

ELUCIDATION OF
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ON
CONSERVATION OF FISH RESOURCES

I. GENERAL

Indonesia is abundantly blessed by the Almighty God with marine resources in terms of exceedingly high diversity of fish resources. The potential marine fish resources diversity needs to be managed and utilized for the people's current and future welfare to the greatest extent by means of the application of conservation principles.

The Law Number 31 of 2004 on Fisheries governs, *inter alia*, the conservation of fish resources that is carried out by means of the conservation of ecosystem, the conservation of species, and the conservation of genetic. The conservation of fish resources is essentially inseparable from the fish resources management and the environmental management as a whole.

In view of the fact that the characteristics of the fish resources and environment show high sensitivity to the effects of global climates and seasonal climates as well as the connectivity aspects of ecosystems among local, regional and global waters area that possibly cross the boundaries of a certain country's sovereignty; accordingly, the development and management measures in the conservation of fish resources are carried out building upon precautionary principles provided with supporting scientific pieces of evidence.

The Government Regulation on Conservation of Fish Resources governs in a more detailed way the measures of ecosystem or fish habitat conservation management which include the development of a Waters Conservation Area as part of the conservation of ecosystem. In addition, this Government Regulation also contains the regulations to ensure sustainable use of the fish species and the preservation of the fish genetic diversity.

In view of the details, as the implementation of Law Number 31 of 2004 on Fisheries and as a legal basis for the carrying out of the conservation of fish resources, it is deemed necessary to enact the government regulations that govern provisions on the conservation of fish resources.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

Section (1)

Point a

The purpose of the benefit principle is that the carrying out of the conservation of fish resources may be beneficial to humanity, people's increased welfare, people's improved sustainable lives, and increased sustainability of the fish resources.

Point b

The purpose of the fairness principle is that the carrying out of the conservation of fish resources considers the aspects of truth, balance, impartiality, and mildness.

Point c

The purpose of the partnership principle is that the conservation of fish resources is carried out in compliance with a co-operative agreement among stakeholders in connection with the conservation of fish resources.

Point d

The purpose of the equality principle is that the carrying out of the conservation of fish resource may provide a large number of the people with equal economic benefits.

Point e

The purpose of the integration principle is that the conservation of fish resources is carried out in integrated, unanimous, and comprehensive manners, and there is mutual supports, in consideration of national interests, other sectors, and the local communities.

Point f

The purpose of the transparency principle is that the carrying out of the conservation of fish resources is transparent and provides the community with an access to obtaining true, honest, and indiscriminate information.

Point g

The purpose of the efficiency principle is that the carrying out of the conservation of fish resources considers the efficiency of time, process, and financing.

Point h

The purpose of the sustainability is that the carrying out of the conservation of fish resources considers the carrying capacity and sustainability of the fish resources and the environment.

Section (2)

Sufficiently clear.

Article 3

Sufficiently clear.

Article 4

Sufficiently clear.

Article 5

Section (1)

Sufficiently clear.

Section (2)

Point a

The sea is waters area on the surface of earth which connects a land with other lands and other forms of nature, which a geographical unit and all related elements in which boundaries and systems are specified by the national law and the international law.

Point b

A seagrass bed is a colony of flowering plants that grow in marine waters which are shallow, sandy, and still penetrable by sunshine to the seabed, thus allowing the plants to photosynthesize.

Point c

A coral reef consists of coral polyps and other small organisms that live in colonies, the reef is an ecosystem that lives on the sea bottom, and is made up of calcium carbonate (CaCO₃).

Point d

A mangrove is a community of vegetations on tropical coasts that typically grow and flourish on the muddy or sandy tidal coasts or estuaries, some mangrove species include, inter alia, *Avicennia spp*, *Rhizophora spp*, *Sonneratia*, *Bruguiera*, *Xylocarpus*, *Ceriops*, and *Exoecaria*.

Point e

An estuary is a semi-enclosed area of waters in the downstream part of a river and is still in connection with the sea, thus allowing the mixing between fresh water and sea water.

Point f

A coast is an ecosystem situated between the lowest level of sea water at ebb tide to the highest level of tide. This ecosystem comprises an area with substrates comprising rocks and pebbles (which supports flora and fauna in limited numbers), an active area of sand (where the population of bacteria, protozoans, and metazoans are found), and an area with substrates comprising clay and mud (where there are a great number of animals that rarely rise to the surface).

Point g

A marsh comprises all sorts of muddy soil; it is either naturally formed or artificial by means of permanently or temporarily mixing fresh water and sea water, including marine area with a depth of less than 6 meters at the low tide, namely tidal marsh and tidal land area.

Point h

A river, including a tributary and an artificial river, is a groove or a water place or a basin in the form of a network of water drainage (flow), sediments, and related ecosystems in which it drains from an upstream to an estuary, and its right and left sides along its flow are limited with alignments.

Point i

A lake is a water reservoir; and its naturally formed existing ecosystem may be part of a broad river, and its depth and width exceed far more than the other segments of the relevant river, including a artificial lake (*situ*), naturally or artificially formed water-catching basin (*embung*), and similar water basins with local terms (*telaga, ranu*).

Point j

A reservoir is an artificial water basin, formed due to the construction of a dam; a reservoir may be in the form of a widened groove/body/ trough of a river or a deepened land.

Point k

An *embung* is a naturally or artificially formed water-catching basin.

Point l

An artificial aquatic ecosystem includes rice fields, ponds, and pools.

Article 6

Sufficiently clear.

Article 7

Section (1)

The term “the opening and closing of a certain waters area” means the permitting for and the prohibition against the fishing

of certain fish resources, which are temporary within a certain period and/or a certain season, and is stipulated in accordance with the scientific data and information, in order to allow the fish resources and the environment to recover.

Section (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Level of overfishing is a status in which the fish resources utilization in a certain waters area exceeds the maximum sustainable yield or the fish utilization exceeds local fisheries stock capacity (reserve).

Section (3)

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

Section (1)

Point a

Naturalness is a condition of a particular waters area in which its biodiversity and originality are still properly maintained.

Ecological connectivity means the connectivity that exists in a certain geographic unit, including biological communities and physical environment in an ecological system.

Representativeness means is the part that represents the conditions of a particular ecosystem.

Uniqueness means a special characteristic that a waters area and/or its biota possess.

Migration area means part of a waters area used as a passing lane by fish to periodically move from one place to another place.

Spawning ground means part of a waters area where fish reproduces naturally.

Nursery ground means part of a waters area where fish feeds and/or has shelter during its young or larval stadia.

Point b

Potential conflicts of interest include potential conflicts between sectors, between community groups, between a community and the government, between the government and a local government.

Potential threats include the potential threats against a waters habitat and its biota.

Local wisdom means the norms and customs held by a particular community associated with the values of environmental preservation.

Point c

Important fisheries values mean conditions of waters and their biota that may support sustainable fisheries.

Aesthetics mean a value of the natural beauty of a waters area and/or biota blessed with particular attractiveness.

Section (2)

Sufficiently clear.

Article 10

Natural world heritage is designated by the United Nations Organization building upon the Government's recommendations and initiatives. The designation of a waters conservation area as a natural world heritage is expected to be a measure of promotion to attract the world communities's attention for the waters conservation area development.

Article 11

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The designation of a waters conservation area means the measure to prepare part of a waters area to be designated as a potential waters conservation area.

Point d

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 12

Sufficiently clear.

Article 13

Sufficiently clear.

Article 14

Section (1)

The term “potentially have conservation interests and values ” means the waters area that have a set of biodiversity values which are globally, regionally and locally significant (ecosystems and endemic, rare, threatened and endangered species) and that are also highly important to meet the basic needs of local communities, all of which must be sustained.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Section (6)

Sufficiently clear.

Article 15

Section (1)

Sufficiently clear.

Section (2)

An organizational management unit may be in a central technical implementation unit, a regional technical implementation unit or part of an organizational unit which manages fisheries in accordance with the prevailing legislation.

Article 16

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Marine waters with particular characteristics are those waters that possess:

- a. national and/or international conservation values and interests;
- b. trans-national ecology;
- c. habitats and areas for fish migration; and
- d. potential qualities to become a natural world heritage.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 17

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

The zoning of the waters conservation area means a form of technical engineering for spatial/zonal utilization by means of the establishment of functional boundaries in compliance with

potential resources, carrying capacity, and ecological processes that occur as an integrated ecosystem.

Section (4)

Point a

The core zone is reserved for:

- a. absolute protection of fish habitats and population;
- b. research; and
- c. education.

Point b

The sustainable fisheries zone is reserved for:

- a. protection of fish habitat and populations;
- b. fishing that makes use of the environmentally friendly fishing gear and methods;
- c. environmentally friendly fish culture;
- d. tourism and recreation;
- e. research and development; and
- f. education.

Point c

The Utilization Zone is reserved for:

- a. protection of fish habitats and population;
- b. tourism and recreation;
- c. research and development; and
- d. education.

Point d

The other zones mean those outside the core zone, the sustainable fisheries zone, and the utilization zone. Due to their functions and conditions, the other ones are stipulated to be particular zones in the forms of, inter alia, a protection zone, a rehabilitation zone, and the like.

Section (5)

Sufficiently clear.

Article 18

Section (1)

A partnership is a cooperative relationship between two or more parties based on equality, transparency, and mutual benefit.

Section (2)

Sufficiently clear.

Article 19

Section (1)

Sufficiently clear.

Section (2)

Oceanography means the scientific study of the seas or oceans with all their phenomena.

Limnology means the scientific study of inland waters/freshwater, which are, in this case, useful for fish habitats.

Fisheries bioecology means the scientific study of the environment where the fish lives.

Environmental resilience means the waters biota resilience against the effects of environmental changes.

Section (3)

Sufficiently clear.

Section (4)

The term “network of waters conservation area at the regional level” means the waters conservation area that exists in a seascape of an eco-region that covers two or more neighboring countries and has associated ecosystems.

The term “network of waters conservation area at the international level” means the waters conservation area that exists in a seascape of several different ecoregions but has internationally linked ecosystems and covers a number of countries.

Section (5)

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Sufficiently clear.

Article 22

Sufficiently clear.

Article 23

Section (1)

Point a

The term “protected fish species” means a fish species protected in accordance with legislation.

Included in the definition of the protected fish species are those fish species that are protected in a restricted manner based on a particular size, a certain area of distribution or a certain period of time.

Included in the definition of the protected fish species are those fish species which are protected both under the legislation and under the provisions of the ratified international law (such as Appendices I, II and III of the CITES)

Included in the definition of the protected fish species are eggs, body parts, and/or its derivatives.

Point b

The term “unprotected fish species” means the fish species that is not protected under the legislation but is protected under the provisions of the ratified international law (such as Appendices I, II and III of the CITES).

Included in the unprotected fish species is the fish species that is unprotected under the legislation and the provisions of the international law but the international trade requires the conditions and administrative processes in accordance with international convention (CITES).

Section (2)

Point a

The term “endangered species “ shows the condition of population of a certain fish species which is under a threat of extinction due to natural factors and/or human activities.

Point b

The term “rare species” means a condition of a certain fish species in which its stock is limited.

Point c

The term “endemic “ means a condition of a certain fish species with limited areas of distribution.

Point d

Drastic decrease in numbers of population in their natural habitat means a state of a certain fish species living on a particular habitat that decreases in number of population in a relatively short period.

Point e

Fecundity level means the ability to reproduce for the purpose of giving birth to offsprings.

Article 24

Sufficiently clear.

Article 25

Section (1)

A controlled medium is a living place for fish in which its environmental conditions are maintained and controlled by humans.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

Sufficiently clear.

Article 26

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

Transplantation means a method of coral regeneration by means of cutting a live coral to be transplanted/affixed to an artificial substrate or a natural coral.

Section (2)

The purity of fish genetics means a state of a certain individual fish with the congenital traits of such a fish species.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Section (5)

In the provisions of standard qualifications for breeding of both protected and unprotected fish species, the basic considerations are regulated which include, inter alia:

- a. the limit of fish species population number resulting from the breeding;
- b. the fish species breeding expert;
- c. the rarity level of the fish species that is bred; and
- d. facilities and infrastructure for fish species breeding.

Article 27

Section (1)

Tagging means an effort to tag a mark on a certain body part of each individual fish in terms of, inter alia, the provision of a certain color and a plastic/metal plate with specific number identification, the cutting of a certain body part, or the planting of a microchip.

Section (2)

Sufficiently clear.

Article 28

Sufficiently clear.

Article 29

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

The gamete preservation means an effort to conserve genetic resources by storing the culture cells in terms of male cells (sperm) or female cells (ovum) that may be carried out in a freezing condition (sperm bank).

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

Sufficiently clear.

Article 30

Sufficiently clear.

Article 31

Sufficiently clear.

Article 32

Sufficiently clear.

Article 33

Sufficiently clear.

Article 34

Sufficiently clear.

Article 35

Sufficiently clear.

Article 36

Sufficiently clear.

Article 37

Sufficiently clear.

Article 38

Section (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

The provisions of the international law represent an international agreement in conservation in which Indonesia already ratified, inter alia, the Convention on International Trade in Endangered Species of Wild Fauna and Flora/CITES.

Section (2)

Sufficiently clear.

Article 39

Sufficiently clear.

Article 40

Section (1)

Sufficiently clear.

Section (2)

Point a

The term “letters of delivery from and to another country” means the export permit, the import permit, and the re-export permit pursuant to the formats and the conditions stipulated by the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Point b

The documents of delivery and transport are enclosed with such documents as, inter alia:

- a. a permit of domestic delivery;
- b. an official report on results of fish breeding and/or fish taking out of its natural habitat; and
- c. a certificate of fish health from an authorized official.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Point e

Sufficiently clear.

Section (3)

Sufficiently clear.

Article 41

Sufficiently clear.

Article 42

Sufficiently clear.

Article 43

Section (1)

Sufficiently clear.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term “equality” means the equality in conservation values of the fish exchanged.

Section (5)

Sufficiently clear.

Article 44

Sufficiently clear.

Article 45

Sufficiently clear.

Article 46

Section (1)

Community nurturing means an activity designed to increase knowledge and awareness of the importance of sustainable

management of the biological resources of a waters area and its environment and to change the community's behaviour from their destructive behaviour into the behaviours that maintain, manage and protect the fish resources and the environment.

Section (2)

Sufficiently clear.

Section (3)

Sufficiently clear.

Section (4)

The term "those who have contributed to the conservation of fish resources" means, inter alia, the community groups, the non-governmental organizations, and the corporations.

Section (5)

Sufficiently clear.

Article 47

Sufficiently clear.

Article 48

Sufficiently clear.

Article 49

Sufficiently clear.

Article 50

Sufficiently clear.

Article 51

Sufficiently clear.

Article 52

Sufficiently clear.

Article 53

Point a

The Management Authority is responsible for, inter alia, the administrative aspects, the implementation of legislation, law

enforcement, licensing/permitting, and communications related to the conservation of fish resources, including the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Section b

Scientific Authority is responsible for, inter alia, providing the Management Authority with recommendations concerning the conservation of fish resources building upon scientific principles, and for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

Article 54

Sufficiently clear.

Article 55

Sufficiently clear.