

LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA

BILL

**GENERAL LAW FOR THE SUSTAINABILITY OF SMALL-SCALE,
ARTISANAL FISHERIES IN THE CONTEXT OF FOOD SECURITY,
POVERTY ERADICATION AND SHARED GOVERNANCE**

SEVERAL DEPUTIES

FILE № 20.750

**DEPARTMENT OF PARLIAMENTARY SERVICES
UNIT FOR PROJECTS, FILES AND LAWS**

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LEGISLATIVE ASSEMBLY:

According to data from the Food and Agriculture Organization of the United Nations (FAO) about 50% of the world's fish capture comes from small-scale fisheries¹. The meaning of this fishing sector is also a fact for Costa Rica, since demographic researches show that 60% of the coastline population benefit directly from the marine-coastal resources², being that a high percentage of them are artisanal fishers.

This benefit received by the inhabitants of the coastal areas of our country transcends the financial means. It implies better life conditions, food security and an identity. Cultural and social aspects of these communities are also linked to the sustainable exploitation of the marine resources and to the historical relationship which produces knowledge and human welfare.

Therefore, once the FAO approved in 2014 the *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication* as a complement to its *Code of Conduct for Responsible Fisheries* of 1995, Costa Rica began internal procedures to guarantee the application of these guidelines.

Among these procedures the elaboration of the public policy *National Fishing and Aquaculture Plan and the National Development Plan 2015-2018* stands out. It contains the measures needed to encourage the small-scale, artisanal fisheries' sustainability and to implement the human rights of the persons from this fisheries sector.

One of the most important steps towards achieving this was to issue Executive Decree № 39195 MAG-MINAE-MTS dated August 7th 2015: *Official Application of the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication*.

By means of this Decree the guidelines, whose application at the beginning was voluntary, are fully integrated into Costa Rica's legal order and become consequently fully effective.

Nevertheless, Costa Rica has gone farther than other countries in the implementation of these guidelines. It has mainly generated concrete actions in various responsible fishing marine areas as models of interactive ocean governance where artisanal fisheries organizations, together with the government, try to sustainably manage the fishing resources and achieve a just and fair distribution

1 Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and <http://www.fao.org/cofi/42019-067220930ec966ce487c7877ac854ab5.pdf>

2 Final report from the Project "Support to the implementation of the voluntary guidelines for securing sustainable small-scale fisheries in the context of food security and poverty eradication", p. 6.

of the benefits resulting from this management.

Furthermore, and as part of this process in which the government as well as the civil society (the fishers themselves) actively participate, a bill, inspired by the *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication* is being prepared.

The main reason why this bill is so relevant is that the *guidelines* constitute a general framework for all countries, ignoring thus any specific needs. In order to provide the *Guidelines* with a real content, a regulation adjusting to the needs of the country and its inhabitants and which considers the reality of the small-scale, artisanal fisheries sector in Costa Rica, must be created .

Provided that the plan's aim is to collect the concerns, apprehensions and proposals of the fishers and their communities, it was elaborated with an interactive methodology. Thus it guarantees a reflection of the real needs of these persons and incorporates their perspective about the issues to be solved as well as the solutions that will be carried out.

To ensure equal, interactive, integrating and effective dynamics, the bill was structured after a series of workshops with different people and communities of the small-scale, artisanal fisheries. From March through April 2017 five workshops took place: one in Limón, two in Puntarenas, one in Golfito and one in Guanacaste. Also, some meetings were held with the sport fishing, industrial and academic sectors as well as with representatives from Non-governmental Organizations (NGO).

Between May and August 2017 five more workshops took place: one in May with small-scale, artisanal fishers in the headquarters of Incopesca³ in Puntarenas; four workshops in June with artisanal fishers from the communities of Costa de Pájaros, Isla Caballo, Isla Venado (Cigaro) and Isla Venado (La Florida) and the last one in August with the Indigenous Bureau⁴ and other indigenous peoples' representatives.

The indigenous perspective is vital for the bill since these communities fish on a small-scale and have their own practices and rituals related to marine resources. Consequently, they too are included in the *guidelines'* provisions, reflecting their concerns and expectations in the bill and some of these provisions apply specifically to them.

Furthermore, the bill acknowledges and underlines the fundamental role played by women in the value chain of the small-scale fisheries, promoting their participation in coastal development, organization and local entrepreneurship as well as strengthening their capacities. This important sector makes up 50% of all fishing actors in our coasts and seas.

Similarly, the plan counts on the participation of Incopesca, which has given contributions and recommendations to provide the plan with technical viability, and on the experience of the organizations of the civil society, which for decades have accompanied the artisanal fisheries organizations on their way to sustainability.

Finally, the bill counts on important contributions from the FAO, being that through its advisers, consultancy and supplies it gives the plan legitimacy on the understanding that it does act in accordance with the spirit that drives the *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication*.

3 (Translator's Note: Incopesca is the Fishing and Aquaculture Institute of Costa Rica)

4 (TN: Mesa Nacional Indígena de Costa Rica (MNICR) is an organization gathering indigenous people and organizations from all over the country)

Consequently, the bill requires a combined effort between the communities, the State's institutional structure and the organizations of the civil society, which participate with the fishers towards the sustainability of small-scale fisheries in the context of food security and poverty eradication. It strengthens then the shared governance and the human development of the communities, so that it also features a balance regarding all the perspectives from which it is made up.

For all these reasons and in the interest of preserving the rights of these communities, which are often in conditions of socio-economical vulnerability, of promoting fishing practices that will improve the economy of the coastal provinces, and of approaching an ideal of a democratic sustainable development, just as it has been developed by the Constitutional Chamber, we submit the bill **“General Law for the sustainability of small-scale, artisanal fisheries in the context of food security, poverty eradication and shared governance”** for consideration by the representatives of this Legislative Assembly.

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA
DECREES:

**GENERAL LAW FOR THE SUSTAINABILITY OF THE SMALL-SCALE, ARTISANAL
FISHERIES SECTOR IN THE CONTEXT OF FOOD SECURITY,
POVERTY ERADICATION AND SHARED GOVERNANCE**

TITLE I
GENERAL PROVISIONS

CHAPTER I
GUIDING PRINCIPLES, DEFINITIONS AND
RESPONSIBLE AUTHORITY

ARTICLE 1- Object and purposes of the Law

The ultimate object of this law is to guarantee the development and sustainability of the small-scale, artisanal fisheries sector in the context of food security, poverty eradication and shared governance in harmony, coherence and accordance with the international instruments on the subject ratified by the government of the Republic of Costa Rica. This law has the following purposes:

- (a) Acknowledgement of the importance of the small-scale, artisanal fisheries sector as a means of livelihood for coastal, riverside or inland waters local communities or organizations, and of its contribution to their food and nutrition security.
- (b) Equitable development of coastal, riverside and inland waters local communities or organizations and poverty eradication.
- (c) Improvement of the socio-economical situation and the quality of life of the small-scale, artisanal fishing actors.
- (d) Sustainable exploitation, a prudent and responsible code and the conservation of the fishing resources, in accordance with the Code of Conduct for Responsible Fisheries of the FAO.
- (e) Sustainable democratic development for small-scale fisheries.
- (f) Promotion and protection of the traditional knowledge and the cultural identity of the small-scale, artisanal fishing actors.
- (g) Acknowledgement of the importance of women as actors of the small-scale, artisanal fishing and its value chain.
- (h) Promotion of the participation of the small-scale, artisanal fishing actors together with Incopesca on the joint governance model, as well as of the indigenous peoples, whenever the measures might concern them.
- (i) Integration of the small-scale, artisanal fisheries' young population in the participation processes and the governance models.

In order to achieve these purposes a human rights based approach will be used, as well as a gender equity and equality approach, an ecosystem approach to fisheries management and a marine spatial planning approach.

ARTICLE 2- Definitions

For the purposes of this law, the following definitions are established:

(a) Small-scale, artisanal fishing actors: These are men and women who fish, fishing workers related to pre- and post-capture work, as well as the fishing communities and the indigenous peoples, together with their respective traditional and customary authorities.

(b) Non-state actors of the small-scale, artisanal fishing: all those legal or natural persons not belonging to the governmental structures of the State, yet who are related to or have an impact on small-scale, artisanal fisheries, such as trading companies and the civil society organizations connected to this subsector.

(c) Value chain: a system constituted by several elements which add value to the product, from the pre-harvest, harvest and post-harvest activities, processing, transport and marketing on all scales, either by increasing its marginal profit or by playing a social or cultural role within the productive process.

(d) Code of Conduct for Responsible Fisheries: a voluntary instrument prepared by the coastal, riverside or inland waters local communities or organizations, to regulate the small-scale, artisanal fishing activity in order to guarantee a sustainable exploitation of the fishing resources.

(e) Coastal, riverside or inland waters local communities or organizations: family or community groups comprising at least two generations of both artisanal fishermen and -women and settled on coastal, riverside or inland waters localities and whose way of life and culture are related to the sea, lakes, rivers, wetlands or any other water bodies.

(f) Traditional knowledge: a know-how generated by communities having a way of life closely related to certain ecosystem and biological cycles, in accordance with article 8 (j) of the Convention on Biological Diversity and article 9 of the International Treaty on Plant Genetic Resources for Food and Agriculture.

(g) Possession rights: legal or ancestral rights through which societies define and regulate the way people, communities and other groups access land, fishing and forests; they determine who may use which resources, for how long and under what conditions. These rights may rest upon policies and written laws but also on unwritten customs and practices.

(h) Democratic sustainable development: principle aiming to guarantee the exploitation of the existing resources by the current generations and to ensure that the access to those resources and to the wealth generated by the economic activities related to fishing and aquaculture is fairly distributed in the society, in such a way as to attain the largest possible number of persons and allow a solid progress of all families composing that social and productive sector.

(i) Decent employment: any activity, occupation, job, business or service done by men and women, young people or adults, in exchange for a remuneration or benefits and which complies with the following elements: (1) It respects the core labor standards just as stated in the ILO conventions and other international instruments on this subject endorsed by Costa Rica, and therefore: (a) It is not child labor; (b) It is not forced labor; (c) There is no labor discrimination

involved; (d) It guarantees freedom of association and the right to collective bargaining; (2) It provides an adequate income; (3) It involves an adequate degree of job security and stability; (4) It embraces basic safety and workplace health measures; (5) It prevents excessive working hours and allows sufficient resting time; (6) It promotes access to technical and professional training; and (7) It considers the right to retire with a decent pension.

(j) Human rights based approach: it acknowledges that all regulations, public policy, political decision and administrative act in general must be dictated and enforced in accordance with the international instruments on human rights and any other internal legislation regulating matters relative to this kind of rights.

(k) Gender equity and equality approach: it acknowledges that all regulation, public policy, political decision and administrative act in general must be dictated and enforced in order to guarantee gender equality and equity. In a situation in which an equality of form should oppose a material equality, the option assuring material equality between genders must prevail.

(l) Marine spatial planning approach: it acknowledges the importance and utility of dividing, differentiating and governing diversely the several spaces composing marine and inland waters areas, according to the geography, the marine resources present in each area and the interests of the various actors and fisheries sectors present in the country.

(m) Ecosystem Approach to Fisheries (EAF): it acknowledges that the fishing resources, the users and the governance manner interact affecting the system as a whole, wherefore it considers the integrality and interdependence of the ecological, social, gender and institutional dimensions in order to guarantee the sustainability of the environmental services in the ecosystems where fishing activities are carried out.

(n) Shared governance: a principle ensuring that the management of the marine and inland waters spaces and the fishing resources will be carried out in a joint and agreed upon manner between Incopesca and the coastal, riverside and inland waters local communities closely related to those spaces.

(ñ) Incopesca or 'the Institute': Fishing and Aquaculture Institute of Costa Rica, established by Law № 7384 as a public state entity having legal capacity, endowed with its own assets and subject to the National Development Plan stipulated by the Executive Power.

(o) Men and women as leaders: a person heading, guiding or having a leadership position inside any coastal, riverside or inland waters local communities or organizations.

(p) Fisheries organization: entities having a valid legal identity, constituted by natural and legal persons engaged in small-scale, artisanal fishing and duly registered at the Registry of Fisheries Organizations of Incopesca, pursuing the improvement of the quality of life of its members and its community.

(q) Small-scale, artisanal fishing: fishing activity using mainly an autonomous manual work in capturing, harvesting, transforming, distributing and marketing of marine or inland waters fishing resources, generally carried out by individuals, family or community groups or organizations settled in coastal, riverside or inland waters local communities, using no vessel or small vessels not exceeding a 12 meters length and with a capacity to legally operate within 5 nautical miles, with legally recognized fishing arts and techniques. This category comprises the pre- and post-harvest activities. It represents the main livelihood of coastal, riverside and inland waters communities, including women and indigenous peoples and contributes significantly to their nutritional food

security and family income.

(r) Artisanal fishermen and -women: all those men and women who carry out small-scale, artisanal fishing activities.

(s) Responsible fishing: activity of catching aquatic organisms for food, trading or research, carried out within a management framework aimed at developing fishing ways more beneficial for the State, the coastal, riverside or inland waters local communities and the environment. It is carried out under precautionary criteria and principles intended to ensure the sustainability of the fishing resources for future generations. It must take into account the democratic sustainable development, the decent employment, the catching methods and arts that may be used and the social equity in the rights to access the fishing resources.

(t) Fishing resources: fish, mollusc, and in general all living aquatic resources, both marine and from inland waters, which are subject to being caught and harvested. Fishing resources are all those objects, living or not, being captured or harvested from any water body by coastal or inland waters local communities and indigenous peoples with purposes related to ancestral practices and traditional knowledge.

(u) Food and nutrition security: a given situation, in which all people have enough innocuous and nutritious food to satisfy their food needs and preferences and in order to lead an active and healthy way of life.

(v) Fisheries' food system: all elements contributing to and interacting with the production of fish products deriving from fisheries; these include harvest, transportation, processing, commercialization, consumption and even those elements contributing indirectly, such as production input suppliers.

(w) Maritime terrestrial zone: a 200 meters wide land strip all along the Pacific and Atlantic coastlines of the Republic of Costa Rica, regardless of their nature, measured horizontally from ordinary high tide, and the terrains and rocks remaining exposed during low tide. For all legal purposes the maritime-terrestrial zone comprises islands, small islands and maritime crag as well as all land of natural formation protruding the ocean level within the Republic's territorial sea. Exception to this is Cocos Island, which will be under the direct control and possession of the State and all those other islands whose control or management is specified by Law № 6043: Law on the Maritime Terrestrial Zone.

ARTICLE 3- Scope and coverage

This law has a general scope applicable to all small-scale, artisanal fisheries in marine and inland waters and to all state and non-state actors of the small-scale, artisanal fishing. Furthermore, it will take into account, where appropriate, fishers in an informal fishing condition. The provisions of this law will be applicable to persons engaged in subsistence fishing, to indigenous communities engaged in fishing and to coastal, riverside or inland waters local communities.

ARTICLE 4- Guiding principles

The guiding principles applicable to the regulation and management of the small-scale, artisanal fisheries sector are the following:

(a) Consultation and participation: The State will guarantee an active, free, effective, significant and prior informed consent and participation of small-scale, artisanal fishers and their

communities, including indigenous peoples; taking into account the United Nations Declaration on the Rights of Indigenous Peoples and the International Labor Organization (ILO) Convention № 169 in the whole decision-making process concerning fishing resources, and the policies and works that may affect the zones in which small-scale, artisanal fisheries operate and adjacent territories, and considering the power imbalance existing between the different parties.

(b) Human rights and human dignity: realizing the intrinsic dignity and equal and inalienable human rights of all individuals the State, in accordance with the international human rights instruments endorsed by the Republic of Costa Rica, will admit, respect, promote and protect human rights and their applicability to the communities dependent upon small-scale, artisanal fishing, as required by the stipulations of the international human rights regulations: universal and inalienable nature, indivisibility, interdependence and interrelationship, equality and non-discrimination, participation and inclusiveness, accountability and rule of law.

(c) Marine spatial planning approach: Incopesca will develop the marine spatial planning in the marine and inland waters ecosystems that will allow the territorial organization, taking into account the special circumstances and differing interests of the small-scale, artisanal fishing and promoting the participation of its actors in the definition processes and the multisectoral planning.

(d) Global, integrated and ecosystem approaches: the State acknowledges the ecosystem approach to fisheries as an important guiding principle comprising the integrity aspects and the ecological, social and institutional dimensions that must merge by means of an intersectoral coordination, in order to rationally use the ecosystems, guaranteeing therefore the sustainability of the livelihoods of the small-scale, artisanal fishing communities and the stability of the resources for future generations.

(e) Equity and equality: the State will promote justice and an equitable treatment, both from a legal point of view and in the practice, of all persons and communities engaged in or dependent upon small-scale, artisanal fishing, particularly equity to enjoy all human rights. At the same time, the differences between men and women will be recognized and specific measures will be endorsed in order to guarantee de facto equality, that is, by means of preferential treatment whenever necessary to achieve equitable results, in particular regarding vulnerable and marginalized groups.

(f) Gender equity and equality: Acknowledging the crucial role played by women engaged in the small-scale, artisanal fishing activity and in the activities all through its chain value, the State will promote equal rights and opportunities, encouraging differentiated policies in pursuit of equity. Measures governing the small-scale, artisanal fisheries sector must be in harmony with human rights regarding women and based on the specific women's needs of each community.

(g) Socio-economic feasibility and viability: the State will ensure the stability and socio-economic rationality of the policies, strategies, plans and measures taken to improve the development and governance of the small-scale, artisanal fisheries. These policies, strategies, plans and measures must be applicable and adaptable to the local circumstances and to the environment's changing nature, and strengthen the resilience of the communities.

(h) Rule of law: all state decisions and actions regarding the small-scale, artisanal fisheries must be supported by the rules and provisions included in this law and in any other related body of law.

(i) No discrimination: the State will respect, protect and guarantee the access to natural and technological resources essential to small-scale, artisanal fisheries without any discrimination, protecting especially persons belonging to groups in situation of greater vulnerability, such as

women, young people and indigenous peoples. Any distinction, exclusion or restriction imposed on grounds of race, skin color, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other condition having as a consequence or objective to obstruct or restrict the rights of the members of the family units of agricultural production, will be considered as illegal acts and will be subject to sanctions in accordance with this law and other applicable body of law.

(j) Accountability: the State will hold all individuals, public entities in charge of executing this law and non-state actors administrative, civil and criminal accountable for their actions and decisions in accordance with the legislation of Costa Rica.

(k) Respect for cultures: the State will recognize and respect the existing organizational forms, the traditional and local knowledge and the practices of the coastal, riverside or inland waters local communities, including indigenous peoples, Afro-descendants and ethnic minorities, promoting the elimination of socio-cultural patterns of behaviour based on prejudices and any form of discrimination against women.

(l) Social responsibility and shared governance: the State will promote social participation in decision-making for the assessment and management of fishing resources, in a regulatory framework based on the best scientific information available as well as on information provided by the coastal, riverside or inland waters local communities, taking into account their traditional knowledge for administrative and institutional decision-making. Both the State and the communities will maintain co-responsibility for the sustainable fisheries management and the shared governance of the fishing sites related to these communities. The State will promote community solidarity, collective and corporate responsibility along with an atmosphere of collaboration between the interested parties.

(m) Economic, social and environmental sustainability: the State will apply a precautionary approach and will manage the risks in order to protect itself from undesirable results, including over-exploitation of the fishing resources and negative environmental, social and economic consequences. The State's activities must be oriented towards accomplishing a democratic sustainable development.

(n) Transparency: the State will clearly and widely define and diffuse in the populations concerned all the information regarding policies, laws, regulations and administrative procedures touching small-scale, artisanal fishers. Furthermore, it will make widely available the regulatory and fisheries management decisions, together with their respective technical and legal grounds, in formats accessible to all.

(ñ) Decent employment: the State must ascertain that the work performed in the coastal, riverside or inland waters local communities or organizations and in the small-scale, artisanal fisheries sector is in accordance with the parameters of decent employment, considered in the various human rights instruments and ILO conventions endorsed by Costa Rica. Thus, the necessary affirmative actions will be applied to achieve this result. The principle of decent employment must be present in all the measures regarding joint governance.

(o) Coordination and comprehensive approach of the fisheries: the State and its institutions must take the measures concerning the small-scale, artisanal fisheries by means of an optimal interinstitutional coordination. The institutions must guarantee an easy access and an efficient assistance to those persons belonging to indigenous communities and to coastal, riverside or inland waters local communities.

(p) Equitative access to land and to fishing resources: land ownership distribution and

access to the fishing resources by means of fishing licences or any other form, must occur in a fair and equitable way taking into account gender equality. This access must respect land tenure and access to resources by all indigenous peoples.

(q) Principle of democratic sustainable development: the State will guarantee the exploitation of the resources for present and future generations, ensuring that access to the resources and the wealth generated by the economic activities related to fisheries will be equitably distributed in the society, so that it reaches the largest number of persons and allows the solidary progress of the families making up that social and productive sector.

ARTICLE 5- Entities responsible for law enforcement

The State, through Incopesca and in coordination with the Joint Social Aid Institute (IMAS), the National Institute for Women and all those institutions related to small-scale, artisanal fishing, as well as fisheries organizations, coastal, riverside or inland waters local communities or organizations, bear the primary responsibility for ensuring the application and enforcement of this law. Non-state actors of the small-scale, artisanal fishing can support this sector with resources and the State on the enforcement of this law.

CHAPTER II DECLARATORY, NATIONAL INTEREST, POLICY AND TRADITIONAL KNOWLEDGE

ARTICLE 6- Declaratory

The State declares the small-scale, artisanal fishing, its research, protection, promotion, conservation and development as a strategically sector and of public interest, as well as the fishing resources, food and ecological systems relating to the activity, in accordance with the relevant national legislation and taking into account the need to strengthen its impact on food and nutrition security, poverty eradication, development of the local economies and improvement of the quality of life of the coastal, riverside or inland waters local communities or organizations.

ARTICLE 7- Environmental, social and economic impact

Incopesca and other entities bearing the responsibility for the application of this law in accordance with article 5 of this law, will carry out the relevant assessments of the environmental, social and economic impact whenever projects, which may affect the actors of the small-scale, artisanal fishing, are intended to be undertaken, sharing and discussing with them its results.

ARTICLE 8- Acknowledgement, protection and disclosure of traditional knowledge and ancestral practices

The State will acknowledge, protect and disseminate the traditional knowledge and the ancestral practices which stay in harmony with the environment and the role of the coastal, riverside or inland waters communities and indigenous peoples and Afro-descendants engaged in small-scale, artisanal fishing activities with the aim of restoring, preserving, protecting and jointly managing the local aquatic and coastal ecosystems in accordance with articles 9, 10 and 82 of the *Biodiversity Law*, article 8 of the *Convention on Biological Diversity*, article 9 of the *International Treaty on Plant Genetic Resources for Food and Agriculture*, endorsed by Costa Rica by Law № 8539 of August 23rd 2006, as well as any other related regulation.

The State, through Incopesca and the other entities bearing the responsibility for the application of

this law, in accordance with article 5, will take into account the wisdom stemming from the traditional knowledge of the indigenous and coastal communities whenever it will take measures which may affect these populations, whether they are institutional, legislative or of any other nature.

TITLE II RESPONSIBLE FISHING AND SUSTAINABLE DEVELOPMENT

CHAPTER I RIGHTS AND DUTIES OF THE SMALL-SCALE, ARTISANAL FISHERS

ARTICLE 9- Right to fish and its duties

The State, through Incopesca, will guarantee the right to fish for the small-scale, artisanal fishers under the terms and conditions laid down in this law and in the international treaties approved and endorsed by Costa Rica.

The right to fish implicates the correlative duty of doing it in a responsible and sustainable way, in order to ensure the preservation and the effective management of the living aquatic resources. Therefore, anybody owning a licence for small-scale, artisanal fishing in accordance with this law must comply with the established legal framework.

ARTICLE 10- Duty to provide access to the fishing resources

Incopesca, in accordance with this law, will provide small-scale, artisanal fishers with access to the fishing resources and markets, without prejudice to the rights that correspond equitably to other social groups and fisheries' subsectors, and with the limits which the resources' biological capacity allows. These limits will be established based upon data gathered through scientific expertise and traditional knowledge, thus guaranteeing the sustainability of the fishing resources by means of applying the fisheries' ecosystem approach.

ARTICLE 11- Rights to an equitable access

For the interest of a prevailing equity regarding fishing activities, the State will equitably treat the small-scale, artisanal fishers when allowing access to the fishing resources, in accordance with the legal regulation and the forms of responsible fishing laid out in this law.

Taking into account the particular situation of the small-scale, artisanal fishers, the State will accord equitable treatment in the following areas:

- (a) Participation and consultation on the decision-making in the management systems that may affect them.
- (b) Special support in case their livelihoods are threatened or in danger, such as facilitating legal and administrative processes and conflict resolution.
- (c) Transparent access to climate change adaptation funds, appropriate facilities or technologies.
- (d) Access to credit, savings and financing.
- (e) Access to extension services, training and organizational accompaniment.
- (f) Social services like health and education.

- (g) Direct support in the acquisition of equipment and materials closely related to occupational safety and hygiene.
- (h) Establishment of an exclusive zone for the small-scale, artisanal fishing.
- (i) Access to the financial resources of the development banking system, on favorable terms and according to the reality of the sector.
- (j) Any other rights to be determined and regulated through rules.

The State will develop specific legislation for the development of the preferential access rights acknowledged in this article.

CHAPTER II MARINE SPATIAL PLANNING, PARTICIPATION, GOVERNANCE AND POSSESSION RIGHTS

ARTICLE 12- Marine spatial planning

Incopesca, in coordination and consultation with the other entities bearing the responsibility for the application of this law in accordance with article 5, and with the shared participation of the small-scale, artisanal fishing actors, will determine the measures for the marine spatial planning based on the best scientific expertise and the traditional knowledge of the coastal, riverside or inland waters local communities and indigenous peoples, to guarantee the protection of the ecological balance and the sustainable use of the fishing resources.

ARTICLE 13- Marine spatial management plans for the small-scale, artisanal fisheries

Incopesca will establish, with the participation of the small-scale, artisanal fishing actors the decision-making for the marine spatial management plans of the fishing resources for the small-scale, artisanal fisheries by areas or target species, in which the pertaining regulating measures will be specified, subject to the biological capacity of the fishing resources and the welfare of the inhabitants of the area and of the small-scale, artisanal fishing actors, applying the ecosystem approach to fisheries in order to guarantee its sustainability.

The marine spatial management plans for the small-scale, artisanal fisheries will include:

- (1) The permitted fishing effort.
- (2) The number of small-scale, artisanal fishers owning a fishing licence.
- (3) The geographic areas or fishing grounds.
- (4) The target species.
- (5) The characteristic of the permitted arts of fishing and, where appropriate, the obligatory non-target species excluder devices.
- (6) The minimum catch sizes.
- (7) Seasonal bans, where applicable.
- (8) The capture reporting forms for the fishers and the statistical monitoring system by the fisheries authority.
- (9) The fishing practices considered as not permitted.
- (10) The amount of time during which fixed fishing gear can be placed.
- (11) The volume of catches.

To establish the marine areas for responsible fishing or any other form of marine spatial planning and its inclusion in the management plans, Incopesca will take into account:

- (i) The local organization forms of the community.
- (ii) The community's lifestyle.
- (iii) The traditions and customs of the coastal, riverside or inland waters local communities, as well as the ancestral practices of the indigenous peoples.
- (iv) The spontaneous or de facto order of the fishing area generated by the community.

Incopesca will promote and rule the use of selective fishing gear which will diminish the discards and the capture of juvenile organisms.

ARTICLE 14- Permitted fishing effort in the marine spatial management plans

The permitted fishing effort referred to in article 13 (1) of this law, will be determined by the following elements:

- (1) The number of small-scale, artisanal vessels and their catching capacity.
- (2) The scientific expertise available on planned marine space.
- (3) The traditional knowledge available on planned marine space.

Setting the permitted fishing effort must promote both the sustainability of the fishing resources and the welfare of the small-scale, artisanal fishing actors, given that its objective is a democratic sustainable development.

ARTICLE 15- Participatory mechanisms

Incopesca, in coordination and consultation with the other entities bearing the responsibility for the application of this law and in accordance with article 5, will develop a suitable regulation for establishing the social participatory mechanisms in the marine spatial planning, which must respect the lifestyles, traditions and customs of coastal, riverside or inland waters local communities or organizations, as well as the ancestral practices of the indigenous peoples.

In no case the respect of these customs and practices will be used to perpetuate or generate conditions contrary to the human rights or which infringe upon the sustainability of the fishing resources and the balance of the ecosystems.

ARTICLE 16- Consultative Forum of the Small-scale, Artisanal Fisheries

The Consultative Forum of the Small-scale, Artisanal Fisheries is established as a participative space of the small-scale, artisanal fishing actors, regardless of sex, age, ethnic origin, nationality, regular status among other conditions; its objective is to promote the development of the artisanal fisheries sector in order to improve its socioeconomic situation, poverty eradication, gender equality and sustainable development. Incopesca will coordinate and consult with this Forum all matters that are of interest to and have an impact on the development of the small-scale, artisanal fisheries sector.

The Forum will be constituted in equal numbers by a person representing each one of the fisheries organizations duly registered in the registry of the small-scale, artisanal fisheries organizations to be established by Incopesca, as well as a person representing each one of the indigenous communities where small-scale, artisanal fishing activities are carried out.

The Forum will be convened customarily at least once a year by the Directive Board of the Fishing and Aquaculture Institute of Costa Rica or by at least two thirds of the representative Assembly of the organizations.

The Forum can be extraordinarily convened twice a year at the request of at least ten organizations from the sector or by the Directive Board of Inopesca. The Fisheries Organizations Department of Inopesca will keep a register of the organizations participating in the Forum, to which it will communicate in a timely manner the notifications of the sessions.

In order to guarantee and promote the participation of the whole sector in accordance with the principles of equality and no discrimination, it will be allowed that de facto fisheries organizations, during their first two years of constitution, sign up for the notifications by only submitting a constitutive agreement signed by its representatives, proving that the organization is in the process of being legalized.

It will be a priority of Inopesca to provide the necessary support for the fisheries organizations in process of constitution to register, so that they may obtain legal status complying with the established principles of equality and alternation. Likewise it will legally support the constituted fisheries organizations to keep their books legalized and up to date.

The participation of fishing organizations, which consist of people who participate in all the steps of the fishing activity, as well as those in which young people and women participate, will be promoted.

ARTICLE 17- Functioning

In the Consultative Forum of the Small-scale, Artisanal Fisheries matters of interest for the small-scale, artisanal fishing actors proposed by the members of the sector, and those proposed by the Directive Board of Inopesca or by its Executive Presidency, will be discussed.

Inopesca must take into account especially the recommendations of the Forum. Consequently, the Directive Board of Inopesca must discuss those recommendations whenever it conducts sessions to reach Directive Board agreements concerning the small-scale, artisanal fishing actors.

Furthermore, this Forum by means of a general assembly will establish its functioning rules, which must be approved by the Directive Board of Inopesca.

In order to ensure the effective participation and equitable democratic representation of the representative members of the fisheries organizations, Inopesca will collaborate transporting and feeding those representatives who, due to their socioeconomic situation or any other condition of vulnerability, may need it. To do that, Inopesca will set up a special fund exclusively dedicated to this purpose. Likewise, the Non-Governmental Organizations related to the small-scale, artisanal fisheries can, in coordination with Inopesca, financially support holding these sessions.

ARTICLE 18- Small-scale, artisanal fisheries organizations

The State, by way of Inopesca, will promote the establishment of small-scale, artisanal fisheries organizations which will act as consultative and cooperation bodies with Inopesca in promoting and managing the small-scale, artisanal fisheries sector, defending their interests and preserving the fishing resources.

The small-scale, artisanal fisheries organizations will take part in the Consultative Forum set out in

articles 16 and 17 of this law and must be consulted by Inopesca on developing the marine spatial management plans defined in article 13, as well as on developing general regulations that may affect the small-scale, artisanal fishing activity.

These organizations can assume the legal form of cooperatives, associations or any other legal forms acknowledged by the national legislation and will be registered in the registry for small-scale, artisanal fisheries organizations to be established by Inopesca.

ARTICLE 19- Possession rights and duties and their governance

Inopesca, in coordination and consultation with the other entities bearing the responsibility for the application of this law in accordance with article 5, will adopt the policy, strategies and provisions appropriate to procure that the small-scale, artisanal fishers as well as the coastal, riverside or inland waters local communities or organizations enjoy equitable and appropriate possession rights from a social and cultural point of view regarding fishing resources, paying special attention to the possession rights of women and the most vulnerable sectors, taking into account the safeguards that protect them by law.

Inopesca will respect the legally acknowledged customary or historical rights concerning aquatic resources, land and fishing grounds from which the small-scale, artisanal fishing communities benefit, including the indigenous peoples and Afro-descendants. Among the appropriate measures needed to guarantee these rights, identifying, registering and respecting the possession rights and their legitimate owners, along with inheritance rights, are included.

Possession rights have duties and obligations as correlation, whose purpose is to support the preservation and sustainable long term exploitation of the resources, the maintenance of the environmental basis for food production and the use of fishing practices which minimize harm to the aquatic environment and species, protecting the sustainability of the fishing resources for all users.

Whenever a municipality lacks a management plan, the State can grant a use permit to the small-scale, artisanal fishers who keep their dwellings and buildings for fishing use within the Maritime Terrestrial Zone of the pertinent municipality.

The State must procure that the small-scale, artisanal fishers keep their dwellings near the coastline, as long as their lifestyle requires a dwelling close to the sea or any other water bodies where the fishing activity is carried out. If a planning of the area is to be conducted, the administrative authority must take this into account to prevent, where possible, the resettlement of these people.

ARTICLE 20- Fishing rights of indigenous peoples and Afro-descendants

Inopesca will respect and protect the ancestral rights of the indigenous peoples engaged in small-scale, artisanal fishing activities, especially their right to be previously consulted regarding any action that may affect their territories, and to be acknowledged in having an important role on the conservation and joint governance of the aquatic and coastal ecosystems.

The State must guarantee the appropriate participatory mechanisms for the indigenous peoples regarding the governance and management of the fishing area in which they carry out a fishing activity. Additionally, it must guarantee the respect of other uses of the fishing resources and water bodies on the part of the indigenous peoples, whether medicinal, as a means of transportation, to produce handicrafts or other uses.

In cases where territories belonging to the indigenous peoples border the maritime terrestrial zone, the State must recognize and include the maritime terrestrial zone and up to 5 nautical miles as part of the indigenous peoples' territory, in accordance with how these people use the marine space.

In cases where an area of, or an entire national park or any other category of conservation area is used by the indigenous peoples to carry out their ancestral cultural activities, the corresponding conservation area will guarantee these peoples access to carry out such activities, given that it is a national and international recognized right. Under any circumstances a payment will be required from these peoples in order to let them access such areas, nor will they be restricted from carrying out those practices, unless they threaten the sustainability of the natural resources in a way that has been proved by scientific-technical studies.

Local governments cannot grant under concession those spaces of the restricted zone of the maritime terrestrial zone as defined in the Maritime Terrestrial Zone Law, in cases where such spaces are used by the indigenous peoples to carry out their traditional practices. In cases where such area has been granted under concession, upon the expiry of the concession period the local government cannot renew it nor grant a new one. Furthermore, access to space in inland waters must be guaranteed whenever the indigenous peoples have ancestral practices related to those water bodies.

Regarding Afro-descendant communities, Incopesca will respect their rights, traditions and cultural practices connected with the small-scale, artisanal fishing activity, as well as the communities' lifestyle related to this activity, unless they threaten the sustainability of the natural resources in a way that has been proved by scientific-technical studies.

ARTICLE 21- Regulatory plans regarding indigenous peoples

Local governments must consider in their regulatory plans, without prejudice to the provisions contained in other regulations, at least the following elements related to the indigenous peoples:

- (a) Access routes to the maritime terrestrial zone for the indigenous peoples, which are favorable for an appropriate travelling of these peoples from their communities.
- (b) Spaces in the maritime terrestrial zone destined for priority use by the indigenous peoples, so that they can carry out their ancestral practices related to the sea.
- (c) Respect of the uses, practices and ancestral traditions of the indigenous peoples related to the sea and the inland waters, as well as avoiding invasive measures regarding their world-view and culture.

The three elements described in subparagraphs (a), (b) and (c) must be considered in the regulatory plans following a participative methodology with the indigenous peoples. In cases where the local government lacks a regulatory plan, it must respect the access routes and the areas used to carry out the ancestral practices, without prejudice to the recognition of practices or more accessible ways which had not been previously respected.

ARTICLE 22- Obligation to respect the human rights on the part of non-state actors

Incopesca will take all necessary measures to guarantee that non-state actors connected to the small-scale, artisanal fishing activity or affecting or having an impact on it, respect the human rights of the small-scale, artisanal fishers and of the communities depending on fisheries.

In order to do so, Incopesca will take all necessary measures so that the non-state actors know and

respect the relevant regulations.

CHAPTER III ACCESS REGIME TO SMALL-SCALE, ARTISANAL FISHERIES

ARTICLE 23- Small-scale, artisanal fishing licences

(a) Obtaining the licence:

Persons, coastal, riverside or inland waters local communities or organizations interested in carrying out a small-scale, artisanal fishing activity must apply for a small-scale, artisanal fishing licence from Incopesca. The licence will be granted by Incopesca by means of a resolution of its president, based on technical report and approval of the Directive Board of Incopesca.

An excerpt of this resolution must be published in the official newspaper within 30 days from the date it was taken. The denial of a licence must be done likewise by means of a duly founded resolution.

(b) Types of small-scale, artisanal fishing licence:

Small-scale, artisanal fishing licences can be:

Individual: granted to a person for catching, harvesting, processing, distribution and marketing of marine or inland waters fishing resources. This licence will show the target species, type of vessel, fishing gear to be used and the geographical area or fishing site. Whenever the licence is granted to a married person or a person living with a common-law partner, this will be regarded as community property, in accordance with articles 41 and related articles of the Family Code.

Collective: granted to coastal, riverside or inland waters local associations or organizations for catching, harvesting, processing, distribution and marketing of marine or inland waters fishing resources. These licences will show the target species, type of vessel, fishing gear to be used and the geographical area or fishing site.

In the case of an individual licence, no more than one licence can be granted per legal person.

Association or organization members possessing collective licences cannot additionally get an individual fishing licence.

The request for collective licences must specify the kind of activity for which it is being requested, the number of persons and the number of vessels necessary to carry out this activity.

(c) The small-scale, artisanal fishing licence cannot be conveyed, rented nor any rights concerning the license be given to third parties on any account.

The criteria in granting small-scale, artisanal fishing licences will be established and developed by means of the regulation of this law, taking into account both the biological capacity of the resources and the Ecosystem Approach to Fisheries, guaranteeing therefore its sustainability.

ARTICLE 24- Revocation of small-scale, artisanal fishing licences

Incopesca must conduct a revision of the small-scale, artisanal fishing licences to verify that effectively in all the cases the persons, coastal, riverside or inland waters local associations or

organizations in possession of such a licence are continuously engaged in small-scale, artisanal fishing activities. The revisions will be conducted each time a licence holder carries out formalities to renew it.

In the event that the holder of an artisanal fishing licence has ceased the small-scale, artisanal fishing activity, the relevant licence will be revoked within a maximum period of 30 calendar days and it will be granted once again to another person or coastal, riverside or inland waters local association or organization, as the case may be. In this provision, all persons having momentarily ceased the fishing activities due to illness, disability or any other similar situation legally confirmed and duly certified by Incopescas must be exempted.

ARTICLE 25- Registry of the small-scale, artisanal fishers

In compliance with article 41 of the Fisheries and Aquaculture Law and its implementing regulation, the holders of small-scale, artisanal fishing licences must sign up in the small-scale, artisanal fishers registry no later than 90 calendar days from the date of the enactment of this law. The aforementioned registry must include the relevant and appropriate information to simplify the decision-making and the establishment of the policy, strategy and legislation, based on objective and verifiable data. The aforementioned registry must be permanent, updated annually, transparent and accessible to the public.

CHAPTER IV MARINE AREAS FOR RESPONSIBLE FISHERIES

ARTICLE 26- Establishing marine and inland waters areas for responsible fisheries

Incopescas, in cooperation with the coastal, riverside or inland waters local communities and in accordance with its competences, can establish marine and inland waters areas for responsible fisheries (AMCPR)⁵, giving priority to those areas proposed by fisheries organizations, in compliance with the requirements established for those purposes in the regulation on marine and inland waters areas for responsible fisheries.

Incopescas will promote the acknowledgement and establishment of AMCPR in the marine and inland waters territory bordering indigenous territories. To that end, it will technically and financially support the process of acknowledging and establishing those areas.

ARTICLE 27- Deadlines

Incopescas will verify the information and documentation provided by any fisheries organization interested in having an AMCPR in their respective zone, and will determine the feasibility of establishing marine and inland waters areas for responsible fisheries within a period no longer than two calendar months once their request submitted.

Once the acknowledgement and establishment of an AMCPR has been approved by Incopescas, working together with the fisheries organizations of the zone, the State institutions with shared responsibilities on the subject with regard to fisheries and aquaculture, and representatives of the respective fishing communities will proceed to developing the Marine Spatial Management Plan, in which the specific characteristics and regulations to carrying out a fishing and/or aquaculture activity in that area will be established. The aforementioned Marine Spatial Management Plan must be revised and approved by the Directive Board of Incopescas within a period no longer than 60

5 (TN: AMCPR is the Spanish acronym of marine and inland waters areas for responsible fishing)

calendar days. The Directive Board can oppose such approval solely with a technical criterion adequately founding the reasons to reject it.

ARTICLE 28- Achievement of the Marine Spatial Management Plan

The requesting fisheries organizations and the persons making use of the resources of the Marine Area for Responsible Fisheries must support and respect the management measures established in the Marine Spatial Management Plan approved by Inopesca for that specific area.

ARTICLE 29- Terms and conditions

Inopesca, working together with the fisheries organization, will establish the terms and conditions related to managing such areas, as well as the responsibilities of the involved fisheries organizations, such as:

- (a) Ensure that all its members refrain from fishing without possessing the pertinent licence, permit or authorization to carry out their activities.
- (b) Develop and apply a Code of Conduct for Responsible Fisheries as a voluntary instrument which once approved, becomes binding for the members of the requesting organization and the persons making use of the resources of the Marine Area for Responsible Fisheries.
- (c) Ensure the compliance of all applicable legislation and regulation including the provisions established in the Marine Spatial Management Plan.
- (d) Fulfil a duty of vigilance on its members. In the event of a complaint duly filed against any member of the organization due to any violation of the pertinent laws or regulations, the member will respond in accordance with the applicable administrative or criminal sanctions and will abide by the provisions stipulated by the Code of Conduct for Responsible Fisheries endorsed by the organization.
- (e) Persons authorized to fish will be responsible to Inopesca for any canon or fine to be paid in compliance with this agreement, in accordance with the current legislation.
- (f) Cooperate and manage additional financial and technical support for placing buoys, acquiring radio equipment and any other materials necessary for the use, conservation and management of the area.

ARTICLE 30- Fishing inside marine areas for responsible fisheries

Fishing inside these areas will be allowed both for those persons of the requesting fisheries organization holding fishing permits and for any other person, provided the latter possesses a valid fishing licence and abides by the regulations established in the Marine Spatial Management Plan for each area, except in cases of marine and inland waters areas bordering indigenous territories or inside them, created by the indigenous communities.

ARTICLE 31- Local governance committees

Inopesca will promote in each marine and inland waters area for responsible fisheries the establishment of the local governance committees with the participation of the fisheries organizations, non-state actors of the artisanal fishing and the State institutions with shared responsibilities in the fishing and aquaculture activities.

Each local governance committee will establish its own functioning regulations in accordance with the Marine Spatial Management Plan, in order to achieve the objectives on managing and developing these areas.

Local governance committees must be formed at the latest in a period of time no longer than 90 calendar days and their constitution must be announced to the Executive Presidency of Incopescas. They must submit an annual written report to the Directive Board of Incopescas, which reflects the development of the activities carried out inside their respective marine and inland waters areas for responsible fisheries.

Each local governance committee will be governed by the gender parity principle, which implies that it must be comprised of fifty percent (50%) women and fifty percent (50%) men.

ARTICLE 32- Vigilance

Local governance committees will assist the National Coastguard Service in the vigilance and control of the fishing activities in these areas, and report the violations of the law by means of the organization of which they are members. This they can coordinate with Incopescas.

ARTICLE 33- Access to marine and inland waters areas for responsible fisheries

The acknowledgement and establishment of marine and inland waters areas for responsible fisheries will not hinder free access to beaches nor any other activities related to tourism among others, except where legally founded restrictions in the Marine Spatial Management Plan exist.

ARTICLE 34- Marine Spatial Management Plan

The Marine Spatial Management Plan must include at least the list of the permitted fishing arts and methods, the list of the totally or partially closed areas, a program for the implementation and enforcement of the current legislation, a registry and information program, a training and outreach program, a monitoring and research program.

ARTICLE 35- Sanctions

Violating the provisions established in this law and in the regulation for marine and inland waters responsible fisheries will be penalized in accordance with the relevant provisions in the Fisheries and Aquaculture Law, № 8436 of March 1st 2005, as well as those of the current laws on the matter.

ARTICLE 36- Financial resources for the AMCPR

Developing AMCPR will be funded with 40% of the financial resources stemming from the annual surplus of the Fishing and Aquaculture Institute of Costa Rica.

ARTICLE 37- These financial resources will be used to fund the development of projects submitted by the fisheries organizations operating in the marine and inland waters areas for responsible fisheries. They must be directed towards improving the environmental sustainability of the small-scale fisheries and consequently the socio-economic conditions of the fishers and their families.

ARTICLE 38- Projects subject to funding submitted by the fisheries organizations functioning within the AMCPR, must have the previous endorsement of the Management of the

Aquaculture and Fisheries Organizations of Inopesca. The Executive Presidency will ultimately approve the aforementioned projects. In order to regulate the resource management and the funding of the projects, Inopesca will develop a regulation within 90 days upon entry into force of this law.

ARTICLE 39- Inopesca, in accordance with the administrative rules established for these purposes, will count on a special account regarding the administration of the financial resources.

ARTICLE 40- Support of the Institute for Rural Development for the AM CPR

The Institute for Rural Development is authorized to use up to 3% of its annual residual budget to support, in coordination with Inopesca, the productive and social development projects of the associations, fisheries organizations, coastal or inland waters local communities and organizations having an AM CPR.

ARTICLE 41- Declaration of public interest

Upon adoption of this law, the establishment and functioning of the marine and inland waters areas for responsible fisheries are to be declared of national public interest, with a view to promoting the comprehensive development of the fishing communities and to strengthening the legislation, the sustainable exploitation and the conservation and protection of the marine resources in the jurisdictional waters of the country.

TITLE III EMPLOYMENT, EDUCATION, SOCIAL SECURITY, OCCUPATIONAL SAFETY AND MIGRATION

CHAPTER I SOCIAL DEVELOPMENT AND DECENT EMPLOYMENT

ARTICLE 42- Decent employment and prohibition of child labor

Inopesca, in collaboration with all the other institutions mentioned in article 5 of this law, will incorporate initiatives aimed at the progressive realization of the right to a decent employment for small-scale, artisanal fishers and workers, both in the formal and in the informal sector, including alternative and complementary opportunities for income generation.

Inopesca, as well as all other institutions mentioned in article 5 of this law, will report and prosecute all forms of child labor as established in the legislation, the international instruments of the ILO and the United Nations Convention on the Rights of the Child and will guarantee the effective implementation of their provisions.

ARTICLE 43- Acknowledgement of the small-scale, artisanal fishing actors

Inopesca will collaborate with the National Institute of Statistics and Census in conducting surveys that allow a realization of the socio-demographic condition of the small-scale, artisanal fisheries sector from the gender perspective.

ARTICLE 44- Social security

The Costa Rican Social Security Fund must establish distinct social security categories to include all small-scale, artisanal fishing actors, giving them preferential treatment regarding costs.

The Costa Rican Social Security Fund will extend this insurance to the beneficiary's partner, regardless of the artisanal fisher being a man or a woman.

ARTICLE 45- Socio-economic assistance during seasonal bans

Socio-economic assistance to cope with the seasonal ban of article 36 of the Fisheries and Aquaculture Law, must be given to all persons participating in the different phases of the fishing activity without discrimination with regard to gender, type of activity, ethnic condition among others. Under no circumstances will the administration provide lesser amounts based on these elements.

In order to grant subsidies during a seasonal ban, the crew must have registered in the social security for the activity carried out, at least three months in advance.

Those persons carrying out a small-scale, artisanal fishing activity and being in a non-formal condition regarding permits to exercising the fishing activity, will receive particular attention from the Joint Social Aid Institute (IMAS) during seasonal bans in order to get financial support in view of their poverty condition.

ARTICLE 46- Primary and secondary education

The Ministry of Public Education must include in its education programs for the primary and high schools of the coastal areas, the voluntary guidelines for the sustainability of the small-scale fisheries in the context of food security and poverty eradication. This in order to teach the principles regulating this law to the young people living in the coastal areas and who will work in the future in the artisanal fisheries sector.

ARTICLE 47- Instruction, training and innovation provided by Inopesca

Inopesca will periodically develop training programs for the public officials of the different state institutions concerned with the voluntary guidelines for securing sustainable small-scale fisheries. Especially public officials engaged in decision-making or having any interference in the regulation and management of the artisanal fisheries sector must be trained. The training contents must instruct on the topics of this law and the voluntary guidelines for responsible fisheries.

Inopesca will develop training sessions, lecture series and conferences, educational workshops and any other pertinent activity to instruct the members of the coastal, riverside or inland waters local communities and the artisanal fisheries sector in the voluntary guidelines for securing sustainable small-scale fisheries in the context of food security and poverty eradication.

Inopesca must, furthermore, in coordination with the corresponding institutions instruct the indigenous peoples carrying out fishing activities in their territories, in the voluntary guidelines for securing sustainable small-scale fisheries. This instruction must be given in an appropriate way, taking into account such elements as language and the specific peculiarities of each indigenous people.

ARTICLE 48- The National Learning Institute

The National Learning Institute will develop a training program on occupational health for the small-scale, artisanal fishing actors, which will be a requirement to obtain a licence for this kind of fishing. It must include the following elements:

- (a) Prevention of diseases and ailments related to the fishing activity.
- (b) Prevention of the most common diseases and ailments in the coastal areas.
- (c) Prevention of accidents in fishing and other related activities.
- (d) All the others as considered of interest by the responsible authorities.

ARTICLE 49- Occupational safety in small-scale, artisanal fishing operations

Inopesca will adopt a specific legislation to guarantee that fishers on vessels or diving have the appropriate equipment in compliance with the pertinent safety measures. This includes the operational status of the vessels and fishing arts, guaranteeing their proper use. Moreover, it will provide a training and occupational safety support system for high risk activities.

ARTICLE 50- Security at sea

The National Coastguard Service will be in charge of carrying out security operations to safeguard possessions, arts, equipment or supplies used by the small-scale, artisanal fishers for the fishing activity. The National Coastguard Service must constantly coordinate with the small-scale, artisanal fishers in order to develop action plans to deal effectively with security issues.

ARTICLE 51- Labelling products from responsible fisheries

The State will guarantee that responsible fisheries are recognized as such when marketing their products. In order to do that, Inopesca will determine by means of legislation the requirements for a product to be placed on the market under the label 'Responsible Fisheries' and will establish the necessary procedure to obtain such a label. This procedure must take into account the reality of the small-scale, artisanal fisheries. When purchasing fishing products for the public sector, products labelled 'Responsible Fisheries' will be given preference.

TITLE IV GENDER EQUITY AND EQUALITY

ARTICLE 52- Gender equality and women participation

Inopesca, as well as all those institutions related to the small-scale, artisanal fisheries mentioned in article 5 of this law, will transversely incorporate gender issues in all their policies, strategies and regulations. All measures arising from the enforcement of this law must comply with the international human rights instruments endorsed by the Republic of Costa Rica and particularly the *Convention on the Elimination of All Forms of Discrimination against Women*. Elimination of discrimination against women must take into account both purposes and material effects of the rules and measures.

Inopesca will promote and facilitate the full and informed participation of women engaged in small-scale, artisanal fishing activities in the decision-making having an impact on this subsector, thus guaranteeing the elimination of all form of discrimination or exclusion, together with the adoption of updating and adaptation measures whenever universally accepted rights are higher than those being locally offered as a result of customary practices.

ARTICLE 53- Women participation in fisheries organizations

Fisheries organizations constituted upon the enactment of this law must count on equal participation of women in accordance with article 10 of the *Law on Associations*, № 218, of August 8th 1939 without exception, promoting thereby the participation of women and complying with the gender equity and equality principle. The Inopesca will not support the creation of organizations that do not fulfil this requirement. This demand applies to any form adopted by the fisheries organizations, whether they are associations or cooperatives, among others.

ARTICLE 54- Women participation in the Consultative Forum for Small-scale, Artisanal Fisheries

The Consultative Forum of the Small-scale, Artisanal Fisheries being referred to in Title II of this law must create a permanent commission of fisherwomen, consisting of all women representatives that compose the Forum. This commission will discuss matters that concern directly women of this subsector, and its view will be binding on the Forum on gender issues.

The commission, together with the National Institute for Women, will generate an agenda of fisherwomen, which will comprise a diagnostic of the situation of women as actors of the small-scale, artisanal fishing, as well as proposals for improving the conditions of the women in this sector. The agenda will have a section committed to proposals that will render effective the provisions regarding the gender issues contained in this law.

ARTICLE 55- Needs of women in the marine spatial planning

Inopesca will pay attention especially to the needs of women as actors of the small-scale, artisanal fishing in the design of the policy, strategy and regulation regarding the small-scale, artisanal fishing activity, guaranteeing further their equitable participation in the design and planning of the measures to be adopted.

ARTICLE 56- Social services (health, education and literacy)

Inopesca, in coordination with the Costa Rican Social Security Fund and the National Institute for Women, will ensure that women as actors of the small-scale, artisanal fishing have access under equal conditions as men to social services. Furthermore, it will give in the interests of equity a preferential treatment to those women having suffered concomitant discrimination, as is the case with women belonging to indigenous peoples or to vulnerable and marginalized groups and who, in addition may to some degree suffer poverty or disability at the same time.

ARTICLE 57- Care networks

The National Institute for Women (INAMU) will collaborate mainly with the municipalities of the coastal, riverside or inland waters local communities where are gathered the small-scale, artisanal fishers, and with the Consultative Forum of the Small-scale, Artisanal Fisheries by means of its permanent commission of fisherwomen, to establish state care centers for children and elderly people.

TITLE V
CLIMATE CHANGE AND RISK MANAGEMENT

ARTICLE 58- Climate change

Inopesca will apply, in coordination with the Ministry of Environment and Energy (MINAE) and with the institutions which may have an impact on this subject, a multisectoral approach,

intersectoral policies, prevention strategies, early warning, adaptation and mitigation, as well as differentiated plans for the adaptation of the small-scale, artisanal fisheries all along its food system to the negative effects of climate change, strengthening the natural disaster resilience of the fishing communities.

ARTICLE 59- Risk management

Incopesca will promote cross-sectoral articulation to make risk management more effective, with multidimensional approaches both to strengthen the sustainability of the small-scale, artisanal fisheries and to develop rural territories, including the promotion of the harmonious and sustainable use of the natural resources, particularly water.

ARTICLE 60- Emergencies

In the face of an emergency situation due to the effects of climate change, the entities in charge of dealing with the emergency and Incopesca must take into account the specific needs of the coastal, riverside or inland waters local communities or organizations.

The State must assign in the emergency response budget allocation, an item for the assistance of coastal, riverside or inland waters local communities or organizations in cases where a natural disaster or the impact of climate change create a grievous situation for those populations, keeping thus a fund for the emergency response of the small-scale, artisanal fishing actors.

The State, whenever it comes to disposing and implementing funds to carry out adaptation measures related to climate change, must compulsorily consider actions for the small-scale, artisanal fisheries. Likewise, the State must ensure the participation of the small-scale, artisanal fishing actors in the policies and strategies for the ministerial policy of emergency response.

ARTICLE 61- The Ministry of Health must create a program for assessing the pollution effects in the coastal areas. Similarly, it must establish treatment and prevention measures regarding these problems. Furthermore, it must include in this program the assessment of the impact of the fishing activity in its production activity.

TITLE VI ILLEGAL, UNREPORTED AND UNREGULATED FISHING

ARTICLE 62- Sanctions

Sanctions related to illegal, unreported and unregulated fishing will be implemented in compliance with the Fisheries and Aquaculture Law, Law №. 8436, of March 1st 2005.

TITLE VII FINAL, DEROGATORY AND TRANSITIONAL PROVISIONS

CHAPTER I REFORM OF OTHER LAWS

ARTICLE 63- Reforms

The following articles of the Fisheries and Aquaculture Law, Law № 8436 are to be reformed, to read hereinafter:

(a) Article 146: Article 146.- A prison term of two months to two years must be imposed, if the value of whatever has been abstracted does not exceed five times the minimum wage, and of four months to four years if it exceeds that amount, to whom illegally misappropriates fishing arts, equipment, tools, gear, seed, supplies or products intended for and coming from fisheries or being used for the development of the aquaculture activity.

(b) In cases where the abstracted objects belong to the artisanal fisheries sector, in compliance with Law № 8436, Fisheries and Aquaculture Law, the prison penalty will be from three to five years.

CHAPTER II NEW OFFENSES RELATED TO THE ARTISANAL FISHERIES SECTOR

ARTICLE 64- Seasonal bans subsidy fraud

Whoever deceives the Public Administration in order to ensure that a seasonal ban subsidy is granted to someone having no right to it, must be sentenced to one to three years of prison.

CHAPTER III DEROGATION MEASURES

ARTICLE 65- Derogatory

The following articles of the Fisheries and Aquaculture Law, Law № 8436 are to be repealed:

- (i) Article 2 (26) and (27) (a).
- (ii) Article 43 (a).
- (iii) Article 103, paragraph 2.

CHAPTER IV TRANSITIONAL PROVISIONS

TRANSITORY ARTICLE I- The small-scale, artisanal fishing licences currently effective will stay unaffected regarding article 23 of this law. Nevertheless, the licences will be affected by the new legislation one year after the date of entry into force of this law.

TRANSITORY ARTICLE II- Incopesca is tied to a deadline of one year after the date of entry into force of this law to developing the regulations which it is to issue in accordance with this law.

TRANSITORY ARTICLE III- In order to conduct the periodic reviews set up in article 24, the first one must be carried out at the latest one year after the date of entry into force of this law.

TRANSITORY ARTICLE IV- The National Institute for Women, in coordination with Incopesca, must review within one year the compliance with the gender equality measures laid down in this regulation and further assess their effectiveness.

TRANSITORY ARTICLE V- The first survey to be carried out by Incopesca and the National Institute of Statistics and Census (INEC) provided for in article 43 of this law, must be conducted at the latest one year after the date of entry into force of this law.

Effective upon its publication.

Emilia Molina Cruz

Javier Francisco Cambronero Arguedas

Carlos Enrique Hernández Álvarez

Laura María Garro Sánchez
Deputies

April 18th 2018

NOTES: This bill was sent for examination and report to the Permanent Special Commission on the Environment.

This bill complied with the form review procedure at the Parliamentary Service Department.