

BELIZE:

HIGH SEAS FISHING SANCTIONS REGULATIONS

S. I. No. 32 of 2014

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FIRST SCHEDULE

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BELIZE:

STATUTORY INSTRUMENT

No. 32 of 2014

REGULATIONS made by the Registrar of Merchant Shipping, on the recommendations of the Director of High Seas Fisheries and with the approval of the Minister of Finance, pursuant to section 50 of the High Seas Fishing Act (No. 26 of 2013), and all other powers thereunto him enabling.

(Gazetted 12th March, 2014).

WHEREAS, Belize is committed to the fight against illegal, unreported and unregulated (“IUU”) fishing on the high seas;

AND WHEREAS, in pursuance of the said objective, Belize has enacted a new and robust High Seas Fishing Act (“the Act”) which provides a legal framework for eradicating IUU activities on the high seas by Belize flagged vessels and all persons working on board Belize flagged vessels operating on the high seas or in the jurisdictional waters of other States;

AND WHEREAS, the Act creates several offences or violations, classified as minor or serious, relating to illegal fishing but leaves the penalties to be prescribed by Sanctions Regulations to be made under the Act;

NOW, THEREFORE, IT IS HEREBY PROVIDED as follows:

1. These Regulations may be cited as the

Short title.

**HIGH SEAS FISHING SANCTIONS
REGULATIONS, 2014.**

Interpretation.

2. (1) In these Regulations: -

**No. 26 of
2013.**

“the Act” means the High Seas Fishing Act, 2013;

“charterer” means any person who hires, leases or otherwise reserves the use of a vessel from the owner or operator under a written agreement;

“continuous violation” means a minor violation or a serious violation consisting of an uninterrupted series of connected acts which endure after the commission of the initial violation, as distinguished from isolated and disconnected acts;

“dollar” or “\$” means dollar in the currency of the United States of America;

“fishery products” means any products derived as a result of fishing and fishing related activities;

“master” means the person in charge or apparently in charge of the fishing activities of the vessel;

“minor violation” means any act of non-compliance with the Act or the regulations made thereunder other than that classified as a serious violation;

“offence” has the same meaning as the term ‘violation’;

“operator” means any person who is in charge of or who directs or controls a fishing vessel or for whose direct economic or financial benefit the vessel is being used, and includes the master, owner and charterer;

“owner” means the ultimate owning entity or representative thereof (either individual or body corporate or group of companies); the beneficial owner may be the vessel’s management company or the trading name of a group, both of which are generally perceived to represent the ultimate owner of the vessel;

“person” means a natural person or a legal person, including a master, owner, operator, charterer, business enterprise, corporation, partnership, cooperative, or association of persons whatsoever;

“recidivism” means the act of committing a minor or a serious violation more than once and within a specified time period;

“serious violation” means:

- (a) fishing without a valid license, authorization or permit issued by the flag State or the relevant coastal State;
- (b) failure to maintain accurate records of catch and related data required by the flag State and other regional or sub-regional organizations;
- (c) misreporting of catch in contravention of catch reporting requirements of the flag State and other regional or sub-regional organizations;
- (d) fishing in closed areas;
- (e) fishing during a closed season;
- (f) targeting species without quota allocation granted by the flag State where quota allocations are applicable;
- (g) using prohibited or non-compliant fishing gears;
- (h) fishing for species which are subject to a moratorium or for which fishing is prohibited;
- (i) concealing the markings, identification or registration of the fishing vessel;
- (j) falsifying the markings, identification or registration of the vessel;

- (k) concealing, tampering with or disposing of evidence relating to an investigation;
- (l) multiple minor or serious violations, which together constitute a serious disregard for conservation and management measures;
- (m) failure to submit data required to be transmitted by satellite vessel monitoring system;
- (n) obstructing the work of authorized officers in the exercise of their duties in monitoring compliance with applicable conservation and management measures;
- (o) obstructing the work of observers in the exercise of their duties of observing compliance with applicable conservation and management measures;
- (p) taking on board, landing or transshipping undersized fish in contravention of applicable conservation and management measures;
- (q) engaging in unauthorized transshipment activities on the high seas, or in the jurisdictional waters or ports of a coastal state;
- (r) transshipping or participating in joint fishing operations which supported or re-supplied other fishing vessels identified as having engaged in IUU fishing, including those included in the IUU list of an RFMO or other recognized IUU list;
- (s) falsification of documents or use of such documents relevant to the operation of the vessel;
- (t) carrying out fishing activities in the area of an RFMO in a manner inconsistent with or in contravention of the conservation and management measures of that

organization and being flagged to a State not party to that organization or not cooperating with that organization as established by that organization; or

- (u) non-compliance with measures outlined in circulars or notices established by the flag State or conservation and management measures set forth by relevant sub-regional or regional fisheries management organization or arrangement;

“vessel” means a Belize flagged vessel.

(2) Other words and expressions used in these Regulations shall have the meanings respectively assigned to them in the Act.

3. (1) These Regulations shall apply to:

Extent of
application.

- (a) all Belize flagged fishing vessels or any other Belize flagged vessels which engage in or support IUU activities;;
- (b) all owners, operators, charterers, masters and crew members of Belize flagged vessels;
- (c) all inspectors and observers authorized to perform duties in accordance with the Act;
- (d) all persons and entities empowered to function as representatives of the Belize High Seas Fisheries Unit; and
- (e) all persons working on board Belize flagged vessels operating on the high seas and in the jurisdictional waters of other States.

(2) These Regulations shall apply to all Belize flagged vessels wherever they may be irrespective of their geographical location.

General provisions.

4. (1) The Director may initiate disciplinary proceedings against any vessel, its owner, operator, charterer, master, legal representative, person and/or crew, who is alleged to have contravened any provisions of the Act or the regulations made thereunder.

(2) Where a vessel is found to be in contravention of the Act or the regulations made thereunder, the owner, operator and master shall be held jointly liable for the minor or serious violation committed, as the case may be.

(3) Any proceedings commenced in accordance with these Regulations shall be notified to the vessel owners, operators, legal representatives, charterers, and master or crew members, as the case may be.

(4) Any person who contravenes or fails to comply with any of the provisions of the Act or these Regulations, or with any notice, direction, restriction, requirement or condition given, made or imposed under the Act, other than a requirement to pay a fine imposed under these regulations, commits a minor or serious violation, as the case may be.

(5) Pending the payment of any penalties or compliance with any other sanction measures, the vessel shall not engage in any fishing or related activities.

Fines

5. (1) Each minor or serious violation shall be fined separately and the total fine for the series of violations may exceed the maximum of three million dollars prescribed for a serious violation and one million dollars prescribed for a minor violation.

(2) Subregulation (1) also applies to cases of continuous minor and serious violations and recidivism.

(3) Subject to the maximum of three million dollars prescribed for a serious violation, the Director, by way of a

detailed document of notification, shall, for a serious violation, impose a minimum fine equal to the total value of the fishery products obtained from committing such violation or the total value of the damage to the environment, or the amount of US\$50,000, whichever is the greater, together with any additional accompanying sanctions.

(4) The Director, by way of a detailed document of notification, shall, for a minor violation, impose a fine of not less than US\$10,000 and not more than US\$ one million dollars together with any additional accompanying sanctions as may be necessary.

(5) The overall level of fines and accompanying sanctions shall be determined in such a way as to ensure that they fully deprive the violator(s) of the economic benefit derived from their minor or serious violation(s), or to cover the full cost of their adverse impact on the environment. For this purpose, the interim enforcement measures taken pursuant to Regulation 11(2) of these Regulations shall also be given due consideration.

(6) Every person who commits a serious violation shall be subject to a fine of not less than US\$50,000 and not more than US\$3,000,000.

(7) Every person who commits a minor violation shall be subject to a fine of not less than US\$10,000 and not more than US\$1,000,000.

6. (1) In cases of recidivism for serious violations within 5 years of the initial serious violation, the Director shall impose sanctions as follows:

Recidivism

- (a) at least twice the value of the fishery products derived as a result of such violation; and/or

- (b)** at least twice the value of the impact on the environment; and/or
- (c)** where there is no fishery product, involved or no impact on the environment, a fine of not less than US\$50,000 but not more than US\$ three million shall apply;
- (d)** where the cumulative value of the fishery products or the value of the impact on the environment is less than US\$50,000, the penalty prescribed under sub-regulation **(c)** shall apply; and

any accompanying sanctions.

(2) In cases of recidivism for minor violations within one year of the initial minor violation, the Director shall impose sanctions as follows:

- (a)** at least twice the value of the fishery product derived as a result of such violation; and/or
- (b)** at least twice the value of the impact on the environment; and/or
- (c)** where there is no fishery product involved or no impact on the environment, a fine of not less than US\$10,000 but not more than US\$ one million shall apply;
- (d)** where the cumulative value of the fishery product or the value of the impact on the environment is less than US\$10,000, the penalty prescribed under sub-regulation **(c)** above shall apply; and

any accompanying sanctions.

7. Where a vessel is found to be in contravention of the Act or any regulations made thereunder, Regulation 4(2) [relating to joint liability of the owner, operator and master] shall apply.

Liability.

8. (1) When calculating the value of any part of the catch, the value will be determined by the most recent average prices at the most appropriate markets. If the catch is actually landed, then the value achieved through sale on an open market will be used.

Determining value of catch and impact on the environment.

(2) When calculating the value of the impact on the environment, an environmental impact assessment shall be used in determining the level of fine and/or accompanying sanctions to be imposed.

9. Sanctions provided for in these regulations may be accompanied by other sanctions or measures, in particular the following:

Accompanying sanctions.

- (a) suspension or withdrawal of the license;
- (b) the sequestration of the vessel involved in the minor or serious violation;
- (c) temporary prohibition from sailing;
- (d) confiscation of gears, equipment, and/or fishery products as appropriate;
- (e) reduction or withdrawal of fishing rights;
- (f) recommendation to IMMARBE for the de-registration of the vessel;

- (g) suspending or revoking the authorization of any and/or all crew members working onboard a Belize flagged vessel; and
- (h) any other sanctions that the Director may deem appropriate.

Determination
of actual
amount of
fines

10. (1) The actual amount of fine imposed shall be determined by the Director after taking into account, *inter alia*, the nature, circumstances, extent and gravity of the minor or serious violation, economic benefit derived from the minor or serious violation, and the impact on the environment.

(2) Where a minor or a serious violation is of a continuous nature, a separate minor or serious violation accrues each day after the initial act and an additional fine shall be imposed for every day the minor or serious violation continues.

Interim
measures
pending
completion of
sanction
proceedings.

11. (1) When any sanction proceedings have been initiated by the BHSFU, the Director shall request the International Merchant Marine Registry of Belize (IMMARBE) to suspend all processes related to any changes in the name, ownership or flag of the vessel until the completion of all such proceedings.

(2) Where a vessel owner, operator, master, or legal representative is suspected of having committed or is caught in the act while committing a serious violation, a full investigation shall be initiated and, during such time, the Director shall, depending on the gravity of the serious violation, take any of the following immediate enforcement measures or a combination thereof:

- (a) recalling the vessel to port;
- (b) prohibiting the vessel from sailing;

- (c) ordering the discontinuation of fishing activities;
- (d) seizing the fishing gear, and/or fisheries products; or
- (e) suspending the authorization to fish.

(3) The interim enforcement measures shall be of such a nature as to prevent the continuation of the serious violation concerned and to allow the BHSFU to complete its investigation.

(4) The Director may also utilize the immediate enforcement measures outlined in subregulation (2) above for any other minor or serious violation.

12. If a vessel commits a minor or a serious violation in the exclusive economic zone of another State and is sanctioned accordingly by that State, it is the responsibility of Belize as the Flag State to ensure that the overall sanctions taken against the vessel fully deprive and sufficiently deter the owners of the benefits of the illegal catch or damage to the environment. Belize shall evaluate the nature and circumstances of the minor or serious violation to determine if the sanctions taken against the vessel are adequate and shall impose additional sanctions as necessary.

Violations committed in the waters of other States.

13. All sanctions under these Regulations shall be imposed by the Director administratively, but an appeal shall lie to the Registrar as hereinafter provided.

Sanctions to be imposed administratively by the Director.

14. (1) After the proceedings for the imposition of any penalty have been completed, the Director shall issue a document of notification to the party or parties concerned in the form specified in the First Schedule, within thirty (30) days of such decision.

Notification of sanctions and motions of appeal.

First Schedule

(2) The party or parties to whom the notice is issued may, within fifteen (15) working days of the receipt of the notice, file an appeal to the Registrar.

(3) An appeal against any penalty or sanction imposed under these Regulations may be filed for the decision of the Registrar, either by the complainant or by the affected party who may file such appeal directly or through its duly authorized representative.

(4) All immediate measures taken against a vessel shall remain in effect until such time as the case has been closed, either at the end of the investigation or at the end of the appeal process.

Procedure on appeal

15. (1) Motions of appeal against any penalties or sanctions imposed under these regulations shall be reviewed by the Director who shall forward the same to the Registrar. In cases involving fines, the appellant shall pay in advance fifty percent (50%) of the fine imposed before the motion of appeal is forwarded to the Registrar, but it shall be reimbursed in full if the appeal is successful.

(2) All appeals shall be determined on the basis of written submissions unless the appellant requests an oral audience in which case the respondent shall also have a right to appear.

(3) While hearing an appeal, the Registrar may seek such technical assistance as he may consider necessary.

Time limit for commencement of proceedings.

16. All proceedings to impose sanctions pursuant to these Regulations shall be commenced within six months of the date of the alleged minor or serious violation, or within six months of the date when such minor or serious violation first came to the knowledge of the Director, whichever is the later.

17. Nothing in these Regulations shall affect the authority of the Director to initiate any other proceedings as may be authorised by law.

Other proceedings.

18. The Registration of Merchant Ships (Disciplinary) Regulations shall not apply to those aspects and activities of fishing vessels that fall under the jurisdiction of the Act and these Regulations.

Disciplinary regulations not affected in respect of non-fishing activities.

S. I. 56 of 1999.

19. These Regulations shall come into force on the 12th day of March, 2014.

Commencement.

MADE by the Registrar of Merchant Shipping this 7th day of March, 2014.



(GIAN C. GANDHI)
Registrar of Merchant Shipping

APPROVED by the Minister of Finance this 7th day of March, 2014.



(DEAN O. BARROW)
Prime Minister and Minister of Finance

[Regulation 14]

FIRST SCHEDULE
NOTIFICATION OF SANCTIONS

Notice No.:

Date:

TO RESPONDENT: Any proceedings which are the subject of this Notice shall not preclude the BHSFU from pursuing separate proceedings against you for minor or serious violations committed in the same course of conduct.

COMPLAINT: The undersigned Director of High Seas Fisheries states that the named respondent did commit the violation(s) noted below:

A. RESPONDENT INFORMATION				
Name and Address of Vessel Owner		Name and Address of Legal Representative		
Email Address:		Email Address:		
Telephone/Cell #:		Telephone/Cell #:		
Fax #:		Fax #:		
B. VESSEL INFORMATION (if applicable)				
Vessel Name	Call Sign	Registration No.	IMO No.	License/Authorization No.
C. STATEMENT OF FACTS REGARDING THE VIOLATION				
Date of Violation:		Location of Violation:		
DESCRIPTION OF VIOLATION: (specify any evidence, damage, seizure, witness, observer reports etc.,)				
D. CITATION		E. ASSESSED FINES		
No.	Violation	Fines imposed		
1				
2				
3				
4				
5				
F. OTHER SANCTIONS AND REQUIREMENTS				
TO RESPONDENT: In addition to any fines assessed in Section E, the following accompanying sanctions have also been imposed. Any requirements also stated below must be complied with within 15 days of the service of this Notice, unless a different period is provided in this section below.				

Laws and Regulation Violated:

G. ISSUANCE AND DELIVERANCE		H. ACKNOWLEDGEMENT
Director of High Seas Fisheries Delivered via: <input type="checkbox"/> Email <input type="checkbox"/> Registered Mail <input type="checkbox"/> In person	Signature and Stamp	I acknowledge the receipt of this Notice. This is not an admission of responsibility. <p style="text-align: right;">Respondent Signature</p>

I. SERVED NOTICE TO RESPONDENT

The Respondent is hereby summoned and required to submit an answer to this Notice within 15 days from the date of service of this Notice. Submit your answer, payment, statement, appeal and/or evidence to the Belize High Seas Fisheries Unit, email address: bhsfu.gob@gmail.com. Failure to respond within the 15 days provided, a default decision for the relief demanded in this Notice will be entered against you and you may be subject to additional actions without further notice.

J. ANSWER BY RESPONDENT

INSTRUCTIONS:

1. You have three options in responding to this Notice. CHOOSE ONLY ONE and check the corresponding box below. Sign and date your response and return it to the office of the Belize High Seas Fisheries Unit at the email address listed above.
2. If you choose Option 1, include with your answer payment in the amount stated in Section E if you are answering within the 15 days of receiving this Notice. You are also required to comply with all sanctions and requirements specified in Section F. Your case will be concluded.
3. If you choose Option 2, include with your response a statement and evidence showing the mitigating circumstances. Your case will be reviewed and a decision will be taken which may adopt, modify or reverse any sanctions assessed in this Notice. This decision is final and may not be contested or appealed.
4. If you choose Option 3, include with your response a statement and evidence showing the reasons for your appeal. Your case will be reviewed and a final decision will be rendered within 30 days of receipt of your response.
5. Ensure that you retain a copy of everything submitted for your records. For inquiries contact the Administration at the email address indicated in section I above or at **Tel: 501-2234918**

<input type="checkbox"/> Option 1: Comply	<input type="checkbox"/> Option 2: Request Mitigation	<input type="checkbox"/> Option 3: Contest
I DO NOT contest this Notice, and have complied with all sanctions assessed herein	I DO NOT contest this Notice, but request mitigation in the assessed fine and accompanying sanction	I DO contest this Notice and request an administrative case review

STATEMENT OF RESPONDENT: (Please type or write legibly. Use additional sheet if necessary)

Print Name: Address:	Signature: Email:	Date: Phone: