

13 Annex - Fisheries

49. LAW ON MARINE FISHERIES AND MARICULTURE

Pursuant to Article 95 item 3 of the Constitution of Montenegro, I hereby issue the

Decree on Promulgating the Law on Marine Fisheries and Mariculture

(Official Gazette of Montenegro 56/09 of 14 August 2009)

I hereby promulgate the Law on Marine Fisheries and Mariculture passed by the 24th Parliament of Montenegro at the third sitting of the first ordinary session in 2009 on 27 July 2009.

No: 01-2328/2

Podgorica, 05 August 2009

The President of Montenegro

Filip Vujanovic, manu propria

LAW ON MARINE FISHERIES AND MARICULTURE

I GENERAL PROVISIONS

Article 1

Marine fisheries, in the terms of this Law, means the management of the living marine resources and applies to fishing, collecting and protecting fish and other marine organisms based on the principles of sustainable development within the fishery sea of Montenegro.

This Law shall regulate mariculture as well.

Fish and other marine organisms in the fishery sea of Montenegro, being a resource of common interest, enjoys special protection and are used in the way and under the terms laid down by this Law and other regulations.

Article 2

The fishery sea of Montenegro (hereinafter referred to as: the fishery sea) includes marine and submarine area of internal seawaters, territorial sea and epi-continental area of Montenegro as defined by the Law governing the sea.

The fishery sea includes also the exclusive marine economic zones in accordance with the Law.

The boundary of the fishery sea in the rivers flowing into the sea shall be considered to be the boundary line where such water ceases to be stably saline.

The boundary line referred to in paragraph 3 of this Article shall be set by the Ministry competent for marine fisheries (hereinafter referred to as: the Ministry).

Article 3

Companies and entrepreneurs, or other legal and natural persons, may engage in marine fisheries (hereinafter referred to as: the fishery) under the terms set by this Law.

Foreign legal and natural persons may engage in marine fishery in accordance with the Law.

This Law shall also apply to the fishing efforts of Montenegrin-flagged fishery vessels beyond the boundaries of the fishery sea referred to in Article 98 of this Law.

Article 4

For the purpose of this Law the following definitions shall apply:

- 1) mariculture** means the rearing or cultivation of fish and other marine organisms in the fishing sea using the techniques designed to increase the production of the said organisms beyond the natural capacity of the environment;
- 2) biodiversity (biological diversity)** means the variability among living organisms, including terrestrial, marine and other aquatic ecosystems and the ecological complexes, and the diversity within a species, between species and ecosystems;
- 3) bivalve molluscs (Lamellibranchia class)** means filter-feeding lamellibranch molluscs;
- 4) boat seines** means surrounding nets and towed seines which are operated and hauled by means of ropes and winches from a boat under way or at anchor and not towed by means of the main boat engine, consist of two lateral wings and a central bunt either in the form of a spoon or with a bag in the rearmost part and may operate from the surface to the bottom depending on the target species;

- 5) **trawl nets** means nets which are actively towed by the main boat engine and consisting of a cone- or pyramid-shaped body, closed at the back by a cod-end and which can extend at the opening by the wings or can be mounted on a rigid frame; horizontal opening is either obtained by otter boards; it can be towed either on the bottom (bottom trawl net) or in midwater (pelagic trawl net);
- 6) **bottom-set gillnet** means any net held vertically in the water by floats and weights fixed or being fixed by any means to the bottom of the sea and maintain the gear in place either close to the bottom or floating in the water column, and which is made up of a single piece or three pieces of net depending target species;
- 7) **by-catch is fish which:**
 - a) are not the species of fish directly targeted;
 - b) belong to a species not identified as by-catch in the applicable licence;
 - c) includes economic and regulatory discards; and
 - d) does not include fish which are released alive under a recreational catch and restocking programme;
- 8) **capacity** means the capacity of an ecosystem to support healthy organisms, maintain productivity, adaptability and renewal capability;
- 9) **catch limit** means a quantitative limit on landings of a stock or group of stocks over a given period;
- 10) **coastal waters** are rivers, waters of a channel, a bay or an estuary, transitional waters and "costal waters" as defined under the Convention of the Right of the Sea of the United Nations 1982:
 - a. **rivers** means a body of inland water flowing for the most part on the surface of the land or may flow underground for part of its course;
 - b. **transitional waters** means bodies of surface water in the vicinity of river mouths, which are partly saline in character as a result of their proximity to coastal waters, but which are substantially influenced by freshwater flows;
 - c. **surface water on the landward side of a line** means water whose every point is at a distance of one nautical mile on the seaward side from the nearest point of the baseline from which the breadth of territorial waters is measured, extending where appropriate up to the outer limit of transitional waters;
- 11) **conservation reference points** means values of fish stock population parameters (such as biomass or fish mortality rate, etc.) used in fisheries management, with respect to an acceptable level of biological risk or a desired level of yield;
- 12) **coralligenous habitat** means an area where a part of the seabed is characterized by the dominant presence of a specific biological community named "coralligenous" or where such community has existed and is in need of restoration action;
- 13) **coral reef** means a complex biogenic structure that was created by continuous overlapping of previously rocky or hard substratum with limestone layer, which is primarily created by covering of calcified red algae and animal organisms (sponges, ascidia, cnidaria, bryozoa, annelid), together with other organisms fixators of limestone;
- 14) **place of the first landing** means a anchor, port or other place which meets the prescribed requirements for landing of fish;
- 15) **restocking** means releasing of permitted species of fish and other marine organisms in waters where they occur naturally, in order to use natural aquatic environment to increase the number of fish and increase the natural recruitment;
- 16) **discards** means the total live weight of undersized, not saleable, or otherwise undesirable fish, discarded at the time of capture or immediately afterwards;
- 17) **diving gear** means equipment used in diving including masks, flippers, breathing equipment used in diving: scuba gear, air-tanks, airlines and pumps;
- 18) **dredges** means a fishing vessel which is towed mostly by the main boat engine (boat dredge) or hauled by a motorized winch from an anchored vessel (mechanized dredge) to catch bivalves, gastropods or sponges and which consists of a net bag or metal basket mounted on a rigid frame or rod of variable size and shape whose lower part may carry a scraper blade that can be either rounded, sharp or toothed, and may be equipped with skids and diving boards.
 - a. Hydraulic dredge means a dredge equipped with hydraulic equipment.

- b. Hand dredges means a dredge pulled by hand or by manual winch in shallow waters with or without a boat to catch bivalves, gastropods or sponges and shall not be considered towed gears for the purpose of this Law;
- 19) marine ecosystem** means a complex structural and functional unity of non-living and living nature, that is, biotopes and biocenosis;
- 20) ecosystem approach** means the comprehensive integrated management of human activities based on the best available scientific knowledge about the ecosystem and its dynamics, in order to identify and take action on influences which are critical to the health of marine ecosystems, thereby achieving sustainable use for ecosystem goods and services and maintenance of ecosystem integrity;
- 21) first sale fish** means fish being marketed for the first time at the first landing site;
- 22) fish and other marine organism** means a marine animal or a plant and includes any mussels or other molluscs, crustacean, coral, sponge, sea-urchin or their echinoderm, turtle and marine mammal, their eggs, spawn, spat and juvenile stages;
- 23) fishing aggregating device (FAD)** means any equipment floating on the sea surface and aggregating underneath either juveniles or adult specimens of highly migratory species;
- 24) fishing capacity** means a vessel's tonnage in GT (gross tons) or its power in kW or in relation to certain types of fishing effort: the number and size of fishing tools or equipment, or only the size of the vessel's fishing tools and equipment;
- 25) fishing effort of a fishing vessel** means the product of the capacity and activity of a fishing vessel, and for a group of fishing vessels it is sum of the fishing efforts of all fishing vessels in the group;
- 26) fishing vessel** is: a boat, ship or other vessel equipped for fishing, including fishing gear, equipment or stores for fish;
- 27) fisherman** means a natural person who engages in professional fishing on a registered fishing vessel or is included in the fishing activity;
- 28) fishing** means activities related to preparation, searching for, catching, treatment and dispatching of fish caught;
- 29) fishing tools** means instrument used for fishing;
- 30) fishing gear** means instrument that enables the use of fishing tools;
- 31) fisheries sector** means the sector of the economy, including all activities of catching, treatment and marketing of fish and fish and aquaculture products;
- 32) fishing** means a group of activities related to management of living marine resources, including activities related to:
- (a) fish species and description;
 - (b) fishing area;
 - (c) fishing method;
 - (d) type of fishing vessel;
- 33) foreign fishing vessel** means a fishing vessel which is non Montenegrin-flagged;
- 34) fishery reserve** is a part of the fishery sea suitable for natural reproduction of fish and sustenance of juveniles as well as for other marine organisms;
- 35) introduction** means the process by which allochthonous fish species is moved, i.e., introduced into areas that are not their natural habitats;
- 36) sport-recreational fishing** means fishing for sport or recreation;
- 37) catch logbook** is a document on daily activities of a fishing vessel;
- 38) longline** means a fishing gear which comprises a main line carrying numerous hooks on branch lines (snoods) of variable length and spacing depending on the target species; it may be deployed either vertically or horizontally to the sea surface (surface longline) or near the bottom (bottom-set longline);
- 39) anadromous species** means fish species which move from the sea to freshwaters for spawning;
- 40) catadrome species** means species of fish which move from the freshwaters into the sea for spawning;
- 41) marine bio-toxins** means poisonous substances accumulated by bivalve molluscs as a result of feeding on toxic phytoplankton;
- 42) marine environment** means the physical, chemical, geological and biological components, conditions and factors which interact and determine the productivity, state, condition and

quality of the marine ecosystem, the seawaters and the airspace above those waters, as well as the seabed and subsoil thereof;

- 43) marine protected area** is any area littoral system, together with its overlying water and associated flora, fauna, historical and cultural features, protected in accordance with the law;
- 44) nautical mile** means international measurement unit of 1852 metres;
- 45) allochthonous fish species** means species whose historically known natural habitat is beyond the fishing sea;
- 46) autochthonous fish species** means fish whose historically known natural habitat is in the fishing sea;
- 47) precautionary approach to fisheries management** means the principle which does not allow that, due to the absence of adequate scientific information, the management measures aimed at conservation of target species, associated or interdependent species and non-target species and their habitats are postponed or not taken;
- 48) purse seines** means an encircling net used for catching pelagic fish, with plastic buoys on the top and lead weighs on the bottom so that buoys overbear lead weighs which enables the net to float on the surface. The net is closed on the top by a rope which passes through a system of rings and that enables the fish to be closed inside the net;
- 49) sea grass bed** means an area where the seabed is characterised by the dominant presence of phanerogams, or where such vegetation has existed and is in need of restoration action;
- 50) Sea grass** is a collective terms for the species *Posidonia oceanica*, *Cymodocea nodosa*, *Zoostera marina* and *Zoostera noltii*;
- 51) shore seines** means commercial (encircling) and towed seines set from a boat and operated from the shore;
- 52) living marine resources** means available and living species of fish and other marine organisms, including anadromous and catadromous species during their marine life;
- 53) sustainable exploitation of fish stocks** means the exploitation in such a way that the future exploitation of the stock will not be jeopardized and that does not have a negative impact on the marine eco-system;
- 54) trap** means fishing gear fixed to or deployed on the bottom and which acts as a trap to catch fish, and they are constructed in the form of a basket, pot, barrel or cage, and in the majority of cases they comprise a rigid or semi-rigid frame made of various material (wood, wicker, metal rods, wire netting, etc.) that may but need not be covered with netting;
- 55) third country fishing vessel** means a fishing vessel registered in and flying the flag of another state and is not under a treaty in accordance with this law and includes a receiving vessel in accordance with the Council Regulation 2847/93;
- 56) treaty fishing vessel** means a fishing vessel belonging to a country or groups of countries which is a party to a treaty or convention or other form of a ratified international agreement and a fishing vessel which has been declared by the Decision of an administration authority as a treaty fishing vessels;
- 57) fisherman's post for tow nets** means an area in the sea and on the coast where the net are towed and hauled;
- 58) collecting** means the process of collecting marine organisms without the use of fishing gear.

II MANAGEMENT OF THE LIVING MARINE RESOURCES

1. The principles for sustainable management of the living marine resources and marine environment

Article 5

The exploitation of living marine aquatic resources is consistent with sustainable economic, environmental and social development.

The sustainable development referred to in paragraph 1 of this Article shall be achieved by:

- 1) use of the precautionary principle in implementing the measures of protection and conservation of living marine resources while maintaining the biological diversity;
- 2) reduction of the impact of fishing activities on the marine eco-system;
- 3) implementing an eco-system-based approach in fisheries;

- 4) proper and rational fishing efforts within cost-effective and competitive fisheries that can provide an adequate standard of living for those engaged in fishing, while considering the interests of consumers;
- 5) establishing the principles of development of responsible fishing activities;
- 6) obtaining the opinion of the Institute of Marine Biology (hereinafter referred to as: the Institute) in the decision-making process of the competent authorities.

2. Protection of the marine environment and living marine resources

Article 6

Fish and other marine organisms, as well as marine biodiversity, shall be protected from threat to their vital environment and overexploitation.

The protection referred to in paragraph 1 of this Article shall be obtained by implementing measures aimed at preserving the bio-ecological reproduction potentials and conditions of the environment.

3. Measures on the protection of biodiversity and environmental conditions

Article 7

In order to protect the biodiversity and conditions of the environment:

- 1) it is prohibited to dispose of or discharge liquid or solid wastes from production or processing or any other materials that have adverse effects on the quality of marine environment;
- 2) it is prohibited to restock, to introduce allochthonous species of fish and other marine organisms, genetically modified species of fish or other marine organisms into the sea;
- 3) it is prohibited to engage in underwater activities in locations that the permit had not been obtained for from the administration authority competent for fishery (hereinafter referred to as: the administration authority);
- 4) it is prohibited to engage in fishing, collecting and marketing of protected species of fish and other marine organisms.

Where new biological habitats can be established, artificial underwater reefs shall be placed for the purpose of protecting biodiversity and conditions of the environment.

4. Montenegro Fisheries Development Strategy

Article 8

For the purpose of achieving the principles referred to in Article 5 of this Law, the management of living resources in the fishing sea and the protection of marine environment shall be implemented in accordance with the Fisheries and Aquaculture Development Strategy of Montenegro (hereinafter referred to as: the Strategy).

The Strategy lays down the long-term directions, priorities and objectives of the fisheries development, the financial means and deadlines for their implementation, as well as the obligations assumed under international agreements, notably:

- 1) management and development of the fishing fleet, in particular, the development of the fishing effort and capacity, taking into account availability of fishing resources, environmentally-friendly fishing methods and a sustainable development of fishing activities;
- 2) sustainable development of the aquaculture sector;
- 3) sustainable development of the processing and marketing of fish and aquaculture products;
- 4) sustainable development of fishing areas, including the criteria for designation of the priority areas;
- 5) competitiveness of the fisheries sector, including the improvement of its structure, organisation and conditions of work;
- 6) preservation of human resources in the fisheries sector, in particular through further development of professional skills, securing the sustainability of employment and improving the position and the role of women;
- 7) protection and development of the environment in the fisheries sector.

In the process of development of the Strategy, for the purpose of assessing the planned sustainable development through integration of the protection and the development of the

environment and gender equality, the Ministry shall establish co-operation especially with the following:

- 1) competent national and local administration authorities;
- 2) scientific and other expert institutions, organisations and bodies;
- 3) interested legal and natural persons in fisheries sector.

The Strategy referred to in paragraph 1 of this Article shall be adopted by the Government of Montenegro (hereinafter referred to as: the Government) for the period of 10 years.

The Strategy may include the data on priorities, objectives, estimates on financial means necessary and the deadlines for:

- 1) provision of equipment, means and other conditions for performing inspection over fishing activities and collecting the data and information of relevance for the common fishery policy;
- 2) supply of fish and fish products and the development of fishing activities beyond the fishing sea in accordance with the ratified international agreements.

5. National Fisheries Development Programme

Article 9

Montenegro's fisheries policy, set by the Strategy, shall be implemented in accordance with the National Fisheries Development Programme (hereinafter referred to as: the National Programme).

The National Programme includes: mid-term and short-term objectives of the fisheries development, types of measures and programmes, expected results, and provisional amounts and sources of funds necessary for implementation of the fishery policy measures.

The National Programme shall be adopted by the Government for the period of 5 years.

The National Programme shall be published in the "Official Gazette of Montenegro".

6. Designated fishery

Article 10

For the purpose of ensuring sustainable development referred to in Article 5 of this Law, the Ministry may declare a designated fishery or a number of designated fisheries in the fishing sea based on:

- 1) fish species or a group of fish species, or
- 2) fishing areas.

The regulation referred to in paragraph 1 of this Article shall also define:

- 1) local and scientific names of fish species;
- 2) geographical coordinates of the fishing area;
- 3) other issues of relevance for managing designated fishery in accordance with this Law.

The fishery management referred to in paragraph 1 of this Article shall be implemented in accordance with the Marine Fishery Management Plan (hereinafter referred to as: the Management Plan), adopted by the Government for the period of five years.

7. Management Plan

Article 11

The fishery, or the designated fishery or fisheries, as appropriate, shall be managed by the administration authority in accordance with the Management Plan setting the rules on catch based on biological parameters for catch limits previously defined.

Notwithstanding the paragraph 1 of this Article, the fishery management for designated fishery or fisheries management regime of which has been agreed under the terms of an international agreement, shall be implemented by the authority designated by such agreement.

A Management Plan shall include:

- 1) a description of the fishery by reference to area, fish species, fishery characteristics, fishing methods and the present state of exploitation;
- 2) monitoring of the state of stocks of economically significant species of fish and other marine organisms at the bottom and in free water;
- 3) an analysis of the fish stocks including their biological characteristics and the conservation status;
- 4) objectives to be achieved in the planned period;
- 5) tasks to be implemented in the planned period;

- 6) specific technical measures to be implemented, including the measures for the protection of fish stocks;
- 7) scientific database for the Management Plan which, if so defined, shall be changed from an approach based on fish stocks estimate to an eco-system based approach;
- 8) means needed for achieving of the planned objectives as defined by the Strategy;
- 9) economic impact of planned measures on the fishery;
- 10) criteria for evaluation of the Plan efficiency;
- 11) date of the evaluation of results achieved in implementation of the Management Plan by the authorities, which must be done regardless of the obligation of monitoring the implementation of the Management Plan.

The Management Plan may also include the guidelines for:

- 1) issuing permits which may, but do not have to, cover only boats, gear, fishermen or the method of control of catching the fish and other marine organisms;
- 2) issuing special permits for experimental fishing;
- 3) issuing special permits for specific types of vessels and for the vessels of less than 10 metres in length;
- 4) reduction of discards;
- 5) method of monitoring of fishing vessels of less than 15 metres in length;
- 6) issuing permits for sport fishing or diving;
- 7) temporary derogation from the Management Plan, including technical measures or other gear- or vessel-related limitations for a fishing;
- 8) restrictions, where necessary, to fishing activities.

In the process of development or revision of the Management Plan, the administration authority shall cooperate with the competent authorities of the public and local administration, fishermen or representatives of fishermen's associations and other legal and natural persons interested in fishery management.

8. Intervention management measures

Article 12

Where there is evidence of a serious and unforeseen threat to the living marine resources or marine ecosystem resulting from fishing activities in the fishing sea of Montenegro, the administration authority shall undertake urgent measures to eliminate that threat.

The measures referred to in paragraph 1 of this Article may not last longer than three months.

Notwithstanding the paragraph 2 of this Article, intervention measures may last longer than three months, depending on the assessment of the administration authority.

Where the measures referred to in paragraph 1 of this Article are taken under the terms of a ratified international agreement, prior to adoption of the said measures the administration authority shall notify the body of the other member state in charge of implementation of that agreement and the regional fishery advisory body by sending a draft of those measures, together with a memorandum which includes a rationale on the measures.

9. Protected fishing areas

Article 13

For the purpose of protecting fish and other marine organisms, the Ministry shall designate protected fishing areas.

The protected fishing areas, in terms of this Law, shall be parts of fishing sea that are favourable for natural reproduction of fish and feeding of juveniles and other marine organisms as well.

Boundaries and marking of protected fishing areas referred to in paragraph 2 of this Article, as well as measures of protection and development shall be set by the Ministry, based on the opinion obtained from the Institute.

Where it is established, in the process of designation of protected fishing areas in the fishing sea, that the respective area may affect fishing activities of another country or member countries of a ratified international agreement, the protected fishing area may be designated after obtaining approval from a administration authority responsible for implementation of that agreement of that another country or countries taking part in regional fisheries advisory body, in accordance with the procedure set out by the ratified international agreement in question.

Article 14

In protected fishing areas, it is prohibited to:

- 1) engage in fishing or attempt to fish;
- 2) take or destroy fauna or flora;
- 3) place or exploit sand or gravel, leave or dispose of waste or any other polluting material, or disturb, change or destroy the environment in any way;
- 4) build or place structures on the ground or across water;
- 5) engage in other activities which may have an adverse effect on the ecosystem of the protected fishing area.

Notwithstanding the paragraph 1 of this Article, fishing at a specific period of time and with specific fishing tools may be done based on the permit issued by the administration authority:

- 1) for the purpose of reproduction, cultivation and restocking of new fishing areas;
- 2) due to migration of larger quantities of certain species of fish and other marine organisms.

The prohibited activities referred to in paragraph 1 of this Article may be performed based on the permit of the administration authority where such activities are needed for protected fishing areas management.

The time, fishing gear and specific technical rules for fishing in protected fishing areas shall be laid down by the Ministry.

10. Protected species of fish and other marine organisms

Article 15

The species of marine fish and other marine organisms, including anadromous and catadromous species, shall be declared to be protected species by the Government, at the proposal of the Ministry, based on the approval previously obtained from the Ministry in charge of environmental protection.

The list of protected species of fish and other marine organisms shall be published in the "Official Gazette of Montenegro".

It shall be prohibited to catch, take, receive, buy, sell, store, transport and retain on board of a fishing vessel any of the protected species of fish and other marine organisms.

11. Protection of juveniles and other marine organisms and minimum size limits

Article 16

The minimum size of fish and other marine organisms, including anadromous and catadromous species, below which catch and trade is prohibited, shall be set by the Ministry.

Notwithstanding paragraph 1 of this Article, the administration authority may, at proposal of the Institute, and for the purpose of cultivation, restocking and research activities, permit the catch of juveniles, reproductively immature species of fish and other marine organisms in specific localities, at a specific period of time and using the specific fishing tools.

It shall be prohibited to catch, take, receive, buy, sell, store., transport or retain on board fish or other marine organisms smaller than the minimum size set.

12. Prohibition of fishing and areas where fishing is prohibited

Article 17

For the purpose of protecting fish and other marine organisms, or parts of fishing sea which are favourable for natural reproduction of fish and feeding of juveniles and other marine organisms or vulnerable areas, the Ministry may prohibit fishing for a certain period of time.

The regulation referred to in paragraph 1 of this Article includes:

- 1) species or classes of fish and other marine organisms fishing of which is prohibited;
- 2) geographic coordinates of the area where fishing is prohibited;
- 3) starting time and the duration of fishing prohibition;
- 4) measures for protecting and development of fishery, based on opinion of the Institute.

It shall be prohibited to trade in fish and other marine organisms during the prohibition of fishing and from the prohibited areas.

Notwithstanding paragraph 1 of this Article, the administration authority may, on the proposal of the Institute, permit the catch of:

- 1) juveniles,
- 2) reproductively immature species of fish and other marine animals in specific localities,

- 3) at specific times and with use of specific fishing gear for the purpose of cultivation, restocking and research activities.

Article 18

For the purpose of protection from overfishing of all age classes of fish and other marine organisms, the Ministry may:

- 1) declare closed season for specific species of fish and other marine organisms, or prohibit the use of specific fishing tools for commercial and sport-recreational fishing;
- 2) define the main design and technical features, method of use, the time and purpose of specific types of tools and gear for commercial and sport-recreational fishing;
- 3) specify the size of fish and other marine organisms below which they must not be caught and traded in.

Article 19

Fishing shall be prohibited in the area of ports, their entrance and access way and anchorage.

Notwithstanding the paragraph 1 of this Article, fishing in the area of port, entrance and access ways and anchorages is permitted only where the port user, with approval from the Port Master's Office and approval from the Institute, permits fishing in these areas.

Fishing is permitted in the areas of channels and internal marine routes if it does not hinder the navigation of other ships and vessels.

Fishing is prohibited in areas of managed and marked bathing areas in the period May 1 – October 1, from sunrise to sunset.

Article 20

For the purpose of rational use and the protection of economically significant species of fish and other marine organisms, based on the opinion previously obtained from the Institute, the Ministry shall lay down:

- 1) the number and size of vessels, horsepower of engines of vessels, type and quantity of fishing tools and gear for which fishing is permitted in specific fishing areas;
- 2) restriction, or prohibition, as appropriate, of fishing in a specific fishing area;
- 3) the permitted catch or collecting per one licence;
- 4) the number of permits for specific fishing types.

The permit for use of a location for delivering training to divers and sport-recreational activities on the sea shall be issued by the administration authority.

Article 21

It shall be prohibited to catch fish and other marine organisms with explosive, chemical substances or other means that kill, stun or poison them, as well as to collect and trade in fish and other marine organisms caught in such a way.

It shall be prohibited to keep on board and on shore the explosives or chemical substances that may be used to kill, poison or stun fish and other marine organisms.

Article 22

In carrying out commercial or sport-recreational fishing, it shall be prohibited to use divers' apparatus with underwater gun, as well as keeping these means on board of fishing vessels or carry them by the shore or keeping them on the shore.

Divers' equipment referred to in paragraph 1 of this Article means all types of divers' apparatuses or similar devices that enable the diver to breathe under the water.

Article 23

Companies, entrepreneurs and natural persons inflicting damage by illegal fishing shall compensate the damage done.

Compensation for the damage done by illegal fishing is calculated in accordance with the Law.

Means collected on the basis of compensation referred to in paragraph 2 of this Article are revenues of the budget of Montenegro.

Article 24

In the area of the Bay of Boka Kotorska fishing with the following means shall be prohibited:

- 1) bottom trawls;
- 2) floating trawls, and
- 3) encircling large-scale fishing nets.

Notwithstanding the paragraph 1 of this Article, institutions engaged in scientific and research activities in the field of marine fishery may be allowed to fish with means referred to in the paragraph 1 of this Article, provided that such fishing is necessary for implementation of the research programmes approved.

The research programmes referred to in paragraph 2 of this Article shall be approved by the Ministry.

The permit referred to in paragraph 2 of this Article shall be issued by the administration authority.

Article 25

For the purpose of protecting general marine biodiversity in shallower zones of the littoral it shall be prohibited to fish with bottom trawls and floating trawls at the distance of three nautical miles that follows the configuration of the shore, or at the depth of 50 metres in case the isobath of 50 metres where that depth is reached at a distance shorter than three nautical miles.

Notwithstanding paragraph 1 of this Article, a fishing vessel with a net overboard can approach the shore to the depth lesser than the one prescribed in case it is damaged and if it had previously notified the nearest Port Master's Office.

Article 26

In order to protect rocky shores as a special habitat in the fishery sea, catching, marketing or exporting of date-shell (*Litophaga litophaga*) on the whole territory of Montenegro shall be prohibited.

12. Fishermen's post

Article 27

The Fishermen's post in the Bay of Boka Kotorska is an area in the sea where the net is towed and a part of the shore up to 150 m in length, with gravel and sandy bottom, which is not fenced and which does not have a dock or a pier, or where a net with the catch can be towed onto the shore.

The fishermen's post is used exclusively at nights and early in the morning.

The fishermen's posts may be freely used as bathing places during days.

The fishermen's post must be visibly marked with a board with the name, number, length of the shore it comprises and instructions for its maintenance.

The method of use, maintenance, protection, marking and the length of the shore, name and the location of the fishermen's post shall be laid down by the Ministry.

14. Fish aggregating devices

Article 28

Placing a fish aggregating device in a certain location in the fishing sea shall be done based on the approval issued by the administration authority based on an application.

Technical characteristics of the fish aggregating devices shall be laid down by the Ministry.

The terms for fishing in the area of one nautical mile diameter from the place where the devices or several devices are installed shall be laid down by the Ministry.

Approval for fishing in the area referred to in paragraph 3 of this Article, based on the application, shall be issued by the administration authority.

Holders of the permit for fishing in the area referred to in paragraph 3 of this Article shall take all the measures of protection and management set, unless special measures are prescribed which shall not be applicable to fish caught in that area.

It shall be prohibited to remove and move fish aggregating devices from the approved place.

The person removing or moving the devices referred to in paragraph 6 of this Article shall be responsible for the resulting damage.

Regulating of fishing in the area referred to in paragraph 3 of this Article, marking and identification of the area and site for placing fish aggregating devices, following the proposal of the Institute, shall be laid down by the Ministry.

III. FISHERIES POLICY MEASURES

Article 29

The fisheries policy measures shall be set for the purpose of accomplishing the objectives referred to in the Article 5 of this Law.

The fisheries policy measures include the following measures:

- 1) for development of the fishing fleet;
- 2) for development of aquaculture, processing, marketing of fish and fish products and aquaculture products;
- 3) for collective actions;
- 4) for the sustainable development of fishing areas;
- 5) for technical support.

1. Development of fishing fleet

Article 30

The measures for development of the fishing fleet relate to:

- supply or building fishing vessels;
- modernization of existing fishing vessels;
- improving of management and control of coastal fishing.

2. Measures for development of aquaculture, processing, marketing of fish and fish products and aquaculture products

Article 31

The measures for development of aquaculture, processing, marketing of fish and fish products and aquaculture products relate to:

- improving fish production;
- improving shellfish production;
- promoting aquaculture for environmental protection purposes;
- improving processing, marketing of fish and fish products and aquaculture products.

3. Collective actions

Article 32

The measures of collective actions relate to:

- sustainable management and conservation of fish stocks;
- promoting partnerships between science and fishery sector operators;
- providing support to producers' organizations, cooperatives and associations in fishery;
- improving conditions for landing, reloading, storing and processing of fish and other marine organisms, and improving conditions for harbouring, maintenance and supply of fishing vessels in ports (fuel, ice, water, etc.);
- promoting and development of new markets for fish and fish products and aquaculture products.

4. Sustainable development of fishing areas

Article 33

The measures for sustainable development of fishing areas relate to:

- providing support to sustaining the economical and social prosperity of fishing areas and added value of fish and other marine organisms and aquaculture;
- providing support to job creation by expanding commercial activities in a fishing area;
- providing support to development of the environment in a fishing area.

5. Technical support

Article 34

The measures of technical support to support to activities for implementation of the fisheries policy.

Article 35

The terms, methods and timetable for implementation of the fisheries policy measures set by the Strategy and the National Programme, shall be laid down in more detail by the beginning of the fiscal year by a regulation of the Government (hereinafter referred to as: agriculture budget), in accordance with the Law.

6. Report on implementation of the National Programme and agriculture budget

Article 36

Annual report on the disbursement of agricultural is developed by the Ministry and submitted to the Government for adoption not later than 31 March of the current year for the previous year.

The report referred to in paragraph 1 of this Article shall also contain the assessment of effects of the fisheries policy for the year it refers to.

IV COMPETENCIES

1. Administration authority

Article 37

The administrative and the related professional activities in marine fishery shall be implemented by the administration authority in accordance with the Law.

Article 38

For the purpose of accomplishing the objectives referred to in Article 5 of this Law, the Institute shall perform the following tasks:

- 1) research and assessment of fish stocks;
- 2) monitoring the condition and assessment for the purpose of sustainable exploitation of fish and other marine organisms;
- 3) monitoring the population dynamics of fish;
- 4) preparing of professional bases for the Strategy, Management Plan and mariculture development;
- 5) monitoring of the water quality and biomonitoring;
- 6) setting of technical and technological terms for fishing;
- 7) providing expert assistance in implementation of activities related to fisheries and mariculture and reporting on activities implemented, at the request of the administration authority.

2. Financing

Article 39

The funds from the budget of Montenegro are provided for development of the following:

- 1) the Strategy;
- 2) the Management Plan;
- 3) the Programme for monitoring the quality of seawater and parts of the sea used for fishing and aquaculture;
- 4) the National programme, as well as for monitoring, control and supervision of fishing vessels, financing or co-financing of the measures of Fishery Policy and measures related to common market organization for fish and fish products and producers organization.

V MARINE FISHING

Article 40

Marine fishing (hereinafter: the fishing) means catching and collecting fish and other marine organisms.

The fishing can be commercial, sport-recreational and for scientific-research purposes.

Article 41

Companies, entrepreneurs and other legal and natural persons engaged in fishing shall adhere to fishing rules and must not impede each other.

The terms, restrictions and sequence in fishing in certain fishing areas are laid down by the Ministry.

Article 42

Permits for fishing in parts of the fishing sea, which are designated as areas of defence, may be issued based on the approval obtained from the Ministry of Defence.

Fishing in territorial water within boundaries of the Republic of Montenegro is not permitted to fishing vessels sailing under the flag of a foreign country.

Article 43

In marked sites in the fishing sea where telephone, telegraph or electric power cords, pipes or other devices, as well as archeological sites and items are situated, fishing with fishing instruments or tools that could damage them is prohibited.

A. COMMERCIAL FISHING

Article 44

Commercial fishing is the catch of economically significant species of fish and other marine organisms by using permitted tools and gear for the purpose of marketing.

Commercial fishing may be done under the terms and with fishing tools and gear in accordance with the Law.

A fee shall be paid for carrying out commercial fishing.

The fee referred to in paragraph 3 of this Article shall be the revenue of the budget of Montenegro.

Article 45

Companies and entrepreneurs may engage in commercial fishing provided that they are registered with the Central Register of the Commercial Court (hereinafter referred to as: the CRCC), registered with the Register of Professional Fishermen (hereinafter: the Register of Fishermen) and are holders of a permit for commercial fishing, issued by the administration authority.

Notwithstanding the paragraph 1 of this Article, certain employed and retired persons may engage in small-scale commercial fishing.

The terms, fishing tools and gear, the fishing period and the method for issuing permits for the fishing referred to in paragraph 2 of this Article shall be laid down by the Ministry.

Article 46

Fishing capacity is defined according to the horsepower of the engine, gross capacity and type of the fishing vessel, size and number of nets and angles, number and intensity of lamps, equipment, etc.

Significance of the commercial fishing is defined according to the species and commercial value of the fish and other marine organisms.

Article 47

The amount of fee paid for carrying out commercial fishing is set based on the fishing capacity and significance of commercial fishing.

Individual fees, based on the criteria referred to in paragraph 1 of this Article, shall be set by the Government.

Article 48

Based on the criteria referred to in Article 46 of this Law, the commercial fishing is classified into the large-scale and the small-scale commercial fishing.

1. Large-scale commercial fishing

Article 49

Large-scale commercial fishing is the fishing carried out by using fishing vessel shorter than 12 and longer than 12 m over all, with the following fishing tools and gear:

- 1) bottom tow nets – trawls;
- 2) pelagic (floating) trawls;
- 3) purse seines – ‘plivarice’;
- 4) shore seines;
- 5) beach seines;
- 6) set nets;

- 7) fish traps;
- 8) harpoons with and without the use of artificial light;
- 9) long-lines and other hooks;
- 10) scampi traps (*Nephrops norvegicus*);
- 11) traps for big crustaceans, and
- 12) "tramata" nets, also the nets for catching shellfish and other marine organisms.

Purpose, technical characteristics and the quantity of fishing tools and gear that is allowed for use in large-scale commercial fishing shall be laid down by the Ministry.

2. Small-scale commercial fishing

Article 50

Small-scale commercial fishing is the fishing carried out by fishing vessels shorter than 12 m overall, with the following fishing tools and equipment:

- 1) set nets;
- 2) fish - traps for catching fish;
- 3) harpoons with and without the use of artificial light;
- 4) long-lines and other hooks;
- 5) shore seines – "kogola";
- 6) "kalimera" and hand dredge – "grib", as well as collecting of shells and other marine organisms.

Purpose, type, technical characteristics and the quantity of fishing tools and gear that is allowed for use in small-scale commercial fishing is laid down by the Ministry.

Article 51

Companies and entrepreneurs may engage in commercial fishing in fishing areas with the fishing vessels, tools and gear indicated in the permit for commercial fishing.

The permit for commercial fishing shall always be kept on board of the fishing vessel.

3. Register of Fishermen

Article 52

The Register of Fishermen referred to in Article 45 paragraph 1 of this Law shall be established and kept by the administration authority.

Registration in the Register of Fishermen is done based on applications.

The following evidence shall be submitted together with the application referred to in paragraph 2 of this Article:

- 1) that applicant is the owner or user of the fishing vessel based on the agreement of lease for the period for which a permit for commercial fishing is requested;
- 2) that the title of a captain of the ship has been acquired in accordance with the internationally recognized standards, and that of a sailor-engineer in accordance with the Law;
- 3) evidence on persons employed at the fishing vessel;
- 4) that it is registered for commercial fishing.

The compliance with the requirements set in paragraph 3 of this Article shall be laid down by the decision of the administration authority.

The appeal sent to the decision referred to in paragraph 4 of this Article and other individual legal documents adopted by the administration authority in accordance with this Law, shall be decided upon by the Ministry.

The form, content and method of keeping the Register of Fishermen referred to in paragraph 1 of this Article shall be laid down by the Ministry.

4. Permit for commercial fishing

Article 53

The permit for commercial fishing shall be issued by the administration authority based on a public advertisement published in at least one printed media distributed throughout Montenegro.

The request for issuing the permit shall contain:

- 1) the name and location of the company, or the name and surname of entrepreneur, as appropriate and the type of commercial fishing for which the permit is requested;

- 2) the name and registration number of the fishing vessel or a group of fishing vessel if the nature of commercial fishing requires the use of more than one vessel;
- 3) the type, technical characteristics and the number of fishing tools and gear for carrying out the commercial fishing requested;

The application shall be followed by the evidence that:

- 1) it is registered in the Register of Fishermen;
- 2) approval from the Institute for technical and technological characteristics of fishing tools and gear stated in the application for commercial fishing;
- 3) certificate from the register of boats, a copy of the registration list for the fishing boat or a certificate of the status of entry in the register of fishing boats, that is, the permit for sailing for the fishing boat which is registered for commercial fishing;

The compliance with the requirements set in paragraphs 2 and 3 of this Article shall be laid down by the decision of the administration authority.

5. The content of the permit for commercial fishing

Article 54

The permit for commercial fishing is issued separately for each fishing vessel and shall contain:

- 1) the name of the company, or the name and surname of entrepreneur, as appropriate, issued with the permit for carrying out commercial fishing;
- 2) the name, i.e. the registration mark of the vessel or a number of vessels if the type of the commercial fishing requires using more than one fishing vessel;
- 3) fishing area where commercial fishing is permitted;
- 4) the purpose, type, technical characteristics and the number of fishing tools and gear that is used for commercial fishing;
- 5) identification data for the fishing vessel and the power of the engine;
- 6) amount of fee to be paid.

The permit referred to in paragraph 1 of this Article may also contain:

- 1) a period of closed season for commercial fishing;
- 2) the type and the quantity of fish that may be caught;
- 3) fishing methods;
- 4) terms of landing and loading and the place of the first landing.

Article 55

In case of a change of the company, the owner or the lessee of the vessel shall be issued a new permit for commercial fishing in accordance with the terms set.

The permit referred to in Article 53, paragraph 1 of this Law may be issued to a holder of the permit after the fee for commercial fishing is paid.

The amount of the fee referred to in paragraph 2 of this Article shall be set by the Government, following the proposal of the Ministry.

The permit referred to in paragraph 2 of this Article shall be issued for the period of 5 years.

When issuing permits referred to in paragraph 4 of this Article, the priority shall be given, under equal conditions, to existing holders of such permits.

The form of the permit and the method for paying the fee referred to in paragraph 2 of this Article shall be set by the Ministry.

6. Cancellation, modification and transfer of commercial fishing permit

Article 56

The permit for commercial fishing shall be cancelled in case of:

- 1) the death of the natural person;
- 2) the cease of the company;
- 3) the cease of engaging in commercial fishing;
- 4) the cease of requirements for registration with the Register of Fishermen in accordance with this Law;
- 5) the commercial fishing does not commence within the period set by the permit;
- 6) the terms of the permit are not fulfilled or weaknesses are not removed within the period set;

- 7) the expiry of the validity or the change of the certificate of a ship, or a sailing permit of a boat;
- 8) the removal of the fishing vessel from the register of ships, or the register of boats, as appropriate;
- 9) when the requirements for acquiring the permit are no longer complied with;
- 10) when there are reasons for taking urgent measures for protection of a marine resource in accordance with the Management Plan;
- 11) the failure to keep daily records of fishing activities into the logbook of the catch;
- 12) the failure to submit a declaration on the landing of the total catch to the administration authority, or a fishery inspector within 48 hours;
- 13) at the request of the permit holder;
- 14) the failure to engage in commercial fishing in accordance with the Law.

The permit may be modified:

- 1) at the proposal of the Institute, for the purpose of protecting a marine resource,
- 2) in emergency cases, in accordance with the management plan.

The permit for commercial fishing may be transferred from the permit holder to another permit holder in case of loss, sale or giving away the fishing vessel, tools and gear which are listed in the permit for commercial fishing.

More detailed requirements for transferring the permit referred to in paragraph 3 of this Article shall be laid down by the Ministry.

The cancellation, modification and transfer of the permit in accordance with paragraphs 1, 2 and 3 of this Article shall be done by the decision of the administration authority.

7. Registration of fishing vessels

Article 57

Based on the permit for commercial fishing, the administration authority shall register fishing vessels with the Register of Fishing Vessels (hereinafter: the Register).

The Register of Vessels shall be kept by the administration authority.

The fishing vessel registered in the Register of Vessels shall bear an identification mark.

The content and the method of keeping the Register of Vessels and the identification mark referred to in paragraph 2 of this Article shall be laid down by the Ministry.

8. Marking of fishing gear

Article 58

The holders of permits for commercial fishing shall be prohibited to use beam trawl, set net of any type, long-line and floating net in the fishing sea beyond 12 nautical miles of the territorial sea for marking and other gear, unless marked in prescribed places.

The gear and the method of marking of the gear referred to in paragraph 1 of this Article shall be laid down by the Ministry.

B. SPORT – RECREATIONAL FISHING

Article 59

Sport-recreational fishing may be practiced by natural persons holding a permit for sport-recreational fishing.

The form of the permit for sport-recreational fishing shall be distributed by the administration authority to the Sport Fishing Association for the fishing sea of Montenegro (hereinafter: the Association).

The permit for sport-recreational fishing shall be issued by sport-recreational clubs that are members of the Association.

In municipalities where there are no sport-fishing clubs that are members of the Association, the permit shall be issued by the administration authority responsible for sport and recreation.

The Association shall submit to the administration authority a report on the number of permits issued at the end of the six-month period during the validity of the permit.

The permit for sport-recreational fishing may be used only by the person whose name the permit is issued on.

The holder of sport-recreational fishing permit shall keep the permit at his/her side when performing sport-recreational fishing activities.

The form and the method of distribution of the forms for permits for sport-recreational fishing shall be laid down by the Ministry.

Article 60

The permit for sport-recreational fishing may be permanent and temporary.

The permanent permit for sport-recreational fishing shall be issued for the current calendar year, and the temporary permit shall be issued for the period not exceeding 30 days.

The temporary permit for sport-recreational fishing may be issued to a person who is not a citizen of Montenegro.

Article 61

A fee is paid for sport-recreational fishing.

The amount of the fee referred to in paragraph 1 of this Article, depending on the validity period of the permit, shall be set by the Ministry.

Eighty per cent of the funds generated from fees referred to in paragraph 1 of this Article shall be the income of the sport-recreational club, or the administration authority that issued the permit, as appropriate, and 20% shall be the income of the Association.

The sport-recreational club referred to in paragraph 3 and the administration authority referred to in paragraph 4 of Article 59 of this Law shall organize guard service in the appropriate area of the fishing sea where sport-recreational fishing takes place.

Article 62

Sport-recreational fishing may be carried out with use of permitted fishing tools and gear.

The quantity of fish that the holder of the permit for sport-recreational fishing may catch during one day shall be set by the Ministry.

A holder of the permit for sport-recreational fishing must not trade in the fish caught.

Article 63

Sport-recreational fishing must not hinder commercial fishing.

Keeping fishing gear and tools on board without the permit for sport-recreational fishing is prohibited.

It is prohibited to carry underwater gun by the coast and on board without the permit for fishing with underwater gun.

Sport-recreational fishing with underwater gun between sunset and sunrise is prohibited.

Sport-recreational fishing with underwater guns is prohibited for persons under the age of 16.

Article 64

Membership cards of sport fishing and diving clubs do not have the power of permits for sport-recreational fishing.

Article 65

Approval for organization of national and international competitions in sport fishing is issued by the Ministry.

The quantity of fish caught in national competitions in sport fishing is not limited.

Article 66

The method, the type and the number of fishing tools and gear which is permitted for use in sport-recreational fishing, the form and the content of the permit for sport-recreational fishing shall be laid down by the Ministry.

VI MARICULTURE

1. Mariculture Development Plan

Article 67

The Government adopts the Mariculture Development Plan, at the proposal of the Ministry, based on the analysis of sustainable development of mariculture taking into account notably the biological, typographic, hydro-morphological and physical-chemical characteristics of zones for mariculture set by the Spatial Plan for special purpose areas for marine resources.

Article 68

The administration authority, at the proposal of the Institute, defines locations for mariculture activities (hereinafter referred to as: farm) based on the species of fish and other marine organisms farmed, the designed economic profitability, farming technology, etc.

Marking of farm boundaries is done by the holder of the mariculture permit, using marks in accordance with the sailing safety regulations.

The Ministry lays down the terms, method and restriction of fishing and other activities in:

- 1) mariculture zones;
- 2) waters flowing into mariculture zones;
- 3) on the land or in waters bordering the mariculture zones.

The Ministry may propose cancellation or changes to the boundaries of mariculture zones to the administration authority in charge of spatial planning and management.

2. Mariculture activity

Article 69

Companies and entrepreneurs may engage in mariculture and processing of mariculture products provided that:

- 1) they are registered for mariculture activities with the CRCC;
- 2) they obtained the approval on the Project for technical and technological requirements of mariculture, together with the study on economic viability of the investment, and
- 3) they hold a mariculture permit.

The administration authority shall keep the register of farms and the register of processors of fish and other marine organisms.

The form, the content and the method for keeping the registers referred to in paragraph 2 of this Article shall be defined by the Ministry.

3. Permits for mariculture

Article 70

The permit for mariculture shall be issued based on the application for each farm separately.

The following shall be submitted with the application:

- 1) the administration authority's approval of the project for technical and technological requirements of mariculture and the study on economic viability of the investment, which includes in particular the following: species of fish and other marine organisms farmed, description of farming technology, annual production volume in tons, equipment to be installed at the site, potential impact of the farming proposed on the environment and measures of protection for restraining or elimination of environmental and disease risks;
- 2) copy of the certificate from the CRCC;
- 3) sketch of the location with the total farm area;
- 4) water management approval;
- 5) veterinary-sanitary approval;
- 6) environmental impact assessment for farming fish and other marine organisms in accordance with the Law.

The administration authority may request from the applicant to provide additional clarifications in writing regarding the issues of relevance for the implementation of the project of technical and technological requirements of mariculture with the study on economic viability of the investment.

The compliance with the requirements referred to in Article 69 paragraph 1 and Article 70 paragraph 2 of this Law shall be established and the permit issued by the administration authority.

Article 71

The administration authority issues the mariculture permit for the purpose of scientific- research work.

4. Content of a mariculture permit

Article 72

The permit shall contain:

- 1) the name and head office address for a company or the name and address of an entrepreneur issued with the permit;
- 2) the name of the site with spatial coordinates and the farm area;
- 3) the date of the commencement of mariculture activities from the day of the permit issuance;
- 4) species and quantity of fish or other marine organisms farmed at the approved farm and the permit validity period;
- 5) amount of the fee.

The permit referred to in paragraph 1 of this Article shall at all times be kept at the registered farm.

The permit referred to in paragraph 1 of this Article may be issued after payment of the fee for mariculture.

The amount of the fee referred to in paragraph 3 of this Article shall be set by the Government at proposal of the Ministry.

The funds collected from fees referred to in the paragraph 4 of this Article shall be the income of the budget of Montenegro.

The permit referred to in paragraph 1 of this Article shall be registered in the Register of Permits kept by the administration authority.

The form of the permit, the method for paying the fee, and the form, content and the method of keeping the Register of Permits shall be defined by the Ministry.

Article 73

A mariculture permit holder may farm only the species and the quantity of fish or other marine organisms written in the permit.

The permit referred to in paragraph 1 of this Article may be issued for maximum five years, with possibility of extension, depending on the results achieved in the farming planned.

5. Principles of good manufacturing practice in mariculture

Article 74

Mariculture activities shall be executed in line with the principles of good manufacturing practice in the field of mariculture.

The principles of good manufacturing practices referred to in paragraph 1 of this Article shall be set by the Ministry.

Adherence to the principles referred to in paragraph 2 of this Article shall be taken into account when issuing and cancelling mariculture permits, in accordance with this Law.

6. Changes in structure, gear and maintenance methods

Article 75

A holder of a mariculture permit cannot change terms related to the structure, gear and the maintenance of the farm without prior consent of the administration authority.

The administration authority may, without a request from the permit holder, change or amend the terms referred to in paragraph 1 of this Article if it establishes that it is in the interest of good manufacturing practice in mariculture or environmental protection.

7. Permit extension

Article 76

Permit extension shall be done by the administration authority based on the request of the permit holder.

The request referred to in paragraph 1 of this Article shall be submitted no less than three months prior to the expiration of the permit validity period.

The administration authority may refuse the request for the permit extension if:

- 1) the permit holder fails to meet the criteria based on which the permit was issued or failed to remove the shortcomings within the period set;
- 2) the permit holder breaches, or engages in mariculture contrary to, the provisions of this Law;
- 3) the permit extension would not be in accordance with the Mariculture Development Plan;

- 4) the permit extension is not in the interest of environmental protection and conservation in Montenegro or another state in accordance with the ratified international agreement,
- 5) the permit holder has ceased with mariculture activities.

Where the administration body fails to decide on the request for permit extension within the period of time set by paragraph 2 of this Article, the permit shall be considered to be extended under terms it was originally issued with the validity period of one year from the date of the permit validity period expiration.

8. Transferability of mariculture permits

Article 77

A mariculture permit is not transferable from the holder to any other company or entrepreneur without approval from the administration authority.

A company or an entrepreneur that intends to acquire a mariculture permit by permit transfer shall submit a written application to the administration authority.

The application shall contain the name of the company, or entrepreneur, and a certified consent of the permit holder for its transfer.

The administration authority may request from the applicant to provide other data and information which it considers necessary for deciding on the application.

The rights and responsibilities of the permit holder shall be assumed by the new permit holder based on the transferred permit.

The administration authority shall issue a permit for the new permit holder in accordance with the Article 70 of this Law.

The transferred permit shall expire on the same day as the original permit.

9. Cancellation and changes to a mariculture permit

Article 78

The administration authority may cancel a mariculture permit of a permit holder if:

- a) the holder ceased with mariculture activities;
- b) the holder has not commenced mariculture activities within the period set by the permit;
- c) the holder has failed to comply with the terms from the permit or has failed to remove the weaknesses within the period set;
- d) it is in the interest of environmental protection and conservation;
- e) it has failed to report the presence of any disease or harmful organism or failed to take all the prescribed measures to prevent the spreading of the disease or of the harmful organism within or outside the farm, including destruction of fish and other marine organisms or fishery products, as well as product disinfection in accordance with the Article 84 paragraphs 1 and 3 of this Law;
- f) it has failed to engage in mariculture in accordance with this Law.

The administration authority may, at the proposal of the Institute, alter the terms from the mariculture permit as a result of specific environmental conditions or in case of outbreak of a disease caused by the use of the equipment or implementation of control procedure specified in the permit.

Where a mariculture permit is altered, it shall be prohibited to remove or dispose of fish or other marine organisms from the farm.

When a mariculture permit is altered, it shall be prohibited to continue with the mariculture operations on a farm for which the licence was altered unless the equipment used and principles of good manufacturing practice in mariculture are applied as specified in the permit.

Article 79

Where a mariculture permit is not extended in accordance with the Article 76 of this Law, or where a mariculture permit is cancelled in accordance with the Article 78 paragraph 1 of this Law, the holder of the last valid mariculture permit shall remove from the farm all mariculture gear and shall restore the site into its original state.

10. Ownership of mariculture products

Article 80

Fish and other marine organisms specified in a mariculture permit, within the farm boundaries, shall be the ownership of the permit holder.

Fish and other marine organisms referred to in paragraph 1 of this Article that leave the farm shall be the property of the permit holder for that farm while within the range of 100 metres from the farm.

11. Introduction and transfer of fish and other marine organisms

Article 81

It shall be prohibited to introduce into the fishing sea of Montenegro, without an approval from the administration authority, allochthonous species of fish and other marine organisms or genetically modified fish and other marine organisms, as well as their transfer from one farm into another, or from one place in Montenegro to another.

The approval referred to in paragraph 1 of this Article shall be issued by the administration authority with prior approval on the environmental impact assessment from the public administration authority in charge of the environmental protection.

12. Handling and marketing of mariculture products

Article 82

The permit holder or another person may not, for the marketing purposes, remove, transport, present or offer for sale or sell fish and other marine organisms from the farm or fish products contrary to this Law.

13. Preventive disease control in mariculture

Article 83

For the purpose of ensuring preventive disease control in mariculture:

- 1) the facilities for purification, distribution and similar business facilities located within the molluscs farming zone shall have a permit for construction, or operations, as appropriate, in accordance with the Law;
- 2) the facilities for processing fish and other marine organisms shall have a permit for construction, or operations, as appropriate, in accordance with the Law;
- 3) the mariculture permit holder shall have evidence of implementing the prescribed good manufacturing practice principles in mariculture.

The terms for marketing molluscs shall be set by the Ministry.

14. Disease prevention and notification

Article 84

A permit holder or another person engaged at the farm shall immediately notify the administration authority or a fisheries inspector of the presence of any disease or a harmful organism on the farm. Where it is established that the presence of a disease or harmful organisms on the farm poses the risk for aquatic organisms or the environment, the administration authority shall:

- 1) order the isolation, quarantine or treatment of fish and other marine organisms infected or considered to be infected with a disease or harmful organism;
- 2) destroy or restrict the movement of fish and other marine organisms infected or considered to be infected with a disease or harmful organism;
- 3) place into the quarantine the farm where presence of a disease or a harmful organism is reasonably suspected by the administration authority.

The measures referred to in paragraph 2 of this Article shall be implemented by the permit holder or a person engaged on the farm for the purpose of preventing the spreading of a disease or a harmful organism within or beyond the farm, including the destruction of fish and other marine organisms or fish products, as well as farm disinfection.

15. Fish farm escape notification

Article 85

A permit holder shall:

- 1) ensure the containment of fish within the farm,
- 2) prevent the escape of fish from the farm.

In case of a fish escape, the permit holder shall:

- 1) immediately notify the administration authority or fisheries inspector,
- 2) take measures to recover the fish escaped.

Where fish escape has been caused by negligence of the permit holder, he/she shall be compensate any environmental damage caused by the fish escape.

16. Measures in mariculture

Article 86

The administration authority may order the permit holder or another person carrying out the work and other activities posing actual or potential risk to the environment or the health of fish and other marine organisms within or beyond the farm to take measures in order to:

- 1) prevent, control and reduce parasites;
- 2) control fish disease;
- 3) contain fish;
- 4) prevent fish escape,
- 5) recover escaped fish;
- 6) prohibit harmful discharges into the fishing sea or mariculture zone;
- 7) prohibit any construction or other activity that causes or may cause damage to the fishing sea or a mariculture zone.

For the purpose of accomplishing the objectives referred to in paragraph 1 of this Article, a measure of suspension of works as well as other measures and activities in accordance with the Law may be ordered.

17. Record-keeping and reporting in mariculture

Article 87

Holders of a mariculture permit shall keep records on:

- 1) movement of fish and other marine organisms and fish products within and beyond the farm or molluscs farming area;
- 2) mortality in every epidemiological unit of relevance for the farming type;
- 3) results of health monitoring of species farmed at the farm;
- 4) fish escape.

Registered processors of fish and other marine organisms shall keep records on the quantity and species of fish and other marine organisms taken from certain farms, on the type and quantity of processed and delivered products of fish and other marine organisms and on buyers of those products.

The transporter of mariculture products shall keep records on:

- 1) mortality in transport, by type of transport means and by the mariculture product transported, as well as by the farm and processing facilities;
- 2) change of water during transport, particularly on the sources of new water and water discharge sites.

The records referred to in paragraphs 1 and 2 of this Article shall be kept for 5 years.

The form, content and the method of keeping records referred to in paragraphs 1 and 2 of this Article shall be set by the Ministry.

18. Water quality monitoring and biomonitoring in fishing sea

Article 88

For the purpose of public health and mariculture protection, the Ministry shall, at proposal of the administration authority adopt Water Quality Monitoring and Biomonitoring Programme for the fishing sea, which shall ensure timely notification of mariculture permit holders of the occurrence or upcoming occurrence of pollution or a natural phenomenon that may have a harmful or detrimental effect on the mariculture zone or mariculture products.

Where a mariculture zone is affected by pollution or a natural phenomenon, the administration authority shall immediately order the analysis of the water from the affected area and of the mariculture products farmed in that zone in order to determine whether:

- 1) mariculture activities can continue;
- 2) mariculture products farmed therein are fit for human consumption;
- 3) sale or placing on the market of the mariculture products unfit for human consumption need to be prohibited.

Where the results of the analysis referred to in paragraph 2 of this Article show that the water quality of the affected area is unsuitable for the continuation of mariculture or the mariculture products farmed in that zone are unfit for human consumption, the administration authority shall order the closure of the farm and prohibit the sale or placing on the market of mariculture products from the farms located in the area affected by the pollution or a natural phenomenon, and inform the public through the media on the closure of the farm and the prohibition of sale or placing on the market of mariculture products from the farm situated in the zone affected by the pollution or a natural phenomenon.

Where the analysis shows that the water quality of a mariculture zone affected by pollution or a natural phenomenon is suitable for mariculture or that mariculture products farmed in the farms from that zone may be used for human consumption, the administration authority shall suspend the prohibition under the paragraph 3 of this Article and shall inform the public through the media on the possibility of using these zones again, as well as of the sale and placing on the market of the mariculture products farmed in such zones.

A mariculture permit holder shall provide timely notification to the administration authority or a fishery inspector of the occurrence or a suspected occurrence of pollution or a natural phenomenon referred to in paragraph 1 of this Article.

The monitoring referred to in paragraph 1 of this Article shall be performed by an accredited laboratory of the Institute.

The procedure of timely notification on the phenomena referred to in paragraph 1 of this Article for the purpose of monitoring and the closing of mariculture zones shall be set by the Ministry.

VII PRODUCERS ORGANIZATION IN FISHERY

1. Organization purpose

Article 89

For the purpose of accomplishing the objectives of the Fishery Policy referred to in Article 5 of this Law, organizing the producers in the fisheries sector into producers' organizations, co-operatives and other forms of organizations and management of the common market organization for fish and fish products and aquaculture products is encouraged in order to:

- plan the harvesting and production and their adjusting to demand in order to balance the quality and quantity of supply with market demand in line with the catch plan and the production plan;
- apply fishing methods ensuring sustainable fishing;
- define sale terms and methods (sale standards);
- provide consumers with information about products;
- market the products;
- reduce the costs of catch, production and stabilization of producer's price;
- apply Good Manufacturing Practice

2. Producers Organizations in fishery

Article 90

The companies and entrepreneurs registered in the fishermen register, the farm register and the register of processors of fish and other marine organisms are organized into producers' organizations in the fishery sector, in accordance with the Law.

The catch plan and the production plan referred to in Article 89 of this Law shall be approved by the Ministry.

The method for approving the catch plan and the production plan, the terms and the method of sale according to the quality, size or weight, packing and marking of fish, fish products and aquaculture products, providing consumers with information about products (commercial and local

name of fish, fish products and aquaculture products, the catching method, or farming method, as appropriate, area where fish was caught) shall be set by the Ministry.

Article 91

The terms and criteria that producers' organisations referred to in Article 90 of this Law shall comply with in order to use the incentives and other forms of support in organizing, training for implementation of measures of the fishery policy and prioritization of measures to be implemented shall be laid down by the Agriculture Budget, in accordance with the Law.

3. National Marine Fishery and Mariculture Council

Article 92

The National Marine Fishery and Mariculture Council (hereinafter referred to as: the Council) shall be established for the purpose of continuous monitoring of the status and development of fishery and mariculture and providing scientific and expert assistance in the decision-making process and development of fishery-related regulations, as well as other issues related to the enforcement of this Law.

The Council shall have 10 members.

The Council members shall be appointed amongst science and experts workers in the fields of biology, veterinary science, environmental protection, and Council members by virtue of office shall be:

- 1) director of the administration authority;
- 2) director of the Water Management Administration;
- 3) director of the Institute;
- 4) presidents of associations of professional fishermen and mariculture operators;
- 5) directors of producers' organizations in fisheries and mariculture.

The members of the Council shall be appointed for the period of four years.

The President is a member of the Council with the voting right, elected by votes of the Council members.

The director of the administration authority shall act as the Council Secretary, without the voting right.

The Council members appointed by the Government of Montenegro at the proposal of the Ministry. The method of work and organization of the Council shall be defined by the Council's Rules of Procedure.

The Council shall submit to the Government an activity report at least once a year.

The administration authority shall take care of the administrative and technical affairs for the Council.

The Council members are entitled to a fee for their work, from the funds allocated in the budget of Montenegro, for the Ministry.

3. Proclamation of development fishery area

Article 93

For the purpose of generating and use of the funds in accordance with the national or international programmes of support to the sectors of fisheries and mariculture, the Ministry may proclaim a fishery area of Montenegro a development fishery area, which covers a part of the fishing sea, lake and shore with significant employment level in fishery sector.

VIII FOREIGN FISHING VESSELS AND INTERNATIONAL RELATIONS

1. Implementation of international agreements

Article 94

For the purpose of implementation of ratified international agreements in fisheries, the Ministry may adopt measures for implementation of such agreements.

2. Foreign fishing vessels permits

Article 95

A foreign fishing vessel may fish within the fishing sea of Montenegro if it has a fishing permit issued by the administration authority.

A foreign fishing vessel that fishes in accordance with a ratified international agreement may fish in the fishing sea of Montenegro based on the permit issued in accordance with the agreement providing that:

- 1) it carries at all times on board the fishing permit issued by the administration authority in accordance with the terms of that agreement;
- 2) the fishing vessel is marked in accordance with the agreement;
- 3) where the agreement does not provide for the obligation to mark the vessel, the vessel shall be marked in accordance with this Law.

Where there is no ratified international agreement on fishing referred to in paragraph 2 of this Article, a foreign fishing vessel may engage in fishing in the fishing sea of Montenegro only for scientific-research purposes in accordance with the approved scientific-research project of national interest, with permission from the administration authority.

Where a foreign fishing vessel is used contrary to the provisions of this Article, the captain, owner or charterer of that fishing vessel shall each be accountable for the misdemeanour made.

Article 96

A foreign fishing vessel fishing in the fishing sea of Montenegro based on the permit issued in accordance with the Article 95 paragraphs 2 and 3 of this Law shall be considered a foreign fishing vessel without a permit, where it fails to display:

- 1) a recognizable national sign or flag;
- 2) a recognizable radio call-sign or registration number;
- 3) the name of the registration port at its stem.

3. State port measures

Article 97

In addition to the measures prescribed elsewhere in this Law in relation to fishing with foreign fishing vessels, the administration authority may, in accordance with international conservation and management measures related to living marine resources and marine environment:

- 1) inspect documents, fishing tools and gear and catch on board of fishing vessels when such vessels are in a port or in a coastal zone;
- 2) prohibit landings and transshipments where it has been established that the fish and other marine organisms were caught in a manner which undermines the efficiency of measures referred to in paragraph 1 of this Article.

4. Measures of the state whose flag the ship is flying

Article 98

In addition to the measures prescribed elsewhere in this Law in relation to fishing vessels registered in Montenegro, the Ministry shall also prescribe the measures necessary in order to ensure the monitoring of the catch of fish and other marine organisms by such fishing vessels in the waters of third countries and in the open sea, and in order to ensure control of records on landings and transshipment of the catch.

In order to implement the measures referred to in paragraph 1 of this Article, the owner or the captain of the fishing vessel shall:

- 1) keep on board of the fishing vessel a logbook in which the captain shall record the quantity of fish and other marine organisms caught;
- 2) submit a landing declaration to the competent authorities of states where landing would take place, in accordance with the agreement;
- 3) inform the administration authority or a fisheries inspector on every landing of fish on a fishing vessel of third countries and of landings carried out directly in third countries.

The measures referred to in paragraph 1 of this Article shall be implemented without prejudice to the measures implemented under international fisheries agreements and conventions.

IX MONITORING AND SURVEILLANCE

1. Monitoring of effects of implementation of the Fisheries Development Strategy and other developmental plans

Article 99

The administration authority shall:

- 1) collect the data necessary for monitoring the effects of the Strategy on the fisheries development;
- 2) monitor the effects of fisheries management plans adopted in accordance with this Law;
- 3) monitor the effects of the fisheries policy measures in accordance with the national fisheries policy or ratified international agreements;
- 4) to establish the expenditures incurred by implementation of support measures for the fishery sector;
- 5) presents the Ministry with reports on matters referred to in paragraph 1 item 1) to 3) of this Article.

The method of publishing, use or purchase of data, the form, the content, and the period of time for delivery of reports referred to in paragraph 1, items 1) and 5) of this Article shall be set by the Ministry.

2. Information ownership

Article 100

The ownership of information requested to be reported or notified or that have been presented to the administration authority in some other manner, in accordance with this Law, shall be the ownership of the administration authority regardless whether the information has been published in accordance with this Law.

The ownership of all information acquired by satellite monitoring of fishing vessels, in accordance with the Article 105 paragraph 1 of this Law, shall be the ownership of the administration authority.

3. Duty of Confidentiality

Article 101

Determination of data confidentiality, the access to confidential data, the keeping, use, recording and protection of confidential data in the field of marine fishery shall be in accordance with the Law.

4. Record keeping and reporting of a permit holder

Article 102

Holders of a permit, issued in accordance with this Law shall provide and keep documentation, records and information and present them to the administration authority or fishery inspector, as appropriate.

The documentation, in terms of this Law, shall be considered to be:

- 1) the catch logbook;
- 2) the declaration of landing of catch;
- 3) the report on catch;
- 4) written records and information;
- 5) a map, an overview, a graph or a drawing;
- 6) a photograph;
- 7) a disk, a tape, a sound track or other means by which sounds or other data (non-visual) are recorded so that reproduction of sounds from them is possible (with or without the aid of some other equipment);
- 8) a film (including microfilm), a negative, a tape, a disk or other device in which one or more visual images are recorded so as reproduction of images from them is possible;
- 9) the data reproduced and communicated via a satellite-based vessel-monitoring system.

The entry of the data into the documentation and records referred to in paragraph 2 of this Article shall be accurate and must not contain inaccurate, wrong or misleading data.

The period of keeping, the form and the method of presentation of the documentation, records and information referred to in paragraph 2 of this Article shall be laid down by the Ministry.

5. Recording and reporting on fishing activities and catch landings

Article 103

A holder of a permit for commercial fishing with a fishing vessel of an overall length equal to, or more than, 10 metres shall:

- 1) keep on board of the fishing vessel the permit and the fishing logbook;
- 2) enter daily records on the fishing activities into fishing logbook;
- 3) report in accordance with the Article 104 of this Law;
- 4) submit to the administration authority or a fishery inspector, within a period of 48 hours, a landing declaration for the total catch landed at the designated landing port;

A holder of a permit for commercial fishing by fishing vessels of an overall length equal to, or more than, 10 m shall report the total catch and landing of catch to the administration authority or the fisheries inspector.

The form and the content of the logbook of catch and landing declaration referred to in paragraph 1 item 4), the report on catch and the deadlines for submitting the reports referred to in paragraph 2 of this Article shall be set by the Ministry.

6. Electronic records and reporting

Article 104

The information on the data referred to in Article 102 paragraphs 1 and 2 of this Law may be kept electronically and submitted to the administration authority and other competent authorities, as well as by radio signals or in some other prescribed manner.

The reporting method and the procedure, the devices for transfer of information and the reporting time shall be set by the Ministry.

7. Vessel monitoring systems

Article 105

The administration authority shall establish a satellite fishing vessel monitoring system.

The type of the system, the method of establishing and the class of fishing vessels for which the system referred to in paragraph 1 of this Article is established shall be laid down by the Ministry.

The administration authority shall be responsible for management and operation of the system referred to in paragraph 1 of this Article.

A fishing vessel engaged in commercial fishing of an overall length of more than 15 metres shall have installed on board a functional automatic location communicator system (ALC) which allows detection and identification of the fishing vessel by the remote monitoring system or the system referred to in paragraph 1 of this Article.

The holder of a permit for a foreign fishing vessel issued in accordance with this Law or a ratified international agreement shall install, maintain and operate the functional automatic location communicator system in accordance with the conditions set for the automatic location communicator system (ALC), continuously while in the fishing sea of Montenegro.

Operational requirements for functioning of the system and responsibilities for fishing vessels which have installed ALC system, and the amount of the fee for the inspection, technical control and the publishing of information from such system, which have not been declared confidential, shall be laid down by the Ministry.

It shall be prohibited to destroy, damage, render inoperative or otherwise interfere with the operation of the satellite monitoring device.

8. Designation of the first landing site

Article 106

The first landing of fish and other marine organisms shall be performed only in a port, harbour or another place meeting the prescribed technical conditions for inspection of fishing vessels (hereinafter referred as: the first landing site).

The technical requirements and the first landing site referred to in paragraph 1 of this Article shall be laid down by the Ministry.

The landing of fish and other marine organisms at the first landing site may be performed only by a holder of a permit for large-scale commercial fishing issued in accordance with this Law or a ratified international agreement.

The method and conditions for landing of fish by a holder of the permit for small-scale commercial fishing shall be laid down by the Ministry.

9. Designation of the first sale place

Article 107

The first sale of the fish and other marine organisms caught shall be performed only in a place meeting the prescribed technical conditions for sale, auction sale and marketing of fish (hereinafter referred to as: the first sale place).

The technical requirements and the first sale place, and the conditions and the method of sale in the first sale place shall be laid down by the Ministry.

10. Registration of buyers and sellers of the first sale fish and other marine organisms

Article 108

The trade in fish and other marine organisms at the first sale place may be performed by companies and entrepreneurs registered for wholesale in fish and other marine organisms at the first sale place and are entered into the register of wholesalers of fish and other marine organisms at the first sale place (hereinafter referred to as: the Register of fish wholesalers).

The entry in the Register of fish wholesalers shall be done on the basis of an application.

The Register of fish wholesalers shall be kept by the administration authority.

The method of entry into and keeping of the Register of fish wholesalers, the form and the content of the applications referred to in paragraph 2 of this Article, and the List of traders in fish and other marine organisms shall be set by the Ministry.

The List of traders referred to in paragraph 4 of this Article shall be published semi-annually in at least one printed media outlet distributed on the whole territory of Montenegro.

11. Records on selling and buying of fish

Article 109

A registered fish wholesaler referred to in Article 108 of this Law shall keep records on the fish bought and/or sold and other marine organisms at the first sale place.

The catering facilities, that is, restaurants, shall keep the bills for the fish and other marine organisms bought.

The method of keeping, the content and period of keeping the records referred to in paragraph 1, and the period for keeping the bills referred to in paragraph 2 of this Article, shall be defined by the Ministry.

12. Transshipment of fish from one vessel to another

Article 110

When transshipment of fish and other marine organisms and fish products takes place, the captain of the vessel unloading and the captain of the vessel receiving the fish and other marine organisms and fish products shall:

notify the administration authority or the fishery inspector of the time and the place of transshipment at least 24 hours in advance;

- 1) about the time when the transshipment was completed;
- 2) keep records of the transshipment.

The method of notification and keeping of records referred to in paragraph 1 items 1 and 3 of this Article shall be laid down by the Ministry.

13. Landing or transshipment of fish and fish products from foreign fishing vessels

Article 111

A foreign fishing vessel, when landing and transshipping fish and other marine organisms and fish products shall be treated in the same way as a third-country fishing vessel.

Landing and transshipment from a foreign fishing vessel shall be performed only in a port, a harbour or other places meeting the technical requirements prescribed for inspection of foreign fishing vessels (hereinafter referred to as: places for landing and transshipment).

Technical requirements and the place for landing and transshipment referred to in paragraph 2 of this Article shall be laid down by the Ministry.

The captain of the fishing vessel registered in a third country that intends to land or tranship fish and other marine organisms and fish products shall:

- 1) notify the administration authority or fishery inspector of the intention of landing and transshipment at least 72 hours before the scheduled arrival of the vessel;
- 2) land or tranship fish and other marine organisms and fish products following the approval from the administration authority, which is issued in compliance with the terms of landing and transshipment of fish and other marine organisms and fish products contained in the permit, the treaty, the agreement or other document authorizing the fishing vessel to land or tranship fish and other marine organisms and fish products.

X INSPECTION

Article 112

Inspection of the enforcement of this Law shall be conducted by the administration authority through fishery inspectors in accordance with the Law.

1. Fishery inspector's authority

Article 113

In addition to the authority of inspectors provided for by laws governing the inspection, a fishery inspector shall have the authority to:

- 1) monitor and control fishing and the use of fishing tools and gear in such fishing;
- 2) check whether commercial, sport-recreational and the fishing for the purpose of science and research is conducted in approved fishing areas, farms, zones and protected fishing areas using the approved tools, at approved period of time and in the approved manner;
- 3) inspect and control markets, storages, catering facilities or restaurants, harbours-ports, moles and similar facilities of relevance for the trade in fish and other marine organisms and fish products;
- 4) monitor and control implementation of the Strategy, Plan, Programme of monitoring the condition of habitats of economically significant fish and other marine organisms in the seabed and in the sea waters, implementation of the Annual Programme of monitoring, control and surveillance of the fishing sea of Montenegro.
- 5) go on board of a fishing vessel and inspect that vessel, the fishing gear, load, storage, catch, documents and other items, as well as to halt the fishing vessel;
- 6) enter the rooms next to the board house, or the vehicle where the fish or other marine organisms or the fishing gear is kept or transported and to inspect rooms or vehicles and to halt the vehicle used for the transport of fish;
- 7) stop the vehicle in order to check whether it carries fish and other marine organisms;
- 8) inspect fishing gear or items reasonably suspected of being used or intended to be used for collecting, treating or processing fish;
- 9) interrogate the person, who in his/her opinion may provide information necessary for inspection;
- 10) request from a person employed at the fishing vessel to assist in inspecting containers, fishing gear, fish or documents on board of or in such a vessel;
- 11) request from the captain of the vessel to ensure appropriate boarding to the ship;
- 12) stop and inspect the vehicle reasonably suspected of carrying fish caught illegally or by using prohibited fishing gear;
- 13) inspect fishing vessel regardless whether at that time it was engaged in fishing or other fishing-related activity.

2. Administrative measures and actions

Article 114

In addition to the administrative measures and actions laid down by the law governing the inspection, a fishery inspector shall take the following administrative measures and actions: order anchoring of a fishing vessel seized, confiscated or detained in order to prevent its use pending the adoption of a decision on release;

- 1) order stopping of the vehicle reasonably suspected of carrying fish and other marine organisms and gear used for the misdemeanour fishing;
- 2) order handing over of the items reasonably suspected of being used in the misdemeanour;

- 3) seize the fishing vessel, vehicle, fishing gear, documents and other items used in the misdemeanour;
- 4) order the captain of the fishing vessel used in the misdemeanour or which was used or can be proved to have been used in the misdemeanour, to sail it into a specific port;
- 5) prohibit the use of or the attempt to use explosives, fire guns, poison or other harmful substances for the purpose of killing, stunning, disabling or catching fish or for making the catching of fish easier;
- 6) prohibit the use of the gear from the List of prohibited fishing gear and prohibited practices;
- 7) prohibit fishing in marked areas in the fishing sea where telephone, telegraph or power lines, pipes or other devices, as well as archaeological findings and items are situated, or the use of the fishing gear and tools that may damage them;
- 8) prohibit landing, presentation for the purpose of sale, trade, transport and keeping of fish and other marine organisms and fish products, as well as the use of fish and other marine organisms and fish products in restaurants contrary to this Law;
- 9) prohibit commercial, sport-recreational and fishing for scientific and research purposes without a permit;
- 10) prohibit disposal of or discharge of liquid or solid wastes originating from production or processing or other material that have adverse effect on the quality of the marine environment;
- 11) prohibit restocking, introduction of allochthonous species of fish and other marine organisms, genetically modified species of fish or other marine organisms into the sea;
- 12) prohibit underwater activities in locations for which a permit has not been obtained from the administrative authority in charge of fishery (hereinafter referred to as: the administration authority);
- 13) prohibit fishing, collecting and placing on the market of protected species of fish and other marine organisms;
- 14) placing artificial underwater reefs where new biological habitats can be formed.

Article 115

The authority of a fishery inspector in carrying out inspection governed by this Law and the Law on Inspection also applies to:

- 1) fishing vessels flying Montenegrin flag within and beyond the fishing sea of Montenegro;
- 2) fishing vessels flying a foreign flag in the fishing sea of Montenegro and within the authority laid down by ratified international agreement beyond the fishing sea of Montenegro.

XI PENALTY PROVISIONS

Article 116

A fine ranging from two hundred to three hundred minimal wages in Montenegro shall be imposed on a body, company or other legal person or entrepreneur in case of:

- 1) restocking, release of allochthonous species of fish and other marine organisms, genetically modified species of fish or other marine organisms or underwater activities in the locations for which a permit has not been obtained from the administration authority, as well as fishing, collecting and placing on the market of protected species of fish and other marine organisms (Article 7);
- 2) fishing in protected fishing areas at the specific time and with specific fishing means for the purpose of reproduction, farming and restocking of new fishing areas or as a result of migration of larger quantities of specific species of fish and other marine organisms and engaging in prohibited activities necessary for proper management of protected fishing areas without a permit from the administration authority (Article 14 paragraphs 2 and 3);
- 3) catching, taking, receiving, buying, selling, storing, transporting and keeping on board of a fishing vessel protected species of fish and other marine organisms (Article 15 paragraph 3);
- 4) fishing in the marked areas in the fishing sea where telephone, telegraph or electric-power cords, pipes or other devices as well as archaeological findings and items are, using the fishing gear or tools that may damage them (Article 43);
- 5) introducing allochthonous species of fish and other marine organisms or genetically modified fish and other marine organisms into the fishing sea of Montenegro, and transferring them

from one farm to another, or from one place in Montenegro to another, without an approval from the administration authority (Article 81 paragraph 1).

A fine of twenty minimal wages in Montenegro shall be imposed on the person in charge of the company for the misdemeanour referred to in the paragraph 1 of this Article.

A fine of twenty minimal wages in Montenegro shall be imposed on the natural person, or the captain of the fishing vessel for commercial fishing for the misdemeanour referred to in the paragraph 1 of this Article.

Article 117

A fine ranging from one hundred to three hundred minimal wages in Montenegro shall be imposed on a company of entrepreneur in case of:

- 1) catching juveniles, reproductively immature fish and other marine organisms for farming, restocking and research purposes in specific localities, at a specific period of time and using specific fishing tools without a permit from the administration authority (Article 16 paragraph 2);
- 2) placing on the market of fish and other marine organisms during closed season (Article 17 paragraph 3);
- 3) catching juveniles, reproductively immature fish or other marine organisms in specific localities, at the specific period of time and using the specific fishing tools for the purpose of farming, restocking and research, without a permit (Article 17 paragraph 4);
- 4) fishing in harbours, entrances and access to ports and anchorage, without a permit of the port user, as well as fishing in area of managed and marked bathing places in the period between May 1 to October 1, from sunrise to sunset (Article 19 paragraphs 1, 2 and 4);
- 5) using, in commercial or sport-recreational fishing, divers' apparatus with underwater gun and artificial lights, and when keeping these items on board of a fishing vessel or carrying them by or on the shore (Article 22 paragraph 1);
- 6) fishing in the region of the Boka Kotorska Bay using bottom trawls, floating trawls and encircling large-scale fishing nets or by an institution engaged in scientific and research work in the marine fishery area without a permit (Article 24 paragraphs 1 and 2);
- 7) fishing with bottom trawls and floating trawls in shallower littoral zones within the distance of three nautical miles that follows the configuration of the shore, or at the depth of 50 metres in case the isobath of 50 metres where that depth is reached at a distance shorter than three nautical miles three nautical miles (Article 25 paragraph 1);
- 8) catching of date-shell (*Litophaga litophaga*), placing on the market on the territory of Montenegro and exporting (Article 26);
- 9) carrying out commercial fishing contrary to the terms and fishing tools and gear laid down by this Law (Article 44 paragraph 2);
- 10) carrying out commercial fishing in fishing areas by fishing vessels, tools and gear not indicated in the permit for commercial fishing (Article 51 paragraph 1);
- 11) the holder of the permit for commercial fishing in the fishing sea, beyond 12 nautical miles of the territorial sea, uses trawls with a balk, a set of nets of any type, line nets and buoys for marking and other gear if not marked as prescribed (Article 58 paragraph 1);
- 12) engaging in mariculture activities without a permit (Article 70 paragraph 1);
- 13) the holder of a mariculture permit farms species and quantity of fish and other marine organisms that are not indicated in the permit (Article 73 paragraph 1);
- 14) the holder of a mariculture permit alters the terms related to the structure, gear and maintenance of the farm without an approval from the administration authority (Article 75 paragraph 1);
- 15) failing to remove all the equipment and failing to restore the farm into the original condition (Article 79);
- 16) removing and transporting from the place or selling, exhibiting or offering for sale of fish and other marine organisms from the farm or fish products contrary to this Law (Article 82);
- 17) a foreign fishing vessel fishes in the fishing sea of Montenegro without a permit, or uses a foreign fishing vessels contrary to the Article 95 paragraphs 1, 2 and 4 of this Law;
- 18) fishing contrary to the Article 96 of this Law;
- 19) failing to implement the measures of control and record keeping in compliance with the Article 98 of this Law;

- 20) landing of fish and other marine organisms beyond the first landing site and lading of fish and other marine organisms at the first landing site without a permit for large-scale commercial fishing (Article 106 paragraphs 1 and 3);
- 21) trading in fish and other marine organisms beyond the first sale place (Article 107 paragraph 1);
- 22) trading in fish and other marine organisms at the first sale place without being registered for that activity and if not registered in the register of wholesalers of fish and other marine organisms at the first sale place (Article 108 paragraph 1);
- 23) failing to notify the administration authority or a fishery inspector of the intention to unload or tranship fish and other marine organisms and fish products at least 72 hours prior to the planned arrival and in case of unloading or transshipping of fish and other marine organisms and fish products prior to obtaining an approval from the administration authority (Article 111 paragraphs 2 and 4).

A fine of fifteen to twenty minimal wages in Montenegro shall be imposed on the person in charge of the company for the misdemeanour referred to in the paragraph 1 of this Article.

A fine of ten to twenty minimal wages in Montenegro shall be imposed on the natural person for the misdemeanour referred to in the paragraph 1 of this Article.

A fine of fifteen to twenty minimal wages in Montenegro shall be imposed on the captain of the fishing vessel for commercial fishing for the misdemeanours referred to in the paragraph 1, items 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 17, 18, 19, 20, 21, and 23 of this Article.

A fine of fifteen to twenty minimal wages in Montenegro shall be imposed on the captain, owner and the charterer of the fishing vessel for the misdemeanour referred to in paragraph 1, item 17 of this Article.

Article 118

A fine ranging from fifty to two hundred minimal wages in Montenegro shall be imposed on a company or entrepreneur in case of:

- 1) catching, taking, buying or selling, storing, transporting or keeping aboard of the fishing vessel of fish and other marine organisms smaller than the minimum size prescribed (Article 16 paragraph 3);
- 2) failing to use the post only at night and early in the morning (Article 27 paragraph 2);
- 3) removing and transferring the fish aggregating device from an approved site (Article 28 paragraph 6);
- 4) fishing but failing to comply with the fishing rules and hinders fishing by other persons (Article 41 paragraph 1);
- 5) fishing, without a permit, in parts of the fishing sea designated, by a separate law, as areas for defence (Article 42);
- 6) failing to keep a permit for commercial fishing aboard of the fishing vessel (Article 51 paragraph 2);
- 7) keeping fishing tools and gear for sport-recreational fishing aboard a fishing vessel without a permit for sport-recreational fishing (Article 63 paragraph 2);
- 8) holder of a mariculture permit marks boundaries of a farm with marks not in compliance with the regulations on sailing safety (Article 68 paragraph 2);
- 9) the facilities for purification, distribution and similar business facilities located within the zone for farming of molluscs or facilities for processing fish and other marine organisms do not have a permit for construction or activities in accordance with the Law, and the holder of a mariculture permit fails to provide evidence of implementing the prescribed principles of good manufacturing practices in mariculture (Article 83 paragraph 1);
- 10) holder of the permit or a person engaged at the farm fails to immediately notify the administration authority or a fishery inspector about the presence of a disease or a harmful organism on the farm and fails to take all the measures prescribed for the purpose of preventing the spreading of the disease or the harmful organism within or beyond the farm, including the destruction of fish and other marine organisms and fish products, and disinfection of the farm (Article 84 paragraphs 1 and 2);
- 11) holder of the permit fails to ensure keeping of fish within the farm and fails to prevent the escape of fish from the farm or in case of the escape of fish fails to immediately notify the

administration authority or a fishery inspector of that, and fails to take measures to recover the escaped fish (Article 85 paragraphs 1 and 2);

- 12) fishing vessels of the overall length of up to 10 m and above 10 m acts contrary to the Article 103 of this Law;
- 13) fishing vessel engaged in the permitted commercial activity of overall length above 15 m does not have installed a functional automatic location communicator system (ALC) which allows detection and identification of a fishing vessel by a remote monitoring system or a satellite system, or when a permit holder for a foreign fishing vessel issued in accordance with this Law or a ratified international agreement does not have installed, fails to maintain and fails to operate an automatic location communicator system (ALC) in accordance with the terms prescribed for the system of automatic location (ALC), continuously, while in the fishing sea of Montenegro (Article 105 paragraphs 4 and 5);
- 14) failure to keep records of every buying or selling of fish and other marine organisms at the first sale place and failure to keep the bills for the fish and other marine organisms bought (Article 109 paragraphs 1 and 2);
- 15) failure to notify the administration authority or a fishery inspector at least 24 hours in advance of the time and the place of landing, of the time when the landing is completed and failure to keep records of transshipping (Article 110 paragraph 1 item 1).

A fine of five to twenty minimal wages in Montenegro shall be imposed on the person in charge of the company for the misdemeanour referred to in the paragraph 1 of this Article.

A fine of ten to twenty minimal wages in Montenegro shall be imposed on the captain or the sailor-engineer of the fishing vessel for the misdemeanours referred to in the paragraph 1, items 1, 4, 5, 6, 7, 13, and 14 of this Article.

A fine of five to twenty minimal wages in Montenegro shall be imposed on the captain, owner or the charterer of the fishing vessel for commercial fishing for the misdemeanour referred to in the paragraph 1, items 13 and 14 of this Article.

Article 119

A fine of five to ten minimal wages in Montenegro shall be imposed on a natural person for:

- 1) sport-recreational fishing without a permit for sport-recreational fishing or if using a permit not issued to his/her name, and for sport-recreational fishing without keeping the permit at their side (Article 59 paragraphs 2, 6 and 7);
- 2) sport-recreational fishing using fishing tools and gear that are not allowed, for catching in one day the quantity of fish which is not permitted or if placing the catch on the market (Article 62);
- 3) hindering commercial fishing, for keeping fishing tools and gear for sport-recreational fishing on board of the vessel without a permit, carrying of underwater gun by the shore or on board of the fishing vessel without a permit for fishing with underwater gun, for sport-recreational fishing with underwater gun from sunset to sunrise and for sport-recreational fishing with underwater gun at the age less than 16 (Article 63);
- 4) failing to keep and retain the records in accordance with the Article 87 of this Law;
- 5) keeping the documents, records and information and entering the data and presenting them to the administration authority or a fishery inspector contrary to the Article 102 of this Law;
- 6) destroying, damaging or making dysfunctional the satellite surveillance device or in any other way disturbs its functioning (Article 105 paragraph 7);

Article 120

For the misdemeanour stated in Article 116 paragraph 1, Article 117 paragraph 1, Article 118 paragraph 1 items 1, 5, 7 and 14, and Article 119 paragraph 1 items 1, 2, 3, 4 and 5 of this Law, apart from the fines, the following protective measures shall be imposed:

- 1) seizure of the catch;
- 2) seizure of the vessel, tools and gear for commercial fishing used in the misdemeanour.

XII TRANSITIONAL AND FINAL PROVISIONS

Article 121

Pending the establishing of an administration authority in charge of fishery affairs, the administrative and the related technical affairs in the marine fishery shall be carried out by the Ministry.

The administration authority in charge of fishery shall be established within two years following the date of entry of this Law into force.

Article 122

Small-scale commercial fishing referred to in Article 45 paragraph 2 of this Law shall be conducted in the period of three years following the date of entry of this Law into force.

Article 123

The satellite monitoring system for the fishing vessels referred to in Article 105 paragraph 1 of this Law shall be established within three years from the date of entry of this Law into force.

Article 124

The companies and entrepreneurs registered for commercial fishing and mariculture shall harmonize their business activities to provisions of this Law within one year following the date of entry of this Law into force.

Article 125

Pending the establishing of an accredited laboratory referred to in Article 88, paragraph 6 of this Law, the monitoring of water and bio-monitoring in the fishing sea shall be carried out by the Institute's laboratory.

Article 126

Regulations for enforcement of this Law shall be adopted within nine months following the date of entry of this Law into force.

Article 127

Pending the adoption of regulations based on the authority from this Law, the regulations adopted under the Law on Marine Fishery (Official Gazette of the Republic of Montenegro 55/03) shall be applied unless they are in contradiction to this Law.

Article 128

On the day this Law enters into force, the Law on Marine Fishery (Official Gazette of the Republic of Montenegro 55/03) shall be repealed.

Article 129

This Law shall enter into force on the eight day following the day of its publishing in the Official Gazette of Montenegro.

SU-SK No 01-1050/29-08
Podgorica, 27 July 2009

The Parliament of Montenegro
President
Ranko Krivokapic, manu propria