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FISHERIES LEGISLATION IN SURINAME

by

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In November 1985, the Minister for Agriculture of Suriname requested the comments of the Fisheries Law Advisory Programme on new fisheries legislation being drafted in Suriname. In response to this request a fisheries law consultant, Mr. W. R. Edeson took advantage of a previously arranged visit to the region to stop over in Suriname during the period 13-16 January 1986. His terms of reference were to discuss with officials the revised draft of their proposed new fisheries decree, and to discuss prospects for harmonisation of legislative measures concerning fisheries in the sub-region. The following is his report.

A list of persons with whom discussions were held is annexed to the present report.

Background

The waters of the 200 mi EEZ of Suriname, in common with the adjacent 200 mi zones of the neighbouring states of the sub-region, contain valuable fishing resources, especially shrimp. Suriname has about 100 artisanal fishing boats operating inshore, and it is currently allowing to operate about 130 shrimp vessels, possibly increasing to 140 depending on data currently being processed by the Fisheries Department. The number of licensed shrimping vessels has declined from 200 in 1982, 164 in 1983, to 114 in 1984. Despite the increase for 1985, a main concern remains to limit catch effort for shrimp. (See also list attached of nationality and number of shrimp vessels for 1985).

In addition, there are 22 hand liners from Venezuela, ranging from 18.87 tons to 128.67 tons in size.

SAIL operates a shrimp processing factory - it buys catch, processes, packages and sells it. SUJAFI is 85% Japanese owned, though it is reported unofficially that the local partners may now have 50% ownership. SUJAFI is processing most of its catch at sea, though it then comes to the SUJAFI factory for export. Enforcement of the fisheries laws is apparently not very effective, mainly because insufficient patrols are being made, more because of the cost of operating the aircraft and boats than because Suriname lacks the capability to carry out the patrols. Approximately one arrest in six months is made, although it is believed that in addition to illegal foreign fishing, some locally based boats are selling their catch on the high seas. (This is a problem which Guyana is facing as well).

Fisheries Management Planning

The opportunity was taken to discuss briefly with the Director of Fisheries the utility of fisheries management plans. He questioned how useful it would be to adopt such plans without the capacity to exercise much greater control over fishing activities than currently exists in most developing countries. Under Decree C-14 of 31 December, 1980, (Art. 17) the Minister is obliged, after consultation with the (now defunct) Advisory Council on Sea Fishing to announce in the *Advertienblad* and in two national daily newspapers, inter alia, the number of licences to be issued for each year per fish or type of fish, and the distribution of licences between the

three parts of the register, and for alien fishing vessels, the general conditions governing the issue of licences (which may concern allowable methods of fishing, mesh sizes, authorised seasons and zones, minimum fish size, catch limits, and reporting requirements). These are to be printed on the reverse side of the licence. Further, conditions can be made applicable to any individual fishing vessel or group of fishing vessels.

(See now Art. 23 Draft law which is substantially the same, though the date of the announcement is earlier, being 1 November).

The State Fisheries Commission

The Advisory Council on Sea Fishing has been replaced by the State Fisheries Commission, which has been established by Presidential Decision dated 23 October, 1985.

The Commission has seven members at present, who have the following backgrounds: The Chairman, who is from the military council; the Minister of Agriculture, Animal Husbandry and Fisheries; the Coordinator, Planning and Development, Ministry of Agriculture, etc.; Biologist, Ministry of Agriculture, etc.; Director of Fisheries; an Ambassador from the Ministry of Foreign Affairs, and the Director of SURLANT, a banana company involved in fresh water shrimp culture.

Its functions are described in the Presidential decision as being

- (a) all activities which will enable the Commission to gain an insight into the fishery problems of Suriname, furthermore set up a programme of activities, and after discussion with the Ministry of Agriculture, start a programme of activities under the guidance of the State Commission
- (b) to advise the Government on policy concerning the fisheries sector
- (c) to examine fisheries legislation to see if it is still useful and advise the government if changes are necessary.

The draft fisheries law

During my visit, I discussed certain aspects of the proposed new fisheries law with Mr. van der Veldt. I am awaiting an English translation of the entire law, having at present only the first eight pages translated.

The following comments draw attention to points arising in discussion concerning parts of the law not translated at the time. I will, if needed, provide a more detailed commentary later.

1. Stowage of fishing gear - this is not covered in the new draft law, though it is expected to be added in an amendment to Art. 5 of the 1978 EEZ decree dealing with navigation of vessels through the EEZ. I drew attention to the advantage of avoiding using a phrase such as innocent passage in the EEZ, and outlined some alternative terms.

2. Imprisonment. Art. 40 of the draft decree carries a penalty of six years imprisonment or a fine of SUR F 500,000. Attention was drawn to Art. 73, LOSC, and it was pointed out that if an alien was imprisoned without an agreement then the treaty, if ratified, would override national law. It is a rule of constitutional law inherited from the Netherlands that the treaty would prevail. However, if it was a rule of customary international law, the Statute would prevail.
3. Compounding of offences. No provision is made in the draft fisheries law for compounding of offences. However, a new decree on economic crimes is proposed, and will apply as a general law, and therefore would apply to fisheries law. The Attorney General gives a list of amounts for different offences, and the Prosecutor can reach agreement with the offender to pay the amount to the Attorney General. Under this procedure, it would not be necessary for the offender to come before the court.
4. Prohibited fishing methods and marine reserves. There are no substantive provisions on these matters, but Art. 36 of the draft law allows the Minister to make orders with respect to, inter alia, fishing methods, and areas in which certain types of fishing is prohibited.
5. Fisheries Research The definition of "fishing" in Art. 1 excepts "especially licensed activities of a non-commercial nature", which would presumably cover fisheries research/test fishing operations. Art. 35, loosely translated states:
 - (1) Within the framework of a scientific investigation necessary for the determination of a responsible fisheries management policy, the (Director of Fisheries) may stipulate that on board any fishing vessel admitted to the waters coming under Surinamese jurisdiction, to be identified by him, that one or more researchers shall reside for the duration of one or more fishing trips.
 - (2) The minister is authorised to prescribe further rules in this respect.

Harmonisation

In both Guyana and Suriname, officials recognised the value of achieving harmonised conservation measures, especially with regard to the shrimp along the common Atlantic seaboard.

Both countries agreed that closed seasons for shrimping, though not necessarily at the same time, would be helpful. It was also thought that similar gear regulations could be adopted.

Similar penalties, and the availability of speedy administrative procedures were cited as other matters which could be harmonised. Venezuela apparently has a very swift system for dealing with foreign fishermen breaking its laws. Guyana's proposed new legislation will allow for compounding of offences while in Suriname, a new decree on economic crimes will provide a system by which an offender can avoid coming before the courts.

Any harmonisation in the sub-region will have to be fairly generalised, aimed at achieving compatible or similar results in individual national systems. Because of the diversity of legal systems, of the languages, and differences in political and economic development, it is doubtful if a level of harmonisation, such as is in the process of being achieved in the OECS is practicable. Guyana has basically an English common law and statute law system, Suriname has a Dutch civil law based system, Venezuela and Brazil have Spanish and Portuguese based civil law systems, while French Guiana, a department of France, has a French based civil law system, though its marine fisheries is subject to EEC Regulation.

One area in which a high level of harmonisation of laws is probably necessary is in the management of river fisheries as between Guyana-Suriname, the river is owned up to the bank of Guyana by Suriname. It is understood that Guyanese fishermen wishing to fish in the Corentyne first must obtain a licence from the Guyana Fisheries Department, and then from Suriname. Guyanese vessels also are allowed to navigate the river.

One problem that would probably arise, however, is that Suriname regards what Guyana describes as the New River to be the Corentyne i.e. the boundary. A significant tract of land is therefore disputed. This dispute remains unresolved, though it is not, it appears, a major obstacle to relations between the two. The boundary between Suriname and French Guiana is the median line of the river, which if anything, increases the need for harmonisation of riparian fisheries laws, though the extent of fishing activity in the boundary river is not known. It is possible that only significant fishing activity is conducted by indigenous Amerindians.

Given that both Guyana and Suriname maintain, or propose to maintain, detailed fishing registers which it is intended will play an important part in exercising control over foreign as well as local fishing vessels, it would be useful if a system could be devised whereby registration of foreign fishing vessels could be expedited, e.g. by the reciprocal recognition of each other's documentation for registration purposes. This could perhaps be achieved by having each accept certification by the relevant authorization in the other country that the vessel in question complied with its registration requirements would enable it to be added to the other's register. Such an approach would avoid duplicating information on technical matters regarding documentation of the vessel's specifications, seaworthiness, qualifications of crew members, etc. under the proposed fisheries law for Guyana, the Chief Fisheries Officer has to be satisfied that all vessels, local or foreign, are to be seaworthy, whereas under the Surinamese draft law, foreign fishing vessels are not subject to that requirement. For such vessels, registration is achieved by order of the Minister, which contains the required information of the vessels concerned, including the last certificate of seaworthiness, though it does not seem that a separate seaworthiness check is made.

The advantage of reciprocal recognition of registration requirements is that it would expedite issuing licences to vessels from each country, especially where the object was to allow licenses to be issued for the same fishery even though that fishery straddled adjacent 200 mi zones. Thus, for example, a locally based foreign fishing vessel, registered as such in Guyana, could be given a licence to fish for shrimp in Guyanese waters, and on production of e.g. certified copies of its registration documents or

simply certification by the Chief fisheries Officer that the vessel is validly registered under the Guyanese fisheries laws (as required under the proposed draft law), it could apply for a licence to fish in Surinamese waters. If issued, each licence could set a total catch limit for fishing in both zones, thereby enabling the vessel to pursue the shrimp into either zone and take up to the overall limit imposed in the two licences.

Arrangements would be needed for sharing of fees, including the possible adoption of similar criteria for assessing the fee.

The Venezuelan EEZ Decree of 26 July, 1978, in Art. 7, would appear to permit the completion of agreements that would allow fishermen to follow a catch into adjacent zones - indeed, Art. 7 is virtually identical to Art. 63 LOSC which deals with shared and straddling stocks, and which refers to States working directly or through regional or sub-regional organisations. Art. 7, like Art. 63, draws a distinction between shared and straddling stocks, insofar as it imposes a slightly stronger obligation to cooperate regarding shared stocks. With shared stocks, i.e. those occurring between EEZ's of two or more coastal States, those States are urged to agree on measures for their conservation and development, whereas with straddling stocks, conservation only is referred to. Thus, the reference in Art. 7(1) of the Venezuelan Decree to development (desarollo) would almost certainly authorise agreements of the kind suggested.

Another approach would allow for the issue of a single sub-regional licence, though such an approach would require the adoption by the parties of provisions similar to Art. 7 of the Venezuelan EEZ Decree or the regional cooperation clause in the proposed draft fisheries law for Guyana.

In the case of Suriname, the Central Fishing Register, maintained by the Harbourmaster, has two categories of foreign fishing vessel. These are: (a) where the "operator" is established in Suriname, and registered as such in the Chamber of Commerce and Industries, and regularly calls or will call at a Surinamese port, or (b) where the vessel is authorised to engage in deep sea fishing in Surinamese waters pursuant to an agreement between Suriname and the flag state.

It is suggested that the Surinamese draft law includes a specific provision that would authorise the Government to enter into regional and sub-regional arrangements or agreements which would facilitate the issuing of a single licences that would cover fishing activities that crossed 200 mi zones of adjacent states.

Presumably, the EEC would be able to participate in such a scheme on behalf of French Guiana. There may be some difficulty for Brazil to be involved fully as, under its Law of 1971, lobster and shrimp found within 100 miles of the coast are reserved exclusively for local fishermen. It would no doubt be able to participate fully in determining harmonised conservation measures for the waters of 200 mi zones covered by the sub-region.

