


Content

Title :	Ordinance to Govern Investment in the Operation of Foreign Flag Fishing Vessels 
Date :	2008.12.17
Legislative :	1.Promulgated on December 17, 2008
Content :	<p>Article 1</p> <p>This Ordinance is enacted to regulate nationals who engage in the business of fishery by investing in or operating foreign flag vessels, for the purpose of conserving marine living resources, whereby contributing to good governance of international fisheries.</p> <p>Article 2</p> <p>In this Ordinance, the term “competent authority” means the Council of Agriculture of the Executive Yuan.</p> <p>Article 3</p> <p>For the purposes of this Ordinance:</p> <ol style="list-style-type: none">1. “sea areas beyond national jurisdiction” means sea areas beyond the territorial sea and the exclusive economic zone of Taiwan;2. “investment in the business of fishery” means using of capital funding, fishing equipments or facilities and rights of a certain amount or equity, solely or jointly in the operation of the business of fishery;3. “engagement in the business of fishery” means engagement in the business of fishing by fishing vessels, trading, transporting and import and export of fishery products;4. “conducting the business of fishery” means the operations of fishing vessels to fish, trading, transport and import and export of fishery products5. “fishery operator” means the person who engages in fishing activities in accordance with Article 4 paragraph 1 of the Fisheries Act.6. “fish laundering” means activities that constitute any of the following:<ol style="list-style-type: none">(1) selling or transacting in, under the name of a national vessel, fish or fish products of species regulated by international fisheries organizations that are captured or harvested by foreign flag vessels;(2) selling or transacting in, under the name of a foreign flag vessel that is invested or operated by a Taiwan national, fish or fish products of species regulated by international fisheries organizations that are captured or harvested by any other vessels;

7. "interested party" means a person who holds or maintains information relating to the catch amount, fishing periods, fishing gears, fishing methods and investment and operation of the fishing vessels allegedly to be in violation of the provisions of this Ordinance.

The amount or sharing as referred to in sub- paragraph 2 above shall be accordingly publicized by the competent authority.

Article 4

No national of Taiwan is permitted to engage in the business of fishery in sea areas beyond national jurisdiction by investing in or operating foreign flag fishing vessels, without prior authorization of the competent authority.

The conditions, application procedures, review procedures of the authorization referred to in the above paragraph, and the circumstances under which the authorization shall be revoked or withdrawn, together with other rules of its implementation, shall be prescribed by the competent authority.

Article 5

A person who obtains authorization in accordance with Article 4 shall make regular reports of the data relating to the fishing operation to the competent authority.

The time, types, content, manner and other matters related to the reporting in the above paragraph shall be prescribed by the competent authority.

Article 6

A Taiwan national who engages in fishing in sea areas beyond national jurisdiction by investing in or operating foreign flag fishing vessels shall comply with the regulations established by the competent authority, taking into account the conservation measures adopted by international fisheries organizations.

The regulations referred to in the above paragraph may include management measures relating to authorization to fish, permitted fishing areas, fishing periods, vessel position reporting, fishing gears, fishing methods, catch quota and other compliance measures.

Article 7

In investigating cases involving alleged violation of the provisions of this Ordinance, the competent authority may request the interested party to submit reports on catch amount, fishing period, fishing gears and fishing methods.

If deems necessary, the competent authority may designate officers to visit the interested party, interested organizations or institutions and conduct an investigation. The officers may also request provision or handing over of information relating to the investment and operation of foreign flag fishing vessels in question.

In case of urgency in conducting the investigation provided for in paragraphs 1 and 2 above, the competent authority may designate officers to the relevant sites to conduct inspection, and question the interested

party.

In carrying out investigation and inspection provided for in paragraphs 1 to 3 above, the designated officers shall produce documents evidencing their authorization, or such badge that may show their identification. The interested party, organizations and institutions concerned shall not evade, obstruct, or refuse the investigation, inspection, request for submission of reports and for provision or handing over of information provided in paragraphs 1 to 3 above.

Article 8

Any Taiwan national who commits fish laundering shall be liable to imprisonment for a period of no less than six (6) months but not exceeding three (3) years, and may be liable to an additional fine of not exceeding thirty million New Taiwan Dollars.

Article 9

Any Taiwan national who engages in fishing in sea areas beyond national jurisdiction without authorization and violates regulations stipulated by the competent authority in accordance with Article 6 relating to management measures on authorization to fish, fishing areas, fishing periods, vessel position reporting, fishing gears, fishing methods, or catch quota, is liable to imprisonment for a period of not exceeding three (3) years, and may be liable to an additional fine of not exceeding ten million New Taiwan Dollars.

The representative of a legal person or the agent of a legal or natural person who commits offences provided in Article 8 or Article 9 paragraph 1 shall be liable to punishment in accordance with the aforesaid provisions. In addition, the legal person or natural person in question shall be liable to fines provided in this Article and the preceding Article.

Article 10

A national of Taiwan who commits offences provided in Article 8 or Article 9 shall be punished in accordance with this Ordinance, irrespective of whether her/his act is punishable under the law of the country where the offences are committed. Notwithstanding this, in the case that the punishment has already been executed in whole or in part in the foreign country, the punishment due in accordance with this Ordinance may be waived in whole or in part.

Article 11

Where a Taiwan national commits offences provided in Article 8 or Article 9, the vehicles and instruments she/he used in committing the offences and the benefit accrued from the commission of the offences shall be confiscated. In the event that the above items cannot, in whole or in part, be confiscated, the value thereof shall be indemnified either by demanding a payment from the offender or by redeeming such value against the property of the offender.

Article 12

Any Taiwan national who has been authorized to engage in fishing in sea

areas beyond national jurisdiction, violates regulations stipulated by the competent authority in accordance with Article 6 relating to management measures on authorization to fish, fishing areas, fishing periods, vessel position reporting, fishing gears, fishing methods, or catch quota, shall be liable to a fine of no less than two million but not exceeding ten million New Taiwan Dollars.

Article 13

Any Taiwan national who commits fish laundering and at the same time invests in or operates fishing vessels under the flag of Taiwan, may be subject to deduction of catch quota from those allocated to the national vessels in question at a level equivalent to the value of the laundered fish.

The competent authority may order the national vessels referred to in the above paragraph to return to a domestic port within a certain time limit, and may have the fishing licenses of the vessels revoked.

In the event that the vessel referred to in the preceding paragraphs fails to return to the designated port, the fishery operator and the master of the vessel are respectively liable to a fine of no less than half a million but not exceeding two and a half million New Taiwan Dollars, subject to consecutive imposition.

Any fishing vessel which is ordered to return to a designated port in accordance with paragraph 2 above shall be prohibited from leaving the designated port without permission from the competent authority.

Article 14

Any Taiwan national who engages in investment in or operation of a foreign flag fishing vessel in sea areas beyond national jurisdiction without obtaining authorization in accordance with Article 4 is liable to a fine of no less than three hundred thousand but not exceeding one and a half million New Taiwan Dollars. The competent authority may order him/her to rectify the situation within a certain time limit, and in the event that the situation is not rectified, consecutive punishment may be imposed on repeated infringement.

Article 15

A fishery operator who fails to file reports in accordance with Article 5, or filing false reports, is liable to a fine of no less than two hundred thousand but not exceeding one million New Taiwan Dollars. The competent authority may order the operator to rectify the situation within a certain time limit, and in the event that the situation is not rectified, the competent authority may revoke the authorization to engage in such fishing activities.

Article 16

A person who violates Article 7 paragraph 5 is liable to a fine of no less than sixty thousand but not exceeding three hundred thousand New Taiwan Dollars. The competent authority may again order her/him to submit, provide, or hand over the required information. In the event of repeated offences, consecutive punishment may be imposed.

Article 17

When a foreign flag fishing vessel that is alleged to have involved in fish laundering activities, voluntarily enters into a port in Taiwan, it shall be prohibited from leaving the port without permission from the competent authority.

Article 18

A Taiwan national who invests in or operates foreign flag fishing vessels prior to the promulgation of this Ordinance shall apply to the competent authority no later than ninety days after the promulgation of the regulations in accordance with Article 4 paragraph 2, for authorization, by providing information about the fisheries operation of the vessels.

The competent authority shall notify the applicant its decision in writing. A Taiwan national who fails to make an application for authorization within the time limit as stipulated in paragraph 1, or who continues engagement in fishing in sea areas beyond national jurisdiction after her/his application is rejected, is subject to punishment in accordance with Article 14.

Article 19

This Ordinance shall come into force upon promulgation.