

# 菲漁業法有關外國漁船在菲國水域盜漁之主要規範

## 一、1998 年版菲漁業法(The Philippine Fisheries Code of 1998)

### (一) 第 87 條在菲國水域盜漁(Poaching in Philippine Waters)

#### 1、英文內容：

It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

The entry of any foreign fishing vessel in Philippine waters shall constitute a prima facie evidence that the vessel is engaged in fishing in Philippine waters.

Violation of the above shall be punished by a fine of One Hundred Thousand U.S. Dollar (US\$100,000.00), in addition to the confiscation of its catch, fishing equipment and fishing vessel: Provided, That the Department is empowered to impose an administrative fine of not less than Fifty Thousand U.S. Dollar (US\$50,000.00), but not more than Two Hundred Thousand U.S. Dollar (US\$200,000.00) or its equivalent in the Philippine Currency.

#### 2、中文翻譯：

任何外國人、公司或實體在菲國水域捕魚或作業均屬違法。

任何外國漁船進入菲國水域均構成其在菲國水域捕魚之推定證據。

違反上揭條文應處以 10 萬美元罰金，並沒收漁獲、漁具及漁船，惟菲農業部得處以 5 萬美元至 20 萬美元或等值菲幣之行政罰鍰。

### (二) 菲漁業法第 87 條之施行細則(Guidelines and Procedures in

Implementing Section 87 of the Philippine Fisheries Code of 1998)

1、第2條禁止(Prohibition)

(1)英文內容：It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

(2)中文翻譯：任何外國人、公司或實體在菲國水域捕魚或作業均屬違法。

2、第3條盜漁之推定證據(Prima facie Evidence of Poaching)

(1)英文內容：

The entry of any foreign fishing vessel in the Philippine waters shall constitute a prima facie evidence that the vessel is engaged in poaching in Philippine waters under the following circumstances:

(a) Entry of an FFV into Philippine waters under the following circumstances:

(i) Navigating with its fishing gear deployed and/or not stowed;

(ii) Navigating with an irregular track or route;

(iii) Navigating through Philippine territorial waters without prior notice to, clearance of, or permission from the appropriate Philippine authority;

(iv) Navigating in a manner that does not qualify as innocent passage nor navigating outside traditional routes or in identified fishing grounds;

(V) Navigating without flying its national flag.

(b) When an FFV is found within Philippine waters:

(i) Under the circumstances enumerated in the previous paragraph;

(ii) Lying-to or anchoring without any valid reasons or circumstances that may indicate the existence of force majeure, distress, or for the purpose of rendering assistance to persons, ships or any sea craft that is endangered or in distress;

(iii) Lying-to, anchoring at, or anchoring near to or within known fishing grounds or marine protected areas.

(c) When an FFV, after having been inspected within Philippine waters, in accordance with the procedures set forth in this FAO, is found to contain freshly caught fish on deck or in storage, corals, mollusks.

(2) 中文翻譯：

任何外國漁船進入菲國水域倘符合以下情況，均構成其在菲國水域盜魚之推定證據：

(a) 任何進入菲國水域之外國漁船符合以下情況者：

(i) 航行時漁具已佈放且(或)未收妥；

(ii) 以不規則航線(路)航行；

(iii) 航行經過菲國水域前，未事先通報菲國主管機關，以獲得其同意；

(iv) 航行時不符合無害通過規則及行進在傳統航線以外或漁場內；

(v) 航行時未懸掛船舶國籍旗幟。

(b) 當任何外國漁船在菲國水域被發現時：

(i) 有以上條文所列舉之情形；

- (ii)在未有適當理由或可被認為係由於不可抗力、災難或對任何受難人船提供救援之情形而停航或錨泊；
- (iii)在已知的漁場或海洋保護區內或其鄰近水域停航或錨泊。
- (c)當任何外國漁船在菲國水域依照本施行細則接受檢查後，經在該漁船甲板、儲存艙查獲有新鮮漁獲、珊瑚或軟體生物。

## 二、2015 年 2 月 27 日簽署之菲漁業法(Republic Act No.10654)

### (一) Section 91 Poaching in Philippine Waters 之英文內容：

It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters.

The entry of any foreign fishing vessel in Philippine waters shall constitute a *prima facie* presumption that the vessel is engaged in fishing in Philippine waters.

Upon a summary finding of administrative liability, any foreign person, corporation or entity in violation of this section shall be punished by an administrative fine of Six hundred thousand US dollars (US\$600,000.00) to One million US dollars (US\$1,000,000.00) or its equivalent in Philippine currency.

Upon conviction by a court of law, the offender shall be punished with a fine of One million two hundred thousand US dollars (US\$1,200,000.00), or its equivalent in Philippine currency, and confiscation of catch, fishing equipment and fishing vessel.

If the offender is caught within internal waters, an additional penalty of imprisonment of six (6) months and one (1) day to two (2) years and two (2) months shall be imposed. If apprehended for the second time within internal waters, the offender shall be

punished with imprisonment of three (3) years and a fine of Two million four hundred thousand US dollars (US\$2,400,000.00) or its equivalent in Philippine currency: *Provided*, That no foreign person shall be deported without the payment of the imposed judicial and/or administrative fines and service of sentence, if any.

(二) 第 91 條在菲國水域盜漁之中文翻譯：

任何外國人、公司或實體在菲國水域捕魚或行駛漁船均係違法。

任何外國漁船進入菲國水域均構成其在菲國水域捕魚之推定證據。

任何外國外國人、公司或實體違反本條條文，倘採行政處分，應處以 60 萬美元至 100 萬美元或等值菲幣之行政罰鍰。

倘經法庭審理判刑，違法者應處以 120 萬美元或等值菲幣之罰金，並沒收其漁獲、漁具及漁船。

倘違法者係在菲國內水遭逮捕，應加處 6 個月 1 天至 2 年 2 個月在監徒刑，另倘係在內水遭第二次逮捕，違法者應處 3 年在監徒刑及 240 萬美元或等值菲幣之罰金，且違法者在未繳付所判罰金(鍰)及服畢刑期前不得獲釋遣返。