

DIVISION ONE

1.0 TERMS OF REFERENCE

The Legal Advice to Thailand Mission, 2000 [FISHCODE GCP/INT/648/NOR-SUB-PROJECT C1] arose from the recommendations contained in the report by Peter Flewwelling, *FAO MCS Review: Thailand* (January 12-24, 1999) and Blaise Kuemlangan, *Preliminary Review of the Fisheries Legal Framework of Thailand* (1999) which followed the FAO/FISHCODE Regional Workshop on Fisheries Monitoring, Control and Surveillance held in Malaysia in June/July 1998.

The following were the Terms of Reference for the Legal Advice to Thailand Mission:

In close consultation and collaboration with the Government counterparts, relevant Government authorities and other consultants under the project:

The legal consultant will --

- i) collect, review and analyze laws and regulations in force that govern the fisheries activities in Thailand;
- ii) review the institutional framework responsible for implementing the relevant law and regulations;
- iii) based on the reviews undertaken under (i) and (ii) and previous assessments for fisheries legislation, *prepare and draft the basic legal framework* (law and subsidiary legislation; as appropriate) that enhances sustainable fisheries management;
- iv) provide technical advice in support of legislative implementation;
- v) provide assistance in the organization and conduct of the legal review workshop provided for under the project on 1-4 August; and
- vi) act as a lecturer/resource person at the Regional Training Course on MCS to be held in Songkhla, Thailand from 4-12 July.

The legal consultant will prepare a "progress" report at the end of his first mission, including points (i), (ii) and (iii) above. He will provide a **final report**, including the outputs of (i) to (v).

What is herein provided is the **Final Report** required by the above Terms of Reference.

2.0 BACKGROUND TO AND CONDUCTING OF THE MISSION

Pursuant to the above Terms of Reference, the Legal Consultant conducted a First Mission to Thailand from April 1-23, 2000 and completing a Progress Report. This was followed by the Legal Consultant, while in Victoria, Canada, preparing a Draft Fisheries Act during May, 2000 and submitting this to FAO Rome, FAO Bangkok and the Thai Department of Fisheries in early June 2000. The Legal Consultant conducted a Second Mission to Thailand in two stages, the first being June 16-23 and the second being July 14 to August 5. In fulfillment of point v of the Terms of Reference the Legal Consultant assisted in the organization and the conducting of a "legal review workshop" held at the Rose Garden,

Nakornpathom Province, Thailand on August 1-3 (Report attached as Appendix Two). In fulfillment of point vi of the Terms of Reference, the Legal Consultant participated in the Regional Monitoring, Control and Surveillance Training Programme held in Songkhla, Thailand from July 3-10.

In the preparation of the Draft Fisheries Act, valuable assistance by way of detailed comments were provided by Peter Flewwelling and Blaise Kuemlangan. Besides the valuable detailed comments provided on an informal basis, Peter Flewwelling prepared an MCS Advisor Report respecting the Department of Fisheries/FAO Legal Workshop of August 2000.

As the Final Report is to cover all the points of the Terms of Reference, parts of the May 2000 Progress Report have been included in the Final Report. The Final Report is composed of four Divisions. Division One is Parts 1.0 and 2.0 - the Introduction and Background to the Thai Legal Mission. Division Two is Parts 3.0 to 6.0 which is the background to Thai fisheries, the 1947 Fisheries Act and the administration of fisheries in Thailand. Division Three (Parts 7.0 to 28.0) deals with the detail of the Draft Fisheries Act. Division Four is the Draft Fisheries Act itself which contains Sixteen chapters and 146 sections.