

**REPUBLIC OF PANAMA**

**MINISTRY OF AGRICULTURE DEVELOPMENT**

**EXECUTIVE DECREE No. 161**

(June 6, 2013)

Which establishes the mechanisms for inspection, surveillance and control for the catch and fishing support vessels under the national flag on international service.

**THE PRESIDENT OF THE REPUBLIC**

In use of his legal and constitutional faculties

**WHEREAS:**

The Aquatic Resources Authority of Panama, created by Law No. 44 of November 23, 2006 is the governing body of the State responsible for the compliance and enforcement of the laws and regulations concerning the aquatic resources and the national fishing and aquiculture policies adopted by the Executive Branch;

The Aquatic Resources Authority of Panama, within the scope of its duties will be represented before the Executive Branch by the Ministry of Agricultural Development;

Following the Principles of Fisheries Management, it is the duty of the State to adopt the necessary measures for the long-term conservation and sustainable use of the fisheries resources, as a precautionary measure, in order to control the availability of these resources for present and future generations.

The purpose of the Aquatic Resources Authority of Panama, in accordance with paragraphs 2 and 3 of article 4 of the aforementioned legal code, is to regulate, promote and implement the measures and technical and administrative proceedings for the rational, sustainable and responsible use of the aquatic resources, in order to protect the national aquatic heritage and contribute to protect the environment, as well as to comply with and enforce the Agreements and International Conventions ratified by Panama.

That with the implementation of the risk concept based on cross-checking systematic and generalized information, the Government of Panama will establish unified and coordinated procedures on land and at sea throughout the marketing chain which will include the capture in order to ensure balanced conditions for the fishing industries which take into account the differences among the various segments of the fleet.

## DECREEES:

**ARTICLE 1.** To establish the mechanisms for inspections, surveillance and control destined to guarantee the compliance of the national and international laws to the Panamanian fishing fleet on international service.

**ARTICLE 2.** This Executive Decree shall apply to all Panamanian catch and/or fishing support vessels on international service without prejudice to the responsibility of the State.

**ARTICLE 3.** For the purposes of the present Executive Decree, the terms used herein shall be understood in accordance to the following glossary:

1. **Fisheries Monitoring and Control Center:** Operating center created and equipped with computer hardware and software to enable automatic reception, processing and electronic transmission of data from satellite communication equipment installed on board the fishing vessels called VMS (Vessel Monitoring System)
2. **Landing:** The initial unloading of any quantity of fisheries products from on board a fishing vessel to land;

3. **Fishing vessel:** Every catch and fishing support vessel registered under the national flag;
  
4. **Risk management:** Systematic identification of risks and the implementation of all necessary measures to limit their occurrence. This includes activities such as collecting data and information, risk analysis and evaluation, preparing and taking action, and regular monitoring and reviewing of the process and its outcome, based on international, community and national sources and strategies;
  
5. **Inspector:** Person authorized by the Aquatic Resources Authority of Panama to carry out an inspection of the fishing fleet.
  
6. **On-board Observer:** Person designated to monitor and gather information about target and non-target catches, transshipment and processing of the fishing fleet;
  
7. **Operator:** Natural or legal person who operates or owns a business dedicated to an activity related to any stage of production, processing, marketing, distribution and retail trade of fisheries and aquaculture products;

8. **Risk:** Likelihood of an event that may occur and would constitute a violation of national and international laws concerning fisheries management;
  
9. **Automatic Identification System:** Autonomous and continuous vessel identification and monitoring system which provides means for vessels to electronically exchange data, such as the identification, position, course and speed of the vessel, with nearby vessels and with authorities ashore.
  
10. **Vessel Detection System:** Satellite based remote sensing technology which allows identifying vessels and detecting their positions at sea;
  
11. **Transshipment:** The unloading of all or any fisheries or aquaculture products on board a vessel to another vessel;
  
12. **Processing:** The process by which the presentation was prepared. It includes filleting, packing, canning, freezing, smoking, salting, cooking, pickling, drying or preparing fish for market in any other manner;
  
13. **Surveillance:** The observation of fishing activities from sightings by inspection vessels or official aircrafts and technical detection and identification methods;

**14. Fishing Restricted Area:** Any marine area under the jurisdiction of a State which has been defined as an area where fishing activities are either limited or banned.

**ARTICLE 4.** Control of the activities carried out by any natural or legal person within scope of implementation on national territory, high seas, territorial waters, particularly fishing activities, transshipments, transfer of fish to cages or aquaculture installations, as well as fattening installations, landing, import, transport, processing, marketing and storage of fisheries and aquaculture product is established.

**ARTICLE 5.** Without prejudice of the implemented provisions, the masters of the fishing vessels whose overall length is equal or higher than twenty (20) meters length, shall hold a fishing logbook of its operations, indicating expressly all quantities of each species caught.

The masters shall be responsible for:

1. The accuracy of the data detailed in the fishing logbook.
2. Registering the information referred to in the logbook by electronic media and sending such information by an authorized electronic media to the relevant authority no later than four (4) hours after the last fishing

operation has been completed or after each fishing operation made in one day.

**ARTICLE 6.** The Fishing Logbook referred to in the above article shall register the following information:

1. The name and identification number of the fishing vessel.
2. Date (dd/mm/yyyy), number of sets (consecutive for trip) time of initiation (24hours) and initiate position (grades/minutes) time of completion and position of set.
3. The common name of the catches in Spanish or English as per alpha-3 code of the United Nations Food and Aquaculture Organization (FAO) of each species and the relevant geographical area in which the catch took place.
4. The date of departure from and of arrival to port, and the duration of the fishing trip.
5. The type of gear.

6. Composition of the estimated quantities of each species in metric tons, where appropriate, the number of individuals.
  
7. The permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities metric tons of fish retained on board shall be ten percent 10 % for all species
  
8. The number of fishing operations.

**ARTICLE 7.** The Aquatic Resources Authority of Panama shall establish the mechanisms and regulations of the electronic media authorized for such purpose.

**ARTICLE 8.** The capture and fishing support vessels should comply with the prior notification to the Flag State and Port State Control as follows:

1. The masters of the fishing vessels shall notify the competent authorities of their Flag State about their destination port and estimated date of arrival as soon as they calculate the ETA (Estimated Time of Arrival) to enter a port either for discharge or for any other purpose. Vessels fishing within two hundred (200) miles of the coast or less, should notify the Flag State as soon as they complete eighty percent (80%) of full cargo capacity. Vessels fishing within international waters should inform the Flag State as soon as they complete ninety percent (90%) of full cargo capacity. Every vessel with a fishing license should notify no later than



twelve (12) hours after having completed one hundred percent (100%) of the cargo and inform the date, estimated place and port of arrival. The vessel should also notify as soon as there is a change in course and port. Vessels with a fishing support license should notify the date and time immediately after receiving information on the destination port, and give notice of any change immediately after it takes place.

2. The fishing vessel and fishing support vessel flying the Flag of the Republic of Panama should notify at least twenty four (24) hours on advance before arriving to the Port State Control. When notifying of the date and ETA, fishing vessels as well as fishing support vessels must give the following information:
  - a. International Maritime Organization (IMO) Number, Maritime Mobile Service Identity (MMSI) number and the name of the fishing vessel.
  - b. Name of the port of destination and the purposes of the call, such as landing, transshipment or access to services.
  - c. Dates of the fishing trip and the relevant geographical areas in which the catches were taken
  - d. Estimated date and time of arrival at port

- e. Quantities of each species recorded in the fishing logbook.
  
  - f. Quantities of each species to be landed or transshipped
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- 3. The Republic of Panama shall establish with other coastal State, agreements about the exchange of information and prior notification when a vessel with fishing license or fishing support license flying the flag of Panama intends to enter a port in a State other than its own.
  
  - 4. The accuracy of the data recorded in the prior electronic notification shall be the responsibility of the master.

**ARTICLE 9.** When a Panamanian fishing vessel intends to enter a port other than its flag State, Panama shall request to the competent authorities of such coastal State, based on the principle of reciprocity, the transmission of information either written or by electronic media, related to the request to enter the port, the Declaration of Fishing Product or any other information related to the activity carried out by the vessel.

**ARTICLE 10.** A foreign fishing vessel intending to enter a national port, should notify the Aquatic Resources Authority of Panama no less than twenty four (24) hours in advance in order to make the appropriate arrangements, enclosing the information detailed in article 8. Failure to comply with the present article could result in the denial of access to the port by the competent authorities.

**ARTICLE 11.** The national flag vessel with fishing support license of international service should comply with the following responsibilities:

1. Take an observer on board and provide him with accommodation, food and everything necessary to carry out his duties.
2. It is forbidden to receive transshipment from vessels without an authorization from the flag State to transship, or which are not registered as fishing vessels authorized to transship, or without a current fishing license, or belonging to the same economic group owning a vessel identified as a vessel which practices an Illegal, Unreported and Unregulated (IUU) fishing.
3. It is forbidden to receive transshipment from fishing vessels identified as Illegal, Unreported and Unregulated Fishing (IUU) or from those suspected to be practicing IUU fishing.

**ARTICLE 12.** The observer on board must fulfill one or more of the following functions:

1. Gathering basic information of each fishing operation;

2. Observation and measurement of fishing gear;
3. Observations during transshipment exercises;
4. Regularly verify the methods used by the vessel to register the capture, as defined by the regulations.
5. Provide a detailed and written season report, covering the work activities assigned.
6. Controlling the global fishing guideline of the vessel regarding the Master's fishing strategy and the restrictions imposed by the regulations;
7. Any additional work as determined by the Aquatic Resources Authority of Panama to improve his activities.

**ARTICLE 13.** The observer on board fishing vessels shall be responsible of informing about the compliance of the rules regarding fishing areas, fishing gear, authorized fisheries, method used to complement the fishing logbook, catch and effort reports and additional capture restrictions.

**ARTICLE 14.** Vessels flying the national flag on international service, with fishing support license to perform transshipment, shall pay through their shipowners and/or representatives for the expenses and costs of the Observers Program on board of said vessels, whether it is regional or national.

**ARTICLE 15.** The observers on board shall receive a similar treatment than that which the rules, customs and traditions grant an official on board. The shipowner must instruct the Master of the vessel about the obligation to provide the necessary collaboration to ensure an adequate performance of the Observer's duty on board. For that purpose the shipowner should:

1. Allow the Observer on Board assigned to the vessel to board the vessel to adequately perform his duties and remain on board for as long as it is necessary to comply with the assigned work.
2. Grant the Observer access to all parts of the vessel related to fishing, processing and storage operations of fishery products.
3. Provide the observer with the navigation, production and catch records as required.
4. Allow for photographic records and/or videos of the vessel to be taken, as well as of the fishing operations, gears and fisheries equipment to be

5. Facilitate, at the observer's request, message sending and receiving by means of communications equipment available on board.

**ARTICLE 16.** If, either the shipowner or any other person undermines the effective fulfillment of the guidelines and duties assigned, the observer on board may request the assistance of the Aquatic Resources Authority of Panama in order to carry out such activity.

**ARTICLE 17.** Once the voyage is completed, and within the period established for this purpose by the Aquatic Resources Authority of Panama, the observer on board must present, in compliance with the instructions received, a comprehensive report of the activities performed on board, enclosing all the relevant documentation. The information submitted must comply with the guidelines concerning content, presentation and supporting documents established for this purpose.

**ARTICLE 18.** The observer on board must protect the confidentiality of the information gathered by observing the duties carried out on board, and must only communicate it to the Aquatic Resources Authority of Panama, and must not disclose such information in whole or in part to any organism, entity or person, unless there is a written authorization from the Aquatic Resources Authority of Panama, in which the scope of the disclosure must be specified. This information must be kept confidential even after the observer on board no longer holds such position, and he will be liable for damages caused should the information or data collected on the exercise of his duties be made public.

**ARTICLE 19.** Failure by the shipowner to comply with the provisions established in this Executive Decree will result in a punitive administrative proceeding and the suspension of the fishing license pursuant to the provisions of Law 44 of November 23, 2009, article 297 of the Fiscal Code and the applicable regulatory provisions.

**ARTICLE 20.** The transshipment of fisheries resources is permitted under the following conditions:

1. In high seas if there is a duly authorized observer on board the vessel.
2. In a duly authorized port.

The transshipment may be only performed with previous authorization and under the conditions established in this Executive Decree. If the transshipment operation is interrupted, authorization must be required before the transshipment operation is resumed.

For the purposes of this Article, relocation, pair trawling activities and fishing operations involving joint action by two (2) or more capture vessels shall not be considered as transshipment.

**ARTICLE 21.** Without prejudice to specific provisions, the masters of the fishing and fishing support vessels involved in a transshipment operation shall complete a

transshipment declaration, indicating specifically all quantities of each species transshipped or received live weight equivalent. The accuracy of the data recorded in the logbook shall be the responsibility of the Master.

The transshipment declaration referred to in paragraph 1 shall contain at least the following information:

1. IMO Number and the name of both fishing vessels;
2. Alpha-3 code of the Food and Aquaculture Organization of the United Nations (FAO) of each species and the relevant geographical area in which the catches were taken;
3. The estimated quantities of each species in kilograms in product weight, broken down by type of product presentation or, where appropriate, the number of individuals. The permitted margin of tolerance in estimates recorded in the transshipment declaration of the quantities in kilograms of fish transshipped or received shall be ten percent 10 % for all species.
4. The designated port of transshipment;
5. The port of destination of the fishing vessel receiving the transshipment.



**ARTICLE 22.** The masters of both the transshipping and the receiving fishing vessel shall each submit a transshipment declaration, as soon as possible and no later than 48 hours after transshipment; provided that the vessels are Panamanian flagged vessels, otherwise the receiving fishing vessel should collect this information once it makes the transshipment.

**ARTICLE 23.** The masters of the receiving fishing vessel shall register by electronic media the information referred to in article 12 and send it through an electronic media, authorized by the competent authority in real time. The competent authority shall establish mechanisms and regulations of the electronic media authorized for such purpose.

**ARTICLE 24.** The fishing captain or his representative should notify the Aquatic Resources Authority of Panama no less than (24) hours in advance about the landing and furnish a declaration of landing registering the quantity of each species to be landed with the following information:

1. IMO number and name of the fishing vessel.
2. Alpha-3 code of the Food and Aquaculture Organization of the United Nations (FAO) for each species and the relevant geographic zone in which the catches were taken;

3. The quantities of each species in tons of product weight, broken down by type of product presentation or, where appropriate, the number of individuals.
  
4. The port of landing.

The accuracy of the data recorded in the declaration of landing shall be the responsibility of the master.

**ARTICLE 25.** The declaration of landing referred to in the above article should be sent to the Aquatic Resources Authority of Panama either by written or electronic media.

**ARTICLE 26.** The landing of fisheries product of capture vessels or fishing support vessels should be inspected at port by an authorized marine resources inspector or by an inspector of the Recognized Fisheries Organization and will file a bill of landing no later than forty eight (48) hours after completion of the landing to the Aquatic Resources Authority of Panama.

The cost of inspection referred to in this article shall be borne by the capture or support fishing vessel in accordance with the established procedure.

**ARTICLE 27.** The designated and authorized ports for landing products from fishing vessels or support fishing vessels shall be regulated by the Aquatic Resources Authority of Panama.

**ARTICLE 28.** The fishing activities of the fishing vessel shall be subject to the conservation measures, laws, rules, regulations and recommendations of the coastal States and Regional or Sub-regional Fisheries Management Organizations (RFMO).

**ARTICLE 29.** Every fishing vessel that is not authorized to fish in fishing restricted areas may transit such area if they comply with the following conditions:

1. All gears carried on board must be lashed, disconnected and/or stowed as appropriate while transiting in the fishing area.
2. The speed during transit should not be less than six (6) knots except in case of force majeure or adverse conditions. In such cases, the master shall immediately inform the fishing monitoring and control center of the Directorate General of Inspection, Surveillance and Control of the Aquatic Resources Authority of Panama which shall then inform the competent authorities.

The Directorate General of Inspection, Monitoring and Control shall provide, upon request of the Recognized Fisheries Organization, all appropriated instruments of

the national law whereby provisions of recommendations, resolutions and applicable rules of the fishing activities like the Recognized Fisheries Organization come into effect. The Recognized Fisheries Organization should be kept informed about the national and international regulations through electronic media available where the Organizations and/or fisheries administrations made the discharge.

**ARTICLE 30.** In order to obtain the authorization as a Recognized Fisheries Organization, the interested party should comply with the following requirements:

1. Demonstrate that it has the adequate technical, administrative and investigative resources to carry out the inspection on marine resources.
2. Demonstrate proficiency and technical, administrative and management capabilities to guarantee a quality and timely service.
3. The application for authorization as Recognized Fisheries Organization must be submitted by a memorial through an Attorney at Law enclosing the following documents:
  - a. Power of Attorney in accordance with the applicable laws.
  - b. Certificate issued by the Public Registry of Panama or its equivalent at the State of origin stating existence and legal representation of the

company including date of incorporation, Board of Directors, Officers, Legal Representative and/or Attorney-in-fact in the Republic of Panama.

- c. Copy of the performance bond indicated in paragraph 4 of the present article.
  
- d. Curricula Vitae of the Marine Resources Inspectors who will be acting on behalf of the Recognized Fisheries Organization, describing technical training, experience and geographic distribution of the inspector of the Recognized Fisheries Organization, enclosing copy of the certificates or diplomas which certify the suitability of the technical personnel of the organization. Every Recognized Fisheries Organization must have a suitable Technical Chief and a technical group able who comply with the minimum regulations in order to perform a marine resources inspection.
  
- e. Confirmation of the relative size, structure, experience and capacity of the company which will allow the Fishing Administration to determine the type and degree of authority to be conferred to the Recognized Fisheries Organization.
  
- f. Detailed report of the activities carried out or to be carried out by the Recognized Fisheries Organization.

- g. The Recognized Fisheries Organization shall have an internal quality control system based on the relevant criteria on quality control recognized on an international level which degree of effectiveness shall not be less than the ISO-9000/2000 series.
  
  - h. Any other requirements established by the Aquatic Resources Authority of Panama.
4. The Recognized Fisheries Organization that wish to carry out inspections on fishing or fishing support vessels flying the national flag on international service, must present a performance bond payable to the General Comptroller Office of the Republic of Panama in the amount of one hundred thousand Balboas and 00/100 (B/.100,000.00) to cover damages and payments of fines imposed by the Directorate General of Inspection, Surveillance and Control of the Aquatic Resources Authority of Panama.

**ARTICLE 31.** The Recognized Fisheries Organization should be certified by the Ministry of Commerce and Industries, Ministry of Foreign Affairs and subsequently approved by the Board of Directors of the Aquatic Resources Authority of Panama.

**ARTICLE 32.** The Aquatic Resources Authority of Panama may establish sanctions pursuant to article 53 and 54 of Law 44 of November 23, 2006.

**ARTICLE 33.** The Aquatic Resources Authority of Panama may supervise, inspect, watch, control, register, monitor and investigate premises, businesses, fishing grounds and offices, located in the Republic of Panama that perform recollection, import, export, processing, distribution and marketing of aquatic resources from national and international fishing with the purpose of complying and enforcing the current legal regulations related to aquatic resources.

**ARTICLE 34.** The performance bonds shall not be subject to seizure and will be at the disposition of the Aquatic Resources Authority of Panama, in order to secure the payment of obligations of the Recognized Fisheries Organization or payment of fines due to sanctions imposed.

**ARTICLE 35.** Return of the performance bond will be ordered by the Directorate General of Inspection, Security and Control of the Aquatic Resources Authority of Panama by reasoned resolution once it has been established that the company finished its activities and fulfilled all its obligations and it will take all necessary measures to ensure that said organizations keep these performance bonds at all times.

**ARTICLE 36.** In the event that the Recognized Fisheries Organization requests a change of name it must submit a request and enclose the following documents:

1. Memorial filed by an Attorney-in-fact, including the application for change of name.

2. Notarized copy of the change of the trade name.

3. Notarized copy of the registration of the company.

**ARTICLE 37.** The Aquatic Resources Authority of Panama will approve or reject the applications for authorization or extension of the delegation of authority filed by means of a reasoned resolution in accordance with the technical and security conditions. In case the application is approved, the bond mentioned in paragraph 4 of article 30 of this Executive Decree must indicate the new name of the Recognized Fisheries Organization and the resolution will come into force once the authorization is issued.

**ARTICLE 38.** The Recognized Fisheries Organization cannot be sold or transferred to another Recognized Fisheries Organization or economic group, without prior notification from the Aquatic Resources Authority of Panama.

**ARTICLE 39.** The Aquatic Resources Authority of Panama by means of the Directorate General of Inspection, Surveillance and Control shall perform regular audits with the purpose of ensuring the compliance of management by the Recognized Fisheries Organization.

**ARTICLE 40.** The Recognized Fisheries Organization shall provide to the Aquatic Resources Authority of Panama, access to its data base, related to vessels and certificate of inspection issued under the authorizations granted. For that effect, the



Recognized Fisheries Organizations must furnish supply passwords and guidelines to run a proper and effective query.

**ARTICLE 41.** The Recognized Fisheries Organization must present the inspection report and the copy of the certificate of inspection issued to the fishing vessel or to the fishing support vessel within a term not to exceed 48 hours.

**ARTICLE 42.** The Aquatic Resources Authority of Panama shall revoke the certificate of inspection of the fishing vessel or the fishing support vessel in the following cases:

1. If the Recognized Fisheries Organization commits irregularities while in the performance of the assigned duties.
2. In the event that the Recognized Fisheries Organization proves there is incompatibility with the activities carried out, or that there is a conflict of interest with the legal provisions in force.
3. If either the documents submitted or the amounts of fish landed are proven to be inaccurate or false.
  - a. If the Recognized Fisheries Organization fails to comply with the guidelines issued by the Aquatic Resources Authority of Panama.

- b. If the inspection report or the inspection certificate is carried out by an inspector who is not registered in the Aquatic Resources Authority of Panama.

**ARTICLE 43.** The Recognized Fisheries Organization authorized in accordance with this Executive Decree, must coordinate with the Aquatic Resources Authority of Panama everything concerning the verification of the vessels and the issuance of the inspection certificates.

Likewise, it must inform and register a list of its technical staff of authorized inspectors through a directory and must provide the information related to the number of certificates and inspection reports issued, verified and performed on the vessels, as well as a copy of each of the certifications issued.

**ARTICLE 44.** The Aquatic Resources Authority of Panama shall periodically send a list of the Recognized Fisheries Organizations with their approved inspectors which are to be posted on Segumar's web page.

**ARTICLE 45.** The Aquatic Resources Authority of Panama shall prepare and adopt the inspection proceedings.

**ARTICLE 46.** This Executive Decree repeals any other provision which may be contrary to it.

**ARTICLE 47.** The present Executive Decree shall become effective six (6) months after its enactment.

**SUPPORTING LAWS:** Law 44 of November 23, 2006.

**TO BE PUBLISHED AND ENFORCED.**

Given in Panama, on June six, two thousand thirteen.

**RICARDO MARTINELLI B.**

President of the Republic of Panama

**OSCAR ARMANDO OSORIO CASAL**

Minister of Agricultural Development

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