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Malmo-Sweden

**Fisheries Legislation
Applying in Somalia**

By

Abdullahi Farah Qaarey.

S o m a l i a

A paper submitted to the Faculty of the World Maritime University in partial fulfilment of the requirements for the award of a

MASTER OF SCIENCE DEGREE


IN

GENERAL MARITIME ADMINISTRATION

The contents of this paper reflects my personal views and opinions which are not necessarily endorsed by the University.

Signature.....

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allah, the
Beneficent, The Merciful

FISHERIES LEGISLATION APPLYING IN SOMALIA.

TABLE OF CONTENTS

ACKNOWLEDGMENT

FOREWORD

Chapter I General Introduction.

1. Introduction.	1
1.1.0 Geography and Climate of the Country.	2
1.1.1 Location.	
2 1.1.2 Area.	
2 1.1.3 Rivers.	
3 1.1.4 Climate.	
4 1.1.5 Administrative Sub-divisions.	
5 1.1.6 Population.	
1.2 Fisheries sector.	5
1.3 Institutional Framework.	7
1.4 Somali Fisheries Legislation.	10
(Law No. 23 of 30 November 1985)	
1.5 Major Problems and Obstacles	10

Chapter II.

Fisheries Overview In Somalia.

2. Introduction.	12
2.1. Fisheries.	15
2.1.2 The Artisanal Sector.	
2.1.3 The Industrial Sector.	
2.1.4 Resources.	
2.1.5 Preservation and Security of Coastal Areas	
2.2 Fresh Water Fisheries In Somalia.	24
2.3 Present Coastal Fishing Conditions.	25
2.3.1 Lack of Transport.	
2.3.2 Lack of jetties.	
2.3.3 Lack of Workshops.	
2.3.4 Lack of Fuel and Storage Facilities.	
2.3.5 Poor Marine Transport.	
2.3.6 Migration from the Coastal Areas.	
2.4 Problems and Constraints.	27
2.4.1 Natural Obstacles.	
2.4.2 Technical Problems.	
2.4.3 Organizational Problems.	

Chapter III

Fisheries Legislations in Somalia.

Constitution.	33
3.1. Present Fishing Legislation in Somalia	35
3.2 Fisheries Co-operatives Law.	36
3.3 Law on the Somali Territorial Sea and Ports	39
3.4 Law on Offences Committed by Foreign Ships.	41
3.5 Trade in Fishery Products.	41
3.6 Customs duty.	43
3.7 Navigation.	45
3.8 International Aspects.	46
3.9 Major Problems in the Present Fisheries legislation in Somalia	49

Chapter IV.

Fisheries Management in Somalia.

4.1 Introduction.	53
4.1.1 Regional Co-operation.	
4.2 Objectives of Fisheries Management.	57
4.2.1 Protection of the Productivity of the Stock.	58
4.2.2 Flexibility	
4.2.3 Correct Level of catch	
4.2.4 Right Size Composition of Catch	
4.2.5 Right Number and Kind of Fishing Vessels/Gear Combination.	
4.2.6 Optimal fleet Development	
4.3 General Policy for Regulating Fisheries.	60
4.4 Methods for Controlling Fishing effort.	61
4.4.1 Catch Limitation.	
4.4.2 Control of Fishing Intensity.	
4.4.3 Protected Areas.	
4.4.4 Mesh Regulations.	
4.4.5 Choice of Regulation Methods.	
4.5 Enforcement of Fishery Regulations.	66
4.5.1 Enforcement Tasks.	
4.5.2 Specialized Equipment for Enforcement.	
4.5.3 Specialized Skills for Enforcement	

Chapter V

Reccomendations .

5.1	Fisheies Development.	69
5.1.1	Fishing Vessels.	
5.1.2	Fishing Gear.	
5.1.3	Trainnig.	
5.1.4	Maintenance and Repairing of Equipment.	
5.1.5	Jetties.	
5.1.6	Cold Storage	
5.1.7	Processing Facilities.	
5.2	Fisherie's Act.	71
5.3	Fishing Data.	74
5.4	Fisheries Management Measures.	74
5.5	Licensing Provisions.	75
5.6	Fisheries Management and Development Plans.	78
5.7	Enforcement of the Fisheries Act.	80

Annexes

Annex I Map of Somalia.

**Annex II Structural Plan of the Ministry of Fisheries
in Somalia**

Annex III Fishery Development Regions of Somalia.

Annex IV Trawlable Areas of Somalia.

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for their immense supports.

F O R E W O R D.

Historical Background.

The Somali Democratic Republic, has the longest coast-line in independent Africa. It has waters which has been kept of the center of some of the greatest civilisations of the ancient times.

Somalia had a very deep rooted civilization along its coasts. This civilization had very close links with the most ancient civilizations and maritime powers. The most important links were with the Phoenecians, Persians, Egyptians and Chinese.

The coastal areas have thus formed the nucleus of the historical development of the country. The coastal towns had trade relations with those civilizations in general and Pharaonic Egypt in particular. This link reached its momentum during the reign of Queen Hatshepsut (2000 B.C.) when an Egyptian trade delegation came to north-eastern coast of Somalia.

Commerce flourished in the coastal areas. Towns and cities began to emerge. Foreign ships regularly visited these ports and brought with them goods from far away places and bartered them fore local ones. Somalia was famous for its frankincense myrah, and livestock.

Coastal cities were places where benefits and sometimes wars and disasters intermingled, and through these cities the country had its ties with the rest of the world.

European interest in African continent increased after they passed the Cape of Good Hope in the last decade of the 15th century and the early years of the 16th century.

The European powers who came to these parts of the world had nothing else in mind but to colonize the African continent. The Portuguese invasion of the Somali coasts began in 1499 and lasted for 17 years.

The year 1825 was the first time that British ships anchored for some time in the northern coast of Somalia. Britian wanted to have a source from which it could collect and send meat to its soldieries and seamans in the region. They made Berbera a resting place for their soldiers who were heading to the far east and the rest of the African continent.

At the time, the movements of the European colonial fleets were frequent in the southern regions. France was also interested in the coastal cities of Somalia. Its ships first came in to the coast of Banadir between 1846-1848.

The movement of the colonial fleets continously increased along the eastern and southern coasts of Somalia. Italian ships were continuously exploring passages for their armies. After completing its exploration, Italy wanted to conquer the country by defeating the anti-colonialists resistance of coastal population and then passed to the interior. This fleet continued its bombardment and harassment until all the coastal districts were occupied by the invading alies in 1927.

Due to long continuous bitter and barbaric attacks along the coastal areas, the following misfortunes came about:

- 1.The number of the big, locally made ships that used to sail to other continents and far away places became very few in number.
- 2.People fled from the populous coastal towns. They tried to find refuge in towns far from the shore or became nomads.

The modern Situation

The people of the Somali Democratic Republic have not properly exploited the abundant fish and other sea resources along the 3333 km. coastline which is still sparsely populated and yet the population is suffering from hunger.

In the year 1977, the Somalian Government established the Ministry of Fisheries and Marine Resources and various agencies for the development and exploitation of fish and other sea resources. It also had the role of implementing its policy toward this sector.

Somalia has substantial marine fish resources but lacks the technical know-how and the fleet to exploit them. Somalia catches only 10 per cent of its fish stock. The fish caught by the industrial fleet is processed on board the vessel. The caught are sorted, graded and freezed for storage in freezer holds. Then it is either carried to the export market by the fishing vessel, or directly

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transferred at sea to a carrier vessel for export.

Consumption of fish in Somalia is low. Apart from the difficulties found in distributing fish to the inland population there has generally been a social and cultural dislike for fish. Storage methods are still traditional which includes salting and drying as the main forms of processing for artisanal fishing. Some of the products are used for local consumption, but much is exported. This processing is carried out with virtually no industrial input.

The government has been the sole owner of the industrial fishing fleet and the sole joint-venture partner with foreign entities. The state controls the sale of fish and the export of dried fish through a parastatal company. However, government policy is changing to allow greater privatization which has had the effect in improving viability for smaller enterprises. The co-operatives are the basis of artisanal fisheries organization.

Fishing regulations have been within the Maritime Code of 1959. This did not have enough regulations to control, manage, regulate and conserve the fishing resources. So the resources were mismanaged. Aware of the above factor, the Government realized the need for change. Hence in 1985, the basic Fisheries Legislation in Somalia was created (Law No. 23 of 30 November 1985). and separated from the Maritime Code of 1959. The provisions of this law were also inadequate as the basis for the proper management of Somalia's fisheries resources and also as a basis for securing revenue from the industry.

The same legislation is equally weak by the absence of a provision for reporting and collecting fisheries information as required. It lacks management provision issues to control illegal fishing in the Somalian waters by foreign fishing vessels.

I must say, I am fortunate to have visited and thank ICOD-Canada and FAO-Rome during my research and had an opportunity to read most of the useful reports done by the national and international organisation experts concerning the ways and means to manage, regulate, conserve and control the fisheries resources in Somalia. It is important to note that these reports have not been of much use to the fishing industry or even discussed by those in the fishing authority due to the lack of initiative and trained manpower have been an obstacle to the improvement of the industry.

Due to the foregoing, and having read most of these reports, and the wide knowledge I gained from WMU Malmo-Sweden, my training from different countries such as Italia-FAO, Germany, Canada, Aberdeen-Scotland, London, Sweden and Oslo-Norway and my own work-experience, i felt the need to review the existing fishing legislation and make recommendations for change for the proper management of fisheries which i hope will serve to improve the situation of the Somalian fishing industry.

In doing this, this paper has looked into :

-General Introduction in Somalia.

- Fisheries Overview in Somalia and its weaknesses.
- Present Fishing Legislation Applying in Somalia and its weaknesses.
- Fisheries Managemnet in Somalia
- A recommendation of what a workable legislation and Management should be.

During the course of my research, I discovered and read many useful reports. If they have been used they would have improved the role of the development of the fisheries sector in Somalia. I have therefore summarised and highlighted these valuable published reports in this thesis with the objective of making them accessible and therefore useful to the fishing industry.

FISHERIES LEGISLATION APPLYING IN SOMALIA.

TABLE OF CONTENTS

CHAPTER I. G. INTRODUCTION.

1. INTRODUCTION.

The Somali Democratic Republic comprises two territories formerly called British Somaliland in the North and Italian Somaliland in the South which united on the 1st July 1960.

It is a constitutionally Socialist Republic with one party (Somalia Socialist Revolutionary Party), founded on 1st July 1976.

The Somali Democratic Republic is a member of the United Nations, Non-allied Organization, Organization of African Unity, an Associate member of the European Economic Community, International Maritime Organization (IMO), and ratified in 1988 the UN Convention on the Law of the Sea (UNCLOS III) which does not allow states to claim territorial waters more than 12 miles.

Unfortunately, Somalia is not a party to any fisheries conventions or agreement as such, but it is a member of the Indian Ocean Fishery Commission.

1.1.0 Geography and Climate of the Country.1

1.1.1 Location.

The Somali Democratic Republic is situated in the Horn of Africa. It lies between Latitude 12° 0' North and 1° 35' South and between Longitude 41° 0' East and 51° 25' East.

It borders on Kenya to the South, Somali Western region and Djibouti to the North-West. To the North the country has a coastline of about 1,300 kilometers bordering the Gulf of Aden and to the East a coastline of about 2,000 kilometers bordering the Indian Ocean.

1.1.2 Area.

The total area of the country is 633,000 square kilometers, of which 8.2 million hectares are suitable for cultivation, 28.8 millions for livestock raising and the rest is non-agricultural land.

It has a coastline of 3,333 km, which stretches along the Indian Ocean and the Red Sea. Scientific surveys have shown that the territorial waters of the S.D.R. is rich in marine resources. The amount of reserve fish is said to be between 200-370 thousand tons and that approximately 100 tons can be caught annually without affecting the reserve if the required facilities and technical know-how is attained.

1.1.3 Rivers.

There are two rivers in the country: the Jubba and the Shabelle. The length of the Jubba is 800 km, and that of the Shabelle is 1100 km. Their catchment areas are 275,000 sq.km. for the Jubba and 300,000 sq.km. for the Shabelle. The average annual flow of the Jubba is 6 billion cubic meters while that of the Shabelle is 2 billion cubic meters.

1.1.4 Climate.

Somalia, being situated on the Equator, has an arid and hot climate with average daily temperatures ranging from 25° C to 35° C. The climate in the coastal regions is hot and humid. Average temperatures vary from 27 C to 32 C along the East-Coast and can rise to above 40 C at times on the North Coast.

Humidity: The humidity in the country varies from 63% in the dry season to 82% in the wet season.

Rainfall: The average rainfall is less than 600 mm in most parts of the country. There are two rainy seasons, namely Gu' (April-June) and Der (October-November). In addition, the country's southern coast gets rain also during Haga (July-August). The wettest month is June with an average precipitation of 97 mm.

Seasons: The seasons are governed by the two monsoon winds: the South West Monsoon during June to September and the North East Monsoon during November to March and the

intermonsoon periods during April-May and December.

Fishing Seasons:

A fishing season in the Somali Democratic Republic is considered to be that part of the calendar year between 15th September of the proceeding year to 15th May of the following year in which fishing activity reaches its highest peak.

The definition is valid for the artisanal fishing and does not affect the offshore (deepsea) fishing which engages large vessels. But large and medium size fishing vessels are compelled to frequently change their fishing grounds and species.

For artisanal fisheries the number of fishing days vary between 180 - 220 days. The off-season usually coincides with the on-set of South West monsoons in the summer. In the Spring and the Autumn, Palagic and migratory fish species of Tuna and Mackerel are caught heavily along the coast of the Indian Ocean.

The two peak seasons of the year namely the Spring and Autumn are the two most important periods for artisanal fisheries in so far as the realization of high catch rates are concerned.

Within the above defined fishing period there could be several non-fishing days for both off-shore and inshore fisheries mainly due to short duration storms and swells.

During the offseasons(May and September)the fishing communities in the Golf of Aden conduct shark activities by gillneting.

1.1.5 Administrative Subdivision.

Regions and Districts: The country is divided into 18 administrative regions,which are sub-divided into 87 districts. Six of the regions are fishery regions,namely : 1. Banadir 2. W.Galbeed. 3. Bari 4. Mudug. 5. Middle Shabelle. and 6. Lower Jubba.

Capital: Mogadisho is the capital of the Somali Democratic Republic with an estimated population of about 0.7 million people.

Other principal towns: Other principal towns are Hargeisa,Burao,Erigavo,Galkaio,Belet-Weyne,Jowhar,Baidaba and the ports of Kismayo,Brava,Marka,Bosaso and Berbera.

1.1.6 Population.

The population of the country was estimated in 1986 to be around 8.5 million,of which 44.4% are nomads,31.3% are settled people(mostly farmers) in the rural areas,and the rest 24.3% are urban dwellers.

1.2.0 Fisheries Sector.

The majority of Somalis were engaged in livestock rearing which was preferred to both the agriculture and the fishery sector.

This was so because livestock provided the greatest economic security for the people and showed a much higher rate of return than the other two sectors.

Prior to the independence in 1960, the fisheries sector was neglected and did not receive the attention it deserved. Very few people particularly those living in the coastal villages were engaged in fishing for their limited consumption and for the realization of exports to neighboring countries, due to the extreme remoteness of scattered fishing communities and poor communication; less than 1% of the fisheries is exploited. Most of the trading was in the form of dried salted fish, for the exchange of varied merchandise to the neighboring countries.

It was not until after the independence in 1960, that fisheries were recognized by the Government as a major national resource and a policy decision was adopted to grant the top most priority to their development.

Fisheries were in particular recognised to contribute to the following objectives:

1. To increase the exploitation of the fisheries and its contribution to the G N P .
2. To Increase the foreign currency earning of the nation.
3. To provide necessary nourishment to the people.
4. To create sizeable employment opportunities for the people
5. To contribute to the introduction of new techniques which will enhance the productivity of the sector.
6. To provide training possibilities to the fishing

communities and cadets in the sector.

For development purposes priority is given to the artisanal fishermen. In this respect the following facilitation are given to the sector:

1. The establishment of freezing and canning onshore facilities.
2. The provision of fishing crafts as well as fishing gear to the artisanal fishermen.
3. The undertaking of surveys of fishery resources.
4. The undertaking of marketing campaigns. The government is also determined to exploit deep- sea fishery resources.

1.3 Institutional Framwork.

Marine products are essential to mankind as a source of protein. The need of fish protein and other marine products is becoming more and more important for the last two decades. On the other hand, fisheries plays an important role on the economy of most Third-World Countries.

The importance of marine resources has been realized after the Revolution of 21 October 1969 and as such the Ministry of Fisheries and Marine Transport was founded in 1973. Thus registering the importance of the fisheries sector.

As the exploitation of marine resources increased, the Ministry of Fisheries and Marine Resources was separated from that of the Marine Transport.

Because of its expected work-load, the fisheries sector was given an independent ministry in 1977 in order to fulfill certain objectives, concerning the development of fisheries in this country.

Mentioned below are the broad objectives of the Ministry:

- To formulate the fisheries programme of the party.
- To build a socialist maritime economy.
- To obtain benefits from marine resources.
- To To improve the gear and other material of the Co-operatives.
- To organize and operate all maritime schools.
- To organize fishing support industry such as boatyards, and make new types of fishing vessels suitable to the Somali waters.
- To construct a technical infrastructure, such as ports and cold storage
- To build a sea fishing fleet.
- To disseminate information on the preparation, processing, handling and consumption of fish.
- To expand foreign marketing of fish for hard currency.
- To prevent pollution through the International Law of the Sea.
- To formulate laws regulating fishing in Somali waters and to organize fishing rights.
- To construct factories for fishing boats and fishing gear.

The organization plans for the Ministry of Fisheries is given in Figure 1.

The Ministry is led by a Minister, who is a politician and top policy maker, assisted by a Deputy Minister. The Ministry also has a Director General, who is a civil - servant and top of the administration.

The Ministry has six departments and a number of agencies and companies under it. The agencies and companies have autonomous status and though they operate within the framework of the Ministerial directives, are nonetheless free to take the day-to-day decisions of their organizations with complete independence.

Following projects, companies and agencies are under the guidance of the Ministry of Fisheries:

1. North-East Coast Project (NECFISH).
2. Somali Marine Product (S.M.P).
3. Las-Kore Fish canning Project (N.E.Coast)
4. N. West Fishery Development project (FAO-UNCDF)
5. Berbera Cold storage Project
6. GRP Boat Building Project.
7. Mogadishu Chill Store and Supper Market.
8. Coastal development Project.

The project dealt with in the above paragraph were conceived by the Government and partially founded. The aim was to provide facilities for the promotion of the fisheries sector.

1.3.0 Somali Fisheries Legislation.

(Law No.23 of 30 November 1985)

Basic marine legislation was contained in the Maritime Code of 1959 (Legislative Decree No. 1 of 31 February 1959, amended by Decree Law No. 7 of 1 November 1966, converted and amended by Law No. 3 of 7 1967) which entrusted fisheries regulations to the "maritime authority" (art.72) which now falls under the Ministry of Fisheries and Marine Resources.

The Law No.23 of 38 November 1985 has been promulgated and entered in force. This law does not cover properly as it was expected the different aspects of the fisheries including administration, management, planning, licensing, and enforcement.

The provisions of the fisheries act are not on adequate basis for the proper management of Somali fishery resources. They are also not a very useful basis to secure revenue from the fishery. These provisions are attached in this paper as Annex. That and other reasons are the motive which I would like to present in this project which will be useful to my country.

Major problems.

The major problems standing in the way of the Ministry for discharging its responsibilities in the sector are :

- 1. The limited professionalism available in the organisation.**

2. The weakness of institutional framework which can not adequately service the sector.
3. There is a lack of indepth knowledge and specialized training.
4. There is a lack of implementation of projects.
5. There is a lack of advice to fishermen.
6. There is a lack of data collection
7. There is a lack of enforcement.

CHAPTER II .

FISHERIES OVERVIEW IN SOMALIA.

2. Introduction.

The fisheries have sustained mankind from the beginning of time. It has always been possible for a single individual to take up some form of fishing equipment - a hook or a net-and start to fish. The capital requirements need not be large,thus making the resources highly accessible to many individuals. And indeed, millions of individuals partake in the fisheries around the world.

Involvement ranges from subsistence fishing by artisanal fishermen.to technologically advanced distant water effort by commercial fishing companies. For the millions of artisanal fishermen engaged in the coastal fisheries, access to the resource is considered a birthright and is fundamental to day-to-day existence.

The exploitation of fishery resources in Somalia has followed a different course. In few cases has the problem posed by common property been addressed directly. This is due partly to the absolute difficulty of developing a workable system of allotting fishing rights when so many individuals are involved,and in part due to the social and cultural importance of the fishery and the inherent problems of trying to restrict participation.

In Somalia,there are no prohibitions against participating in the fishery,and often only nominal limits

on catch that may be taken. There are few if any restrictions on the size and number of vessels that may be employed, or the fishing gear that may be used. Fisheries in Somalia are competitive with each fisherman trying to maximize their share of the catch. Over-capitalization is the natural outcome in this environment, and there is a bent toward over-fishing and the depletion of fish stocks. The major hint is that the resource generally has far less economic value than it would have if its potential were fully realized.

By the time the 1982 Convention of the Law of the Sea was signed most of the fishing nations including Somalia, had already extended their economic or fisheries zone to 200 miles. Perhaps the most significant effect of the extension of jurisdiction from a fisheries perspective was to bring the world catch virtually within national jurisdiction. This meant that Somalia and other fishing nations were in a legal position to exercise control over fisheries beyond their territorial seas. An important aspect of that control was the ability to introduce management regimes directed at both domestic and foreign fishing interests.

The benefits of introducing a management regime in my paper (See Chapter Four) are many, but primarily management allows appropriate biological and economic levels of fishing to be undertaken, conserving the resources for present and future generations and improving incomes for Somali fishermen.

A careful management also provides a means of preventing or regulating conflicts between competing users of the fishery resources, for example, between artisanal and commercial fishermen. Fisheries management should also provide for better utilization of resources, and a more desirable distribution of income from the fishery.

Scientific surveys have shown that the territorial waters of the Somali Democratic Republic, is rich in marine resources. The amount of reserve fish is said to be between 200-370 thousand tons and that approximately 100,000 tons can be caught annually without affecting the reserve if required facilities and technical know-how is attained. As the exploitation of the marine resource increased, the Ministry of Fisheries with its various agencies provided the necessary services.

The Ministry of Fisheries began to resettle the fishing communities not only to realize this goal but also to rekindle the old life of Somali coasts. The Ministry of Fisheries is re-inhabiting the coastal towns that were deserted when colonialists invaded the country. The resettlement is also aimed to resettle those who run away from coastal towns to Mogadishu and other areas/cities when they found that life in coastal areas had no future. This belief appeared when the coastal population was almost isolated due to the non-existent roads, transport food, medicine, water, schools and other essentials.

2.1 Fisheries.

Fish is an important source of food and contributes in some way to the economy of the country. World production reached a total record of 84.9 million metric tons in 1985. The increase of 7.7 per cent registered between 1983 and 1984 was the largest annual increase for over 16 years. During the 1950s and 1960s, the world catch was growing at an average rate of 7 per cent, but this slowed down to about 2 per cent in the 1970s.

Some 10 per cent of the physical production comes from inland lakes and rivers, the remaining 90 per cent from the seas and oceans. The largest and most important single group of marine species is the small pelagics which include herrings, pilchards, sardines and anchovies. These comprise over 23 per cent of the world catch. The demersal species, cods, redfish and flounders make up 22 per cent while mackerels, tunas, jacks and souries form 19 per cent of the total. Their relative proportions have remained fairly constant over recent years despite fluctuations in anchovy, pilchard and herring stocks.

Fish resources and catches are not evenly distributed. More than three quarters of the world catch is taken by the 18 leading fishing nations. Two countries, Japan and the USSR, together account for over 25 per cent of all fish production. Geographically, the most productive marine areas are the Pacific North West, the Atlantic North East and the Pacific South East.

As far as developing countries are concerned, the most flourishing and the most promising fisheries are located in Asia and the Far East. Latin America is still recovering from the drastic effects of the collapse of the anchovy fishery. It also has a comparatively smaller domestic market to supply.

In Africa many fisheries have actually declined in the past 10 to 15 years. Overall fish production in Africa is static at near 1975 levels. Two major causes of the poor production are the droughts in the Sahel and Dabadheer in Somalia and the instability brought about by wars or insurrection. Africa's potential remains high nevertheless both in marine and freshwater fisheries.

The extension of fishery zones to 200 miles has created opportunities for some maritime countries and brought problems to others engaged in distant water fishing. Few countries which have acquired large Extended Economic Zones (EEZs) have benefitted immediately. This is for a number of reasons, but chiefly because of the difficulty of policing such a large area and because fish stocks are less abundant and more migratory in the deep oceans. Most fishing activity is concentrated on the continental shelf from the shore line out as far as the 200 fathom depth contour, and there is much less activity over the deep ocean.

Somalia has not yet exploited its coastal or inland waters to the full. This is mostly because of:

- The remoteness of the fishing grounds or villages from the main markets.
- The lack of adequate roads, transport, ice or preservation facilities.

The artisanal fishing fleets which mainly harvest the inshore waters could benefit enormously from the investment in proper marketing and distribution infrastructure.

World demand for fishing and fish products is expected to arise to around 100 million tons by the year 2000. Thus given efficient harvesting and marketing, conventional fishery resources could just about keep pace with demand over the next 10 to 15 years.

* Source: Industrial Development Strategies for Fishery System in Developing countries. V.1 No.32

2.1.2 The Artisanal Sector.

Somalia's fishing industries are divided fairly clearly into artisanal and industrial sectors. The artisanal sector includes subsistence and small scale fisheries. Artisanal fishermen are mostly self-employed or work in small family or village groups. They are paid in cash or in kind on a share basis and do not receive wages as such.

Somalia lacks processing and preservation facilities, artisanal fisheries suffer a lot from spoilage. Some of the fresh fish, dried or cured fish are lost through spoilage. The introduction and practices to reduce this waste would require some collective action or organization

at the village or community level.

Artisanal fishing in Somalia is carried on throughout the coastal areas within a limited distance from the shore, while trawling is practiced in areas with suitable bottom configuration. The main trawling areas is between Ras-Hafuun and Eil where the continental shelf is estimated at 35-40,000 km². With improved equipment and technology, it is estimated that the Somali coast could yield up to 200,000 tons of fish per annum. Catches by the artisanal and industrial sectors are currently estimated to be about 14,000 tons per year, 30 per cent of which is the artisanal sector's contribution (mainly sharks, large tunas and mackerels).

In the absence of internal roads, the fishermen depends mostly on the traffic of small boats which supplies them with simple fishing boats (Hourv), fishery gear and other supplies and collected the accumulated catch of fish that had been preserved by using simple methods of salty/drying and smoking. The fishermen employed simple fishing gear that consisted mainly of handlines, and small nets. The catch was mainly exported to the neighboring countries such as the Arabian Peninsula.

In order to improve the development of the artisanal sector, the various scattered coastal fishing communities were organized by the Government into 21 Co-operatives in the mid 1970s. Figure 1 (Fishery Development regions of somalia) shows positions of the Cooperatives/resettlement villages and the number of fishermen at each location. Included are also the number of different types of fishing

vessels in each development.

2.1.3 The Industrial Sector.

The industrial or commercial fisheries units in Somalia are owned by the government, businessmen or companies and are operated on a commercial basis. The fishermen or fish plant workers are employees who receive wages which may be supplemented by a small catch share or productivity bonus. Industrial or commercial fishing fleets generally concentrate on supplying fish for well established processing or marketing entities. Most export fish comes from industrial vessels as do practically all of the supplies for fish meal plants.

The commercial fleets mostly use very active and efficient methods of fish capture such as trawl nets and purse seines. The size of the vessels can vary from under 50 tons to over 500 tons, the power from 100 hp to over 1000 hp, and the cost from US Dollars 100,000 to over US Dollars 2 000,000.

Contrary to popular opinion, commercial vessels do not operate in distant or deep sea fishing grounds. Many of them fish close to shore. Shrimp trawlers, for instance, which may fish hundreds of miles from their home port, may still be fishing relatively close to land. This creates much friction and sometimes conflict between the companies owning the vessels and small scale fishermen in the localities their ships invade. Somalia have attempted to reserve inshore fishing grounds for small scale fishermen but often the Somali Fisheries Legislation has no effect

as it does not have the necessary fishery protection fleet to police the areas.

Not all industrial fishing vessels are a danger to fish stocks, but all do need to be controlled to prevent unfair competition with small scale fishing fleets which are not able to migrate to other areas, and to prevent over-harvesting of any particular resource.

Somalia's industrial sector concentrates on demersal species, which include snappers, groupers and deep-sea lobsters. Estimates of potential production suggest that a total national catch of about 180,000 tones could be achieved if only fishing boats of 7-9 meters length were used.

Due to the predominantly narrow shelf and several locations with rocky or coral bottom, areas suitable for trawling for commercial fish species are quite limited.

* Figure 2 shows the main trawable areas in Somalia.

The cessation of Soviet participation and withdrawal of the vessels in the late 1977 temporarily eliminated industrial fishing in Somalia. In mid 1978 the first of an eventual group of Italian freezer trawlers began to fish under licence. In late 1979 two Australian - built Shrimp Trawlers, which had been bought by the Somalfish Company began operations. By early 1980 nine Yugoslav-built multi-purpose vessels owned by the Ministry of fisheries arrived in the country. There is no data yet on the catch of this varied fleet, but it is expected that production of the freezer vessels will consist in demersal fish, deep water

lobster and some shrimp, all most for export.

2.1.4 Resources.

By most estimates, the resource potential of Somali fisheries is far from been realized, although the deep water lobster and locally, perhaps other stock could be reaching full exploitation.

The White Fishery Authority has the following estimates for potential annual catches (in life weight).

- Tuna and mackerel	18.000 tons
- Small pelagic species	150.000 tons
- Large pelagic fish	80.000 tons
- Shark and Rays	60.000 tons
- Spiny Lobster	2.500 tons
- Shrimps	800 tons
- Turtles	200 tons
- Cephalopods	Not known
- Mesopelagic species	Not known

* Source White Fish Authority Report 1980.

One major and basic requirement for the development of the sector is the availability of accurate and reliable data about fisheries resources. Such knowledge will guide both the fisheries exploitation and the ultimate developments of resource management and formulation of protective legislation.

In short the estimates for the vessels and potential yield so far available are insufficient and not sufficiently

reliable to provide a sound basis for planning and investment decisions particularly for the offshore fishery.

2.1.5 Preservation and Security of Coastal Areas.

The S.D.R. with the second longest coastline in Africa lies on one of the busiest routes of international marine transport. Passenger and cargo ships, tankers, destroyers and other warships, trawlers as well as scientific and oceanographic survey ships frequent these waters.

The Somali government is responsible for the safety of these ships while they are in our territorial waters. It also observes that national and international maritime laws are not traspassed by these ships once they enter our territorial waters.

Geo-politically, the S.D.R. is strategically important. Its territorial waters link the Indian ocean with the Gulf of Aden and it has direct sea boundary with countries along these waters. The strategic importance of these waters is the reason why there are bases in them.

It is a fact that many ships illegally exploit the resources of developing countries without the consultation and permission of sovereign states and as such abuse their dignity. The number of foreign ships the Somali Government has given permission to fish in its waters is very few when compared to the vast resources and the volume of the waters. It can not be denied that some ships illegally traspas our borders to survey, look for minerals, carry out

oceanographic study and sometimes exercise illegal fishing. Such a long coastline, sometimes becomes the inlet and outlet for smugglers. Thus together with the rest of acts committed without permission, made the government take the necessary steps to prevent their wrong-doings.

In order to guarantee the security of Somali coast, it has been divided into 4 zones:

Zone I The Gulf of Aden the coastline between Lowya-adda and Alula which has an area of 473 sq.miles, with its centre at Berbera.

Zone II The coastline between Alula and Hobyo, with an area of 450 sq. miles and Bender-Baila as its centre.

Zone III The coastline between Hobya and Merca with an area of 338.6 sq. miles, and Mogadishu as its centre.

Zone IV The coastline between Merca and Raskamboni, on the Southern tip, which has an area of 275 sq. miles, and Kismayo as its center.

Movement of ships is regular in all 4 zones although most of the fishing vessels are in the last three zones.

In 1985 the S.D.R. enacted a Fisheries Act to safeguard Somali territorial waters. It is required to give regional fisheries officers an authority to issue and manage fishing licences in their zones. It would be very easy for them to know which person, company or fishing vessel is authorized to fish. Control and regulatory measures are

also easily enforced in that area. It would ensure that particular species of fish is only caught at particular season and at a particular time. It would also help the fishery authority to control fish stocks in that area.

2.2. Fresh Water Fisheries In Somalia.

Inland fisheries provide a major portion of food and employment for millions of individuals living in the developing areas of the world. Somalia is endowed with two rivers-Jubba and Shabelle-and several artisanal reservoirs -Deshegs-and Dams, all of which are rich in fish and has never been fully studied or exploited. Both rivers originate from Ethiopian highlands towards south easterly direction across Somalia to the Indian Ocean. The Jubba river enters the Indian Ocean at Gob-Weyn estuary near Kismayo. The Shabelle river does not reach the Indian Ocean but it ends in Haiwai near Jilib.

In 1986 an Inland Fisheries and Development Project was established by the Ministry of Fisheries with following objectives,namely :

- To make continuous research into both rivers and associated waters.
- To organize and give training to the riverine community.
- To indemnify the species that are available in Somali fresh waters.
- To test and find out the best fishing gear in fresh waters to create jobs for the riverine community in order to upgrade their living standard.
- To introduce the fresh water fish to bigger markets.

- To increase the national production.

Problems and Obstacles in Inland Fisheries in Somalia

- Lack of research materials.
- Lack of roads and difficult communication specially in the rainy season.
- Unreliability of the fuel supplies.
- Remoteness of most of the swamps.
- Financial Limitation.

2.3.0 Present Coastal Fishing Conditions.

In general the socio-economic and technical conditions of the coastal artisanal fishing are very poor due to the following reasons:

2.3.1 Lack of Transport :

There are no adequate land transport connecting the coastal areas to the rest of the country, which made these areas inaccessible and difficult to communicate.

2.3.2 Lack of Jetties :

The coastline of Somalia has no sheltering areas and the existing harbors are not suitable for the fishing fleets; therefore, there is an immediate need for landing and sheltering facilities such as harbors, jetties and moorings.

2.3.3 Lack of Workshops:

There is scarcity of workshops for repairing the fishing boats and the necessary equipment for their maintenance. It is important then to provide these and other services in order to enable the fishermen to keep their boats operational even during the off seasons.

2.3.4 Lack of Fuel Supply and Storage Facilities :

There are only few scattered fuel storage facilities along the Somali coast which are not able to guarantee the supply of fuel in the remote fishing centers.

2.3.5 Poor Marine Transport:

Most of the coastal areas are inaccessible from the land due to poor system. moreover the marine transport does not exist which made more difficult to communicate the production from the coastal fishing centers. Fortunately the first fisheries road was started in the country from the capital in 1988 financed by the U.S.A.D. and the Somali Democratic Republic.

2.3.6 Migration from the Coastal Areas:

The poor development of the coastal fishing centers has resulted in forcing the traditional fishermen and the coastal communities as a whole to abandon their fishing activities from other relatively developed sectors such as -livestock and agriculture- and even abroad due to the shortage of food and water.

2.4 Problems and Constraints.

The experiences from recent years have clearly demonstrated that the exploitation of marine resources in Somalia is connected to a variety of problems. For reasons of convenience, they may be divided into three categories:

- 1. Natural Obstacles.**
- 2. Technical Constraints.**
- 3. Organizational Problems.**

2.4.1. Natural Obstacles:

Nature has not been kind to Somalia when it comes to natural harbors, and the establishment of even small landing sites and protected anchorages for the artisanal fleet is both difficult and expensive. The narrowness of the continental shelf and the predominantly rocky and coralline bottom puts restrictions on industrial fishing by limiting trawling potential to a few areas.

It is also unlucky that some of the richest fishing zones are found outside the most inaccessible areas of the country. The fishing communities there are thus either completely isolated or connected by barely usable roads, and it is difficult to expect any major improvements of the infrastructure of the northeast in the near future. The climatic and oceanographic conditions along the coast also cause some problems for a fishing industry.

The shifting winds and currents and their often unpredictable effects (e.g. upwellings) result in great

variations in the location and composition of resources not only on a seasonal basis, but from year to year.

High temperature and humidity additionally require special measures when it comes to preserving and processing the catches. Some of the problems in fisheries are not so much related to the physical nature of Somalia as to the nature and composition of its population.

Having traditionally been a nation of pastoral nomads with some cultivators, only a small minority of the population has ever been directly engaged in fishing. Consequently, there is an overall lack of experience in the country with most aspects of fishing and of sea, and limited trade of sea-products in the past means a near absence of established marketing networks. Moreover, as the case is with many nomadic peoples throughout the world, Somalis in general have shown a traditional distaste for fish and the average person consumes only 0.4 kg of fish per year.

2.4.2 Technical Problems.

The technical problems can be divided into two types:

1. Problems resulting from a lack of basic and necessary equipment.
2. Problems caused by the introduction of inappropriate technologies. Particularly the latter category has a wide range of implications.

Lack of equipment is the first set of problems and it is difficult to discuss as it depends entirely on what

criteria one wants to use.

It is important to put the needs in relation to existing infrastructure, availability of trained personnel, and the appropriateness in terms of capital input required, running expenses and market needs.

There is a lack of basic infrastructure, particularly anything related to conservation and processing of the catch, e.g, ice-machines and cold storages, etc.

In addition there is a lack of workshops for the maintenance and repair of boats and engines, and where such workshops exist, the problem is often unavailability of spare parts. There also seems to be a chronic shortage of fishing gear in most fishing communities in the sector. Much of the technological input in recent years has been useless because the country lacks the necessary personnel to operate, maintain and repair machines and engines. There is a lack of training for the fishermen in order to utilize modern catch and processing methods.

Another problem, particularly when it comes to motorized boats, has been the failure to provide equipment suitable to the natural conditions of the country or to the fishing methods employed. Thus, even properly maintained boats have at times lasted only a few months.

The great variety of models introduced, both boats and engines, has not contributed to ease maintenance and repair problems. Much of the machinery that has been introduced and which continues to be supplied to Somalia's fisheries

sector is often decided upon with little or no regard to fuel costs and fuel availability.

All petroleum based fuels in Somalia are imported and expensive, and because of the poor accessibility to many fishing communities, regular supply of fuel is an enormous problem. Technological innovations that has taken place in recent years has been extremely costly and based solely on imported equipment. Lack of realistic feasibility studies and basic economic calculations have in some cases led to the introduction of sophisticated equipment that can not possibly pay for its own depreciation and running expenses through production, let alone recover the original capital input. Another disconcerting aspect is the total dependency on foreign manufacturers for future spares and supplies.

2.4.3 Organizational Problems.

Many of the difficulties listed above are to a large extent rooted in organizational problems, as Somalia is still struggling to develop an integrated and economically viable fisheries strategy.

One of the most significant obstacles to such a strategy is the almost complete lack of reliable data on every level on which to make evaluations, draw experiences, and plan future projects and policies. Moreover, when accurate data are available, there is a severe lack of information flow and exchange, again on every level. This in turn results in lack of coordination in project planning, supply questions, marketing, etc.

Some of these problems are partly attributable to the at times overly bureaucratic structures within the fisheries sector. The system is highly centralized, and even relatively minor issues in a remote cooperative are likely to end up on a ministerial level. Moreover, many such issues have to go through a series of offices and departments represented by an individual rather than an equipe, and if one of these individuals is not in the right spot at the right time, a relatively simple problem may take weeks or months to get resolved. On the other hand, there is in the Ministry of Fisheries a lack of field-officers permanently stationed in the various fishing districts. This should be a prerequisite in view of the fact that, because of the limited fishing traditions in Somalia, very few ministry officials have much knowledge or experience in fishing. First hand assessment of the local conditions through field officers is thus especially needed. Lack of any fisheries background among most officials may also account for the over ambitious production goals in the development plans, though the Ministry of Fisheries is admittedly often encouraged to set such goals by outside agencies. This occasionally leads to hold-ups in project implementations because excessive costs or the lack of necessary personnel. By contrast, some projects seem to perpetuate themselves for long periods despite no visible progress and without any attempts to change the course of the projects. In such cases the problems are often the absence of a procedure to properly evaluate and follow up ongoing projects or it is simply the lack of established auditing and control mechanisms.

The staff problems within the Ministry of Fisheries and other Government organizations in the fisheries sector may finally be attributed to the low salaries to a large extent, a visible problem in all branches of public administration in Somalia. Salaries have remained virtually unchanged for more than twenty years, while inflation has accounted for an increase of the cost of living amounting to several thousand percent.

* Source: FAO Fisheries Report No.295 Supplement
Rome 1983

CHAPTER III.

FISHERIES LEGISLATIONS IN SOMALIA.

3. Constitution.

The new Somali Constitution, Decree of the President of the Somali Democratic Republic No.46, was adopted on 16 September, 1979. The Constitution defines the Somali Democratic Republic as a socialist state.(art.1) and establishes the Somali Revolutionary Socialist Party as the only legal political party (art.7). The President of the Republic is also head of the party, consistent with the constitutional principle of the unitary system of political leadership of the party and the state (art.8).

Principal state institutions include the People's Assembly, the President, the Council of Ministers and the Judiciary. Legislative power is vested in the people's Assembly (art.60) which may delegate this power for limited periods (art.68).

The President is the head of the State (art.79) with powers to appoint and dismiss Ministers (art. 82), convene and dissolve the People's Assembly (art.63,64), proclaim and exercise emergency powers (art.83) and promulgate laws (art.72). The President is empowered to issue Presidential Decrees which are the prescribed form for delegated legislation (art.68), for decree-laws subject to parliamentary approval (art.69), and for determining the

structure of the Council of Ministries (art.88).

The Council of Ministers is described as the chief executive organ of the Government (art.86) and is responsible for determining government policies and overseeing government operations (art.87,91). It comprises the Ministers and is chaired by the President of the Republic (art.86). The Council of Ministers has also the power to issue decrees.

The Constitution does not regulate fisheries as such, but it contains certain provisions of particular relevance to fisheries legislation. Territorial sovereignty is proclaimed over land, the sea, the water column, sea bed and subsoil, continental shelf, islands and air space (art.4). Both land and marine resources are declared to be state property, and the state is obliged to promulgate a law prescribing the best methods for exploiting such resources (art.42).

Article 41 of the Constitution describes the four main sectors of the Somali economy:-

- 1) The State Sector.
- 2) The Private Sector .
- 3) The Cooperative Sector.
- 4) The Mixed Sector which is based on joint ownership between the State and others.

In actual application, however, these provisions should probably be interpreted in the light of the goals of economic development, increased productions and equitable

distribution (art.40). In particular,the role of the State in fisheries should be defined at least in part as a function of State's ability to assume a vanguard role and to use that position to achieve development and other economic goals. Article 42 provides that land, natural marine and land-based resources shall be State property and that the State shall issue legislation to exploit these resources.

3.1 Present Fishing Legislation in Somalia.

Basic Fisheries Legislation was created and separated from the Maritime Code of 1959,in 1985(Law No.23 of 30th November 1985). The Fisheries Act divides fishing into two principal categories of major(modern) and minor (traditional) fishing activities. Major activities are defined are those carried out exclusively by means of fixed plants or large nets for catching large sized fish, including trawling on high sea carried out with any mechanically propelled vessel. Minor fishing activities include all the rest,although those that use conventional means, which apparently refers to traditional artisanal fishing,are exempted from the licence if they are not using marine transports (art.7). Major fishing activities, whether conducted by Somalis or foreign nationals,may only be conducted pursuant to a concession. It is subject to the payment of royalty which is determined case by case. The duration of a concession can extend up to nine years. Concessions may be granted for research and aquaculture purposes (art.9). It may be revoked at any time the public interest requires,or cancelled for reasons attributed to fault of the concessioaire,in which case no

indemnity is due. Minor fishing activities require an annual licence subject to the payment of the relative duty and in turn benefits from the provision that modern fishing activities will not prejudice, harm or delay the right to engage in minor activities and the development of the traditional fishing. (art.11). The Minister, Ministry of Fisheries and Marine Resources, has general power without paying any indemnity to prohibit and close the fishing seasons in any area for reasons connected with public needs. (art.2,5, and 6).

Art.13 of Somali Fisheries Law empowers the Somali Naval Forces the responsibility for the enforcement of this law. The President of the Somali Democratic Republic having heard the proposal of the Ministry of Fisheries and Marine Resources may make regulations for the proper implementation of this law. The Minister of Fisheries may, make regulations regarding the proper management and development of the fishery activities.

*Source: Law No.23 of 30 November 1985

3.2 Fisheries Cooperatives Law

Coastal fishery potential in the Eastern African area is therefore limited and the major fisheries occur in shallow shelf areas for shrimp, in nearshore waters and in estuaries for small, including small pelagic species; and on near reefs for reef fishes and demersal species.

The Western Indian Ocean is, however, also characterized by the presence of schools of highly migratory, or large pelagic species, especially small tunas (Bonito and

Skipjack); these could form the bases of an offshore fishing industry.

Several types of artisanal fisheries exist in the subregion, and generally employ altogether several thousand full-time fishermen in each country. Methods used include seining, gillnetting, handling, dropping traps or constructing weirs.

Owing to the variety of habitats fished and the distance between scattered fishing areas, the marketing of local fishing products derived from the artisanal fishing is limited by transportation and other infrastructural deficiencies. The national Governments in the region here like Somalia therefore embarked on various programmes to improve the situation. These predominantly include the formation of fishermen's co-operatives to channel Governmental assistance to fishermen.

In the year 1973 and 1979, the Somali government established Fisheries Cooperatives (Law No. 40 of 4.10.73 and Law no. 41 of 8.10.79). These laws provide for two different grades of cooperatives, Semi-collective and collective ones.

The former are promoted as transitional measures where conditions for a fully collective cooperative are lacking, the latter are characterized as final stage of cooperative development. The division is reflected in fisheries with somewhat different technology. The transitional phase is represented by the fishery service and marketing cooperative, concerned with supply processing

and marketing; the more advanced fishing cooperative is a collective fishing enterprise. The different sectorial ministers are responsible for organizing ,assisting and guiding cooperatives in their sector.

All parasatal bodies are obliged to grant cooperatives priority in the supply of services. The Cooperatives for their part are bound to carry out their activities in close cooperation or in contract with the competent State organization.

Fishery production cooperatives are required to purchase inputs and market catches through the State organizations and cooperative shops. The co-ordination of cooperative and state activities as well as the provisions of cooperatives of local level is the responsibilities of regional and district cooperative councils. This council comprises elected representatives of the primary cooperatives as well as the delegates of the state and the regional councils also have representatives of the district council.

An annex to the Cooperatives law contains basic regulations for cooperatives. Members of fishery cooperatives must at least be 18 years old and be personally engaged in fishing.

At least 20 members are required to form a fishery production cooperative. The number required for a fishery service is not specified. Relations between members and fishery services and marketing cooperatives are relatively simple, as they are based on the purchase of a 100-Shilling

share and such services as the cooperative may provide, Production remains in individual hands. With fishery production cooperatives things are more complex. All members of a fishery production contribute all their boats, nets, processing, and storage facilities and other means of production suitable for cooperative usage into the cooperative pool. Members are compensated for the value of their contributions. The work of the cooperative is to be performed entirely by all members (except where they lack certain skills such as accountancy) on a collective basis. Remuneration may be based on time or piece rates. Any profits are distributed 60% to the accumulation fund for investment and 40% to the distribution fund for the payments of production bonds to members as well as social and mutual purposes. There does not seem to be a provision for distribution of profits as such.

*Source: Law on Cooperative Development in Somalia, Law No. 40 of October 1973.

3.3 Law on Somali Territorial Sea and Ports:

The Somali Territorial sea includes the portion of the sea to the extent of 200 nautical miles from the continental and insular coasts. The Somali Territorial sea is under the sovereignty of the Somali Democratic Republic. Offenses relating to crime, health and public security committed on board a vessel within the limits of the territorial sea shall be governed by Somali law.

The normal base line for measuring the breadth of the territorial sea is the low water line along the coast .

In localities where the coastline is deeply indented or if there is a fringe of island along the coast in its immediate vicinity, the method of straight baseline joining appropriate points may be employed. Waters in landward side of the base line of the territorial sea form part of the internal waters of the state.

Where an island is situated within the 200 mile limit, the belt of waters around it constitutes territorial waters. This belt shall be 200 miles wide and shall be measured from the low water mark following the sinuosities of the island. A group of islands forming part of an archipelago is considered a unit and its territorial waters shall be measured from the centre of the archipelago.

The internal maritime waters include all navigable waters in Somali rivers open for maritime vessels and maritime ports. The internal Somali water are subject to the sovereignty of the Republic.

Fishing in the territorial sea and regular transportation of people and goods between Somali ports are reserved for vessels flying the Somali flag and other authorized vessels. Any infringement of the above provision shall be punished with a limited fine and in case of repetition of the infringement by the vessel or the operator, the punishment may be doubled and the captain shall be liable for offenses prescribed by their Somali penal laws and the vessel may be confiscated. Article 5 further states that any contract of transportation made in violation is void and the vessel executing or intending to execute the contract shall be subject to a fine equal to five times

the value of the freight or the fare stipulated or fixed by usage for a similar operation.

* Source: Law No.37 of 10.9.1972

3.4 Law on offenses committed by foreign ships:

If a foreign ship enters a Somali port without the necessary legal documents or commits any act constituting an offence against the Somali territorial waters which may be detrimental to the Somali economy, the master or owner shall be guilty of an offense punishable with a fine of up to So.Sh.10.000. The ship shall remain in the port until the fine is paid This law was amended by the maximum fine which was increased to Sh.So.100.000.

* Source: Law No.6 of 1.1.1974

3.5 Trade in Fishery Products.

Reliable data is indispensable for carrying out of successful marketing endeavors. Non availability of easy communication, absence of correct format for the collection of such data and lack of training was the major constraints complicating the issue. Marketing is done directly by the fishermen and by the fisheries enterprises at market determined prices. The enterprises involving are following: the North West Coast Project, the Somali Marine products (SMP), Mogadishu Fish Market and the North Coast Fisheries Enterprise (NECFISH) market both fresh and frozen fish. The state owned Makhir Coast Co. and Las-koreh Fishing Factory are also involved in marketing their canned products.

Fisheries Cooperative sell their catch through the available channels. There is a whole sale market in Mogadishu where fish auction operates and a 5% auction charge is made. There are fish and retail halls at Merca and Brava. Fish is sold to the modern Fish Market from cooperatives or settlements. Fish is sold to the retailers in local fish markets, e.g. Hamar Wayne and Lido in Mogadishu.

In the remote fishing areas, very little fish is sold by the Cooperatives in the immediate vicinity whilst the major part is dry salted and exported to the neighboring countries. Private traders buy fish directly from fishermen, from the fishing projects and from cooperatives. The fish is then sold to:

- a. Selected markets (e.g. restaurants and hotels).
- b. Exported as fresh or frozen and Canned Fish.
- c. Processed into dry fish.

There is a substantial, but unquantifiable sale of fish by the fishermen directly to the public by house to house marketing.

Law No.38 of 1 October 1974 governs the sale and export of fish. It provides that individual fishermen may only sell their catch to the fisheries cooperative in whose area it was caught. The cooperatives have the corresponding duty to purchase all such fish. The price is established by the Ministry of Fisheries in consultation with the Ministry of Commerce and the Local District Committee. Fishing companies are permitted to export their catch directly

but if they wish to sell within Somalia, they must sell to the cooperatives.

Law No.38 of 1 October 1974 suggests that cooperatives and fishing companies can export fish without further authorization, while other laws make the export of dried fish a state monopoly (Law No.9 of 15 January 1973) and the export of crustacea to licence (Decree No.4 of 10 December 1972). It is not clear how these opposing provisions are to be interpreted. In the case of dried fish, Somalfish exercises the state monopoly to the point of collecting all dried fish for export, but it then exports their catch, including crustacea, on the authority of their fishing licence alone.

* Source: Law No.38 of 1 October 1974.

3.6 Customs Duty.

The Customs Tariffs of Somalia comprises import and export duties, administration and statistical duty, stamp duty, wharfage, warehouse dues and taxes on sugar and alcohol. Of principal importance for fisheries are import duty, administration and statistical duty, and wharfage.

The basic tariffs on imports are as follows:

- Fish and crustacea (except canned)	50%
- Fish waste and fishmeal	30%
- Fats and oil	30%
- Canned fish and crustacea	60%
- Salt	100%
- Nets, Netting, cordage	30%

- Fish hooks	50%
- Vessels(except pleasure yachts)	free
- Internal combustion engines	35%
- Motor spirit	.75 So.Sh.
- Heavy oil and lubricants	.65 So.Sh.
- Refrigeration equipment	30%
- Food processing machinery	10%
- Tin plate	10%
- Cans	30%
- Paper packing	50%

In addition,all imported goods are subject to an administrative and statistical duty of 10% and wharfage at the rate of 1.5% of value is due on all goods loaded and unloaded in ports. Cutting across the import tariff is a series of exemptions of greate relevance to the fishing industry. Equipment for the establishment or expansion of productive or socially beneficial activities is exempted from import duty.(Law no.26 of 10 November 1961; Presidential Decree No 294 of 10 November 1961). In addition,the following categories of goods,by whoever imported,are exempted from import and administration and statistical duties:

- Machinery,parts thereof,and ship-building materials
- Professional fishing equipment
- Ships stores
- Jars,boxes,cans,and other containers for foodstuffs to be exported
- Fuel and lubricants for ships operating outside territorial waters.

There is no exemptions from wharfage ,except pursuant to special legislation,but coastal trade and transshipment are only subject to wharfage at the point of loading.

* Source: Legislative Decree No.5 of 11 december 1968.

3.7 Navigation.

With its very long coastline Somalia's coastal navigation has its own importance.Since remote times,Somali craftsmen have been building their traditional boats capable of sailing long voyages along the coast and even to far away coasts of other countries.These traditional boats were destroyed along with the boatyards by a cyclone in 1971. It is however anticipated that there will continue to be a place for some years to come for local craft such as Houri,the Beden and the Jahasi. Such boats are important because traditional skills are used to construct them and because they are still the most practical craft available for use in the most remote parts of the country.

The above fishing craft,including all vessels must be registered in order to be"admitted to navigation" (art.39-40),although in practice smaller vessels have not been registered. Registration is available to vessels built anywhere,owned by Somali or foreign citizens(art.41) This has given rise to a modest flag of convenience activity,but so far it does not appear that any foreign-owned fishing vessel has sought registration.

Vessel standards for ships over 1000 net register tons are those set by any of several classification bureaus.

General requirements applicable to all vessels are seaworthiness and adequate crew and equipment for their intended use (art.49;D.L.No.7,art.56,58). Different crew qualifications are defined (art.38) but the imposition of crew requirements,including the proportion of Somali nationals,is left to the maritime authorities(art.98). In particular they have the sole authority to issue officer's certificates and corresponding responsibility to make certification regulations and conduct examinations(Law No.42 of 26 may 1977). There seems to be some limitation on the formal requirements that can be set for officers,but the relevant provision is not very clear.

"Any person may be engaged as captain,officer or member of the crew provided he has the experience and aptitude to fulfill those designated to him" §(D.L.No.7,art.58).

* Source: Maritime Code, Legislative Decree No.i of 21 Feberuary 1959,amended by Decree Law No.7 of 1 November 1966,converted and amended by Law no.3 of 7 January 1967.

3.8 International Aspects.

According to international law,coastal states have sovereign rights over the adjacent continental shelf for the purpose of resource exploration and exploitation . This means states have jurisdiction and hence the power to regulate all activities related to exploration and exploitation. What the geographic limits of jurisdiction are is not a settled question,since the 1982 United Nations Convention on the Law of the Sea specifying this has not yet entered into force.

The implication of the extended jurisdiction is straight forward. The coastal state can set the terms and conditions for exploitation as though the resources were owned by the state .

International treaty law governing fisheries is largely found in regional and bilateral agreements and the 1958 Geneva Conventions. Somalia is not a party to any fishery convention or agreement as such, but it is a member of the Indian Ocean Fishery Commission established by the resolution of the FAO Council and its terms of reference include the promotion of national and regional fisheries development programmes and examination of management problems, with particular reference ..to the management of offshore resources.

Official position of Somalia concerning the United Nations Convention on the law of the sea:

Regarding Section 2 of the United Nations Convention on the Law of Sea, the legal position is as follows:

The Maritime Code of 1959 in its article 1, defined the limits of the territorial sea in the following terms:

The sovereignty of the territory embraces the zone of the sea to the distance of six nautical miles along the continental and insular coasts. The distance is measured from the coastal line by the low tide. This paragraph was however amended and replaced by article 3 of law No.7 of 1 November 1966, which as follows subject to the generally accepted rules of international law, the portion of sea to

the extent of 12 nautical miles within the continental and insular coasts shall be under sovereignty of the state. The extent shall be measured from the coastal line along the low water mark. This itself was amended by article 1 of law no. 37 of 10 September, 1972, to the following effect:

The Somali territorial sea includes the portion of the sea to the extent of 200 nautical miles within the continental and insular coasts. Therefore, the existing law extends Somali sovereignty to a distance of 200 nautical miles.

The year of 1988 might be regarded as the year of the ratification of maritime and sea laws in Somali Democratic Republic. For the first time, the national Assembly ratified the United Nation's Third Convention for the Law of the Sea which was held in Jamaica in 1982 to uphold the rights of the Third World Coastal Countries.

The Third Convention, explained fully the jurisdiction of the territorial waters by the member states and stressed the need to safe-guard these waters and their potential.

The convention further highlighted the rights of the landlocked states and pointed out that such states could partake in this endeavor by cooperation and mutual understanding. The convention stressed the rights of these landlocked states in order to use the seas of nearby countries. Included in the Third Convention of the Law of the Sea, were the protection of marine environment, promotion of marine researches, technological transfer and laws for the improvement the hygiene of the ports, taxes

and tapping the marine resources.

The contents of the convention will be effective after one year provided that not less than 60 countries ratify. It is estimated that about 34 countries has already endorsed the convention. Before the adoption of the Law of the Sea, the Somali Government has already expressed its willingness to use the 12-mile zone as the national, coastal boundary. On the other hand, the exclusive economic zone of the Somali Democratic Republic was taken as 200 nautical miles. Upon the ratification by the National Assembly, the adopted national laws and any violation or transgression will be subject to prosecution.

Major Problems in the Present Fisheries Legislation.

In 1985 the basic fisheries legislation was created and separated from the Maritime Code of 1959. The provisions of this law are:

- Lack of proper management.

There is an inadequate basis for the proper management of our fishery resources. They are not very useful basis for the securing revenue from the fishery.

- Lack of Coordinations

Our legislators, when drafting the fisheries act, never give considerations to the fishermen or any other cooperative involved in fishing activities. Lack of this coordination in Somalia has led to difficulties in

fisheries management and many times has led to overexploitation of the fish stock.-

- Lack of Scientific Research and Statistics.

Fishery research is at present virtually non-existing. There is no fish stock assessment in our coastal zones. Therefore, no body knows how many species exist in each region and how many can be caught at any particular time.

The department of research in the Ministry of Fisheries has no laboratories and is at present not carrying out any research activities.

Documentations from previous surveys are in many cases lacking. Reports have disappeared from the department. There are no modern copying facilities available for internal and external spreading of information. There is no personnel with background training in fisheries science at present working in the department of research. There are for the time being no concrete plans for survey activities in Somali waters. The department of research does not carry out any biological sampling in fishing harbours or at fishing markets.

- Lack of Separation of Fishing Licence.

There is a concrete need of separating local and foreign fishing licence. Article 7 of the fisheries act does not clearly separate the two fisheries licence.

- There is a need to decentralize the issuance of licence from the Ministry to the Regional offices.

This will make it possible for the fishery officers to issue licenses and at the same time, control, monitor conserve, assess, the fishing stock and to enforce the fisheries act in his/her region.

- Lack of Delegation of Power.

The Minister dose not want to delegate the authority given by this law to junior officers who come hand to hand with a fishermen. There is a lack of coordination and communication between the headquarters and fisheries regional offices. He is the only one who can issue and sign the fisheries licences. And this creates a problem and becomes difficult for the management, monitoring and conservation of our fishery resources.

- Lack of Enforcement of the Fisheries Act.

There are no details in regulatory enforcement in the Fisheries Act. Somali Naval Forces which are responsible for the fisheries enforcement, have no budget allocations to deal with fisheries enforcement. There is no memorandum of understanding between the two ministries, the Ministry of Fisheries and Marine Resources and the Ministry of Defense.

- Contradictions between Law of the Sea (UNCLOS 111) and the Law of the Territorial Sea and Ports.

Somalia claims sovereignty of 200 miles of the territorial sea, and at the same time, it ratifies the UN Convention on the Law of the Sea (UNCLOS III) which does not allow states to claim territorial waters more than 12 miles. Somalia should take advantage to amend the Law on the Somali Territorial Sea or to adopt new legislation in conformity with the convention on the Law of the Sea.

The Government of Somalia should elaborate a new law on the Territorial Sea of 12 miles, a Law on the Exclusive Economic Zone and a Law on the Continental Shelf. In those laws, Somalia should introduce basic provisions relating to marine resources, marine scientific research, environment and marine exploitation.

FISHERIES MANAGEMENT IN SOMALIA.

4. INTRODUCTION.

World fisheries have been expanding since the Second World War with the global catch rising at a steady 6-7 per cent annually from 20 million to 65 million tons between 1950 and 1960. But after 1970, as more and more stocks were depleted the average annual growth in catches fell to approximately about 1 per cent. With conventional management practices, the growth era in fisheries is over. Even assuming restored productivity in now depleted stocks and an increased harvest from underutilized fisheries, FAO sees only a gradual increase in catches, perhaps rising from current levels of over 80 million tons to about 100 million. This does not augur well for future food security, especially in low-income countries where fish are a principal source of animal protein and where millions secure their livelihoods from fisheries activities.

Overexploitation threatens many stocks as economic resources. Several of the world's largest fisheries the - Peruvian anchoveta, several North Atlantic herring stocks, and the Californian sardine - have collapsed following periods of heavy fishing. In some of the areas affected by these collapses, and in other rich fisheries such as the Gulf of Thailand and off West Africa, heavy fishing has been followed by marked changes in species composition.

The reasons of these changes are not well understood, and more research is needed in to the responses of marine resources to exploitation so that managers can receive better scientific advice.

* Source: UNEP, Regional Sea Reports and Studies No.12

Somalia has the same problem. It urgently needs a greater support for such work and this support must include additional assistance in increasing their research capacity and their knowledge of their own resources.

One factor leading to the establishment of extended EEZs was the concern of coastal states, both industrialized and developing, over the depletion of fisheries off their coasts. A large number of conventions had been established covering most major fisheries, but they proved inadequate in most cases.

Somalia is in general unable to overcome its difficulties of allocating shares to limited common resources. An Improved management is an urgent need, and open access can be seen as the main obstacle to this.

The appearance of extended EEZs under the Law of the Sea Convention was expected to solve or at least reduce the problem. Somalia is required to introduce effective conservation and management of the living resources in its EEZs. It can also control the activities of foreign fishermen and develop its own fisheries.

Artisanal and commercial fishery efforts often utilize destructive or wasteful fishing practices such as severe

overfishing (especially in nearshore reef areas),
use of inappropriate gear (such as fish traps and gill nets
on reefs, or nets with small mesh sizes), beach seining or
use of weirs in estuaries to harvest juvenile, disposal of
edible by-catch from commercial operations, and incidental
catch of non-target species such as turtles, dolphins, and
even occasionally dugong. Better regulation and
enforcement are needed to combat these malpractices.

Due to lack of data on fish stocks and catch reports,
insufficient analytical and administrative resources, and
social and economic difficulties, significant fishery
stocks are not always managed for maximum sustained
biological or economic yield. There is a need to improve
national capabilities to develop and formulate appropriate
fishery management objectives and programmes to enforce
effective fishery regulations.

Absence of equipment, funds, and trained manpower often
prevents basic research and surveys, pilot operations, and
market development of underutilized species. Of these the
regional pelagic fishery resources, constituted mainly of
highly migratory species, are perhaps the most significant
economically but also present the greatest technical,
economic and political difficulties. Further significant
unrealized opportunities exist. Regional co-operation will
be necessary in the development and allocation of regional
pelagic fishery resources. Because the regional fisheries
management is most commonly proposed in connection with
shared stocks (stocks which span the maritime jurisdiction
of two or more countries)

or migratory stocks; primarily tuna, which travel through the jurisdiction of several countries.

4.1. Regional Co-operation:-

Regional cooperation called by Article 123 of the Law of the Sea Convention 1982, which was ratified the Somali Democratic republic in 1988, will be necessary on the development, enforcement and allocation of fishery resources. This article specifically calls for cooperation among neighboring countries such as Somalia, Kenya, Djibouti and etc, which are on a road variety of issues, in the exercise of their rights and in the performance of their duties under this convention.

Article 123 says that coastal states shall endeavor, directly or through an appropriate regional organization :

- To coordinate the management conservation, exploration and exploitation of the living resources of the sea.
- To coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment.
- To coordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area.
- To invite, as appropriate, other interested states or international organizations to co-operate with them in

It may be useful to examine each of these areas - fisheries, environmental protection, and scientific research-to briefly review past experiences and to assess prospects for future regional cooperation with respect to fisheries affairs in the Indian Ocean and the Gulf of Aden.

4.2 OBJECTIVES OF FISHERIES MANAGEMENT.

The principal need of Somali fisheries management program must have a clear set of well defined objectives that everyone in the fishing industry clearly understands. Failure to adopt such objectives greatly affects all aspects of fishery management. The absence of well-defined objectives gives rise to confusion as to the kind of regulations needed for proper and effective management. Decisions tend to be ad hoc and haphazard and give rise to contradictory fishery programs which offer limited benefits to the fishing industry.

A fishing industry with well-defined objectives will enable the fisheries authorities to adopt proper regulations. Fisheries scientists will be able to collect the right kind of data to support management efforts. Fishermen will then be in a better position to understand the reasons for regulations and support the management programs adopted. It is possible to adopt various objectives for the fishing industry.

4.2.1 Protection of the Productivity of the Stocks

Regardless of any other concern for efficient use of the resource.

The endless uncertainty about status of marine fish population requires that management authorities be able to take immediate and direct action to deal with emergency situations (e.g., unexpected failures of spawning classes or an unusually heavy deployment of fishing gear in a particular locality).

4.2.2 Flexibility.

Given the high degree of uncertainty about the availability of fish in Somali waters, the fishery management must be able to respond flexibly to changing situations during a fishing season as between seasons.

4.2.3 Correct level of Catch.

In formal terms, this would be the level of catch at which the marginal social value of the harvest is equated to the incremental social costs required to take it (including management costs).

4.2.4 The right size (Age) Composition of Catch.

No net economic gains can be realized by allowing fish to grow large before harvest; in formal terms, marginal increments to revenue from growth in size of individual

fish are just offset by marginal losses to natural mortality.

4.2.5 The Right number and kind of Fishing Vessels/Gear combinations.

Any given level of catch is at lowest possible cost, with optimal factor combinations in each fishery unit and a optimal number of units.

4.2.6 Optimal Fleet Development.

Ideally fishing efforts should be deployed geographically so that no increase in yield and/or reduction in costs can be achieved by changing fishing areas or times.

As in all natural resource development and management programs, however, efficient use of the resource is a necessary but not a sufficient condition for overall social efficiency. Fishery authority are concerned, for example, that income and employment opportunities in the fisheries be distributed in a reasonably equitable manner. If possible Somali fishery authority should choose a type of fishing program that will minimize fluctuations in employment and income.

And short-term requirements with respect to balance of payments might sometimes dictate different levels of exploitation that pure economic efficiency would suggest. Inefficiency considerations in Somali fishery management should be viewed with a slightly suspicious eye.

The temptation to use commercial fishing industries as concealed unemployment schemes very strong, and social considerations in fishery management are often no more than cleverly concealed arguments for the status quo-and the preservation of a simple untroubled life for the administration.

4.3 General Policies For Regulating Fisheries.

To achieve the Somali management objectives, the fishery authority must examine the various methods by which they can regulate fisheries. In doing so the biological and economic aspects of the fisheries must be taken into consideration.

The productivity of fishery is related (relates) to the following main variables:

1. Growth rate of the fish.
2. Recruitment of fish into the fishery by reproduction or migration.
3. Natural mortality of the fish.
4. Fishing mortality.

Somalia has no control over natural mortality and rate of growth. Somalia can control fishing efforts and recruitment into the fishery by regulating the age at which fish enter the exploited phase of the fishery.

Basic methods for regulating fisheries are as follows:

A. Control of fishing effort

1. Catch limitation
2. Control of fishing intensity
3. Protected areas

B. Control of age of entry

1. Minimum mesh size regulation
2. Minimum size of fish
3. Protected areas

Regulations for optimum fishing must be concerned with the above methods. The main consideration is therefore one of deciding which method or combination of methods is most effective in regulating the fishery at its optimum level.

4.4 Methods For Controlling Fishing Effort.

4.4.1 Catch Limitation.

Catch limitation or seasonal quotas for regulating fisheries in Somalia is an indirect method of controlling fishing effort. When quotas are filled, fishing is stopped. With this method no consideration is given to the exact size of the fishing fleet and methods of fishing. Although the regulation by catch limit may be administratively simple, there is no precise control of the fishing. This method of regulation requires a very precise estimate of the total fish landed and hence a very extensive

infrastructure for the collection of data as fish can be very costly and difficult to enforce.

4.4.2 Control of Fishing Intensity.

Control of fishing intensity in Somalia is one of the most important methods of regulating fisheries. Even when it is feasible to establish other regulative methods, it is still necessary to stabilize fishing rates at reasonable levels; otherwise, the benefits of the regulative measures will be lost. This regulation method will limit the entry of manpower and vessels into our fishery. With this method of regulation, restrictions are placed on the number of fishing vessels or gear for each fishery. The number of licenses issued should be limited to some predetermined number based on the policy for that particular fishery.

This limitation should take into consideration biological, economic, social and political factors. Fishing intensity is very responsive to economic influences. To maintain it constantly at optimum, it is necessary to fix it by limiting the number of pieces of gear and vessels engaging in Somali waters. If fishing intensity is not controlled properly as Somalis does, it will continue to increase until inefficiency, caused by scarcity of Somalian fish, eliminates the incentives for expansion. This will give rise to the dual problems of overexpansion and overfishing.

Effective control of fishing efforts at a predetermined optimum will maintain optimum abundance of fish and hence provide optimum yield; permit efficient use of manpower

and equipment;and permit improvement in the earning and living standards of Somali fishermen.

The potential benefits of this regulation can be achieved only if the limits of fishing intensity are properly determined and the limitations are strictly enforced.

The failure of current fisheries authorities in Somalia to prevent overexploitation is mainly due to lack of enforcement and hence the presence of a large number of unlicensed vessels. As far as the fish stocks are concerned,any fishing activity,licensed or unlicensed,will apply pressure to them. The actual fishing intensity is the sum of all fishing activities,legal or illegal. This is a good method to regulate the Somali fisheries.

Unless enforcement is through and unless effective measures are adopted to check illegal fishing,this method of regulation will fail.

4.4.3 Protected Areas.

The establishment of specific sanctuaries in the fishing grounds to protect fish during specific stages in their development or to protect the species may provide a partial solution to the problem of overfishing in Somalia. The creation of a sanctuary in areas which have large concentrations of juvenile fish,or are known spawning grounds,will protect these young fish until they are much larger. Furthermore,fish within these specific reserves will mature and breed with greater success. The location of these specific reserves is very important as the

enforcement of such protected areas largely depends on their location. Furthermore, if these areas are chosen based on biological, geographical, and aesthetic factors they will be useful education tools to inform fishermen and the public on the need and importance of proper management and conservation of Somali fishery resources. Support of Somali fishermen and public for conservation of Somali resources will greatly help the introduction and implementation of proper management policies.

Enforcement of specific reserves may be much easier to implement as management can concentrate enforcement units within these specific reserves.

Schemes can be created to encourage Somali fishermen to provide surveillance of these areas on a voluntary basis.

4.4.4 Mesh Regulations.

One of the main methods to control the pattern of fishing mortality in Somalia must be via mesh regulation. The large mesh net permits young fish to escape and hence to grow and contribute to the biomass of the fish stock in subsequent years. The speed with which the benefits of mesh regulation occur depend on the biological characteristics of the species concerned.

For long lived species with low mortality rate, such benefits will be several years in occurring, for short - living species benefits can be expected with a few months.

One area where mesh regulations have to be relatively successful is in legislative between the desires of industrial fisheries and those for human consumption. Somalia has a major problem caused by the foreign fishing trawls. They catch a large number of species and each species would have different an optimum mesh size. Because there is no article within Somali Fisheries Act that regulates mesh size and its problems.

4.4.5 Choice of Regulation Methods.

The choice of methods of fisheries regulations should take into consideration economic, biological, social, and political factors existing within Somalia. It will be extremely useful to discuss various methods with Somali fishermen's associations and cooperatives before a final decision is made. Though Somali legislators and fisheries authority do not do it. The extent of support from fishermen will be greatly weakened if they feel that there is little or no benefit at all for them. With regulations that are designed to redistribute the fishery resources, fishermen who feel that the redistribution is unfair will have little incentive to abide by it. Although such regulations may be useful to the fisheries in the long-term, they will be extremely difficult to enforce. In such cases, it will be better if the Somali fishermen are first convinced of the need to conserve fish stocks. They will then be more willing to help in surveillance efforts, and there will be peer pressure to observe the regulations.

4.5 Enforcement of Fishery Regulations.

4.5.1 Enforcement Tasks.

Management objectives,policies and regulations in Somalia should be operationalize through enforcement.

Overexploiting fisheries enforcement is generally directed at protecting the resource and resolving conflicts.

Underutilizing fisheries,enforcement addresses illegal fishing. At all stages of fisheries development,an additional management aspect of enforcement is the collection of information in timely and accurate fashion.

Enforcement tasks must include the following:

- Preventing unlicensed vessels from fishing and ensuring that licensed vessels comply with the provisions of their license.
- Ensuring that fishing areas or zones established for specific size of vessels or gear types are protected from other fishermen.
- Eliminating or minimizing the use of prohibited gear and destructive or harmful fishing practices.
- Protecting spawning areas,endangered species,and other areas closed to exploitation.

4.5.2 Specialized Equipment for Enforcement

Heavy capital expenditures are incurred for meticulous and sophisticated enforcement. These include:

- Patrol Vessels-smaller,lighter ones for inshore work;larger, more enduring ones with more powerful equipment for offshore.
- Aircraft with low -flying capabilities for large-area coverage.
- Radio Communication to allow continuing coordination among enforcement officers.
- Vehicles for land mobility and storage areas for vessels and gear seized in the conduct of enforcement.

Some of the above pieces of equipment for the enforcement of the fisheires acts are not easy for the Somali government to use/have at present due to the following reasons:

- Finantial constraints.
considering the suppressed economy-Somalia is going through ,it is difficult to purchase the above equipentment-
- Lack of qualified trained personnel.
- Inefficient infrastructure.

What can be done now is :

- To establish Radio Communications among enforcement officers.
- To organize and cooperate with the neighboring state such as Kenya,Ethopia,Djabouti and the Gulf of Aden.

4.5.3 Specialized Skills for Enforcement

The enforcement personnel in Somalia should have, acquire or develop the following skills.

- Surveillance** (intelligence-gathering) over fishing and landing of catches.
- Arrest and seizure**, including skills and preserving evidence for court action.
- Prosecution of offenses.** **-Familiarity** with fishery and maritime regulations.
- Adeptness** in operating enforcement equipment.
- Data collection and monitoring**, pertaining to vessels, gear and catch.
- Extension or information dissemination** to facilitate the understanding by fishermen of our fishery laws and regulations.

CHAPTER V.

RECOMMONDATIONS.

5.1 Fisheries Development.

The Ministry of Fisheries and Marine Resources should ,in cooperation with other state bodies as appropriate,promote the development of traditional and industrial fisheries and related activities in Somalia. It should ensure that development of industrial fisheries does not unduly damage or prevent the development of traditional fisheries, through such means as reserve areas for particular kinds of fishing.

The Ministry should also provide the following essential facilities and services:

5.1.1 Fishing Vessels:

Most of the existing traditional fishing craft are old and non-operational,the rest are not suitable for the modern fishing technology and the conditions of Somali waters. Therefore,its necessary to provide new and modern fishing craft which can perform in the conditions of Somali waters and better fishing methods.

5.1.2 Fishing Gear:

The fishing gear used through out the Somali coast is uniform,thus it is low productive.

Also there are no fishing gear manufacturing facilities in the country which makes it more difficult for the fishermen to obtain the necessary gear.

The Ministry of Fisheries, therefore, should propose the improvement of the existing fishing gear and at the same time introduce new gears and methods of fishing for the purpose of increasing the production.

5.1.3 Training:

The present fishermen use old traditional methods of fishing. Moreover, most of them have never received training to improve their skills related to fishing activities, such as fishing methods, mending and maintenance fish processing and handling etc. Therefore, it is recommended to set up systematic training schemes for the fishermen and anybody willing to become fishermen. The revival of the coastal community culture and skills should be given due priority.

5.1.4 Maintenance and Repairing of Equipment:

One of the main constraints which halted the good performance of fishery related equipment is lack of repairing and maintenance facilities such as workshops and spare parts, which caused a brand new fishing boat to be unoperational simply because it lacks a small engine part. The establishment of workshops and other services along the coast, is therefore, essential.

5.1.5 Jetties:

Considering the geographical characteristics of the Somali coasts having no natural harbours and shelters essential for the landing of the catch, it is highly important to build small jetties in the potential fishing areas of the coast.

5.1.6 Cold Storage:

Fish is a highly perishable product which requires to be frozen or kept on ice while still fresh. At present there are few such facilities along the coast, therefore, it is necessary to construct cold stores and ice-making machines in the appropriate coastal areas.

5.1.7 Processing Facilities:

Besides the large scale processing facilities there is also to create small scale processing plants, which could enable the coastal fishing communities to conserve their products. These could be canning, smoking and fish meal plants.

5.2.0 Fisheries Act.

Somalia's present fisheries legislation is not an adequate basis for the purposes of the management of fishery resources, the control and licensing of foreign fishing vessels.

A third, perhaps greater, purpose of fisheries administration is to develop the fisheries sector, but this is more a matter of finance, technology and administration than legislation. It should be repealed, replaced and amended and be provided explicitly for management and licensing and containing adequate provisions for enforcement. Still a fisheries legislation should contain certain provisions designed to facilitate the development task.

The amount of fishing in Somalia has so far been increased. Therefore, resource management is a critical problem. Local over-fishing does exist, and the rapidly expanding industrial fleet is likely to concentrate its efforts on a few of the most valuable resources, such as the deep-water lobster, which could easily damage stocks if no management is exercised.

In the longer term, success in the development of both industrial and artisanal fisheries is sure to lead to great pressure on the resources as well as conflict between fishermen over access to the resources.

Both the short and long-term needs require that the basis of fisheries management be laid now. The short-term response is fairly obvious:

The Ministry of Fishery and Marine Resources must monitor the critical fisheries closely and have the power to take appropriate protective measures when required.

The Ministry of Fisheries will no doubt feel that it does

not have enough information to act on, but it can not risk the destruction of a resource or, more likely, the collapse of a fishery while it gathers data. This indicates the reason for beginning now to manage the long-term, merely potentially problem fisheries: the quality of management decisions, their fairness, economic efficiency and administrative feasibility depend greatly on the information on which they are based. It is especially important to have a sufficient series of fishing data, not just one or two years of partially reported catches.

National legislation and regulations pertaining to the protection, conservation, enforcement of law and development of marine resources should be reviewed, updated and strengthened.

Regional convention for the protection, conservation management, enforcement of laws and development of marine resources of the Eastern African and Gulf of Aden region should be ratified and developed.

Fisheries legislation and regulations on the protection, conservation, enforcement of laws and development of marine resources should be harmonized whenever regional uniformity is required to meet the objectives of such legislation, e.g. on the protection and management of migration of marine species within the region.

Campaigns should be instituted on a national basis to create awareness of national and regional issues relating to the protection, conservation, fisheries enforcement of laws and development of marine resources.

5.3.0 Fishing Data.

Legislation can help provide data by assigning the Ministry of Fisheries to gather statistical and other information on Somali fisheries, and for this purpose the Ministry may empower any person or entity engaged in fishing or in trading or processing fish or other marine organisms, to supply any information that is reasonably related to such activities, including the nature and extent of fishing operations, quantity and other characteristics of catch, including by-catch, and landings, and costs and revenues of operations.

5.4.0 Fisheries Management Measures.

A complete list of management measures cannot be dictated in legislation, but the fisheries legislation can establish a general framework for management and empower the Minister, Ministry of Fisheries to impose detailed measures as they are required.

This scheme should also permit local fisheries officers to impose local measures. The main categories of fisheries management measures are those that regulate the way fishing is conducted and those that limit the amount of fishing.

The current Fisheries Act should empower the Ministry of Fisheries the following measures that are necessary for the proper management of our fishery:

1. Closed seasons for designed areas, species, or methods of fishing;
2. Prohibited fishing areas for all designed species or methods of fishing.
3. Limitations on the methods and gear, including mesh sizes of nets that may be used for fishing.
4. Limitations on the amount, size, species and other characteristics of fish and other marine organisms that may be caught, retained, landed or traded.
5. An order prohibiting the use of any gear in any area should also prohibit the possession of such gear in such area.

A minor example of the first category is the Fisheries Act's prohibition methods of certain methods of fishing (art.5).

What is required is more flexible powers to control fishing practices (including mesh size and other gear specifications, places and times of fishing, composition and quality of catch) and to adjust the controls as the above conditions require.

5.5.0 Licensing Provisions.

The current licensing procedure is extremely burdensome on scarce administrative resources and should be regularized so it can be operated more easily. Fair and effective provisions for dealing with conflicts with either licensed vessels or unlicensed vessels should be in force before they are needed. (Good provisions should not only solve conflicts, but by clearly indicating what is required,

they should help prevent them). In other words, legislation is needed to deal appropriately with problems of foreign fishing.

Somali Fisheries Act should define the area and the fishing vessels (or persons or other units) to which it applies. It must define terms of access or provide a framework for their formulation. If distinctive procedures apply to foreign licensing, these must be indicated. Offences should be defined with precision and enforcement powers granted where those created by existing legislation do not suffice.

Foreign fishing provisions must be defined for the purpose of the fishery act. The basic requirement applied (applies) to foreign vessels in the Somali jurisdictional waters would be that they not fish without a licence.

The term and conditions of foreign fishing licences would therefore become the terms and conditions of access to the Somali fishery. It may not be useful to state in the fisheries act, since the situation tends to change rapidly and the best terms of one year may be too onerous or too easy the next. It is, however, worthwhile to consider the sort of terms that are sometimes agreed or imposed, by the fisheries act, regulation, or in licensing, as conditions of foreign fishing.

Controls on the number of fishermen potentially exist in the concession and the licensing provisions of the Fisheries Act, (art.7);

though there is no indication in the Fisheries Act itself that permission to fish is to be determined by resource management considerations.

The connections between licensing and resources management should be more explicit, for the guidance of fisheries administrators and the regulated sector.

The use of licensing to limit the units engaged in a fishery is unlikely to have broad application in the immediate future. It may be used to limit the number of large vessels for deep-water lobster, but probably not to limit the overall number of large vessels in Somali waters at the present time. Even this restricted application will be worthwhile. At the same time, licensing is an unusually convenient administrative tool for securing information about a fishery.

The licensing process itself provides a good picture of the fishing power employed, and catch and effort statistics can be required as a condition of licensing and integrated with the information from licensing.

The Somali Fisheries Legislation should not rely on licensing conditions as the only tool for obtaining information from fishermen. Many fishermen, specially local ones, require to hold a licence according to Somali present Fisheries' Act (art. 7/2). Although my recommendation is not to require to hold a licence. Because they will be able to provide useful information about illegal fishing, drug-smuggling and etc.

Cooperatives should also be a good source of information on landings, illegal fishing and drug-smuggling and the law should provide for this to be transmitted to the Ministry of Fishery and Marine Resources.

Even for licensed fishermen, a provision in the Fisheries Act itself will help to strengthen and systemize the obligation to give the Ministry of Fisheries the information it requires. It will also indicate to the fisheries administration the priority to be given to its information gathering function.

5.6.0 Fisheries Management and Development Plans.

Management measures, licensing and data collection constitute the essential outline of a fisheries legislation.

They should be connected by an element of planning and strengthened by basic enforcement measures. "Planning" need not be anything as elaborate as a complete management plan for every identifiable fishery in Somalia. Rather it is the logical step of relating management actions to goals and to knowledge about fishery. In the most early instance the plan will be simply to learn more about fishery in order to determine whether further action is necessary and if so, what measures are likely to be the most effective.

Where information is more complete or a situation appears critical, the plan might state a precise level of catch permitted in a particular fishery sector and the licensing

and other measures designed to be kept below the permitted level.

The definition of "Fishery" for planning purposes will also vary according to knowledge and perceived needs.

The Ministry of Fisheries, therefore, should prepare and keep under review plans for the management and development of fisheries.

Each plan should be based on the best information available, and be designed to ensure the optimum utilization of the fishery resources, consistent with sound management principles and the development of Somali fishing.

Each plan should:

- Identify the fishery resources and estimate so far as feasible the average annual yields that can be harvested from them.
- Assess the state of exploitation of each resource and the desirability, taking into account all relevant biological, social, and economic factors, of changes in the amount or nature of exploitation.
- Specify the measures to be taken to promote the development of local fishing activities.
- Determine the amount of resources, if any, to be made available to foreign fishing vessels on an annual basis.
- Specify the management and licensing measures needed to improve the long-term utilisation of the resource.

Bearing these variations in mind, a fisheries management

plan would normally include some assessment of the state of the fisheries in terms of resources, fishing efforts and where information exist, social and economic values.

The plan should address the questions of whether it is desirable to increase or decrease the amount- or change the quality-of fishing and what measures might be useful to accomplish the desired changes. The plan should also address the desirability of allowing foreign fishing vessels to harvest some of the catch in a fishery zone and the measures that should be taken to avoid conflict between fishermen, especially between modern and traditional fishing vessels.

5.7.0 Enforcement of the Fisheries Act.

Enforcement is a necessary residual power in any regulatory scheme, although direct coercion is not recommended as the primary instrument of fisheries regulation.

Legal provisions for enforcement must define what is prohibited, prescribe appropriate punishment for transgressions, and authorize necessary enforcement proceedings, including most importantly stopping and boarding fishing vessels for routine surveillance.

The power of hot pursuit of fishery violators beyond Somali waters can be included but this is truly peripheral to the main enforcement problems Somalia faces. It is also a power that must be used with caution given the lack of both definition and recognition of Somalia's sea

boundaries.

In the light of current indications that an eventual convention on the law of the sea will not favour prison sentences for fishery offences committed in exclusive economic zones, the current fisheries act should relay generally on non-prison sanctions for punishment of offences.

Unauthorized foreign fishing vessels should be forbidden to enter or remain in Somali waters except for purposes of innocent passage; they should also be forbidden to fish there.

Penalties for serious violations of the zone should be high enough to be an effective deterrent. They should include fines and -where circumstances warrant- confiscation of catch, fishing vessels and gear.

It is recommended that imprisonment be included in the range of penalties, in accordance with the Draft Convention on the Law of the Sea. Procedures for rapid adjudication and release of seized items under bond are recommended.

According to the article 13 of the Fisheries Act, "The Somali Naval Forces have the power and the responsibility for enforcement of this law". Both power and Responsibility given to the Naval Forces is not clearly specified.

There is also no memorandum of understanding between the

Ministry of Fisheries and the Somali Naval Forces for the enforcement of fisheries legislation in Somalia.

The Fisheries Act should empower either the Somali Naval Officers or create fisheries officers who have uniforms like Canadian Fisheries Officers who are responsible for the enforcement of fisheries act in the country.

I recommend that uniformed well trained civilian officers should be responsible for the enforcement of Somali Fisheries Act instead of Somali Naval Forces. Because generally civilians and the army have difficulty in understanding each other.

The Government should also perform a special budget for the enforcement of the Fisheries Legislation. Otherwise, there will no longer be any marine resources in Somalia.

Fisheries enforcement officers, or any other person so authorised in writing by the Minister, Ministry of Fisheries and Marine Resources, should, without a warrant :

- Require to produce, examine and take copies of any licence, log or other document required under the Fisheries Act.
- Require to produce, examine any fish or other marine organism and any fishing nets or other fishing gear.
- Stop and board any fishing vessel in Somali water and inspect such vessel, its cargo, supplies, fishing gear, navigation documents and any fish and other marine organism carried on board.
- Between the hours of sunrise and sunset enter any

premises not used as a dwelling.

- Whenever a fisheries enforcement officer or any other person so authorized in writing by the Minister of Fisheries has a reasonable ground to suspect that an offence against this Act has been committed, and that prompt action is needed to prevent the destruction or removal of evidence of the offence or of the objects subject to forfeiture under this Act, both of the above officers should, without a warrant, seize any vessel, together with its catch, gear, supplies and cargo, and any other article which has been used or obtained in the commission of the offence.
- Where a vessel is seized it should be brought to the nearest port call in Somalia. All articles seized should unless otherwise provided by this Act, be dealt with according to article 58 of the Code of Criminal Procedure.
- Where fish or other articles subject to rapid deterioration are seized, the court, or, if there is no time to bring the matter before a court, the Minister of Fisheries, should dispose of the articles by sale or otherwise and retain any proceeds in lieu of the articles.
- The court should, on application from any person from whom a vessel or other object was seized, or from any other person who appears entitled to possession thereof, release the vessel or other object upon deposit of adequate security for its value.

To conclude my project, I wish to emphasize that, the production of this work involved many laborious hours of research, consultations and discussions with fisheries

experts from different countries, such as FAO in Italy, ICOD in Halifax-Canada, Fisheries officials in Ottawa, Sidney and Halifax during my field trip(March-April) in Canada, visiting professors at WMU and my Course Professor, in the field of policy formulation in the fishing economy.

The intent of the recommondations contained therein is for no other purpose than to overcome the impediments that have been present for many years in the fisheries legislation in Somalia and to pave the way towards a progressive fishing destiny.

I acknowledge that the formulations of policies of our country's fishing industry will take time and genuine commitment to study and implement the recommendations spelt out.

Please let this work be not shelved to gather dust.

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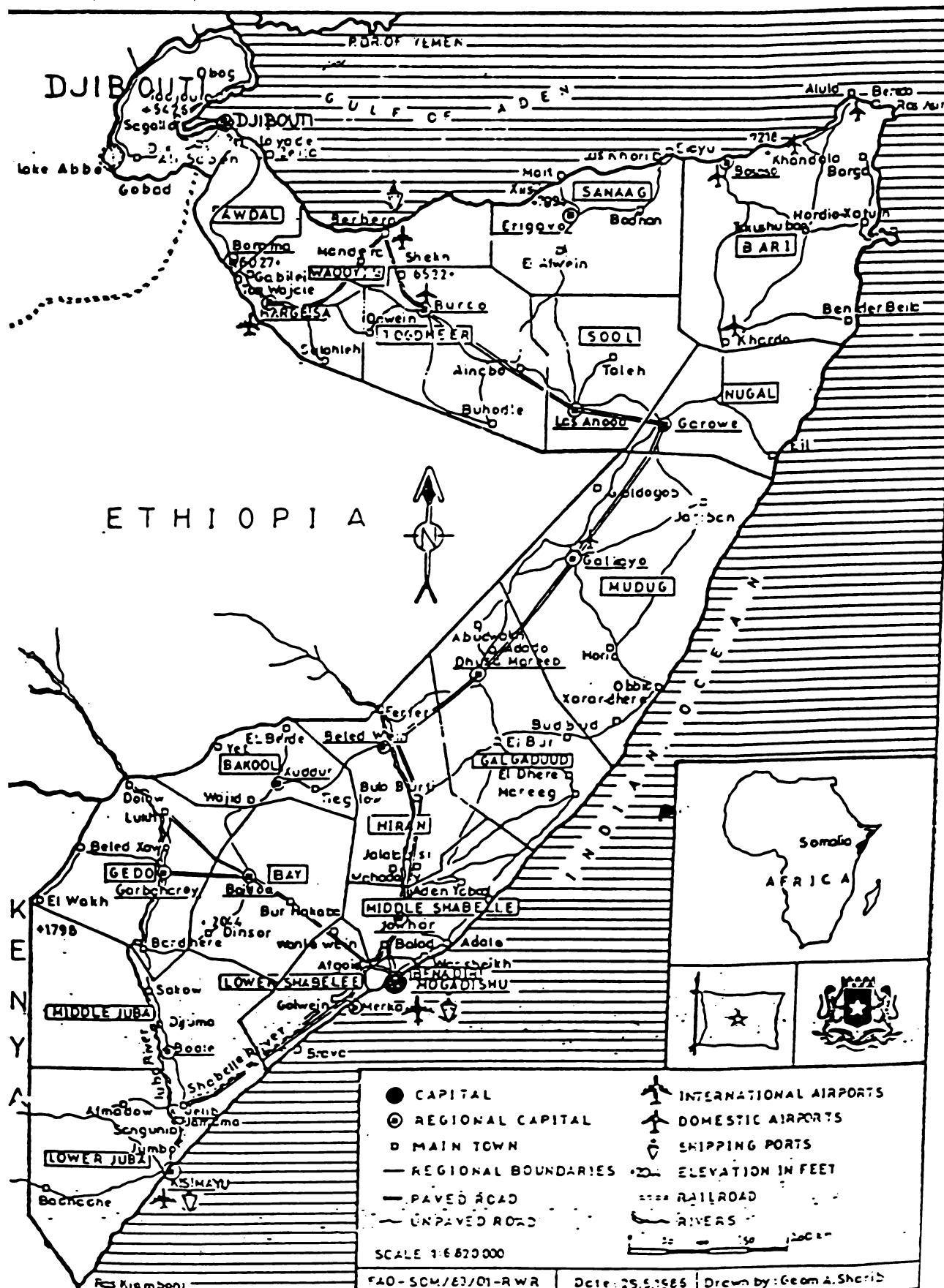
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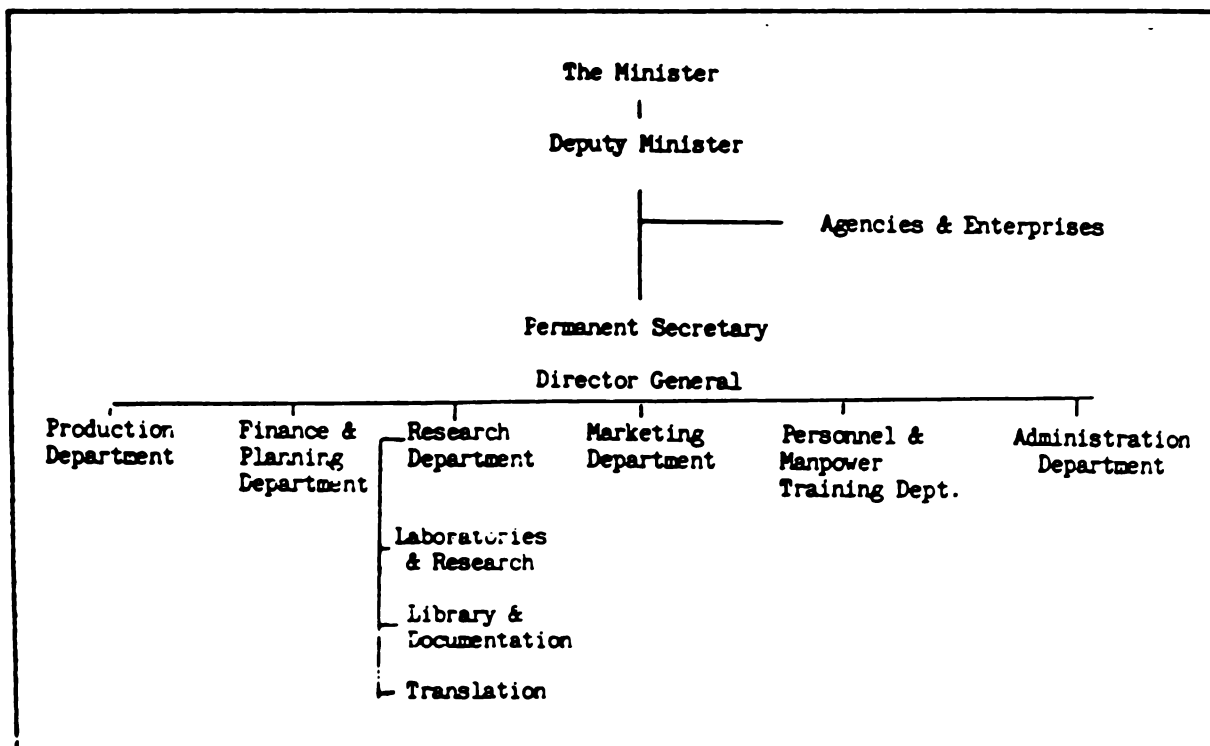
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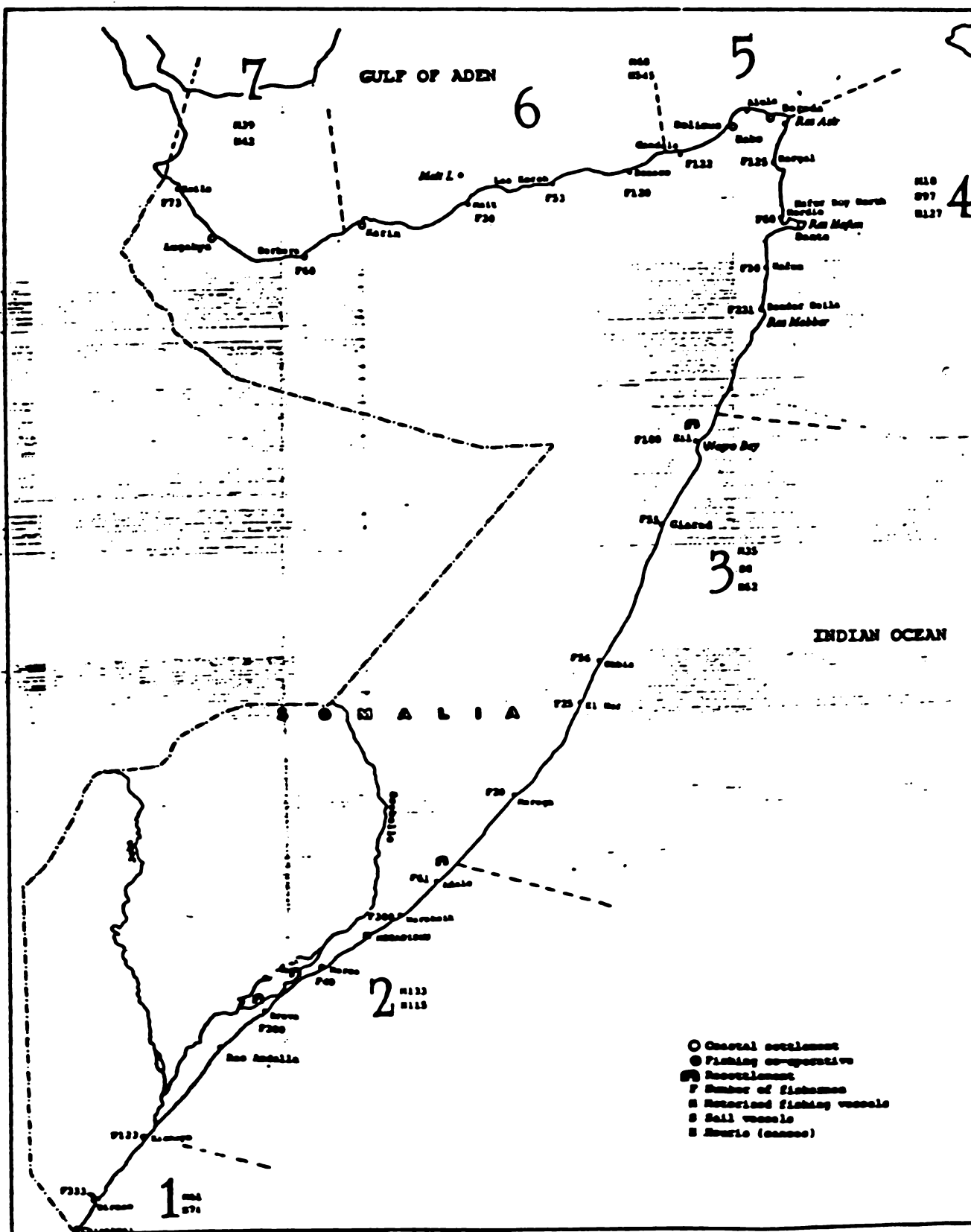
SOMALIA

MAIN TOWNS AND REGIONAL BOUNDARIES





Organizational plan for the Ministry of Fisheries



FISHERY DEVELOPMENT REGIONS OF SOMALIA (SOURCE: Ministry of Fisheries)

