a licence authorizing any person to conduct any kind of fishing or related activity for which a licence is required by regulations made under this section.

## CONDITIONS OF LICENCES

12. (1) Any licence issued under this Act shall be subject to such general conditions as the Minister may prescribe, to the conditions made applicable to the licence by any agreement under section 6, and to any special conditions which may be endorsed on the licence by the licensing officer including conditions relating to -

- (a) the type and method of fishing or related activity authorized;
- (b) the areas within which such fishing or related activity is authorized; and
- (c) the target species and amount of fish or other aquatic organisms authorized to be taken, including any restriction on by-catch.

(2) A licensing officer may from time to time, where he is satisfied that it is expedient for the proper management of fisheries, vary any special condition attached to any licence.

(3) Where a licensing officer varies any special condition attached to any licence, he shall notify the licensee of such variation as soon as practical.

## FEEES

13. There shall be payable in respect of every licence such fees and other payments as may be prescribed by regulations or provided for by an agreement under section 6.

## VALIDITY OF LICENCES

14. (1) A licence issued under this Act shall be valid for such period not exceeding five years as may be prescribed by regulations or specified in the licence.



(2) Where a vessel licensed as a local fishing vessel ceases to be a local fishing vessel, the licence shall automatically terminate.

(3) The term of a foreign fishing vessel licence shall not extend beyond the term of any applicable agreement under section 6.

(4) No licence shall be transferable except with the written permission of a licensing officer or as may be prescribed by regulations for the limitation of entry into any fishery.

#### SUSPENSION AND CANCELLATION OF LICENCES

15. (1) A licensing officer may suspend or cancel any licence issued under this Act -

(a) where the vessel or any gear in respect of which the licence was issued has been used, or any activity has been conducted, in contravention of this Act or any condition of the licence;

(b) where such action is necessary or expedient for the proper management of fisheries.

(2) In the event of suspension or cancellation of a licence for the reasons set out in paragraph (1)(b), the proportion of any fees paid with respect to the unexpired portion of the licence shall be refunded to the licensee.

#### APPEALS

16. Any person aggrieved by -

(a) the refusal of a licensing officer to issue or renew a licence under sections 9, 10 or 11; or

(b) the suspension, cancellation or variation of condition of any licence may, within thirty days of the refusal, suspension, cancellation or variation, appeal to the Minister, whose decision shall be final.

#### SCIENTIFIC RESEARCH

17. The Minister may in writing authorize any person or vessel to fish for the purpose of scientific research, subject to such conditions as he may prescribe or specify. An authorization under this section may exempt any person or vessel from any provision of this Act.

#### AQUACULTURE

18. (1) A licensing officer may in writing grant to any person the exclusive right of propagating, raising and taking fish and other aquatic organisms, in any area of Seychelles waters.

(2) An application for a grant under this section shall be made in the prescribed form to a licensing officer.

(3) The licensing officer shall, at the expense of the applicant, publish in the Gazette notice that an application has been made under this section and that any objection to its being granted must be filed with the licensing officer within 15 days of the date of publication of the notice.

(4) The licensing officer shall forward an application under this section, together with any objections thereto, any further submissions by the applicant and his own observations and recommendations, to the Town and Country Planning Authority established by section 3 of the Town and Country Planning Act.

[Cap. 160]

(5) A grant under this section shall not be made without the prior approval of the Town and Country Planning Authority.

(6) A grant under this section shall be valid for such period and subject to such conditions and the payment of such fees as may be specified in the grant.

(7) The Minister may make regulations further providing for the licensing and control of aquaculture in any part of Seychelles or Seychelles waters.

### PART III - ENFORCEMENT

#### POWERS OF AUTHORIZED OFFICERS

19. (1) For the purpose of enforcing this Act, an authorized officer may, without a warrant -

(a) stop, board and search any fishing vessel in Seychelles waters;

(b) require to be produced, examine and make copies of any licence, logbook or other document required under this Act;

(c) require to be produced and examine any net or other fishing gear and any fish.

(2) The master of any fishing vessel ordered to stop by an authorized officer shall stop the vessel and take all necessary measures to facilitate its boarding.

(3) Where an authorized officer has reasonable grounds to believe that an offence against this Act has been committed, he may, without a warrant, seize and detain any vessel. (together with its gear, stores and cargo), fish, fishing gear or other article which he has reason to believe has been used in the commission of the offence or in respect of which the offence has been committed.

(4) Any vessel seized under subsection (3) and the crew thereof shall be taken forthwith to the nearest or most convenient port.

(5) Any vessel or other article seized under subsection (3) shall be delivered into the custody of the magistrates' court and shall be dealt with in accordance with section 23.

#### HOT PURSUIT

20. Where, following the commission in Seychelles waters of an offence against this Act with the use of a vessel, the vessel is pursued beyond the limits of Seychelles waters, the powers conferred on authorized officers under section 19 shall be exercisable in respect of such vessel beyond the limits of such waters in the circumstances and to the extent recognized by international law.

#### PUBLIC OFFICERS

21. (1) The Public Officers (Protection) Act, 1976 is hereby extended to all Seychelles waters.

[Act 24 of 1976]

(2) Employees of SFA exercising functions under this Act shall be deemed to be public officers for the purposes of the Public Officers (Protection) Act, 1976 and of sections 372 and 373 of the Penal Code.

[Cap. 73]

#### REGIONAL ARRANGEMENTS

22. The Minister may enter into arrangements or agreements with other States in the Indian Ocean, either directly or through an international organization, providing for joint or harmonized surveillance and enforcement measures in respect of foreign fishing vessels.

#### CUSTODY OF SEIZED ARTICLES

23. (1) The court may order any fish or other perishable articles seized under this Act to be sold.

(2) The court may order the release of any vessel or other article seized under this Act on receipt of a satisfactory bond or other security for its value.

(3) The proceeds of any sale under sub-section (1), and any bond or other security received under sub-section (2) shall be held and dealt with in accordance with this Act as though they were the article which has been sold or released.

(4) If no proceedings in respect of a seized article are instituted within 15 days of its delivery to the court, it shall be released on demand to any person who appears to be entitled thereto.

(5) Where proceedings are instituted in respect of a seized article, the court may retain it pending the outcome of such proceedings and, where proceedings are instituted in any other court, may deliver it into the custody of that court which shall deal with it in accordance with this section.

#### OFFENCES

24. (1) Where any foreign fishing vessel that is not licensed under section 7 or authorized under section 17 is used for fishing in Seychelles waters or for fishing for sedentary species on the continental shelf, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(2) Where any vessel that is licensed under section 7 or that is a foreign vessel authorized under section 17 is used in contravention of any condition of the licence or authorization, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(3) Where any local fishing vessel that is required to be licensed under section 9 is not so licensed and is used for fishing in Seychelles waters, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(4) Where any vessel that is licensed under section 9 or that is a local vessel authorized under section 17, is used in contravention of any condition of the licence or authorization, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(5) Any person who, in Seychelles or Seychelles waters, conducts any fishing or related activity for which a licence is required by regulations made under this Act, otherwise than under the authority of and in accordance with the terms of a valid licence, shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(6) Where any foreign fishing vessel that is not licensed under section 7 or authorized under section 17 is found in Seychelles waters without its gear stowed in the prescribed manner, the operator and master shall each be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(7) Any person who uses any poisonous or explosive substance to kill, stun or disable fish in order to render them more easily caught shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(8) Any person who fishes in contravention of any management measure prescribed under section 4 shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(9) Any person who, contrary to section 19(2) or in any other way, prevents or hinders an authorized officer's exercising the powers conferred on him under this Act shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(10)

(a) Any person who, in Seychelles waters, kills, chases or takes any marine mammal, alive or dead, shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_

(b) It shall be a defence to a charge under paragraph (a) that either -

(i) if taken alive, the marine mammal was returned to the sea with the least possible injury; or

(ii) if taken dead or so seriously injured as to render its recovery unlikely, the taking of the marine mammal was reported to the Principal Secretary of the Ministry as soon as practical and the body disposed of in accordance with his instructions.

(11) Any person required to supply information under this Act who fails to supply such information or supplies false or misleading information shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

(12) Any person who uses or discloses information received pursuant to this Act for any purpose except the purposes of this Act shall be guilty of an offence and liable on conviction to a fine of \_\_\_\_\_.

#### FORFEITURE

25. (1) On convicting any person of an offence against this Act, the court, in addition to any other penalty imposed -

(a) may order any fishing gear used in the commission of the offence, and any article in respect of which the

offence has been committed, and in the case of an offence under section 24(1), any vessel (together with its gear, stores and cargo) used in the commission of the offence, to be forfeited;

(b) shall order all fish and other aquatic organisms caught in the commission of the offence to be forfeited.

(2) All fish and other aquatic organisms found on board any vessel which has been used in the commission of an offence against this Act shall be presumed, unless the contrary is proved, to have been caught in the commission of the offence.

(3) Where an article in the custody of the court is not ordered to be forfeited, it shall be held until all fines imposed for any offence in the commission of which the article was used, or which was committed in respect of the article, have been paid. If within thirty days following a judgement of guilt, any part of such fines remains unpaid, such article may be sold, and the proceeds applied towards payment of the fines.

#### COMPOUNDING

26. (1) The Minister may, if he is satisfied that an offence has been committed under this Act and if the person admits the commission of the offence and agrees in writing to its being dealt with under this section -

(a) compound the offence by accepting a sum of money not exceeding the maximum fine specified for the offence;

(b) order the release of any vessel or other article seized in connection with the offence on payment of a sum of money not exceeding the value of the vessel or other article.

(2) Any sum of money received under this section shall be dealt with as though it were a fine imposed by the court.

(3) In any proceedings brought against any person for an offence against this Act, it shall be a good defence if the person proves that the offence has been compounded under this section.

#### PART IV - GENERAL PROVISIONS

##### REGULATIONS

27. (1) The Minister may make regulations for the carrying into effect of the purposes and provisions of this Act, including regulations -

(a) requiring the holder of a licence under section 7 to appoint a local agent in Seychelles with authority to represent the licensee in respect of the vessel;

(b) requiring the holder of any licence to execute a bond or give other guarantee of his obligations under the licence;

(c) requiring any licensed vessel to be equipped with specified communications and position-fixing equipment;

(d) delimiting areas of Seychelles waters in which fishing shall be reserved to local vessels and local fishermen;

(e) providing for compensation payable to Seychelles citizens or to the Government in the event of any loss or damage caused by a foreign fishing vessel to other vessels or their gear or catch, or to cables or to other Seychelles interests;

(f) prescribing the manner in which fishing gear is to be stowed and requiring any fishing vessel to stow its gear in the prescribed manner during anytime that it is in an area of Seychelles waters where it is not authorized to fish;

(g) regulating the use of fish aggregating devices;

(h) regulating the import and export of live fish and other aquatic organisms;

(i) prescribing any other matter which is required or authorized to be prescribed.

(2) Regulations made under this section may provide that their contravention shall constitute an offence and may prescribe fines not exceeding \_\_\_\_\_ for any offence.

## REPEALS

28. (1) The following are repealed -

Cap. 134	(a) Fisheries Act;
Cap. 135	(b) Fish Export Act;
Cap. 141	(c) Turtles Act;
Cap. 142	(d) Whale and Other Fishery Act;
Cap. 148	(e) Control of the Natural Resources of the Seabed and Subsoil Act;
Act 27 of 1976	(f) Seas and Submerged Lands Act, 1976;
Act 32 of 1976	(g) Fisheries (Control) Act, 1976;

Decree 5 of 1979 (h) Control of Foreign Fishing Vessels Decree, 1979;  
Decree 8 of 1979 (i) Marine Mammals Sanctuary Decree, 1979;  
Act 4 of 1981 (j) Conservation of Marine Shells Act, 1981;  
S.I. 42 of 1969 (k) Proclamation No. 6 of 1969.

(2) The Seal Fisheries (North Pacific) Act, 1912, and the Whaling Industry (Regulation) Act, 1934, of the United Kingdom shall cease to apply to Seychelles or Seychelles waters.

(3) Notwithstanding subsection (1) -

(a) any licence issued under the Fish Export Act and in force at the commencement of this Act shall continue in force until its expiry, cancellation or revocation;

(b) any licence issued under the Control of Foreign Fishing Vessels Decree and in force at the commencement of this Act shall be deemed to be a foreign fishing vessel licence issued under this Act and the provisions of this Act shall apply accordingly in relation to any such licence;

(c) any licence for a net issued under the Fisheries Regulations, 1942, and in force at the commencement of this Act shall be deemed to be a licence issued under regulations made pursuant Co section 11 of this Act and the provisions of this Act shall apply accordingly in relation to any such licence.

---

## **ANNEXE C - FISHERIES REGULATIONS, 1985**

---

SI \_\_\_\_\_ OF 1985  
Fisheries Act, 1985  
(Act \_\_\_\_\_ of 1985)  
FISHERIES REGULATIONS, 1985

In exercise of the powers conferred by section 27 of the Fisheries Act, 1985 the Minister of National Development hereby makes the following Regulations -

Part I - PRELIMINARY

### Citation

1. These Regulations may be cited as the Fisheries Regulations, 1985.



## Interpretation

2. In these Regulations -

"outer island" means an outer island as set out in Schedule 1 to the Constitution;

"shell" means a marine mollusc or its hard outer covering;

"spear gun" means any device or instrument designed to propel any missile under water for the purpose of catching, injuring or killing any aquatic organism;

"unworked" in relation to a shell or turtle shell means one that has not been transformed into a decorative or utilitarian object by an industrial or craft process, and includes a shell or turtle shell that has only been cleaned, polished and varnished;

"Western Indian Ocean" means Major Fishing Area 51 as indicated in the FAO Yearbook of Fishery Statistics.

## PART II - FISHING VESSELS

### Exemption

3. A local fishing vessel not exceeding seven meters in overall length or of any size but not mechanically propelled, is exempted from the requirement of a licence under section 9 of the Act.

### Licence Application

4. (1) An application for a licence in respect of a fishing vessel under section 7 or section 9 of the Act shall be made in writing to SFA.

(2) An applicant under sub-regulation (1) shall furnish the following information:

- (a) the name and description of the vessel, the equipment and crew complement;
- (b) the flag state and home port of the vessel;
- (c) the name of the owner, charterer and master of the vessel;
- (d) the side number of the vessel, its radio frequencies, call sign and signal letter;
- (e) a description of the proposed fishing operations;

(f) a description of any joint venture or other contractual arrangements with Seychellois and foreign business interests in connection with the fishing operations;

(g) if a foreign vessel, the name and address of the local authorized agent appointed by the operator to represent him in all dealings with the Government and SFA, together with proof of the agent's authority;

(h) such other information as may be requested by SFA in clarification or amplification of the information furnished by the applicant.

(3) An application that contains or is accompanied by the information required under sub-regulation (2) shall be transmitted by SFA, together with its recommendation, to a licensing officer.

#### Form of Licences

5. Every licence in respect of a fishing vessel shall be in the appropriate form set out in the First Schedule.

#### Foreign Fishing Vessel Licence Fees

6. The fees payable in respect of a foreign fishing vessel licence shall be the fees established by the applicable agreement under section 6 of the Act, the fees specified in the foreign fishing vessel licence or if no such fees are established or specified, the fees set out in the Second Schedule.

#### Duplicate Licences

7. A licensing officer may, if he is satisfied that a licence has been lost or destroyed, issue a duplicate licence.

#### Amendment of Licences

8. (1) Any substantial modification to or change in ownership of a licensed fishing vessel shall be reported within thirty days to SFA for transmission to a licensing officer.

(2) On receipt of a report under sub-regulation (1), a licensing officer may either amend the licence accordingly or revoke the licence and treat the report as an application for a new licence.

#### Foreign Fishing Vessel Licence Conditions

9. (1) A licence issued under section 7 of the Act shall be subject to the following conditions -

(a) the vessel shall only be used for such fishing and related activities, during such period, and in such place as are specified in the licence;

(b) all provisions of the Act and regulations made thereunder shall be complied with;

(c) the licensee shall appoint an agent approved by SFA who shall be authorized to accept legal and financial responsibility and service of any notice, summons or other document, on behalf of the licensee in relation to activities of the vessel;

(d) the vessel shall maintain a logbook in which are recorded the nature, time and position of all fishing operations in the Western Indian Ocean, and the quantity of catch by species, including fish caught but not landed or retained on board;

(e) reports of the information required to be recorded under paragraph (d) shall be transmitted by the master of the vessel to SFA -

(i) monthly and on request of SFA at any other time during the term of the licence and

(ii) not later than 30 days after the expiry of the licence;

(f) the master of the vessel shall cause its position to be reported by radio or other means of communication approved by SFA -

(i) upon entering or leaving Seychelles waters;

(ii) every three days while in Seychelles waters;

(iii) at all other times when requested by SFA to do so;

(g) the master of the vessel shall, whenever requested by an authorized officer or by SFA, permit boarding and inspection of the vessel, produce for examination licences, logbooks and other documents required to be maintained, and all nets and other fishing gear and fish, and bring the vessel into port;

(h) the vessel shall at all times while in Seychelles waters

(i) fly the flag of its flag state and  
(ii) display on both sides of the vessel,  
so as to be clearly visible both from the  
sea and from the air, the licence number  
in white markings at least one metre in  
height in the case of a vessel whose  
overall length exceeds 18 metres, or 45  
centimetres in height in any other case,  
on a black background;

(i) the vessel shall not be used for fishing within one  
nautical mile of a fish aggregating device except with the  
permission of the person who has placed the device;

(j) the master of the vessel shall permit observers designated  
by SFA to go and remain on board the vessel for any or all  
of the period of validity of the licence, and shall -

(i) provide the observers with suitable  
food and accommodation while on  
board;  
(ii) cooperate fully with the observers in  
the performance of their duties;  
(iii) arrange for the observers to send  
and receive messages by way of the  
communications facilities on board the  
vessel.

(k) any records, reports or notifications required to be  
maintained or made under this regulation shall be  
maintained or made in the Creole, English or French  
language.

(2) A licence issued under section 7 of the Act shall be subject to such of the  
following additional conditions as are made applicable to the licence by a  
fishing agreement under section 6 of the Act or, where there is no such  
agreement applicable to the licence; as are endorsed on the licence by the  
licensing officer -

(a) no fishing shall be conducted in the territorial  
waters of Seychelles nor in waters less than 200 meters  
deep;

(b) all catches taken from the Western Indian Ocean shall be  
landed or transhipped in Port Victoria except as otherwise  
authorized by SFA;

(c) all supplies and services required for the operation of the vessel shall be procured in Seychelles except if such supplies or service are not available locally;

(d) the exact position of the vessel shall, whenever the vessel is in the Western Indian Ocean, be reported twice weekly to SFA -

(i) directly by radio or telex when the vessel is in Seychelles waters;

(ii) directly or by a representative when the vessel is elsewhere in the Western Indian Ocean.

#### Local Fishing Vessel Licence Conditions

10. A licence issued under section 9 of the Act shall be subject to the following conditions -

(a) the conditions stated in paragraphs (a), (b), (g), (j) and (k) of regulation 9;

(b) the vessel shall display on both sides of the vessel, so as to be clearly visible both from the sea and from the air, the licence number in white markings at least one metre in height in the case of a vessel whose overall length exceeds 18 metres, or 45 centimetres in height in any other case, on a black background;

(c) all fish caught shall be landed or transhipped in Port Victoria unless otherwise provided by the licence or specifically approved by SFA.

#### Authorization to Conduct Scientific Research

11. An authorization under section 17 of the Act shall be subject to the following conditions -

(a) no operations may take place until a research plan has been approved by the Minister or other person named by him;

(b) copies of all data derived from the research and any analysis, report or other result of the research shall be communicated in full to SFA as soon as they are produced, whether or not they are available to any other person.

#### Stowage

12. Any foreign fishing vessel that is not licensed under section 7 or is not authorized under section 17 of the Act shall keep its fishing gear stowed in the following manner -

(a) in the case of purse seiners;

- the boom shall be lowered;
- all nets and ropes shall be carried wholly inboard and lashed to the deck or superstructure;
- all boats belonging to the purse seiner shall be carried wholly inboard;
- the helicopter shall be lashed down;

(b) in the case of long-liners:

- all lines shall be stowed below deck;

(c) in the case of trawlers:

- all nets, trawlboards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames and stowed below deck.

### PART III - OTHER LICENCES

#### Large Nets

13. (1) No person shall fish in the territorial waters with the use of a net or combination of nets exceeding 50 meters in length except pursuant to a valid licence issued by a licensing officer under this regulation or under section 7 or section 9 of the Act.

(2) Every licence issued under this regulation shall be in the form set out in the Third Schedule and shall specify the size of net and the location and manner of use for which it is valid.

(3) A licence issued under this regulation shall be valid for one year, unless sooner suspended or revoked.

(4) A net licensed under this regulation shall be marked by the licensing officer with a lead seal or other mark bearing the licence number of the net.

(5) Any person who -

- (a) removes or alters a mark made under sub-regulation (4); or
- (b) marks an unlicensed net in such a way as to make it appear to have been marked under sub-regulation (4);

shall be guilty of an offence and liable on conviction to a fine of Marine Shells

14. (1) Subject to sub-regulation (2), no person shall, in any place specified in the Fourth Schedule to these Regulations, collect or disturb any shell other than a shell specified in the Fifth Schedule.

(2) No person shall in any part of Seychelles collect or disturb any triton conch (lancive) shell.

(3) No person shall purchase, sell, offer or expose for sale or export or attempt to export any triton conch (lancive) shell.

(4) No person shall purchase, sell or offer or expose for sale an unworked shell, except for a shell specified in the Fifth Schedule.

(5) No person shall export more than two kilogrammes of shells except pursuant to a licence.

(6) No person shall possess more than 20 kilogrammes of shells except pursuant to a licence.

(7) No person shall use any explosive for the purpose of blasting any coral or reef except pursuant to a licence.

(8) A licensing officer may issue a licence permitting the holder to export such quantity and description of shells, other than triton conch (lancive) shells, as are stated in the licence.

(9) A licensing officer may issue a licence permitting the holder to possess such quantity and description of shells as are stated in the licence.

(10) A licensing officer may, if he finds that such action is consistent with the preservation of the marine environment, issue a licence to blast any area of reef or coral that is not within an area designated under section 4 of the National Parks and Nature Conservancy Act.

[cap. 159]

#### Green Turtles

15. (1) No person shall fish for, catch, kill, disturb or possess a female green turtle.

(2) No person shall, in any place other than an outer island, fish for, catch, kill, sell or expose for sale any green turtle or be in possession of more than two kilogrammes of green turtle meat except pursuant to a valid licence issued under this regulation.

(3) Subject to the provisions of this regulation, a licensing officer may issue a licence for the removal of male green turtles from outer islands and their possession and sale.

(4) A licence under this regulation shall not authorize the removal of salted turtle meat from outer islands.

(5) Every licence issued under this regulation shall specify the number of green turtles for which it is valid, their destination and the manner of sale or other disposition of the meat.

(6) The number of green turtles for which licences may be issued in any year shall not exceed an aggregate number which shall be determined by the Minister at the beginning of each year.

(7) A licence under this regulation shall, unless sooner suspended or revoked, be valid for such period not exceeding one year as the licensing officer may specify.

#### Hawksbill Turtles

16. (1) No person shall fish for, catch, kill or disturb a female hawksbill turtle.

(2) No person shall fish for, catch or kill a male hawksbill turtle except pursuant to a valid licence issued under this regulation.

(3) If a hawksbill turtle is unintentionally wounded or caught, it shall be returned to the sea except that, if it is dead or so severely injured as to render its recovery unlikely, it shall be delivered forthwith to the Ministry or to a licensee under this regulation.

(4) Subject to the provisions of this regulation a licensing officer may issue a licence for the capture of male hawksbill turtles on outer islands and in the waters surrounding them.

(5) The holder of a licence under this regulation may dispose of hawksbill turtles only in the form of shell sold to artisans in the business of working such shell.

(6) Every delivery of hawksbill turtle shell to an artisan shall be accompanied by a certificate of the licensee stating the quantity of shell delivered.



(7) A licensee under this regulation shall maintain records of all capture and acquisition of hawksbill turtles and of all dispositions of shell.

(8) No person shall possess unworked hawksbill turtle shell except pursuant to a licence issued under this regulation, provided that an artisan in the business of working such shell may possess unworked shells for the purpose of such business if they are accompanied by a certificate issued under sub-regulation (6).

#### Import of Live Fish

17. (1) No person shall import any live fish or other aquatic organism into Seychelles except pursuant to a licence issued under this regulation.

(2) A licensing officer may issue a licence for the import of live fish or other aquatic organisms if he finds that the import poses no threat to the natural environment of Seychelles.

### PART IV - FISHERIES MANAGEMENT

#### Demersal Trawling

18. No person shall use any demersal trawl net for fishing in Seychelles waters.

#### Protected Area

19. (1) The following shall be protected areas:

(a) in the waters around Mahé - the whole of the reef situated on the east coast of Mahé from North East Point to South Point and where such reefs extend less than one thousand metres from the high water mark such portion of the sea as is within one thousand metres of the high water mark;

(b) in the waters around Praslin - the whole of the reefs situated on the south east coast of Praslin from an imaginary line drawn from "Roche Corbijeaux" to the northernmost point of North Cousin Island to Anse Marie Louise inclusive, and, where such reefs extend less than one thousand metres from the high water mark, such portion of the sea as is within one thousand metres of the high water mark;

(c) in the waters around La Digue - the whole of the reef situated on the west coast of La Digue from the northernmost point of that island to its southernmost point and, where such reefs extend less than one thousand metres from the

high water mark, such portion of the sea as is within one thousand metres of the high water mark.

(2) No person shall fish in a protected area with any net which is operated by being dragged across the sea bed.

#### Obstruction of Passes

20. No person shall place any net in any reef pass or channel in such a way as to obstruct the passage of fish.

#### Mesh Size of Traps

21. No person shall fish with or possess any casier or basket trap unless the meshes of the sides or surrounding parts of the trap (not including the gueule or entrance) are of such dimension as to allow a sphere of 40 millimetres in diameter to pass through such meshes without touching the sides thereof.

#### Spear Guns

22. (1) No person shall use any spear gun for fishing or be in possession of a spear gun in circumstances which raise a reasonable inference that the spear gun has been used, or is intended to be used, for fishing in Seychelles.

(2) No person shall sell or offer for sale any spear gun.

#### Protection of Homard

23. (1) No person shall fish for, catch or kill any crustacean of the family Palinuridae, commonly known as homard.

(2) No person shall purchase, sell or possess any homard which has been caught in Seychelles waters.

(3) Where any person is found in possession of any homard in any place in Seychelles it shall be presumed until the contrary is proved that the homard was caught in Seychelles waters.

#### Protection of Female Crustaceans

24. (1) No person shall fish for, catch, kill, purchase, sell or possess any female crustacean in the berried state, that is to say with eggs adherent and which belongs to the family Scyllaridae, the genus Macrobrachium or the genus Scylla, commonly known as crevice, camaron and crabe manglier respectively.

(2) No person shall remove the eggs from any berried female crustacean.

#### Protection of certain crustaceans

25. (1) No person shall catch, kill, purchase, sell or possess any crustacean which is of less than the minimum dimension prescribed in sub-regulation (2) for that kind of crustacean.

(2) The following minimum dimensions are prescribed for crustaceans -

(a) from the tip of the rostrum to the end of the tail

(i) family scyllaridae (crevice)... 20  
centimeters;

(ii) genus macrobrachium (camaron)... 9  
centimeters;

(b) the width of the carapace -

(i) genus scylla (crabe manglier)... 11  
centimeters;

#### Unintentional catches

26. Except as otherwise provided by the Act or these regulations, any protected aquatic organism that is caught unintentionally shall be returned to the sea forthwith and with the least possible injury.

#### Interference with gear

27. No person shall remove, damage or disturb any net, trap, line, fish aggregating device or other fishing gear found in Seychelles waters or remove any fish or other aquatic organism therefrom, except with the permission of the owner or for the purpose of restoring lost gear to its rightful owner.

#### Aquaculture Concession

28. (1) The limits of every aquaculture concession shall be marked with buoys so as to be readily discernable from both the shore and sea.

(2) No person shall fish in an aquaculture concession marked as required by sub-regulation (1) except pursuant to the authorization of the grantee of the concession.

#### FIRST SCHEDULE

Reg. 5

FORM 1

REPUBLIC OF SEYCHELLES  
FOREIGN FISHING VESSEL LICENCE

Issued to .....

Address .....

Name and address of owner and charterer of vessel if different from above .....

Name and address of agent or other legal representative in Seychelles .....

Name and address of master of vessel .....

Name of vessel ..... Length .....

Type of vessel ..... Registered net tonnage .....

Engine horse power ..... Gross registered tonnage .....

Port and country of registry .....

Registration number .....

Fishing vessel identification mark .....

Signal letters .....

Radio call sign ..... Frequency .....

The vessel, details of which appear above, is hereby authorized to do such of the following as may be indicated on this licence:

Authorization to fish within marine areas under the jurisdiction of Seychelles

Description of fishing operations authorized:

Areas to be fished: .....

Authorized landing places: Port Victoria Mahé .....

Period of validity from ..... until .....

Fees ..... Date of issue .....

Approved .....

Minister

This licence is granted subject to the following conditions -

1. The holder shall comply with and ensure that the vessel is used in conformity with the provisions of the Fisheries Act, 1985 and Fisheries Regulations, 1985.

2. The following conditions:

FORM 2

REPUBLIC OF SEYCHELLES  
LOCAL FISHING VESSEL LICENCE

Issued to .....

Address .....

Name and address of owner and charterer of vessel if different from above .....

Name and address of master of vessel .....

Name of vessel Length .....

Type of vessel Registered net tonnage .....

Engine horse power Gross registered tonnage .....

Port and country of registry .....

Registration number .....

Fishing vessel identification mark .....

Signal letters .....

Radio call sign Frequency .....

The vessel, details of which appear above, is hereby authorized to do such of the following as may be indicated on this licence:

Authorization to fish

Description of fishing operations authorized:

Areas to be fished:

Species of fish to be taken:

.....  
Authorized landing places:  
.....

Reporting requirements:  
.....

Period of validity from ..... until .....  
.....

Date of issue .....

Approved .....

Licensing Officer

This licence is granted subject to the following conditions:-

1. The holder shall comply with and ensure that the vessel is used in conformity with the provisions of the Fisheries Act, 1985 and Fisheries Regulations, 1985.

2. The following conditions:

#### SECOND SCHEDULE

Reg. 6

#### FEES PAYABLE FOR FOREIGN FISHING VESSEL LICENCES

<b><u>Type of Fishing</u></b>	<b><u>Period</u></b>	<b><u>Fee</u></b>
Tuna Long Lining	1 month	Rs 60 per gross registered tonne
	4 months	Rs 180 per gross registered tonne
	8 months	Rs 300 per gross registered tonne
	12 months	Rs 360 per gross registered tonne
Others	1 year	Rs 1500 per gross registered tonne

#### THIRD SCHEDULE

Reg. 13

REPUBLIC OF SEYCHELLES  
LARGE NET LICENCE NO...

Is used to  
.....

Type of net  
.....

Length	Depth
.....	.....
Mesh size	
.....	
Manner of operation	
.....	
Areas to be fished	
.....	
Species of fish to be taken	
.....	
Fish to be landed at	
.....	
This licence is valid for the period from	to
.....	.....
Date of issue	
.....	
	.....
	Signature of Licensing Officer

This licence is granted subject to the following conditions;

1. Compliance with the Fisheries Act, 1985 and Fisheries Regulations, 1985.

2. The following conditions:

FOURTH SCHEDULE

Reg. 14

SHELL RESERVES

A. On the East Coast of Mahé -

1. North East Point and Anse Nord d'Est:

The area lying within 400 metres seaward from the low-water mark between North East Point and the Western end of Carana Beach.

2. South East Island to Pointe au Sel:

The area lying within 400 metres seaward from the low-water mark between the northeast corner of South East Island and Anse Faure and the area lying between the low-water mark and the edge of the reef between Anse Faure and Pointe au Sel.

B. On the North Coast of la Digue -

La Passe by Pointe Cap Barbi to Cap Bayard River:

The area lying within 400 metres seaward from the low-water mark between the jetty at La Passe and the mouth of Cap Bayard River.

C. On the North Coast of Praslin

Pointe Zanguilles to Anse Boudin:

The area lying within 400 metres seaward from the low-water mark between the lighthouse at Pointe Zanguilles and a point 270 metres beyond the mouth of Mon Desir River.

#### FIFTH SCHEDULE

Reg. 14

Bernique

Bigorneau

Burgot

Chicoret

Hache d'Armes

Huitre (edible)

Huitre (mother of pearl)

Mouque

Octopus

Palourde

Squid

Tec Tec