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**PROCLAMATION NO. 176/2014
THE FISHERIES PROCLAMATION**

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WHEREAS, the Government of Eritrea is aware of the potential for developing the fishery resources of Eritrea and of its obligation to manage them for the benefit of the country; and

WHEREAS, the powers of the competent bodies to ensure compliance and enforce the requirements of the law have to take into consideration the lessons learned so far and be updated to cope up with newly emerging challenges;

NOW, THEREFORE, it is hereby proclaimed as follows:

PART I PRELIMINARY

Article 1. Short Title

This Proclamation may be cited as “the Fisheries Proclamation No. 176/2014”.

Article 2. Repeal

The Fisheries Proclamation No. 104/1998 is hereby repealed and replaced by this Proclamation. The Regulations issued under the Fisheries Proclamation No. 104/1998 shall, however, remain in full force until and unless they are replaced by other Regulations to be issued under this Proclamation.

Article 3. Definition

In this Proclamation, unless the context otherwise requires:

- a) **“aquaculture”** means the rearing or cultivation of aquatic organisms using techniques designed to increase the production of the organisms in question beyond the natural capacity of the environment;
- b) **“aquatic organism”** means any-species living in water belonging to the animalia, plantae and protista kingdoms, including any part, gametes, seeds, eggs or propagules of their individuals that might survive and subsequently reproduce;
- c) **“artisanal fishing vessel”** means any vessel which is below 18 metres in length overall (LOA) and which is not fitted with any fixed operating gear which is powered by means of hydraulic, mechanical or electrical power;
- d) **“authorised officer”** means any authorised officer appointed under Article 5 hereof, any police officer not below the rank of sergeant and any member of the armed forces not below the rank of lieutenant;
- e) **“buy”** or **“buying”** includes:
 - i. bartering;
 - ii. attempting to buy;
 - iii. receiving on account or consignment;
 - iv. receiving in order to send, forward or deliver for sale;
 - v. brokering a sale;
 - vi. buying future goods; or
 - vii. buying as an agent for another person;
- f) **“Director-General”** means the Director-General responsible for the Regulatory Services Department of the Ministry of Marine Resources in the State of Eritrea;

- g) **“document”** means a logbook, declaration or document or any record or required information under this Proclamation including, in addition to a logbook, declaration or document or any record or required information in writing, and includes:
- i. any map, plan, graph or drawing;
 - ii. any photograph;
 - iii. any disk, tape, sound track or other device in which sounds or other data (not being visual aids) are recorded so as to be capable (with or without the aid of some other equipment) of being reproduced from such document;
 - iv. any film (including microfilm), negative, tape, disk or other device in which one or more visual images are recorded so as to be capable of being reproduced from such document; and
 - v. any data, howsoever reproduced, communicated via a satellite-based Vessel Monitoring System established under this Proclamation.
- h) **“Eritrean waters”** means inland water, marine internal waters, the territorial sea and any waters or the seabed over which Eritrea exercises sovereign rights in respect of living resources;
- i) **“fishing”** means fishing for, catching, taking or killing fish or other aquatic organisms by any method;
- j) **“Fishing licence”** means a licence issued under Articles 16, 17 or 18 hereof;
- k) **“Fishing vessel”** means any vessel used for fishing;
- l) **“Foreign fishing vessel”** means a foreign fishing vessel as provided for in Article 14 hereof;
- m) **“high seas”** means the waters beyond areas under the jurisdiction of any State;
- n) **“international conservation and management measures”** means measures prescribed by any international, regional or bilateral agreement or body to which the State of Eritrea is a signatory or a member of;
- o) **“Illegal fishing”** means activities:
- i. conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of its laws and regulations;
 - ii. conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the states are bound, or relevant provisions of the applicable international law; or
 - iii. in violation of national laws or international obligations, including those undertaken by cooperating states to a relevant regional fisheries management organization.
- p) **“industrial fishing vessel”** means any vessel over 18 metres in length overall (LOA) which is both fitted with fixed operating gear and powered by means of hydraulic, mechanical or electrical power;
- q) **“IUU fishing”** means illegal, unreported and unregulated fishing or fishing activities;
- r) **“Licensing officer”** means, in respect of a licence issued under Article 17 hereof, the Minister and, in respect of any other licence under this Proclamation, the officer appointed by the Minister to issue a licence.
- s) **“Minister”** or **“Ministry”** means the Minister or Ministry of Marine Resources of the State of Eritrea respectively;
- t) **“National fishing vessel”** means a national fishing vessel as provided for in Article 14 hereof;

- u) **“Operator”** in relation to a fishing vessel means any owner, charterer, sub-charterer, lessee or sub-lessee of the vessel or any other person who controls or directs the operation or movements of the vessel or who is legally entitled to do so, whether exclusively, jointly, directly or indirectly, and any other person to whom a licence relating to the vessel has been issued under this Proclamation;
- v) **“Person”** means a natural or juridical person;
- w) **“precautionary approach to fisheries management”** means that the absence of adequate scientific information should not be used as a reason for postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;
- x) **“Protected Species”** means marine mammals and other aquatic organisms the fishing of which is prohibited.;
- y) **“related activities”** in relation to fishing includes:
 - i. transshipping fish or other aquatic organisms to or from any vessel;
 - ii. buying, storing or processing fish or other aquatic organisms;
 - iii. transporting fish or other aquatic organisms taken from Eritrean waters until they are first landed (other than in the vessel which caught them); and
 - iv. refunding or supplying fishing vessels or performing other activities in support of fishing operations;
- z) **“satellite-tracking device”** means a device which sends the required information by way of satellite and land earth station to a Fisheries Monitoring Centre;
- aa) **“semi-industrial fishing vessel”** means any vessel under 18 metres in length overall (LOA) which is both powered and which is fitted with fixed operating gear which is powered by means of hydraulic, mechanical or electrical power;
- bb) **“Unreported fishing”** means fishing activities:
 - i. which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
 - ii. undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
- cc) **“Unregulated fishing”** means fishing activities:
 - (i) in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a state not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
 - (ii) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with state responsibilities for the conservation of living marine resources under international law.

PART II ADMINISTRATION

Article 4. The Ministry

The Ministry shall be responsible for the management and development of the fisheries resource in Eritrea and for the administration of this Proclamation.

Article 5. Authorised Officers

The Minister may appoint any public officer to serve as an authorised officer for the purposes of this Proclamation.

Article 6. Fisheries Advisory Council

- 1) There shall be a Fisheries Advisory Council (hereinafter the "Council") to advise on the management and development of fisheries and discharge such responsibilities as are conferred on it under this Proclamation.
- 2) The Council shall comprise the following persons;
 - (a) an officer of the Ministry who is responsible for administering and enforcing this Proclamation;
 - (b) a representative of the department responsible for ports and maritime transport;
 - (c) a representative of the Eritrean Navy;
 - (d) a representative of the department responsible for economic development and/or investment;
 - (e) a representative of the Research and Training Division of the Ministry;
 - (f) an elected representative of persons engaged in artisanal fishing;
 - (g) an elected representative of operators of foreign fishing vessels fishing in Eritrean waters; and
 - (h) an elected representative of operators of national commercial fishing vessels (if any).
- 3) The Council may invite other persons to participate in its meetings and shall, whenever it considers matters particularly affecting an area of Eritrea or a government department, invite one or more persons engaged in fisheries in that area, or a representative from that department respectively, to participate in its meetings.
- 4) The Council shall elect one of its members as chairperson and shall issue its own rules of procedure.

PART III FISHERIES MANAGEMENT

Article 7. Fisheries Management Plan

- 1) The Minister may, in furtherance of the need to ensure the sustainable use of the marine fisheries, by decision, declare that
 - (a) any fishery or fisheries, or
 - (b) species of fish, or group of species, or
 - (c) any area within the Eritrean waters

shall be managed in accordance with a multi-annual Fishery Management Plan which shall set harvesting rules consisting of a predetermined set of biological parameters to govern catch limits at biologically sustainable levels.

- 2) A plan of management shall set out:

- a) a description of the fishery by reference to area, fish species, fishery characteristics, fishing methods and the state of exploitation;
 - b) an analysis of the fish stocks including their biological characteristics and conservation status;
 - c) the objectives to be achieved in the plan of management;
 - d) the targets to be achieved by the plan;
 - e) the specific technical measures to be implemented, including conservation reference points;
 - f) the means by which these objectives are to be achieved by outlining the management or development strategy to be followed;
 - g) the economic impact of the measures on the fishery;
 - h) performance criteria or other means of evaluating the effectiveness of the plan; and
 - i) the date of review of performance of the plan by the responsible authority, notwithstanding the duty of the fishery managers to maintain a constant review;
- 3) In addition to the requirements set out in sub-article (2) hereof, a plan of management may also specify:
- a) any scheme of licensing or registration which may include but is not limited to boats, gear, fishermen or any other means of controlling the capture or taking of fish;
 - b) the issue of special permits allowing exemptions for the purpose of scientific fishing;
 - c) the issue of special permits allowing exemptions for specified types of vessel.
 - d) any scheme for reducing discards;
 - e) any scheme for extending the use of compulsory vessel monitoring schemes to any class of vessel which may be specified by the Minister;
 - f) any scheme of licensing or issuing of permits for sport-fishing or diving;
 - g) allowance for temporary derogations from the plan including technical measures or any restrictions to zones including gears or vessels;
 - h) the limitations, if any, to be applied to fishing operations; or
 - i) the means of fixing of licence or permit fees, resource rent, catch or other benefit accruing from the use of the fishery.
- 4) In the preparation or review of a plan of management, the competent authority responsible for its preparation or review shall consult with all those who may be directly affected including local authorities, fishermen or leaders of fishermen's associations, beneficiaries or any government authority with a direct interest in the management of the fishery.
- 5) Each plan of management, and each review, shall be submitted to the Minister for approval, and shall be implemented upon receipt of such approval in writing.

Article 8. Objectives and Principles for the Sustainable Management of the Marine Aquatic Resources and Marine Environment of the State of Eritrea

- (1) The main objective of this Proclamation is to ensure that exploitation of living marine aquatic resources is consistent with sustainable economic, environmental and social conditions.**
- (2) The Minister in administering this Proclamation, shall:**
 - a) apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources while maintaining biological diversity;

- b) provide for the sustainable exploitation of living marine aquatic resources and undertake measures aimed at minimising the impact of fishing activities on marine eco-systems;
 - c) aim to contribute to efficient fishing activities within an economically-viable and competitive fisheries sector, providing a fair standard of living for those who depend on fishing activities and also taking into account the interests of consumers; and
 - d) in respect of the region, have due regard of the interests of other states in shared, straddling and migratory stocks and recommended international minimum standards when considering the development needs of Eritrea.
- (3) The Minister shall be guided by the following principles of good governance:
- a) clear definitions of responsibilities at national and local levels;
 - b) a decision-making process based on sound scientific advice which delivers timely results;
 - c) broad involvement of stakeholders at all stages of the policy from conception to implementation; and
 - d) consistency with regional, national and local environmental policies.

Article 9. Fisheries Management Measures

- 1) The Minister may issue regulations prescribing measures for the proper management of fisheries.
- 2) Prescribed management measures may include but shall not be limited to:
 - (a) closed seasons and closed areas;
 - (b) prohibited fishing method and gear and specification of gear that may be used, including the mesh size of nets;
 - (c) the species, sizes and other characteristics of fish and other aquatic organisms permitted or forbidden to catch; and
 - (d) schemes for the limitation of entry into all or any specified fisheries.
- 3) A regulation prescribing management measures may also prohibit the possession, purchase, sale, import or export of any gear, fish or other aquatic organism.

Article 10. Fisheries Information

- 1) The Ministry shall collect, analyse and publish statistical and other information on fisheries.
- 2) Every person engaged in fishing, related activities or aquaculture shall supply such information regarding those activities, in such form, as an authorised officer may require.
- 3) The Minister may consult with fisheries management authorities of other states or with any international, regional or bilateral body to which the State of Eritrea is a member with a view to the harmonisation and/or coordination of management measures and the exchange of information on fisheries, and may exchange such information as the Minister deems necessary for the purposes of the proper management of fisheries.
- 4) The Minister may, by notice, require that
 - a) any record of information required under sub-Article (2) hereof may be entered or recorded by electronic means, and