

**legal and institutional aspects
of fisheries management and development
in the exclusive economic zone
of the republic of seychelles**



UNITED NATIONS DEVELOPMENT PROGRAMME



FOOD AND AGRICULTURE ORGANIZATION
OF THE UNITED NATIONS

LEGAL AND INSTITUTIONAL ASPECTS
OF FISHERIES MANAGEMENT AND DEVELOPMENT
IN THE EXCLUSIVE ECONOMIC ZONE OF THE REPUBLIC OF SEYCHELLES

by

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Under the Direction of the FAO Legislation Branch

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
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1. INTRODUCTION

1.1 Background Information

The Republic of the Seychelles consists of 92 islands lying in the Indian Ocean between 3° South and 11° South latitude, and 46° East and 57° East longitude. The main island of Mahé is 930 km from Malagasy, 1 590 km from Mombasa (Kenya) and 2 180 km from Bombay (India). The islands have a land area of 444 square kilometres. Since the entry into force of the Maritime Zones Act (1 August 1977), the Republic claims sovereign rights for the purpose of exploration, exploitation, conservation and management of all resources within a two hundred miles exclusive economic zone which covers some 700 000 square kilometres. It also claims such rights over a part of the continental shelf of Saya de Malha which lays outside the two hundred miles limit in the southeastern part of the archipelago.

According to the 1977 census, the total population is presently 62 000 of which 88% live on Mahé, 7% on Praslin, 3% on La Digue and 2% on the other islands (mainly on Silhouette, Denis, Darros, Farquhar, Assumption and Frégate). All other islands have less than 50 inhabitants or have no permanent population.

The country became independent on 29 June 1976 after being administered for 44 years by France (1770-1814) and for 162 years by U.K. (1814-1976). Despite this, the culture of the islands remains more French than British. The predominant language is creole which is French-based but with many words and constructions derived from English, Arabic and African languages. Since the entry into force of the Constitution (Amendment) Act, 1976, the official languages of the Republic are English and French. English remains *de facto* the only working language in the public administration. The Government Gazette is for the moment published only in that language and the bulk of the laws in force are drafted along British standards. However, the French criminal code is still in force and the new civil code replacing since 1975 the French one has retained a good proportion of the rules included in the latter. The Interpretation and General Provisions Act, 1976, stipulates that when terms or expressions of French law are used in an Act, they must be interpreted in accordance with French law.

Fish has always been by far the main source of animal protein for the Seychellois. The consumption of fish *per capita* is among the highest in the world (85 kg/year). The present landings make the island just self sufficient and represent about 5 500 tons each year. Up to now, fishing has not represented an important factor for Seychelle's economic growth. The Seychelles Development Plan, 1973, stressed the need to protect the environment, to develop the tourist industry and to improve infrastructure, but did not even mention the fishing industry. Between 1971 and 1977, the manpower employed in fishery increased from 602 to 836. This is a low rate when compared with those of tourism and related industries (hotels: 174 to 2 158; domestic services: 1 749 to 2 595).

Shortly after independence, and in particular since the entry into force of the Maritime Zones Act, the Government agreed upon a diversification of the economy and decided to develop the fishery sector. In 1978 a large scale tuna industry project was launched with French and British assistance. By the end of 1979 four Seychelles tuna vessels are expected to be in operation. It is expected that they will land 4,000 tons of tuna per year which will be exported. The Government has also decided to negotiate with foreign countries with a view to allowing them fishing rights against the payment of fees or other forms of compensation. It is understood that such rights will be granted only to a few vessels until a more precise assessment of the magnitude of the stocks and their potential annual yields is available. According to a recent report from the Indian Ocean Programme (IOP) ^{1/}, the order of magnitude of potential annual yield estimates might fall within the following ranges:

(i)	demersal, reef	5 000 - 40 000 tons per annum
	demersal, trawl	5 000 - 15 000 tons per annum
(ii)	small pelagios	40 000 - 80 000 tons per annum
(iii)	large pelagics (skipjack etc.)	20 000 - 30 000 tons per annum

^{1/} Indian Ocean Programme, Technical Report No. 20, Rome, 1978

Finally, it may be noted that the Government of Seychelles considers that the development of an expanded fishing industry is the largest and most important proposal contained in the National Development Plan, 1978-1982.

1.2 Terms of Reference

In January 1978, the Government of the Republic of Seychelles requested advice from FAO on how to deal with applications from foreign concerns and governments in relation to fishing activities within the Seychelles Exclusive Economic Zone. An advisory mission, consisting of Robert L. Payne, Leader, and Michel J. Savini, Legal Adviser, was sent to Victoria from 5 to 12 March 1978 with the following terms of reference: "to examine the existing fishery, the available data regarding resources, the germane legal aspects of the Extended Economic Zone and to consult with and advise the Government on the handling of application of foreign governments and companies to fish within the national waters of the Seychelles". One important aspect of fisheries development which came to light during discussions between the competent authorities and the mission and which, in the view of the Government, needed to be urgently tackled, was the need for an adequate legal framework which could respond fully to any needs posed by the future development of fisheries. Therefore, the Government requested the legal assistance of two legal experts (one with international law expertise) for approximately six weeks.

The Mission, consisting of Professors M.J. Savini (University of Nice, France), Leader, and B.H. Dubner (Nova Law School, Florida, U.S.A.), Consultant, arrived in Victoria on 8 July 1978 with the following terms of reference:

"To advise the Government of Seychelles on:

- (a) the establishment of a satisfactory legal framework for negotiations with other countries (companies) leading to possible bilateral agreements, e.g. licencing, joint ventures, partnerships, contract agreements;
- (b) updating the present (1942) Fisheries Act and (1971) Fisheries Limits Act;
- (c) the drafting of subsidiary legislation implementing the enabling provisions of the (1977) Maritime Zones Act;
- (d) advising on any legal and institutional matters arising from a Government decision to set up a state-owned company fishing commercially for tuna and skipjack.

The Mission worked at National House (Attorney General Chambers) in Victoria for five weeks and met the following persons:

M. F. René, President of the Republic of Seychelles
Dr. M. Ferrari, Minister for Economic Development, Planning and Housing
Mr. O. Berlouis, Minister of State for Internal Affairs in the President's Office.
Mr. B. Loustau-Lalanne, Attorney General, Department of Legal Affairs
M. S. Savy, Permanent Secretary, Department of Agriculture and Land Use
M. G. Morel, Permanent Secretary, Departments of Finance
M. R. Grandcourt, Permanent Secretary, Ministry of Economic Development, Planning and Housing
Capt. J. Ferrari, Permanent Secretary, Ministry of Ports
M. R. Marcastel, Chief of the French Mission d'Aide et de Cooperation
M. J. Pillay, Commissioner of Police
M. R. Warren, Registrar General, Department of Legal Affairs
Capt. C. Delpech, Harbour Master, Ministry of Ports
M. O. Spencer, Special Adviser, Ministry of Economic Development, Planning and Housing
M. P. Harold, Senior Economist, Ministry of Economic Development, Planning and Housing
M. J. Tarbitt, Fisheries Research Officer, Fisheries Division, Department of Agriculture and Land Use

M. T. Jones, Chief Statistician, Statistics Division, Ministry of Economic Development, Planning and Housing
Mr. R. Hoareau, Registrar of Cooperative Societies, Department of Agriculture and Land Use
M. K. Bain, Consultant, Fisheries Development Limited
M. A. Pon-Waye, Inspector of Police in charge of police vessel
M. P. Rouillon, Manager, Government Cold Storage
M. P. Ahweg, Post Harvest Laboratory Assistant, Fisheries Division, Department of Agriculture and Land Use
M. A. Harris, Fisheries Officer, Fisheries Division, Department of Agriculture and Land Use
M. M. Larue, General Manager, Larue Fishing and Trading Company Limited, President of the Seychelles Fishermen's Association
M. P. Gill, Managing Director, Le Bon Poisson
M. B. Schillinger, Managing Director, Tradewinds Fisheries (Pty) Limited
M. G. Larue, Director, Larue Fishing and Trading Company Limited
M. W. Larue, Larue Fishing and Trading Company Limited.

A further two missions were undertaken by Professor Savini alone in December 1978 and in July 1979 to advise the Government on the actual drafting of the necessary legislative texts.

The present report reviews the existing agreements, laws and institutions affecting the development and management of fisheries in the Republic of Seychelles, comments on their adequacy and recommends draft texts to replace or supplement the legislation presently in force.

2. REVIEW OF EXISTING AGREEMENTS, LAWS AND INSTITUTIONS AFFECTING THE DEVELOPMENT AND MANAGEMENT OF FISHERIES IN THE REPUBLIC OF SEYCHELLES

2.1 International Agreements

2.1.1 Multilateral agreements dealing with fisheries

2.1.1.1 The 1958 Geneva Convention on the Law of the Sea

The Republic of Seychelles is not a party to any of the four conventions of the Law of the Sea adopted in Geneva in 1958, that is, the Convention on the Territorial Sea and Contiguous Zone, the Convention on the High Seas, the Convention on Fishing and the Conservation of the Living Resources of the High Seas, and the Convention on the Continental Shelf. However, these conventions applied to Seychelles for some years until the independence of the country. This explains the fact that a part of the Seychelles domestic legislation is based on the criteria contained in these conventions.

2.1.1.2 The present Law of the Sea Negotiations

The Government of Seychelles is giving particular attention to the present negotiations on the Law of the Sea. Even before independence, it was decided to set up an inter-ministerial advisory committee under the chairmanship of the Ministry of Agriculture to advise the Council of Ministers on the policy the U.K. Government should be requested to advocate on behalf of the Seychelles at the Law of the Sea Conference. A Seychelles Delegation attended part of the fifth session (New York, August-September 1976) just before the admission of the country as a member of the United Nations. It did not prove possible to send a delegation to the sixth session in 1977 and to the first part of the seventh session (Geneva, April-May 1978). The problem was discussed when the mission visited Seychelles in July-August 1978 and it was then decided to send a delegation to attend the second part of the seventh session (New York, August-September 1978).

Although the negotiations are not yet completed, the main lines of the future regime of the seas are already known. It is true that the Informal Composite Negotiating Text presented to the Conference at the end of its sixth session in July 1977 serves purely as a procedural device and only provides a basis for negotiation without affecting the right of any delegation to suggest revisions in the search for a consensus. However, its provisions have been incorporated in general terms in the national legislations of many coastal states as well as in many bilateral fishery agreements.

So far as fisheries are concerned, the text would recognize the right to every State to establish a territorial sea of up to twelve nautical miles (Art. 3) and an exclusive economic zone of up to two hundred nautical miles (Art. 57). In its exclusive economic zone the coastal state would have sovereign rights for the purpose of exploring and exploiting, conserving and managing natural resources, and jurisdiction with regard to marine scientific research and the preservation of the marine environment. The coastal state would be required to determine the allowable catch of living resources in its exclusive economic zone and to ensure, in cooperation with relevant subregional, regional and global organizations as appropriate, that the maintenance of these resources is not endangered by over-exploitation. When taking the proper management and conservation measures the coastal state has *inter alia* to take into consideration the interdependence of stocks (Art. 61). The coastal state would also be required to determine its capacity to harvest the living resources of its exclusive economic zone. When that capacity is insufficient to harvest the entire allowable catch, the coastal state would be required, through agreements or other arrangements, to give other states access to the surplus of the allowable catch ^{1/}. In granting such access, due account would have to be taken of various factors including, *inter alia*, the significance of the living resources of the area to the economy of the coastal state concerned, the requirements of developing countries in the sub-region, and the need to minimize economic dislocation in States whose nationals have habitually fished in the zone. Nationals of other States granted such access would have to comply with the conservation measures and other terms and conditions laid down by the coastal state in its regulation. The types of regulations which the coastal state would be able to establish are set out in the text and include licensing measures, including payment of fees and other forms of remuneration, conservation measures, such as the fixing of quotas, species that may be fished, closed seasons and fishing areas, and regulating the type and amount of fishing effort, the size of gear to be used and the minimum size of fish to be caught. The coastal state may also specify the statistical and other information to be provided, require the conduct of specified research and training programmes, require the catch to be landed in specified ports, set the terms and conditions relating to joint ventures or other cooperative arrangements, and finally establish appropriate enforcement procedures (Art. 62).

So far as these enforcement procedures are concerned, certain requirements are set out in Article 73 of the Text. Thus, measures such as boarding, inspecting, arrest and judicial proceedings may be taken to ensure compliance with the coastal state regulations. However, arrested vessels and their crews must be promptly released upon the posting of a reasonable bond or other security. Penalties for violations of the fisheries regulations in the economic zone may not include imprisonment, in the absence of agreement to the contrary by the states concerned. And in the case of the arrest or detention of a foreign vessel, the coastal state would have to notify the flag state promptly of the action taken and the penalties imposed. Coastal states are to give due notice of any conservation and management regulations adopted for the exclusive economic zone.

Under Article 63, where the same stocks of fish occur within the exclusive economic zone of two or more coastal states, these states should seek to agree on the measures necessary to coordinate and ensure the conservation and development of these stocks, either directly or through appropriate regional or sub-regional organizations. Similarly, cooperative measures should be sought for the conservation of stocks occurring both within the Exclusive Economic Zone and in areas adjacent to it, by the coastal state and other states fishing those stocks in adjacent areas. Cooperative measures and regional organizations are also contemplated for the conservation and promoting of optimum utilization of highly migratory species such as tuna (Art. 64).

^{1/} It may be noted that none of the numerous bilateral fishery agreements recently concluded as a result of the new regime refers directly and specifically to that provision of the ICNT. Mention is made, however, of the factors which, according to the ICNT, the coastal state would take into account when giving access to the surplus to fishing vessels of other states.

The Text also contains provision dealing with the right of certain developing coastal states, which are situated in sub-regions or regions whose geographical peculiarities makes such states particularly dependent for the satisfaction of the nutritional needs of their populations on fishing in the exclusive economic zones of their neighbours, to participate on an equitable basis, in the exploitation of living resources in the exclusive economic zone of states in the sub-region (Art. 70). It must be, however, pointed out that this provision is one of the "hard core issues" on which no consensus has been reached within the unofficial negotiating groups established by the Conference at its seventh session.

Although negotiations at the Conference are still under way, the outcome of these negotiations will be of particular relevance in the drafting and consideration of new fisheries legislation, and in the attitude to be adopted towards joint venture arrangements with foreign firms and bilateral fishery agreements with other states.

2.1.1.3 The Indian Ocean Fishery Commission

The Republic of the Seychelles is now a member of the Indian Ocean Fishery Commission. The Commission is a subsidiary body of FAO established by the Council of the Organization in 1967. The terms of reference of the Commission are: (a) to promote, assist and co-ordinate national programmes over the entire field of fishery development and conservation; (b) promote research and development activities in the area through international sources, and in particular international aid programmes; (c) to examine management problems with particular reference, because of the need to take urgent action, to those relating to the management of offshore resources.

2.1.2 Bilateral agreements dealing with fisheries

2.1.2.1 Agreement between the Government of the Republic of the Seychelles and the Government of the Union of Soviet Socialist Republics on cooperation in the field of fisheries, 23 June 1978

This Agreement, which entered into force on the date of its signature, was concluded in Victoria for an initial period of five years. It is to be extended for successive three years periods, unless either Contracting Party declares its desire to terminate it not less than six months prior to the expiration of the relevant period.

Under the Agreement, the Contracting Parties agree to cooperate and render mutual assistance in the field of fisheries and to hold further consultations for conducting marine fishery research, undertaking commercial utilization of the fish resources of the waters of the Seychelles, providing training of national personnel and rendering technical assistance in the development of the Seychelles' fishing industry. All this will be done upon the agreement of the contracting parties and in accordance with the laws of Seychelles.

The U.S.S.R. undertakes to give assistance in conducting research for the assessment of fish resources, in developing the local fishing industry - particularly in the harvesting and processing of fish - and in training Seychellois fishery specialists in educational institutions of the U.S.S.R. as well as on board Soviet vessels. Under Article 3 of the Agreement, the Soviet fisheries organizations undertake to provide a research vessel at their own expense. The results of the research completed according to an agreed programme will be used by the contracting parties for considering possible and appropriate forms of joint cooperation in the field of fisheries including rational commercial exploitation of fish resources. The Seychelles may put on board the research vessel five Seychellois specialists at the expense of the U.S.S.R. apart from their normal salaries. The U.S.S.R. also agrees to formulate a general long-term fisheries development programme for the Seychelles and to provide for that purpose experienced specialists whose number and specialties are to be agreed between the competent authorities of the Contracting Parties.

Article 4 provides that the Government of the Republic of Seychelles may, in accordance with the laws of Seychelles and on agreed terms of mutual benefit, grant to Soviet fishing vessels the right to fish in Seychelles waters. Soviet fisheries vessels are granted the

right to enjoy the use of Port Victoria and its support facilities according to commercial conditions. The negotiation of an air service agreement allowing the Soviet authorities to fly in replacement crews and spare parts for their fishing vessels will be considered.

The two Governments have also decided to establish a Joint Commission for the purpose of implementing the provisions of the agreement. Sessions of the Joint Commission will be arranged as and when necessary and its recommendations will be submitted to the Contracting Parties for their consideration.

2.1.3 Agreements affecting the development of fisheries

2.1.3.1 The Lomé Convention, 1975

The so-called Lomé Convention of 28 February 1975 between the European Economic Community and its Member States (EEC) and some 34 African, Caribbean and Pacific states (the ACP States), is of direct relevance for the development of fisheries industries in the Seychelles, and in particular so far as the development of export markets for Seychelles products is concerned. The Convention, which entered into force on 1 April 1976 and to which the Seychelles is a party, provides for special conditions for trade between the ACP states and the EEC. Products originating in the ACP states are to be imported into the EEC free of customs duties and equivalent charges, subject to the conditions of any existing or new EEC market organization scheme. In any case, the ACP states are to be assured of preferential treatment in excess of that accorded to most favoured third party countries. Products originating in one or more ACP states are defined in Protocol I to the Convention as including:

- "(e) products obtained by hunting or fishing conducted therein;
- (f) products of sea fishing and other products taken from the sea by their vessels;
- (g) products made aboard their factory ships exclusively from products referred to in sub-paragraph (f);
-
- (j) goods produced there exclusively from products specified in sub-paragraphs (a) to (i)".

The term "state" is defined as including the territorial sea of the state, while the term "their vessels" is defined in explanatory note 6 of Annex I to Protocol I as meaning vessels

- " - which are registered or recorded in a (EEC) Member State or an ACP State;
- which sail under the flag of a Member State or an ACP State;
- which are owned to an extent of at least 50 percent by nationals of states party to the Convention or by a company with its head office in one of these states of which the manager of managers (sic), chairman of the board of directors or of the supervisory board, and the majority of the members of such board, are nationals of states party to the Convention and of which, in addition to the case of partnerships or limited companies, at least half of the capital belongs to states party to the Convention or to public bodies or nationals of such states;
- of which at least 50 percent of the crew, captain and officers included, are nationals of states party to the Convention."

Annex II to Protocol I specifically provides that the preparation or preservation or processing of fish alone does not confer originating product status where the fish are caught by fishing vessels of third countries.

The EEC is not to apply quantitative restrictions or equivalent measures to import from ACP countries other than those applied among the Member States themselves. The ACP States, for their part, are not required to assume corresponding obligations with respect

to imports originating from the EEC, although they do undertake not to discriminate among Member States and to grant the Community "most favoured nation treatment" so far as non-ACP and non-developing countries are concerned. Where measures are envisaged that may affect the interests of the ACP States, there are to be mutual notifications and consultations.

The Contracting Parties undertake to carry out trade promotion activities, such as improving the structure and working methods of organizations, departments or firms contributing to the development of the foreign trade of ACP States, training of staff, participation in fairs, carrying out market research and undertaking marketing studies. Applications for financing trade promotion activities are to be presented to the Community by the ACP States or states concerned under conditions laid down in the Convention, and the Community undertakes to participate in financing these activities.

A scheme for stabilization of export earnings for products, such as groundnuts, that are subject to price fluctuations on the international market, is provided for under Title II of the Convention. Fish and fish products are at present not included on the list.

Title III deals with the promotion of industrial cooperation between the ACP State and the EEC, with the aims of promoting development and diversification of industry in ACP countries, promoting new trade links and, in particular, ties between industry and other sectors of the economy, facilitating the transfer of technology and encouraging EEC firms to participate in ACP industrial development. The EEC undertakes to help carry out programmes, projects and schemes submitted to it by ACP States in the fields of industrial ventures, training, technology and research, etc. In particular, the EEC is to contribute to the setting up and extension of industries processing raw materials in the ACP countries. The EEC is also to contribute to the organization and training of ACP personnel in industries and institutions in the EEC countries, as well as to the establishment and expansion of industrial training facilities in the ACP States themselves. Trade promotion schemes are to be carried out to encourage the marketing of ACP products in the Community as well as in other foreign markets. To see to the implementation of this title, a Committee of Industrial Development and a Centre for Industrial Development are to be set up. Finally, the EEC and individual Member States are to endeavour to set up measures to attract the participation of their firms and nationals in the industrial development efforts of individual ACP States.

Title IV of the Convention deals with financial and technical cooperation in the execution of projects and programmes contributing essentially to the economic and social development of the ACP States. For the duration of the Convention, a total of 3 390 million units of account are pledged as Community aid, including 3 000 million units of account from the European Development Fund in the form of grants (2 100 million u/a's), special loans (430 million u/a's) and risk capital (95 million u/a's) and transfers under the export earnings stabilization scheme (up to 375 million u/a's). Up to a further 390 million units of account are to be granted in the form of loans from the European Development Bank supplemented by a 3 percent interest rate subsidy.

With the agreement of the ACP state concerned, the EEC financial aid may also take the form of co-financing, with participation by credit and development agencies and institutions, private firms, member States, third countries or international finance organizations. Effective assistance is also to be provided by the EEC for attaining objectives set by ACP States in the context of regional and sub-regional cooperation. Approximately 10 percent of the total aid resources are to be reserved for this type of assistance. In all assistance special attention is to be paid to the needs of the least developed ACP States.

In a Joint Declaration on Fishing Activities annexed to the Convention, the Community declares that it is willing to encourage the development of fisheries in ACP States which so desire, within the framework of industrial, financial and technical cooperation set out in Titles III and IV. The ACP States, for their part, declare their willingness to negotiate with any EEC Member State bilateral agreements likely to guarantee satisfactory conditions for fishery activities in the sea waters within their jurisdiction.

Title V of the Lomé Convention deals with provisions relating to non-discrimination as between ACP and EEC nationals and companies as regards establishment and provision of services, and provisions relating to current payment and restrictions on capital movements. Title VI deals with the institutions of the Convention, including procedures for dispute settlement, and Title VII with general and final provisions.

The Convention, which entered into force on 1 April 1976, is to expire after a period of five years from the date of signature (i.e. 28 February 1980), although it may be denounced by the Community in respect of any ACP states, or any ACP State in respect of the Community, upon six months notice.

2.1.3.2 The Convention between the French Republic and the Republic of the Seychelles concerning the development of marine fisheries in the Seychelles, 3 February 1978

At the request of the Government of the Seychelles, the French Government undertook to help the Seychelles in setting up a tuna industry. The outcome of the negotiation between the two countries is recorded in a "Procès-Verbal" signed on 16 December by representatives of both Governments. A financing convention was signed on 3 February 1978.

The overall project is estimated at a cost of 52 million French Francs. It includes the purchasing of four tuna boats built in French shipyards, the expenses necessary to supervise the construction of the boats and the financing of a working capital fund for the company which will manage the fleet. The French Fond d'Aide et de Cooperation (FAC) will make a gift of 25 million French Francs (16 million for the vessels, 5 million for supervising and delivering, 4 million for the working capital fund). The French Caisse Centrale de Cooperation Economique (CCCE) will grant a loan of 20 million French Francs at a rate of 5.5% repayable in 29 half year instalments starting October 1980.

The project will be carried out by a Seychellois Company with the technical assistance of the French company A.C.F. (Armement cooperatif finisterien). Both Governments have agreed on the legal structure of the venture. There will be a state-owned corporation which will own the vessels and the cold storage plant financed by the U.K. aid (see below). That body will bear the financial risks of the operation. These vessels and plants will be managed, and the fish will be marketed, by a management company whose capital (500 000 FF) will be shared between the Seychelles Government (75%) and ACF (25%). A management contract will be signed between the state-owned corporation and the management company. The main lines of the sharing of responsibilities between the two bodies have already been agreed upon in an Annex to the Procès-Verbal of December 1977. The 4 million French francs working capital fund will be placed at the management company's disposal by the State-owned corporation. The technical director of the management company will be provided by ACF. The remuneration of the management company will be agreed in the management contract. It will include a part based upon the real expenditures within the limits of an annual budget and a percentage upon the cash flow after payment of instalments due to the CCCE. During the first period of the project, the management company will receive the technical assistance of ACF. A contract will be signed for that purpose. At the end of the contract, the ACF shares in the management company will be bought back at par by the Seychelles Government. The contract will make ACF responsible for the recruitment of the management staff, for technical assistance in respect of the fishing equipment, and maintenance and repairs of machinery, for the first order of fishing equipment, supplies and maintenance (supervising survey of the hull and machinery, maintaining the cote veritas) and for the maintenance of equipment. ACF is to be reimbursed for these technical services in the following manner: invoicing during the course of actual expenditures by ACF within the provisional budget established between ACF and the management company up to a limit of 2.5% of the annual turnover. The Procès-Verbal includes also a general provision for training Seychellois personnel in order to replace French technical assistants by Seychellois as quickly as possible.

This financing agreement signed in February 1978 provides for the granting of the first part of the French aid, i.e. 13 million French Francs from the ACF representing 12 million French Francs to pay the first instalment to the shipyard and 1 million French Francs for supervision and miscellaneous expenses. It also includes a general provision for the granting within the next years of 120 scholarships in the field of fishing and navigation.

The order approving the 20 million French Francs loan from CCCE was signed by the President of the Seychelles on 17 July 1978.

2.1.3.3. The Memorandum of Understanding between the Government of the U.K. and the Government of the Republic of the Seychelles concerning the allocation of U.K. aid funds for the provision of shore facilities during the first phase of the tuna fishing industry project, 2 June 1978

In a memorandum signed by the President and the British High Commissioner, the Government of the U.K. agreed on the following allocations:

- £1 349 000 from the U.K./Seychelles Loan, 1977, to provide shore facilities, including a wharf and cold store, with associated services for a tuna fishery initially fishing 4 000 tons of tuna a year. The U.K./Seychelles Loan, 1977, amounting to ten million pound sterling is free of interest and repayable in twenty five years beginning 1984;
- £61 000 from technical cooperation funds for consultants in connection with the supervision of the work.

The memorandum also states that the British Government is prepared to offer its assistance in providing the necessary expertise to the Holding Company both on fisheries and on financial accounting matters.

2.1.4 Other Agreement of relevance to fisheries

2.1.4.1 Agreements concerning marine pollution

(a) Pollution caused by normal navigation

The Republic of the Seychelles is not a party either to the 1954 International Convention for Prevention of Pollution of the Sea by Oil (as amended in 1962, 1969 and 1971) nor to the International Convention on the Prevention of Pollution from Ships of 1973.

(b) Pollution caused by accidents at sea

The Republic of the Seychelles is a party neither to the 1969 International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties nor to the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil of 1973. Since the 1st of April 1976, it is a Party to the 1969 International Convention on Civil Liability for Oil Pollution Damage (which entered into force on 19 June 1975) and to the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (which entered into force on 16 October 1978). Implementing legislation has been enacted by the Merchant Shipping (Oil Pollution) (Seychelles) Order 1975.

The Republic of the Seychelles is also a party to the 1960 International Convention for the Safety of Life at Sea (SOLAS) which established certain basic construction equipment, safety and operation standards for vessels. It is not, however, a party to either the 1974 International Convention for the Safety of Life at Sea of 1974 or the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.

(c) Pollution caused by the exploration and/or exploitation of the continental shelf and sea bed resources

The Republic of the Seychelles is not a party to the 1959 Conventions on the High Seas and on the Continental Shelf which deal in part with this type of pollution.

(d) Pollution caused by dumping of wastes at sea

The Republic of the Seychelles is a party to the 1972 Convention on the Prevention of Marine Pollution by Dumping Wastes and other matters. Implementing legislation has been enacted by the Dumping at Sea Act 1974 (Overseas Territories) Order, 1974.

2.1.4.2 I.L.O. Conventions relating to fisheries

The Republic of Seychelles is a party to the ILO Convention No. 108 concerning the seafarers' identity documents.

2.1.4.3 Delimitation of maritime boundaries

The southern boundary of the area under the jurisdiction of the Republic of the Seychelles is still unclear. Negotiations with the Government of Mauritius began in summer 1978 in order to reach an agreement on the delimitation of the respective continental shelf in the area of Saya de Malha.

2.2 Constitutional Provisions of Relevance to Fisheries

The Constitution of the Republic of the Seychelles came into force on 29 June 1976, the day of Independence. It was subsequently amended by the Act No. 20 of 1976, the Act No. 2 of 1977, the Proclamation No. 2 of 13 June 1977, the Seychelles (Constitution) Proclamation of 27 June 1977 and the Constitutional Amendment Decree of 4 July 1977. Under the Proclamation of 27 June 1977, the President has the power to make laws by means of Decrees signed by himself. He may also amend the Constitution by Decree. In July 1978, a constitutional Commission was appointed to draft a new constitution.

No provision of direct relevance to fisheries or the management and development of other natural resources is included in the Constitution. It is of interest to note, however, that Schedule I gives an official list of the Islands constituting the Republic (see Annex E).

The list differs substantially from the lists of Islands to which previous fisheries legislation applies - for example, the Proclamation No. 6 of 7 July 1969 establishing a Fishery Zone Contiguous to the territorial sea of Seychelles did not apply either to Desroches nor to the Aldabra group and the Farquhar Islands. This may be explained by the fact that these islands had been transferred from Seychelles in 1965 to form part of the new British Indian Ocean Territory and were returned to Seychelles only on the accession of the archipelago to independence. Moreover, the existing Fisheries Act applies only to the islands of the Mahé Plateau.

2.3 Legislation of Relevance to Fisheries

2.3.1 Legislation directly affecting the management and development of fisheries

2.3.1.1 Limits of jurisdiction

(a) The Proclamation No. 6 of 1969

This Proclamation established a fisheries zone contiguous to the territorial sea of the Seychelles. The said zone has as its inner boundary the outer limits of the territorial sea of the Seychelles and as its seaward boundary a line drawn so that each point of the line is twelve nautical miles from the nearest point of the low-water line on the coast or other base line from which the breadth of the territorial sea is measured. The Republic is entitled to exercise in this zone the same rights in respect of fisheries as it has in the territorial sea. This Proclamation did not apply to Desroches, the Aldabra Group or the Farquhar Islands.

(b) The Control of Natural Resources of the Sea Bed and Subsoil Act (CAP 148)

This Act empowers the Minister to make regulations for the control of the exploration and the exploitation of the continental shelf and of the seabed and subsoil of the sub-marine areas within the territorial waters of the Seychelles. Such regulations may provide for the control of specified natural resources, licensing and payment of fees. They may also create offences and prescribe maximum penalties for such offences not exceeding Rs. 5 000 and five years imprisonment. In this Act, "natural resources" includes the living organisms belonging to sedentary species - that is to say, organisms which, at the harvesting stage, are either

immobile or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil. "Continental shelf" means that part of the seabed and subsoil of the sub-marine areas adjacent to the islands forming part of the Seychelles, but outside territorial waters, over which the Government of the Seychelles is entitled by international law to exercise sovereign rights for the purpose of exploring it and exploiting its natural resources.

No such regulations have been made since the publication of this Act.

(c) The Fishery Limits Act (CAP 136)

This Act prohibits fishing by foreign fishing boats (i.e. fishing boats whose owner or anyone of whose owners is not resident in the Seychelles) within the territorial sea and the contiguous zone (Fishery Limits). For that purpose, a company is deemed to be resident in the Seychelles if it was formed or incorporated under the Law of Seychelles or registered under the Overseas Corporation Ordinance. Offences may be sanctioned by fines not exceeding Rs. 5 000 and imprisonment for a term not exceeding two years. The boat used is liable to forfeiture.

Under subsection 2 of section 3, where any fish is found on board a foreign fishing boat within the fishery limits or is landed from a foreign fishing boat on any island within the Seychelles, such fish is deemed, until the contrary is proven, to have been taken within the fishery limits. Foreign fishing boats may be granted special licences by the Minister for commercial research, scientific research or sporting purposes. For the purpose of enabling fishing traditionally carried on in any area within the contiguous zone by foreign fishing boats to be continued, the Minister may designate any country outside Seychelles and the area in which, and description of fish for which, fishing boats registered in that country may fish.

Section 5 of the Act provides for the powers of fisheries inspectors in boarding, searching and seizing foreign vessels. Section 7 empowers the Minister to make regulations to carry out the objects and purposes of the Act including the fees to be paid on the issue of any licence under the Act. No such regulations have yet been made.

(d) The Maritime Zone Act, 1977

This Act came into force on 1 August 1977. It was implemented on 27 February 1978 by the Exclusive Economic Zone Order, 1978. It extends the limits of the territorial waters of the Seychelles up to a distance of twelve nautical miles from the nearest point of the baseline. Such limits may be amended by order when the President considers it necessary to do so having regard to international law and State practice. The Seychelles exercises its sovereignty over these waters, the seabed and subsoil underlying and the air space over. Except in certain circumstances (connected with public safety, public order, defence and security) foreign ships enjoy the right of innocent passage through the territorial waters.

The Republic of the Seychelles also claims rights over a continental shelf and an exclusive economic zone. The continental shelf is defined as the seabed and subsoil of the sub-marine areas that extend beyond the limit of the territorial waters throughout the natural prolongation of the land territory of Seychelles to the outer edge of the continental margin or to a distance of two hundred nautical miles from the baseline where the outer edge of the continental shelf does not extend up to that distance. The exclusive economic zone is the area beyond and adjacent to the territorial waters, extending to a distance of two hundred nautical miles from the baseline. This limit may be amended by the President if he considers it necessary to do so having regard to international law and State practice. Such an amendment has been made by the Exclusive Economic Zone Order, 1978, which established inter alia the limit of the southern part of the Seychelles' EEZ at the median line equidistant between the Republic of the Seychelles on one hand and the territories of Mauritius, the Malagasy Republic, the Glorieuses Islands (France), Mayotte Island, Comoros Islands and Mafia Island (Tanzania).

As far as fisheries are concerned, the Seychelles claims the following rights over the continental shelf and exclusive economic zone:

- sovereign rights and jurisdiction for the purpose of exploration, exploitation, conservation and management of all resources;
- exclusive jurisdiction to authorize regulate and conduct scientific research;
- exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution;
- such other rights as are recognized by international law and State practice.

Except in accordance with the terms of an international agreement entered into with the Seychelles or of a licence, it is prohibited to explore or exploit any resource and to conduct any research in this zone. Such provision does not apply in relation to fishing by a citizen of the Seychelles or a body corporate registered in Seychelles and approved by the Minister of Fisheries.

The Act also provides for the rights of the Seychelles in historic waters and for the establishment of designated areas of the continental shelf and exclusive economic zone in which the President may, *inter alia*, prescribe certain measures restricting the freedom of navigation proclaimed by Section 7(6).

The President may cause the baseline, the limits of the territorial waters, the continental shelf, the EEZ and the historic waters to be published in Charts.

Penalties for offences against the Act may reach Rs. 250 000 and five years imprisonment.

Under Section 15, the President is empowered to make such regulations as he considers necessary for carrying out the purposes of the Act. Apart from the Exclusive Economic Zone Order, 1978, merely defining limits, no such regulation has yet been made.

2.3.1.2 Regulation of fishing and hunting activities

(a) The Fisheries Act (CAP 134)

The provisions of this Act (except those relating to spear guns which apply to all islands) apply throughout the Seychelles with the exception of the following: Alphonse Island, Amirantes group, Assumption Island, Bijoutier Island, Bird Island, Astove Island, Denis Island, and the Saint François and Saint Pierre Islands. In short, they apply only to the Mahé Plateau.

Provision is made for the establishment of a Fisheries Board whose members are appointed by the Minister to deal with such matters concerning fisheries as are referred to under the Act. All recommendations of the Board are subject to the approval of the Minister.

Under Section 5, all nets used for fishing must be licensed. Half yearly fees for licences vary from Rs. 150 to Rs. 50 depending on the size of the nets (Fisheries Regulations, 1942). In several fishing reserves established in coastal areas off Mahé, Praslin and La Digue (Fisheries Regulations, 1962, as amended by S.I. 82/77), the use of nets is restricted but fishing with lines, harpoons or casiers is permitted provided that the meshes of the sides of surrounding parts of the casiers should be of a prescribed size. Certain methods of fishing are totally prohibited (e.g. gunny bags, canvas, explosives or poisonous substances, spear guns). Fishing with lights is allowed only with the permission of the Minister. Provision is also made for the protection of the females of certain crustaceans (homards, lobsters, Carlet crabs or camarons), for the prohibition of taking fish under a prescribed size and for the establishment and protection of oyster beds.

All fishing boats are required to be numbered and registered at the office of the collector of customs. The registration number must be legibly painted on the bows of each boat.

Enforcement powers under the Act, including powers to enter and search any house or place with a warrant, to stop, search, examine any boat and arrest any person with or without a warrant, are conferred on customs and agricultural officers, officers and constables of police, and fishery wardens. These officers may also seize any boat, net or other fishing tackle used against the provisions of the Act. Depending on the offence, fines may not exceed Rs. 250 or Rs. 500 and imprisonment may not exceed two or three months.

Finally, a broad enabling clause is included in the Act which lists both generally and specifically the areas in which the Minister may make regulations under the Act. These areas include the powers to prescribe licence duties, to prohibit the use of certain substances as bait, to fix closed seasons and to amend the provisions concerning spear guns. Such regulations may impose penalties not exceeding Rs. 1 000 and three months imprisonment. Under these provisions of the Act, regulations have been made to prescribe the licence fees for the use of nets and to prohibit the use of certain oily substances for bait (Fisheries Regulations, 1942), to extend to the whole archipelago the provisions of the Act relating to spear guns, to prohibit the sale of spear guns and regulate the possession of any spear gun (Fisheries (Spear Guns) Regulations, 1972).

(b) The National Parks and Nature Conservancy Act (CAP 159)

This Act empowers a National Parks and Nature Conservancy Commission to designate, with the approval of the Minister, any area as a National Park, a Strict Natural Reserve, a Special Reserve or an Area of Outstanding Natural Beauty. The Commission may make arrangements to provide facilities within any area designated as a National Park or an Area of Outstanding Natural Beauty for the management of the area and such facilities may include the setting aside of areas for the protection of any species of fauna including those located in marine areas and reefs. In 1973, a Marine National Park was established around St. Anne Island (S.I. No. 21 of 1973 and S.I. No. 58 of 1973). Under the St. Anne Marine National Park Regulations, 1973, it is forbidden in the said area to kill, capture, take or wilfully injure by any means any marine plant or animal. However, the Commission may license the taking of fish in castiers or on handlines by residents. The residents may also collect certain common species of shellfish. In 1979 three other Marine National Parks were established under this Act at Baie Ternay, Curieuse and Port Lannay respectively. (S.I. No. 54, 55 and 56 of 1979).

In the areas designated by the Commission as Strict Natural Reserve, any form of hunting or fishing, any water pollution and generally any act likely to harm or disturb the fauna or flora is strictly forbidden.

The provisions of the Act may be enforced by any honorary park warden, any officer of the Commission or police officer. These officers may also arrest any person committing any offence under the Fisheries Act, the Protection of Shells Act and the Turtles Act.

The President is empowered to make regulations generally for carrying out the objects and provisions of this Act. Such regulations may in particular provide for the protection of wildlife.

(c) The Protection of Shells Act (CAP 138)

This Act empowers the Minister to make regulations for the protection of shells. Such regulations may, in particular, prohibit or restrict the collection of any shell from any beach, reef or seabed throughout the Seychelles, prohibit or restrict the disturbance of any shell and its natural environment, prescribe the manner in which shells may be collected, provide against the wasteful collection of shells, and fix closed seasons applicable to the whole or any part of Seychelles for the protection of any shell.

Regulations under this Act prohibit the collection or disturbance of shells in specified areas of Mahé, Praslin and La Digue and all around several islands (North Cousin, Curieuse, St. Anne, Cerf, Cachée Long, Moyenne and Ronde).

The Triton Conch (Lancive) is fully protected in the whole country.

The Regulations also prohibit the possession and use of any explosive for the purpose of blasting any coral or reef in the sea in any part of the Seychelles except under and in accordance with a licence granted by the Minister.

Offences may be sanctioned by a fine of up to Rs. 1 000 and/or imprisonment for up to one year.

(d) The Turtles Act (CAP 141)

This Act applies to all the islands and reefs of the country and the territorial and colonial waters. It establishes a set of detailed conservation measures for carets (hawks-bill turtles) and tortues de mer (green turtles). The Act has been implemented by the Turtles Regulations (G.N. 129:1929) and the Green Turtles Protection Regulations, 1976, amended by S.I. 51:1977).

(e) Whaling and Sealing Legislation

Under the Whale and Other Fishery Act, dated 6 April 1926, a license is required for hunting, capturing or killing any whale in the "territorial and colonial waters of the Seychelles". Land factories, floating factories and whaling vessels operating in the said waters must also be licensed. Regulations made under this Act prohibit the killing of any whale calf or any female whale which is accompanied by a calf. In 1936, the British Whaling Industry (Regulation) Act, 1934 was extended to the Seychelles by an Order in Council (U.K., SR & O. 1936, No. 716). The amendments made by Part III of the British Sea Fish Industry Act, 1938, were also extended by an order in Council in 1941 (U.K., S.I. 1941, No. 790). These Acts introduced in the domestic legislation the provisions of the 1930 and 1937 Whaling Convention. These provisions do not apply to "aborigines dwelling on the coasts of the Seychelles and hunting with artisanal gear".

The Seal Fisheries (Crown colonies and protectorates) Order Council, 1913, extended to the Seychelles Sections 3 and 4 of the Seal Fisheries (North Pacific) Act, 1912, prohibiting: (a) all persons from using any port within the U.K. for purposes of pelagic sealing contrary to any order in Council made under the Sea Fisheries (North Pacific) Acts, 1895 and 1912; and (b) the importation of the skins of seals captured in contravention of any such order.

2.3.2 Legislation affecting the operations of fishing vessels

(a) The Merchant Shipping (Temporary Provisions) Act, 1976

This Act was passed by the National Assembly on 2 September 1976 but was deemed to have come into operation on 29 June 1976, the day of Independence. It makes the Merchant Shipping Acts, 1894 to 1970 of the United Kingdom applicable, *mutatis mutandis*, as a law of the Seychelles to the extent set out in the Schedule. This Schedule gives a list of twenty-five British acts and states the relevant provisions for each of them that are applicable to the Seychelles. However, such list gives rise to some perplexity because it includes, *inter alia*, the Merchant Shipping Act, 1970 (1970 c. 36) and the Merchant Shipping (Load Lines) Act, 1967, which repealed a number of the Acts made applicable to the Seychelles by the Merchant Shipping (Temporary Provisions) Act, 1976. In other words, this Act extends to the Seychelles a number of Acts, together with an Act repealing and replacing the said Acts. It is presumed that the intention of the authors of the Act was to make applicable to the Seychelles the legislation as in force in the U.K. in 1970, subject to the reservations mentioned above. Unfortunately, no up-to-date copy of the 1970 U.K. legislation was available in the Seychelles when the Mission visited the country.

The application in Seychelles of the provisions of Part I of the Merchant Shipping Act, 1894 to 1970 (the British Act) regarding qualification for owning British ships is expressly excluded. Under the Merchant Shipping (Temporary Provisions) Act, 1976, a ship is deemed to be a Seychelles ship if:

- a) it is owned wholly by persons qualified to be owners of a Seychelles ship, namely
- (i) a body corporate incorporated under and subject to the laws of the Seychelles and having its principal place of business in the Seychelles
 - (ii) a person who is resident in the Seychelles
 - (iii) the Government; and
- b) the Minister, with the consent of any person wholly owning such ship, declares by order that such ship shall be deemed to be a Seychelles ship.

Every Seychelles ship, unless exempted, must be registered. As the British legislation concerning exemptions from registry has not been extended to the Seychelles, the relevant provisions are to be found in the Unseaworthy Vessel Act (CAP 219) (see below). Provisions are also made for the provisional registration of ships purchased outside the Seychelles.

The main provisions of Part II of the British Act concerning masters and seamen are extended to the Seychelles. It may be noted that, under Section 14 of the 1976 Merchant Shipping (Temporary Provisions) Act, the Registrar of Shipping may, when he is satisfied, accept certificates of competency issued by an authority outside the Seychelles, and where so accepted, a certificate of competency is for all purposes of the Act recognized as valid in the Seychelles and is deemed to have been issued under the Act. Certificates of competency may also be issued in the Seychelles. Part IV of the British Act concerning fishing boats is not extended to the Seychelles but Part V concerning safety is fully extended.

(b) The Unseaworthy Vessels Act (CAP 219)

The regulations made under this Act provide that any person sending or taking any vessel for fishing out of sight of any island must register such vessel at the Victoria Port Office and obtain a certificate of registry. A customary interpretation of this provision places the limit at 60 nautical miles. Schedule A appended to the regulations gives the list of the islands which are within that distance from Mahé. The Victoria Port Office authorities consider that all fishing vessels, except one, presently (August 1978) operating under the Seychelles flag are not required to be registered. As a consequence, they are not surveyed or inspected by the port authorities. When required, the certificate of registry is issued only after the vessel has been surveyed by the Port Officer or by the Marine Board established by the Act, depending on the range of the vessels.

Vessels navigating between Mahé and the islands mentioned in Schedule A must be under the charge of a competent person holding a certificate of competency delivered by the Port Officer. Applicants must have a thorough knowledge of the compass, how to bend or unbend sails, how to fix a gaff or bowsprit, tacking and weaving a vessel, mending and repairing sails, and be able to answer any question put to him by the Port Officer regarding the general duties of a person in charge of such vessels. Vessels navigating between Mahé and the other islands of the archipelago must be under the charge of a person holding a local master's certificate. However, the Marine Board may, on a particular voyage, authorize such vessels to be navigated under the charge of a person holding a certificate of competency.

(c) The Harbour Act (CAP 210)

Under this Act, the Minister may make regulations to provide for the control of traffic in the harbour, for the control of wharves, landing places, etc., for the prohibition, control and regulation of persons and goods entering and leaving the port security area, for the use of pilots, for the dues to be paid in respect of any vessel entering or leaving the harbour and for the control of the berthing, mooring and departure of ships. The Harbour Dues Regulations, 1977, made under this Act fix the harbour dues and other charges payable in respect of any vessel entering or leaving the harbour of Victoria and any roadstead bay or place within three nautical miles from any coast in the Seychelles. They may include pilotage, port, light, towage, accostage, berthing and unberthing dues, freshwater charges,

charges for operations performed outside normal hours and other dues and rates. The rate of charges is laid down in the Schedule to the Regulations. Special provisions are made for vessels registered in the Seychelles: port dues, light dues and towage, maintenance and upkeep dues for such vessels may be commuted to six times the rate for a single call with a minimum charge of Rs. 900. For other vessels, port dues for a period not exceeding 72 hours are 50 cts per GRT (subject to a minimum charge of Rs. 50 and a maximum charge of Rs. 4 000). For each additional day, it is 10 cts per GRT (subject to a minimum charge of Rs. 20 and a maximum charge of Rs. 1 600 per 24 hours). The Harbour Regulations made under the Act provide that every vessel of or exceeding 150 tons gross burden register entering or leaving the harbour or anchoring or berthing therein or moving from place to place shall do so under the charge of an authorized pilot and not otherwise. Vessels under 150 tons are not required to employ a pilot, but must be moored at the place and after the manner ordered by the harbour master.

It is prohibited for any vessel coming from a foreign port to anchor or moor in the Seychelles at any place other than the harbour at Victoria. Moreover, under Section 34 of these Regulations, the mooring, timing and passage in the Seychelles waters (a term which is not defined) is subject to the general and particular control of the harbour master.

(d) The Port (Interim Provisions) Act, 1974

This Act empowers the Minister to make regulations providing for the establishment of effective management and control of any port. Such regulations may inter alia provide for rates of fees and charges payable in respect of any vessel in relation to any services provided therein and for the control of vessels alongside any berth in any port. This Act was implemented by several regulations including the Port (Port Victoria) (Management and Rates) Regulations, 1975, which establish the rates and conditions applicable to services and facilities provided in Port Victoria (shore handling, storage, transfer, wharfage, lighterage, standing-by overtime, plant hire, customs examination and verification, passengers, examination of product, security).

(e) The Local Trading Vessels Act (CAP 212)

The provisions of this Act apply to vessels of 30 tons net register and over, registered in the Seychelles, engaged in commercial trading within the Seychelles and between the Seychelles and ports of the East African coast and ports in Mauritius, Réunion and Madagascar. It includes detailed provisions concerning the wages of the seamen. It also provides for penalties in case of desertion, absence without leave and general offences against discipline.

2.3.3 Policies and Legislation affecting the establishment and operation of industrial fisheries enterprises, with particular reference to the establishment and operation of joint ventures with foreign participation

(a) The National Development Plan, 1978-1982 (5 June 1978)

The National Development Plan of the Republic of the Seychelles is a revolving plan revised every year. Its main purpose is to give a guide to the directions of Government policies and the manifestation of these policies in the projects to be sponsored by individual Departments and Ministries. Government policy on all major areas is stated together with its position within the Government's overall economic policy. In connection with fishery policy, the plan states, inter alia, that "The first objective of fisheries development is to ensure a sustained supply of fish, at reasonable prices, to the domestic market. It is clear, however, that the fish resources in and around Seychelles' waters are sufficient to support a major export industry as well as to supply local needs. Government's consultants have advised on the first stage of expanding the fishing industry and negotiations have been finalized to obtain the necessary capital, equipment and expertise. The principle guiding the Government in these negotiations has been the need to ensure the maximum benefit for the people of the Seychelles; this includes safeguarding the present industry and encouraging, through advice, training and credit, the largest possible Seychellois participation in the expanded industry". The plan also states that "the Government realises that it has responsibilities as well as

rights in relation to the resources within the E.E.Z. and intends to see that such resources are neither under - nor over - exploited. Consideration will have to be given to the needs for compatible national policies in respect of fish stocks which could be exploited by more than one country".

The fisheries projects set forth in the Plan are:

- the development of fishing industry
- reconstruction of South Face Long Pier
- fisheries research equipment
- post harvest investigation Phase II
- a fisheries training centre.

The Plan provides a chart indicating the various expenditures estimated to be needed in order to complete these projects.

(b) The Development Loans Act, 1977

The purpose of this Act is to authorize for the future raising of loans for the purpose of financing the National Development Plan. Any sum of money borrowed under the authority of this Act must be paid into the Development Fund which was established in 1974.

This Act also approves retroactively the borrowing from the Government of the United Kingdom of the ten million pounds sterling to which reference has already been made in section 2.3.1.3 of this report.

(c) The Development Bank of Seychelles Decree, 1977 (No. 21)

The purpose of this Decree is to establish a development bank. The purposes for which the bank may exercise its functions are basically to assist the economy; to further the aims of any development plan by financing projects coming within the plan, and to promote industrial efficiency. The functions of the bank are basically to promote development of industry, money or capital markets. The bank is given rather broad powers which include the power to acquire, hold and underwrite issues of securities, to make loans and to do anything incidental to any of its powers.

(d) The Companies Act, 1972 (Act No. 4)

This Act regulates trading companies, et. al., and is based on the English Companies Act of 1948. Of special interest is Part VII (Sections 309-321) which regulates overseas companies.

An overseas company shall be considered as carrying on business in the Seychelles if it:

- (a) enters into two or more contracts with persons resident there, or with companies formed or incorporated there, being contracts which
 - (i) are entered into in connection with the business or objects which the overseas company carries on or pursues; and
 - (ii) by their express or implied terms are to be wholly or substantially performed in the Seychelles, or may be so performed at the option of any party thereto; or
- (b) appoints an agent who resides or has a place of business in the Seychelles to represent the overseas company in connection with the making or performance of two or more contracts which fall within paragraph (a) of this subsection

- (c) owns, possesses or uses assets situated in the Seychelles for the purpose of carrying on or pursuing its business or objects

An overseas company shall not be considered as entering into a contract within paragraph (a) of subsection (2) if it subscribes for, or purchases shares or debentures of, a company incorporated under this Act or of an existing company.

Overseas companies are required, inter alia, to register particulars, designate a managing agent, and file their accounts with the Registrar of Companies, although this can be dispensed with (e.g., S.I. 27/75).

- (e) The Commercial Code Act, 1976 (Act No. 5 - 1976)

This Act creates a new Commercial Code of Seychelles.

Overseas corporations are recognized as having corporate existence in the Seychelles and may sue and be sued under their corporate names.

Title II of the Code sets forth provisions regarding the settlement of disputes by arbitration. The arbitral award is final unless set aside due to fraud, etc. (Article 134), and may be enforced in the same manner as a judgement or order (Article 138).

- (f) The Arbitration (International Investment Disputes) Act, 1967, (Application to Colonies etc.) Order, 1967, (U.K. S.I. 1967 No. 159)

This Order extends the Act to the Seychelles. There is also provision for the settlement of disputes in the Commercial Code Act, 1976.

- (g) The Industrial Development Act (CAP 248)

The Act provides inter alia, that every person manufacturing for sale or reward any product at any place in the Seychelles must be in possession of a licence to manufacture such product at such place. Failure to have a licence is an offence punishable by fines and imprisonment. Under Section 21, the Permanent Secretary may exempt certain enterprises from the provisions of this Act. The canning and freezing of fish are covered by the Act.

- (h) The Control of Goods Decree, 1977 (Decree No. 20)

This Decree permits the President to make regulations empowering the Permanent Secretary of Finance to make orders for the control of the imports or export of goods into Seychelles. The term "goods" includes, inter alia, vessels, fish and property of any description. Regulations made under this Decree may provide for the issue of licence and permits and the levying of fees and charges. Certain subsidiary legislation concerning various goods has been made, but fish and vessels have not been affected thereby.

- (i) The Income Tax Assessment Decree, 1978 (Decree No. 11)

This Decree provides for the charge, assessment and collection of a tax upon incomes. Such tax is levied upon the taxable income derived during one year by any person (including companies) whether resident or non-resident. The Decree describes in detail how to assess the income and allowable deductions. Under the Income Tax (Rates) Decree, 1978 (Decree No. 13 incorporated into the Decree No. 11) the rate of the tax to be paid by a company is 35 percent on the whole of the taxable income.

- (j) The Workmen's Compensation Act (CAP 181)

This Act provides for a general scheme for compensation for injury, death or incapacity resulting from accidents to workmen. It applies inter alia to master, seamen and apprentice seamen who are members of the crew of any ship registered in the Seychelles. It does not apply to the crew members of fishing vessels who receive shares in the profit or the gross

earnings of the working of such vessel. The entire amount of the premium is paid by the employer to an insurance company approved by the Labour Commissioner.

(k) The National Provident Fund Act (CAP 174)

This Act establishes a fund for the payment to employees of certain benefits for marriage, emigration, etc. "Employee" means inter alia any person who is ordinarily resident as master or member of a crew of any ship where the owner of the ship or the manager resides or has a place of business in the Seychelles. Specified employees (i.e. employees who are not ordinarily resident in the Seychelles but are employed to work in the Seychelles for a continuous period of not more than three years with possible exceptions) who are making contributions under a social security scheme of some country other than the Seychelles, being a scheme which has been approved by the Minister, may be exempted. The same contribution (5% of wages) is required from the employer and the employee with a ceiling of Rs. 75 in both cases. "Wages" do not include free housing, meals or rations.

(l) The Employment Benefits Act (CAP 168)

This Act provides for benefits to servants of 14 days per year minimum annual leave; for an aggregate period of 60 days during 12 months for sick leave at half pay. If more than 60 days, no pay is provided for under this Act but if the absence is due to injury that is covered under the Workmen's Compensation Act, he would be paid under the Compensation Act. There is no provision for retirement pensions, but new legislation regarding social security based on a comprehensive scheme is expected to be enacted next year. The definition of "servant" is broad enough to cover any type of crew member, officer or any personnel on board a domestic vessel.

(m) The Immigration Act (CAP 15)

This Act covers the entire sphere of immigration law. Under the Regulations (S.I. 23-1973), where an immigration officer boards a ship on its arrival into the Seychelles, no passenger or member of the crew is permitted to leave the ship until said officer completes the necessary formalities under the Act and Regulations. Noteworthy is the fact that a "pass" can be obtained to enter and remain temporarily in the Seychelles. The administration is presently setting up the requirements and conditions relating to the entry and exit of crews of foreign fishing vessels which may visit Port Victoria for purposes of crew replacement. Two possible arrangements are foreseen: (a) each crew member could have a valid seamen's certificate in which a visa would be endorsed on arrival at the port or airport; (b) immigration cards could be issued and filled in just as is necessary for all travellers.

2.3.4 The operation of Custom Laws on the fisheries sector

(a) The Customs Management Act (CAP 100)

This Act permits the Collector of Customs (who is appointed by the President) to collect and manage customs duties.

(b) The Customs Tarrif Act (CAP 101)

This Act sets the levels of customs duties payable on imports into the Seychelles. Of particular relevance to fisheries are the following duty rates (Decree No. 1-1978):-

Duty: how chargeable	Rates of Duty by Origin		Other Countries
	Commonwealth, European Economic Community and African, Caribbean and Pacific Group of States		

AD = Ad Valorem

Live crustaceans		Free	Free
Fish, shellfish, crustaceans, molluscs and roes (fresh, salted or frozen)	AD	50%	50%
Dried or preserved fish, shellfish, crustaceans and roes whether or not in air- tight containers	AD	30%	30%
Fish, fish roes, shellfish, crustaceans and preparations thereof preserved in airtight containers	AD	20%	25%
Gas oil	Per 100 litres	Rs. 64.32	Rs. 64.32
Motor spirit, benzine	"	Rs. 33.26	Rs. 33.26
Industrial/Marine Diesel Fuel	"	Rs. 21.15	Rs. 21.15
Lubricating oils	AD	20%	20%
Greases	AD	20%	20%
Cordage, ropes and twine; nets and netting	AD	Free	Free
Power units	AD	5%	10%
Compressors, pumps vacuum pumps	AD	5%	10%
Machinery, appliances and tools of a kind designed for agriculture, horticulture, animal husbandry, fishing or forestry, other than vehicles and tractors, parts and accessories thereof not liable in another Class	AD	Free	10%
Cold storage and freezing chambers, refrigeration equipment	AD	5%	10%
Food processing equipment, including canning, packaging and labelling machinery	AD	5%	10%
Cans	AD	10%	10%

	Duty: how chargeable	Rates of Duty by Origin Commonwealth, European Economic Community and African, Caribbean and Pacific Group of States	Other Countries
Vessels, including trawlers, whalers, refrigerating or other factory-vessels designed exclusively for commercial fishing or marine exploration	AD	5%	5%
Inboard engines up to 50 BHP		Free	Free
Inboard engines over 50 BHP	AD	25%	30%
Outboard engines up to 24 BHP or BIA certified 25 BHP		Free	Free
Outboard engines over 24 BHP or BIA certified 25 BHP		25%	35%
Maritime safety equipment including marine radio apparatus; radar; flare and signal equipment; life- buoys and life rafts; marine compass and direction-finders		Free	Free

The rate of duties on exports (Act 8-1975) is set under Schedule E (Section 3) which provides, inter alia:-

Description of Goods	How duty Chargeable	Rate of Duty
Giant tortoises -		
(a) presented free to zoos	-	Nil
(b) other	AD	15%
Hawksbill turtle shells -		
(a) Main plates (ecailles)	per 500 grammes or part thereof	Rs. 300
(b) Hooves (onglons) or belly (plastron)	per 500 grammes or part thereof	Rs. 100
Shark hides	each	Rs. 0.50
Whale or shark oil	per hectolitre or part thereof	Rs. 1.00

In addition, Section 4(1) of the Act authorizes the appropriate Permanent Secretary (i.e. Finance), on good and sufficient ground shown, to remit or refund wholly or partially any duty payable under the act.

2.3.5 Legislation affecting the establishment and operation of fish processing plants and sanitary controls

(a) The Public Health Act (CAP 194)

This Act provides, inter alia, for the protection of water supplies and food stuffs and the prevention of nuisances.

In connection with the protection of foodstuffs, all warehouses and buildings in regular use for the storage of foodstuffs for trade purposes are to be constructed of such materials and in such manner as will render them rat-proof. No person is permitted to collect, prepare, manufacture, keep, transport, or expose for sale any foodstuffs without taking adequate measures to guard against and prevent any infection or contamination thereof. Unhealthy foods may be seized after inspection of premises. Regulations may be made in order to provide for the construction, equipment, maintenance, cleansing, inspection and control of places for storage and of vessels and vehicles for transport of carcasses of meat and fish. So far no regulations have been made covering fish. The Act also sets forth numerous definitions of nuisances and gives the inspector the power to investigate as well as to commence proceedings to abate any nuisance.

In the subsidiary legislation accompanying the Act, it is provided that no person shall fish whether with net, line, casier or any other means, or shall gather shell-fish, within a distance of 1 000 feet from the coffer-dam erected on the reef for the disposal of night soil. Related provisions appear in the Quarantine Act, CAP 195, concerning the necessity of ships coming from foreign ports obtaining permission from a Medical Officer of Health.

Also contained in the subsidiary legislation are market regulations for La Digue (30 March 1910); Victoria, Mont Fleuri and Mamelles (6 July 1926); Praslin (19 March 1947); South Mahé (8 October 1951). The regulations provide, inter alia, for the hygiene of fish-mongers' stalls and for the licensing of the selling of fish in the market (pursuant to the Licences Act). Unsound or tainted meat and fish is not to be sold or exposed for sale anywhere in the market and any meat, fish or any article of any description which may have become tainted whilst exposed for sale, is to be removed forthwith and destroyed, if necessary by the market keeper or any police officer. Rates are levied by the market keeper depending on the type of article (fish per packet are free). The regulations sometimes also prohibit the sale of dangerous fish. Where such fish are found in the retailer's possession, fines of up to Rs. 100 may be levied.

(b) The Penal Code (CAP 73)

Sections 177 and 178 of the Penal Code prohibit the adulteration of food and drink intended for sale, and the sale of noxious adulterated food or drink. In addition, Section 181 makes it a misdemeanour for any person to pollute the water of any river, stream, spring or reservoir, ("voluntarily corrupt or foul the water so as to render it less fit for the purpose for which it is ordinarily used").

2.3.6 Legislation affecting the marketing of fish

(a) The Licences Act (CAP 106)

The Act provides for the licensing of certain specified businesses, including that of "fishmonger".

(b) The Fish Export Act (CAP 135)

This Act provides that no person shall export fish intended for human consumption except under a licence issued for each specified consignment. No licence is to be issued unless the applicant for a licence shall have secured registration of a distinguishing mark (i.e. exporter's mark). Broad powers of inspection are provided for together with right of seizure of goods and cancellation of licences:

"6. (1) The Director of Agriculture may -

- (a) refuse to issue or refuse to renew a licence on any of the following grounds:
 - (i) if the applicant for a licence has been convicted of any offence under this Act;
 - (ii) if he has reason to suppose that the applicant is a person applying in his own name for the purpose of procuring a licence for or on behalf of a person who has been convicted of any offence under this Act;
 - (iii) if the applicant is a minor;
 - (iv) if the fish in respect of which the licence is required is in the opinion of the Director of Agriculture unsuitable for export

Offences under the Act include exporting or preparing to export without a licence; making false representations in order to obtain a licence, etc. There is also provision for the Minister to make regulations providing for the method of taking samples of fish; the mode of inspection and analysis of fish, the registration of exporters' marks; and the place where and the minimum period within which fish intended for export may be stored, so as to allow the inspection thereof before shipment. To date, no regulations have been issued for the implementation of this Act.

2.3.7 Legislation affecting the establishment and operation of fishermen's cooperatives

(a) The Cooperative Societies Act (CAP 230)

The Act makes provision for, and regulates the establishment and registration of, cooperative societies in the Seychelles. The Act applies to all cooperative societies, including fishermen's cooperatives. A minimum membership of seven persons is required for the formation of cooperatives. Fish marketing cooperatives may require members to channel part or all of their catch through the cooperative (Section 15). Detailed provisions concerning procedures for the establishment, administration and control of cooperatives are contained in the Cooperative Societies Rules.

(b) The Income Tax Assessment Decree, 1978 (Decree No. 11)

Under Schedule 1 to the Decree, the income of a cooperative society registered under the Cooperative Societies Act is exempted from income tax.

2.3.8 Legislation affecting the collection of fisheries statistics

(a) The Statistics Act (CAP 29)

The Act confers upon a statistical commissioner the power to collect, compile, tabulate, analyse and publish statistics in the Seychelles. Fisheries, labour and industry are some of the matters stated in the Act.

2.3.9 Legislation relating to the control of pollution

(a) The Merchant Shipping (Oil Pollution) (Seychelles) Order, 1975

The Order extends to the Seychelles the provisions of the British Merchant Shipping (Oil Pollution) Act 1971, with the necessary adaptations, enabling effect to be given to the International Convention on Civil Liability for Oil Pollution Damage opened for signature in Brussels on 29 November 1969. The Order also extends to the Seychelles Parts I and V, and Schedule 1 of the Merchant Shipping Act, 1974, to enable effect to be given to the

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage which was opened for signature in Brussels on 18 December 1971. The 1969 Convention provides uniform rules and procedures for determining questions of liability and for awarding compensation when damage is caused by pollution resulting from the escape or discharge of oil from ships. The 1971 Convention sets up an international fund to provide a supplementary system for compensation and indemnification for such damage. The provisions of the Merchant Shipping (Oil Pollution) Act, 1971, are set out in Schedule 1 to the Order.

(b) The Dumping At Sea Act, 1974 (Overseas Territories) Order, 1975 (S.I. No. 36 of 1976)

The Order extends the provisions of the British Dumping at Sea Act, 1974, (modified and adapted as in Schedule 1) to the Seychelles. The Act prohibits dumping operations in the territorial waters, and dumping in the sea outside the territorial waters by British ships, except where authorized under a licence granted under the Act. The Act also covers loading of substances in the Seychelles for dumping at sea, whether inside or outside the territorial waters.

Dumping operations may be authorized by the President, who may grant a licence if he decides that the dumping will not be harmful to the marine environment and the living resources which it supports, and the Governor may also add conditions to the granting of the licence as may appear necessary to him. Fines of up to Rs. 2 500 for a first offence and Rs. 5 000 for a second offence are provided for under the Act.

The Act gives effect to the Convention on the Dumping of Wastes at Sea (Cmd. 5169), opened for signature at London on 29 December, 1972, and for connected purposes.

2.3.10 Legislation affecting the bringing of criminal proceedings for fisheries offences

(a) The Penal Code (CAP 73)

Section 6 of the Code provides that the jurisdiction of the courts of Seychelles for the purpose of this Act is to extend to every place within the Seychelles.

Section 7 provides for the jurisdiction of the courts to extend to acts committed partly within and partly beyond their jurisdiction.

Section 122 makes it an offence to give false information to any person employed in the public service with intent to mislead. The offence is punishable with imprisonment for six months or a fine of Rs. 500, or to both such fines and such imprisonment. (No warrant for arrest is necessary).

(b) The Criminal Procedure Code (CAP 45)

Under Part IV (Provisions relating to all criminal investigations; place of enquiry or trial), Section 55 states that "Every court has authority to cause to be brought before it any person who is within the local limits of its jurisdiction and is charged with an offence committed within the Seychelles, or which according to law may be dealt with as if it had been committed within the Seychelles, and to deal with the accused person according to its jurisdiction". Under Part II (Power of Courts), Section 4, states that "Any offence under the Penal Code or under any law other than the Penal Code may be tried - (a) by the Supreme Court, or (b) by the Magistrates' Court when such offence is shown in the third schedule to be triable by that court". Offences under the Maritime Zones Act are, according to that Act, triable by the Supreme Court.

2.4 Institutions involved in the Fisheries Sector

Upon its arrival in Mahé, the mission was informed that the Government of the Seychelles was not requesting for the moment any specific advice concerning the present administrative structure of the fisheries sector. The present report therefore limits itself to a brief description of the existing institutional framework.

The primary responsibility for the management and development of fisheries in the Seychelles lies with a Fisheries Division formed within the Department of Agriculture and Land Use. The staff of the Fisheries Division consists of one Senior Fisheries Officer, three fisheries officers, five fisheries assistants, one technical assistant, 1 post harvest laboratory assistant, two coxwains, one mechanic, two boatmen, five fish recorders and one clerical officer.

Apart from the Department of Agriculture and Land Use and its Fisheries Division, there are a number of other Departments and agencies involved in one way or another in the development of the fisheries sector.

Infrastructure development (and in particular the construction of the new fishing port) is the responsibility of the Public Works Division in cooperation with the Department of Ports and the Department of Agriculture and Land Use.

With regard to artisanal fisheries development, the Development Bank undertook recently the responsibility of managing the programme of credit to artisanal fishermen for the purchase of engines and small fishing boats. Up to 1977 this programme was under the responsibility of the Department of Agriculture and Land Use. This Department is still involved in the programme by giving the Bank technical advice on credit applications. The Bank does not grant cash to the fishermen but pays directly the invoices. Loans bear an interest rate of 6-7%.

In order to promote local investments the Department of Finance encourages importation of machinery, equipment and spare parts by exempting them from import duties. Such exemptions are granted, as far as fisheries are concerned, upon the prior approval of the Department of Agriculture and Land Use.

Technical and financial assistance for the fisheries sector in the Seychelles is being received or negotiated from several different sources, including France, United Kingdom, U.S.S.R., Norway, Federal Republic of Germany and UNDP. The negotiations are mainly conducted by the Department of Agriculture and Land Use but the Ministry of Foreign Affairs and Tourism is, of course, involved.

The Department of Ports is also involved in the fisheries sector because it must register certain fishing vessels. (See below).

The Ministry of Health is responsible for the control of the quality of the fish sold on the markets of Victoria, Praslin and La Digue.

The collection of statistics concerning fisheries is a function of the Fisheries Division but the compilation, analysis and interpretation of these statistics is undertaken by the Statistics Division of the Ministry of Economics Development, Planning and Housing.

The Ministry for Internal Affairs and its Commissioner of Police are responsible for the enforcement of the fisheries laws and regulations.

Legal prosecutions are brought by the Attorney-General's Chambers.

3. COMMENTS AND RECOMMENDATIONS

3.1 Comments and Recommendations Concerning International Agreements

3.1.1. General

At the outset a problem of general international law concerning succession to treaties must be mentioned.

During the period it administered the Seychelles, the British Government extended to this territory a number of international agreements of interest for fisheries development and management. On the day it acceded to independence, the Republic of the Seychelles concluded

an agreement with the United Kingdom including the following provisions:

- "(i) all obligations and responsibilities of the Government of the United Kingdom and Northern Ireland which arise from any valid international instrument shall, as from 29 June 1976, be assumed by the Government of the Seychelles insofar as such instruments may be held to have application to the Seychelles;
- (ii) the rights and benefits heretofore enjoyed by the Government of the United Kingdom and Northern Ireland in virtue of the application of any such international instrument to the Seychelles shall, as from 29 June 1976, be enjoyed by the Government of the Seychelles".

The interpretation of this agreement (called "devolution agreement") gives rise to some difficulties. It seems that the intention of the Government of the Seychelles was to continue being a party to all the international agreements in force at the moment of Independence. In the opinion of the Government, the signature of the devolution agreement allowed it to succeed automatically to all these agreements including, for example, the 1958 Law of the Sea Conventions. However, until the very recent conclusion of the Vienna Convention on succession to treaties (August 1978), international law was somewhat unclear about the effect of such devolution agreements. Some international organizations (such as IMCO which is inter alia depositary of a number of international conventions concerning marine pollution) and some governments (such as U.S.A.) considered that the conclusion of a devolution agreement was sufficient to imply an automatic succession to treaties. Other organizations and governments adopted a different interpretation. The Secretary-General of the U.N., who is depositary inter alia of the 1958 Law of the Sea Convention has always considered that new states are not automatically bound by agreements which applied to them prior to Independence, even if they have signed a devolution agreement. A formal application is therefore needed to accede to each of the conventions deposited within the U.N. secretariat.

The problem is now solved by article 8 of the 1978 Vienna Convention on Succession to Treaties which provides as follows:-

- "1. The obligations or rights of a predecessor State under treaties in force in respect of a territory at the date of a succession of States do not become the obligations or rights of the successor State towards other States parties to those treaties by reason only of the fact that the predecessor State and the successor State have concluded an agreement providing that such obligations or rights shall devolve upon the successor State.
- 2. Notwithstanding the conclusion of such an agreement, the effects of a succession of States on treaties which, at the date of that succession of States, were in force in respect of the territory in question are governed by the present Convention."

The consequences of this situation will be considered in the following sections. At this point, it may just be mentioned that the uncertainty concerning the application of the conventions to the Seychelles is causing difficulties in the Seychelles administration. Because there is no official Treaty series published by the Government, several Departments - including those involved in fisheries development - are not fully aware of the international commitments undertaken by the Seychelles. Moreover, the international agreements entered into after the Independence of the country have never been published. Although there is no legal requirement for that, it seems that gazetting the text of the new agreement entered into or merely noting their signature and/or entry into force in the Gazette could improve the present situation.

3.1.2 Multilateral agreements dealing with fisheries

The fact that a part of the domestic legislation of the Seychelles is based on the criteria contained in international conventions to which the Seychelles is no more a party creates a strange situation. Moreover, the most recent legislation (Maritime Zones Act, 1977)

does not fit in with the old criteria of the 1958 Law of the Sea Conventions. In the present period of transition for the Law of the Sea, it is evident that the 1958 Geneva Conventions are already partly obsolete. Pending an agreement at the Third U.N. Conference on the Law of the Sea and depending on the attitude of its neighbouring countries, the only Geneva Convention to which the Republic of the Seychelles may wish to adhere is the Convention of the Continental Shelf which defines the continental shelf as "the seabed and sub-soil of the sub-marine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas". Taking into account the modern technology it must, however, be pointed out that this definition is somewhat unclear and is presently considered unsatisfactory by a majority of countries.

It is not the scope of the present report to submit any recommendation concerning the negotiations at the Third U.N. Conference on the Law of the Sea. It will only be noted that an interministerial advisory committee met in 1975 and 1976 produced very helpful reports to guide the Seychelles delegation at the 1976 session of the Conference. This Committee has not met since that session and it is recommended that the possibility of further meetings be envisaged in order to formulate a negotiating position at the Conference that takes into account all the national interests involved.

3.1.3 Bilateral Agreements dealing with fisheries

General recommendations on policy guidelines for the negotiation of bilateral fishery agreements with foreign countries are included in the report of previous policy mission to the Seychelles (see IOP Technical Report No. 20, Rome 1978).

3.1.4 Agreements affecting the development of fisheries

In accordance with point (d) of the terms of reference of the mission, the present report will include below comments and recommendations on the legal and institutional aspects of the tuna industry project set up as a consequence of the above-mentioned agreements concluded with France and the U.K.

3.1.5 Other international agreements of relevance to fisheries

3.1.5.1 Marine pollution

The Seychelles archipelago is crossed by a big maritime road used by very large tankers on their way from the Gulf to Europe and North America. On the basis of the 1975 data, the tanker traffic (measure in 200 000 t units) may be estimated at 2 606 units per annum. When the winds blow from the North, some of the main beaches of Mahé are already seriously polluted by oil spills from tankers. This probably means that some tankers take advantage of the lack of control at sea to discharge oil or oily mixtures in the waters under the jurisdiction of the Seychelles. This is done against the provisions of the international conventions in force. In view of the importance of the environment for the development of the tourism industry in the Seychelles, the risk of any kind of oil pollution should not be underestimated.

The main international convention in force to prevent pollution from normal shipping activities is the International Convention for the Prevention of Pollution of the Sea by Oil, adopted in London in 1954 and amended in 1962, 1969 and 1971. (The amendments of 1971 are not yet in force. As amended in 1969, the convention established protective measures to be applied to all sea areas. For tankers, oil discharges are prohibited except under conditions: (i) the tanker must be en route; (ii) the discharge must not exceed sixty litres of oil per mile travelled; (iii) the tanker must be over fifty miles away from the nearest land, and (iv) the total weight of oil discharged on a ballast voyage (that is when the ship is ballasted with water) must not exceed 1/15 000 of the total oil cargo-carrying capacity. This Convention will be replaced by the International Convention for the Prevention of Pollution by Ships adopted in London in 1973 if this text is accepted by fifteen states representing at least 50% of the world's merchant shipping.

Another important international convention concerning marine pollution is the 1969 International Convention Relating to Intervention on the High Seas on Cases of Oil Pollution Casualties. Under the Convention, coastal states faced with a grave and imminent danger off their coastline or related interests from pollution or threats of pollution of the sea by oil following upon a maritime casualty, may take such action on the high seas, as may be reasonably necessary to avert or mitigate that danger. The severity of intervention measures must be in proportion to the damage which the coastal state has sustained, or with which it is threatened. In the event of excessive measures, the coastal State may be required to pay compensation.

Taking into account the special situation of the Seychelles, it is suggested that it might be appropriate for the country to adhere to these two conventions.

3.1.5.2 I.L.O. Conventions

Several labour conventions concluded under the aegis of ILO are of interest for fisheries, i.e. the minimum age (fishermen) convention, 1959 (ILO Convention No. 112); the medical examination (fishermen) convention, 1959 (ILO Convention No. 113); the fishermen's articles of agreement convention, 1959 (ILO Convention No. 114) and the fishermen's competency certificates convention, 1966 (ILO Convention No. 125). All these conventions defined minimum requirements. The Government of Seychelles may wish to consider becoming party to these conventions.

3.1.5.3 International rules for safety of fishing vessels

An international Convention for the Safety of Fishing Vessels was concluded at Torremolinos in 1977 at the initiative of the Inter-Governmental Maritime Consultative Organization (IMCO). The Convention lays down detailed regulations for the construction and equipment of fishing vessels. The requirements contained in the Convention could be considered too stringent for a country such as the Seychelles, but it may be noted that under Regulation 3 (3) of Annex I of the Convention the administration may exempt any vessel engaged solely in fishing near the coast of its country from any of the requirements of the Annex if it considers that the application is unreasonable and impracticable in view of the vessel's operating area from its base port in its own country, the type of vessel, the weather conditions and the absence of general navigational hazards.

The Government of Seychelles may wish to consider the possibility of being party to this Convention which is not yet in force.

3.2 Comments and Recommendations concerning Domestic Legislation

Domestic legislation presently in force has been summarized under (2) above. It must be mentioned that two texts of relevance to fisheries have been passed by the National Assembly on 2 September 1976: the Fisheries (Control) Act, 1976 and the Seas and Submerged Land Act, 1976. Both texts were to come into operation on a date to be appointed by order of the Minister. No such orders have yet been made, and the texts are thus not yet in force. Most of their basic provisions have been superseded by the Maritime Zones Act, 1977 and for this reason it is not deemed necessary to analyse them here.

Section 14 of the Act provides that "where any provision of this Act or of any regulation or order made under this Act is in conflict with the provisions of any other enactment in force, such provision of this Act or such regulation or order shall prevail". Legally speaking, this measure is perfectly correct but the situation should be clarified by repealing explicitly the former provisions which do not fit in with the new Act.

3.2.1 Legislation directly affecting the management and development of fisheries

3.2.1.1 General

Generally speaking, the Seychelles' legislation presently in force provides an inadequate legal framework and basis for the rational management of fisheries in waters under the

jurisdiction of the Seychelles.

(a) Structure

The present legislation consists of a number of different texts that could more logically be incorporated into a single comprehensive piece of legislation. A number of detailed measures which are now included in Acts might be better reformulated as regulations. Such issues as the Chairmanship of the Fisheries Board in the absence of the Chairman, for example, or the amount of the fee to be paid for obtaining a certificate of rights to an oyster bed or the colour and size of numbers to be painted on the bows of fishing vessels are all matters of minor importance which do not require the intervention of the legislation.

The sheer number of legal texts involved leads inevitably to overlapping and contradiction. There are, for example, three different definitions of the continental shelf. There are also important differences in the geographical coverage of the texts in force. The two main texts dealing directly with fisheries (the Fisheries Act and the Proclamation No. 6 of 1969), for example, do not apply to the whole country although one regulation made under the Fisheries Act does purport to apply to the whole country (see 2.3.1).

(b) Contents

It should also be pointed out that the present legislation was drafted with only artisanal fisheries in mind (or activities such as whaling, which are no longer carried out). New legislative provisions are necessary to control the activities of the new industrial national fishing fleet and to regulate the operations of foreign fishing fleets in areas under the extended jurisdiction of the Seychelles. Taking into account the special importance for the Seychelles of the latter, it is recommended that a new Decree and appropriate regulations be drawn up dealing exclusively with foreign fishing. A suggested Decree and regulations are attached to the present report as Annexes A and B. To replace and complement the existing Fisheries Act and the various other texts presently in force, it is recommended that a new comprehensive Fisheries Decree and appropriate regulations dealing with domestic fishing operations be drawn up. A suggested Decree and regulations are attached to the present Report as Annexes C and D.

One of the practical difficulties noted by the mission was the lack of familiarity on the part of both fishermen and fisheries administrators with the contents of the existing laws and regulations relating to fisheries. Indeed, complete copies of the legislation currently in force are difficult to find and exist in only a few Government offices. It is obvious that such a situation will need to be rectified if the legislation is to have any chance of being respected. This will be particularly important as far as foreign fishing operations are concerned. It is therefore recommended that pamphlets incorporating the relevant legislation and regulations for local fishing operations and foreign fishing operations respectively be prepared in adequate numbers and given adequate distribution. In the case of the foreign fishing laws and regulations, pamphlets will need to be distributed to the proper authorities of foreign countries which have fleets operating, or likely to operate, in the Seychelles. Copies of the pamphlets will also need to be distributed to the masters of foreign fishing vessels together with the foreign fishing vessel licences.

3.2.1.2 Limits of jurisdiction

The texts presently in force provide for several types of marine areas. The extent and the legal status of such areas are often inconsistent with the provisions of the Maritime Zones Act, 1977.

The following areas are provided for by the Seychelles legislation:

- Colonial waters. This expression is used in the Turtle Act (CAP 141) and in the Whale and other Fishery Act (CAP 142). It is defined neither in these Acts nor in the Interpretation and General Provisions Act, 1976. Both Acts were drafted in the 1920's and their terminology is clearly obsolete. It is suggested that this expression be dropped formally.

- Internal waters. Under international law, the internal waters of a State are waters on the land-ward side of the baseline of the territorial sea (Article 5, Convention on the Territorial Sea and the Contiguous Zone, 1958). The only reference to such concept in the Seychelles may be found in the Seas and Submerged Lands Act, 1976 (not in force) which proclaimed the sovereignty of the Republic in respect of internal waters (defined according to the 1958 Convention which was no longer in force for Seychelles when the Act was passed). The Maritime Zones Act, 1977, contains provisions for drawing straight baselines but does not provide for the legal status of the waters on the land-ward side of such lines. Up to now, straight base lines have not been drawn. The mission discussed this question in depth with the competent authorities in the Seychelles. As a result of these discussions a decision of principle was taken to amend the Maritime Zones Act, 1977, in order to adopt the system of normal baselines (as referred to in Article 5 of the Informal Composite Negotiating Text (INCT)) instead of the straight base lines system.

- Territorial waters. A number of enactments published prior to the Maritime Zones Act, 1977, refers to the "territorial waters" or to the "territorial sea" of the Seychelles. Until 1977 the outer limit of such areas was fixed at three nautical miles. The mission did not find, however, any evidence of an extension to the Seychelles of the Territorial Waters Jurisdiction Act, 1878. It seems that the three miles limit was used on a customary basis.

Under Section 3(2) of the Maritime Zones Act, 1977, the limits of the territorial waters of the Seychelles are now set at a line every point of which is at a distance of twelve nautical miles from the nearest point on the baseline. In order to follow the terminology now used by the Law of the Sea Conference, it might be appropriate to use the term "territorial sea" instead of "territorial waters". Because the baselines referred to in subsection 3(2) have never been defined, it is presently difficult to ascertain what is the precise external limit of this area.

According to subsection 3(3) of the said Act, the President is authorized to amend the limits of the territorial waters. However, this section gives rise to some difficulties because it refers to a subsection 3(4) which does not exist.

- Contiguous zone and fisheries zone

A nine miles "fisheries zone" contiguous to the territorial sea of the Seychelles was established by the Proclamation No. 6 of 1969. That zone is called a "contiguous zone" by the Fishery Limits Act (CAP 136). The said zone is now included within the territorial waters. It seems therefore that it is no longer useful to retain the concept of a contiguous fisheries zone.

It may be noted that under article 33 of the ICNT, the contiguous zone is a zone not extending beyond 24 nautical miles from the base lines from which the breadth of the territorial sea is measured in which the coastal state may exercise the control necessary to: (a) prevent infringements of its customs, fiscal, immigration or sanitary regulations within its territory or territorial sea; (b) punish infringements of the above regulations committed within its territory or territorial sea.

- Fishery limits

Under the Fishery Limits Act (CAP 136) "fishery limits" means the territorial sea of Seychelles together with the contiguous zone. As the said area is now included within the territorial waters it is suggested that the term fishery limits be dropped.

- Historic waters

These areas are defined generally in the Maritime Zones Act, 1977, as "the historic waters of the Seychelles". Under Section 8(2) of the Act, the sovereign rights of the Seychelles extends, and has always extended, to the historic waters and to the seabed and sub-soil underlying, and the air space over, the historic waters. The President may specify the limits of the historic waters. He may also, in this area, regulate the conduct of any person (Section 15(2)).

It may be noted that there is no ground in the ICNT for the establishment of historic waters and that prior to the Maritime Zones Act, 1977, the Seychelles never claimed any right over any historic waters. However, it must be mentioned that the legislation recently enacted by several countries of the Indian Ocean area provides for the establishment of such areas. Examples are the Territorial Waters and Maritime Zones Act 1976 of Pakistan; the Maritime Zones Law 1976 of Sri Lanka; the Territorial Waters Continental Shelf; Exclusive Zone and Other Maritime Zones Act 1976 of India and the Maritime Zones Act 1977 of Mauritius.

- Exclusive Economic Zone

The establishment of an exclusive economic zone of the Seychelles by the Maritime Zones Act, 1977, does not require many specific comments. The provisions of the Act follow the main lines of the Negotiating Texts submitted to the Law of the Sea Conference. As is the case for the territorial waters, the base lines used for measuring the inner boundary of the zone are not defined but the publication of the Exclusive Economic Zone Order, 1978, has waived all uncertainty in that field. Concerning this Order, it must be remarked that the legal basis should have been subsection 6(2) and not 6(1) of the Maritime Zones Act, 1977. Moreover, the text of this Act, as published in the Official Gazette refers to a subsection 6(3) which does not exist. These printing errors should be corrected.

- Continental shelf

The legal situation regarding the continental shelf is not very clear.

The definition given in the Control of Natural Resources of the Seabed and Sub-soil Act. (CAP 148) which merely refers to international law is very vague and does not solve the problem of the precise outer limit of the shelf.

The definition given by the Seas and Submerged Lands Act, 1976, which is based on the 1958 Geneva Convention on the Continental Shelf, never came into force and therefore should be disregarded.

The definition given in the Maritime Zones Act, 1977, is not very satisfactory because: firstly, in (a) it refers to the outer edge of the "continental margin" without defining that term; secondly, in (b) it says that the continental shelf comprises an area extending to a distance of 200 miles where the outer edge of the continental shelf does not extend up to that distance (emphasis added). It seems that it should be more appropriate to use - like the ICNT - the words "continental margin" instead of "continental shelf" in the last part of the sentence.

Where the continental margin is included within the Exclusive Economic Zone, the problem of the external limit of the continental shelf has no important practical consequences. But there is still a problem regarding the external limit of the shelf outside 200 miles. In February 1978, the Government issued a Chart entitled "Republic of Seychelles Exclusive Economic Zone and Continental Shelf". This Chart shows two areas (A and B). Area A corresponds to the zone delimited by the Exclusive Economic Zone Order, 1978. The mission understood that Area B, which is situated outside the 200 miles limit corresponds to a claim on the continental shelf of Saya de Malha Bank. Although this Chart has been sent to the United Nations for information, it does not constitute a legal document. Because the problem is one of the very few still very discussed at the Law of the Sea Conference and because several important interests other than fisheries are involved, no specific recommendation can be made on that point beyond stressing the importance for fisheries of defining as soon as possible the exact area of the shelf under Seychelles jurisdiction. As Seychelles is claiming sovereign rights to exploit the resources of the continental shelf even outside the 200 miles limit, the draft decree appended to this report includes provisions covering these resources.

- Designated areas

The same comments made above for the historic waters apply to the establishment of designated areas, i.e. (a) there is no ground in the ICNT for the establishment of such areas, and (b) similar provisions may be found in several national legislations recently enacted by countries bordering the Indian Ocean.

3.2.1.3 Administration

For the reasons already mentioned above (see 2.4) the present report does not recommend any important change in the administrative structure of the fisheries sector. Two points, however, should be clarified.

The first concerns the Fisheries Board established by Section 3 of the Fisheries Act. Under Sections 6, 7 and 14, the Board is in theory to advise the Minister on certain specified matters. In fact, the Board has not met for several years. The establishment of regular institutional machinery for the exchange of ideas between the administration and the fishermen may help to avoid the sort of misunderstandings that have arisen in the past. In 1977 the local fishermen decided to create an association for defending their professional interests. This initiative should be encouraged. In the last few years the relations between the administration and fishermen have been basically good and only minor problems have arisen, mainly due to a failure in communication. Both the administration and the fishermen agree that a revival of this Board is desirable. The proposed Fisheries Decree provides for the establishment of a Fisheries Advisory Board with advisory powers extended to all matters relating to the development and management of fisheries and related industries. In particular, the administration should seek the advice of the Board prior to enacting any important regulatory measures concerning the fisheries sector. In order to avoid this institution falling into disuse like its predecessor, it is suggested that a provision be included in the Decree requiring that the Board be convened at least once a year.

The second point that should be mentioned is the sharing of responsibilities between the Fisheries Division and the Port Authorities. It must be clear that the licensing procedures for fishing vessels is the responsibility of the Fisheries Division and is distinct from the registration procedure undertaken by the Port Authorities. However, before delivering any licence, the competent fisheries officer must check that the vessel complies with the registration requirements (see Section 5(3) of the proposed Fisheries Decree).

Some mention has already been made (see 2.3.2 above) of the problems encountered in the application of the shipping legislation, and in particular the uncertainty as to the provisions in force or repealed. It is suggested that a complete review of this legislation should be undertaken. The Government may wish to seek assistance in that particular field from the competent international organization, in this case the Intergovernmental Maritime Consultative Organization (IMCO).

3.2.1.4 Licensing

Licensing systems perform two basic functions. Firstly they provide a criterion and basis for the collection of statistics. Secondly, and more importantly, they provide a means of implementing resource management policies through controlling entry into any particular fishery and, when appropriate, imposing conservation measures on fisheries operations. In addition, the licensing of foreign fishing vessels may provide a substantial source of revenue and, in particular, of foreign exchange.

The existing licensing system does not seem entirely adequate in that licences are issued in respect of fishing nets only (Fisheries Ordinance, s. 5). No controls are therefore exercised over types of gear other than fishing nets or, more importantly, over the fishing vessels themselves. It is therefore recommended that under the proposed legislation the licensing requirements should be couched in terms of fishing vessels as the basic units of fishing effort. So far as fisheries conducted without the use of fishing vessels are concerned, such as fishing by cast nets, handlines and casiers, it is not felt that there is any need to exert licence controls over what are, in essence, strictly artisanal operations.

In view of the different types of operation involved and in particular the different criteria required for the issuance of licences, it is suggested that separate licensing systems should be established for local fishing operations and foreign fishing operations. In general, the issuance of local licences should be based upon the concept that engagement in fishing activities is open to all nationals, subject to the overriding requirements of fisheries management. The issuance of licences to foreign fishing vessels, on the other

hand, should be of a more discretionary nature, and will obviously involve considerations going beyond purely conservation requirements. The establishment of separate licensing systems immediately raises the question of the definition of what constitutes a local vessel. Under the present shipping legislation, a local vessel (Seychelles ship) is defined quite broadly as any vessel owned by a Seychelles resident or a company formed under the Seychelles law (see s. 232 (a)). While such a provision may have been workable before the adoption of the Maritime Zones Act, it may, it is suggested, create difficulties with the extension of jurisdiction to 200 miles and with the adoption of more stringent conditions for foreign fishing vessels. In essence, it would leave it open for foreign investors to form a local company and profit from the more open conditions applicable to local fishing vessels. The proposed new legislation on foreign fishing operations should be more restrictive in its definition of local fishing vessels, and, thus, of foreign fishing vessels. In particular, it is suggested that a requirement should be included to the effect that a majority of the shares of a locally formed company should be held by nationals if the company is entitled to claim local status for its fishing vessels.

Local fishing licences. The main issue that arises here is whether the licensing system should be extended to cover artisanal fisheries using canoes (pirogues) or whether it should be limited to the larger fishing vessels. While an argument can be made for exempting canoes and, in particular, unmechanized canoes, it is suggested that, on balance, the system should be extended to cover such vessels for the following reasons. Firstly, the inclusion of all vessels in the licensing system should improve the quality of statistics, at least so far as the fishing effort is concerned; secondly, there will come a stage in the fisheries development of the Seychelles when it will be desirable to exercise management controls over the entire fisheries. It is suggested that the establishment of a comprehensive licensing system from the outset would facilitate this evolution and would, at the same time, accustom the fishermen to the concept of management at a time when management measures are not onerous. The inclusion of canoes should not create insurmountable administrative difficulties in that most of the canoe fisheries are located in two or three main islands rather than scattered widely across the whole of the Seychelles territory.

Given the essential purposes of licensing as a means of achieving management measures, it is suggested that any new legislation should make this interconnection very clear. In specific terms, the legislation should explicitly state management conditions as one of the main criteria for deciding on applications for local fishing licences. The legislation will also need to specify the period of validity of local fishing licences, which, it is suggested, should not extend beyond one year from the date of issue. The initial level of fees for local fishing licences, it is suggested, should be relatively low as compared to foreign fishing licences, as the main aim should not only be the collection of revenue so much as the establishment of the principle of management control. Such control might, at a later date, be effected by increasing fees to a substantial level, sufficient to deter the entry of an excessive number of vessels into a heavily exploited fishery.

Provision should also be made for exemption from the licensing requirements of the new legislation. This would, for example, allow the Government to exempt vessels operating in outlying islands, should it prove desirable for administrative or other reasons.

Foreign fishing. The definition of foreign fishing vessel is in one sense determined by the definition of local fishing vessel, that is from the point of view of the nationality of the vessel. A further point arises, however, as to the type of vessel as opposed to the nationality of the vessel that should be included in the definition. An increasing number of coastal states are adopting the practice of defining foreign fishing vessels as including ancillary support vessels, such as mother ships, transport ships and supply vessels, in order to facilitate enforcement of the restrictions on illegal foreign fishing operations. In the case of the Seychelles, however, it is suggested that the licensing controls are to be made initially only over vessels actually engaged in fishing or processing operations, or transporting fish from fishing grounds in the Seychelles. Provision should be made, however, for the adoption of regulations at a future date to control the activities of other types of ancillary vessels should this prove necessary.

The issuance of licences for foreign fishing operations, it is suggested, should be restricted to waters beyond the territorial waters of the Seychelles in order to avoid competition with the local artisanal fisheries. Such restrictions are in line with policies of many, if not most, developing coastal states. More stringent conditions will need to be attached to foreign fishing licences than would be appropriate in the case of local fishing licences. The following are some examples:

- (a) Conditions regulating the conduct of fishing operations. The licences will need to be more specific as to the method of fishing and the areas and periods of time for which fishing is authorized.
- (b) Collection of statistics. The conditions should require more detailed and regular statistical information on position, catch and effort to be provided by foreign fishing vessels than could be expected from local fishing operations. A general provision to this effect should therefore be included in the proposed Control of Foreign Fishing Vessels Decree. The proposed layout of statistical forms has already been discussed by the mission with Government officials concerned.
- (c) Conditions concerning the handling and destination of fish. The conditions should also provide for controls over the use, transfer, transshipment, handling and processing of fish taken by the foreign fishing vessels.
- (d) Training. The Government of the Seychelles is planning to develop its own national fishing fleet with an emphasis on tuna operations. One of the constraints of the development is the lack of competent trained personnel. Conditions should therefore also be attached to the foreign fishing vessel licences requiring the training of local personnel in order to help overcome this constraint.
- (e) Licence fees. The level of licence fees required for foreign fishing vessels operations will obviously be considerably higher than those required for local fishing vessel operations. Suggestions concerning the level of fees have already been made in the report of the previous mission to the Seychelles in March 1978 referred to in the introduction to the present report (IOP Technical Report No. 20, Rome, 1978).
- (f) Conditions relating to the monitoring and control of operations. Several conditions will need to be included in the licensing in order to facilitate the monitoring and control of fishing operations. These could include, it is suggested, the appointment of local agents; the possibility of requirements for posting of bonds to guarantee performance of obligations under the licence; the obligation to accept observers on board the vessel and the marking of vessels, and conditions concerning the maintenance on board of transponders or other position fixing equipment.

Unlike the local fishing licensing system, provision should be made in the Control of Foreign Fishing Vessels Decree for the suspension or cancellation of licences by the fisheries authorities rather than solely by judicial proceedings.

Authorization for research. It is suggested that research operations should, in practice, be exempted from the licensing requirements set out in the proposed Control of Foreign Fishing Vessels Decree, although provision should be made for authorization of those operations by the Minister. The position of developing countries at the U.N. Law of the Sea negotiations is generally in favour of exercising coastal state control over research operations in the exclusive economic zone. However, from a practical point of view it is necessary to distinguish such operations from commercial operations and, in particular, to dispense with some of the more stringent conditions relating to control and payment of fees, etc. Such operations are usually authorized by exchange of letters or by agreement between the Government and operators of research vessels.

3.2.1.5 Regulation of fishing operations

In general, the existing legislation contains a number of provisions regulating technical aspects of fishing operations which do not seem to require the status of primary legislation, and which could well be included in regulations. It is, therefore, suggested that a broad enabling clause be included in the proposed new Fisheries Decree and the existing technical measures regrouped in a series of fisheries conservation regulations. This will also give added flexibility in the periodic revision of technical conservation measures, such as minimum species or net sizes, in order to keep pace with the development of scientific knowledge.

The main group of regulations to be made under the proposed Fisheries Decree will be those relating to protected species, which are now, for the most part, to be found in the Turtles Act, Protection of Shells Act and the Whaling and Sealing legislation. Basically, the proposed new regulations would totally prohibit fishing for all marine mammals with the one exception of the traditional artisanal fisheries for dolphins. The latter activity, it is suggested, is not of a size to create undue management problems and it is, at the same time, so based in the traditional fabric of Seychelles life, as to be socially impossible to eradicate. A total prohibition on the capture of whales, on the other hand, does not present such difficulties of enforcement or prospects of social or economic disruption, as there is at present no commercial whaling activities carried out in the Seychelles. The ecological importance of the region for the maintenance of whale stocks makes a total ban on catches highly desirable.

So far as the provisions on turtles are concerned, it is not proposed that these be modified in any substantial way other than to transpose them into the regulations. The provisions regarding the conservation of shells, on the other hand, will need to be strengthened by the adoption of controls over the possession and sale of protected species.

Traditional restrictions on certain ecologically destructive methods of fishing, such as the use of explosives or poisons, on the other hand, may need to be retained in the new Fisheries Decree in view of their importance and non-susceptibility to change. The provisions relating to the regulation of oyster beds may also need to be retained in the principal legislation, in view of the fact that they deal essentially with the allocation of exclusive use rights and operate to convey property rights over the oyster resources themselves. It is suggested that the new provisions should allow for the imposition of fees in respect of the oyster bed grants unlike the previous legislation.

In drawing up the proposed new fisheries regulations, some minor technical modifications may be required to the existing provisions. These include, for example, a clarification of the scope of the prohibitions on light fishing. These, at present, cover all fish and should be limited to the lobster fishery, as fishing with lights may well prove to be a useful method of fishing for bait for the projected tuna industry. Provisions concerning the measurement of species will also need to be harmonized, in that the present provisions are formulated partly in terms of inches and partly in centimetres.

3.2.1.6 Enforcement and control

(a) Limitations of the present system

The existing system of control set out in the Fisheries Ordinance and in the Fishery Limits Act is aimed primarily at inshore coastal waters fisheries carried out by local fishermen. It is obviously not geared to the particular problems and needs posed by foreign fishing operations in the 200 mile zone, or, indeed, by the introduction of local industrial fisheries through the projected tuna project. The adoption of additional controls over foreign fishing operations is contemplated in the Maritime Zones Act itself. Even as far as local fishing operations are concerned, the existing controls are not entirely satisfactory. In the first place, not all of the enforcement and control provisions are applied consistently. For example, while the Fisheries Ordinance provides for the appointment of fishery wardens (s. 26), no such wardens are in effect appointed. Other gaps in the development of enforcement and control provisions, such as the failure to control the possession and sale of protected species of shells, have already been noted in the previous section.

(b) Constraints

The practical difficulties inherent in establishing an effective surveillance and enforcement system over the immense expanse of marine waters under the jurisdiction of the Seychelles (c. 700 000 km²) are far from insignificant. At present, few, if any, means of surveillance and enforcement exist. In constructing a system of surveillance and enforcement, however, the following basic principles must be borne in mind. Firstly, the system must be cost effective. Secondly, the system should attempt to use to the maximum extent possible the already existing resources. Thirdly, a number of different Government Departments will inevitably be involved in establishing and operating the surveillance and enforcement system. This will call for effective coordination of those activities and for a clear definition of the responsibilities among the departments concerned. In particular, close coordination will be required between the Fisheries Division which has overall responsibility for the management of fisheries operations in the marine areas under the jurisdiction of the Seychelles, and the Seychelles police force, which is directly responsible for the operation of patrol vessels.

In assessing surveillance and enforcement needs, a distinction must be drawn between local fishing and foreign fishing operations. So far as local fishing operations are concerned, the need is to strengthen the provisions already existing under the Fisheries Act and, in particular, to supplement the powers of enforcement officers in respect of the stopping and searching of vehicles and premises. It will also be necessary to establish a category of officers who will be authorized to enforce the provisions of the legislation. It is also suggested that provision should be made in the proposed new legislation for the protection from liability of authorized officers acting in good faith.

So far as foreign fishing operations are concerned, the requirements will, of course, be more extensive. Provisions should be made, for example, for the inspection and seizure of foreign vessels operating in the marine areas under the jurisdiction of the Seychelles, as well as the "hot pursuit" of foreign vessels detected fishing illegally within those areas. In this context, the possibility of subregional cooperation in surveillance and enforcement with neighbouring countries, such as Mauritius, might well be explored.

The detection of offences in marine areas under the jurisdiction of the Seychelles will always present problems. As noted above, provision should be made in the conditions for foreign fishing vessels licences for the reporting of catch effort and position, and for the use of observers in order to alleviate those problems for licensed fishing operations. For unlicensed foreign fishing operations, it is suggested that the local fishermen should be encouraged, where possible to report the presence of illegal foreign fishing vessels. As a further measure to alleviate the problems of enforcement, controls should be exercised over transshipment of catch from foreign fishing vessels, which should, in principle, be carried out only at the port of Victoria in the presence of an authorized officer, except where specifically exempt.

3.2.1.7 Legal proceedings and penalties

The principal offence under the proposed new Control of Foreign Fishing Vessels Decree will be unlicensed fishing in marine areas under the jurisdiction of the Seychelles. In order to facilitate enforcement, however, it is suggested that strong provisions should be included in the legislation regarding the marking of licensed vessels and, conversely, that penalties should be imposed on unlicensed vessels displaying identification marks without authorization. Even where it is apparent, however, that a foreign fishing vessel has been engaged in illegal fishing operations within the Seychelles jurisdictional areas, evidentiary problems are liable to arise in establishing proof of such illegal operations. In this connection, it is necessary to draw a balance between the rights of foreign fishing vessels in exercising freedom of navigation through the Seychelles exclusive economic zone and the rights of Seychelles as a coastal state to take measures to ensure that illegal fishing operations are not undertaken during the course of that navigation. In this connection, two methods to alleviate this evidentiary burden are suggested. The first is the establishment

of a requirement in the proposed Control of Foreign Fishing Vessels Decree that any foreign fishing vessel exercising the right of navigation through the exclusive economic zone should keep its fishing gear stowed in the prescribed manner throughout that navigation. The second will be the extension to the exclusive economic zone of a rebuttable presumption already existing in the Fishery Limits Act (s.3), to the effect that any fish found on board a vessel within the zone should be deemed to have been caught in that zone. Such a provision already exists in other national legislation for the management of fisheries under extended jurisdiction (e.g., Fisheries Recourses (Jurisdiction and Conservation) Act, 1977 - Bahamas). However, as the effect of such a presumption could perhaps be viewed as an unwarranted limitation on the right of free navigation through the exclusive economic zone, it is suggested that the presumption be made rebuttable upon notification by radio or other means by the foreign fishing vessel on entry into the zone of its intention to avail itself of the right of free navigation through the zone. Such a provision will, of course, require the maintenance of a continuous radio watch and a wide distribution of the texts of the proposed new Control of Foreign Fishing Vessels Decree.

In view of the wide scope of the powers given to authorized officers under the proposed Control of Foreign Fishing Vessels Decree, great care will need to be exercised in the choice of persons to be included in that category. In this connection, it is suggested that police officers below the rank of Sergeant should not be included.

Penalties. In view of the limited means of surveillance and enforcement available to the Government of the Seychelles, the level of penalties for illegal foreign fishing activities may need to be relatively high. The present report does not suggest any specific level of fines, this being a matter for the discretion of the Government. It is, however, recommended that imprisonment should not be provided for as a penalty for illegal foreign fishing, in view of the provisions of the I.N.C.T. on this subject. Provision could, however, be made for the forfeiture of catch in the case of a first offence and for the forfeiture of the vessel itself on a second or subsequent offence.

Finally, provision should also be made for the release of arrested vessels on the provision of a bond or other form of security, again in accordance with the requirements of the I.N.C.T.

3.2.2 Legislation affecting the operation of fishing vessels

The provisions of the existing shipping legislation are, as has been noted above, outdated and in need of complete revision. This is particularly so in the case of the regulations respecting registration and requirements concerning manning and certificates of competency. At the moment, the system, so far as fishing vessels are concerned, is operated on a somewhat ad hoc basis, with most of the vessels exempted from the requirements of the shipping legislation. The development of a local tuna fishing fleet, however, will accentuate the need for more regular controls. In particular, the customary criterion of navigation beyond 60 miles from the shore, for the application of registration and manning requirements, will require revision. It is suggested that new criteria be based on the size of vessel and the power of the engines, rather than on the range of navigation. Any more stringent requirements concerning manning and certificates of competency will, of course, raise problems of manpower and training. Grace periods will need to be allowed for in any new regulations. Meanwhile, pending the development of adequate local training programmes, it is suggested that trainees should be placed on board foreign fishing vessels operating under licence in marine areas under the jurisdiction of the Seychelles. Conditions to this effect have, therefore, been included in the proposed new Control of Foreign Fishing Vessels Decree.

3.2.3 Legislation affecting the operation of fishing enterprises

It is suggested that the Fisheries Advisory Board, envisaged under the new Fisheries Decree, should be consulted in the annual revision of the National Development Plan. This Plan sets the tenor for the Government's policy towards the development of the Seychelles economy and for the development of industry in particular. The presence of the Permanent Secretary of the ministry responsible for economic development and planning on the Fisheries Advisory Board should facilitate this process.

The fishermen's credit programme operated by the Development Board is still in its initial stages. No comment can be offered on the operation of the programme at this stage beyond the observation that the credit facilities will presumably be available, by preference, to local nationals and enterprises. Comments are equally not offered on the effect of social legislation in the fisheries sector, other than noting that the difference in the standards of benefits envisaged by the Seychelles and foreign legislation may cause some friction in the operation of the tuna fishing industry where a mixed local/foreign work force is contemplated.

3.2.4 The operation of the customs law on the fisheries sector

The Customs Tariff Act presently provides for fairly substantial duties on fuel for both outboard and marine inboard engines. A number of fishermen have called for the remission of duties on fuel citing the example of a number of other countries which offer such incentives or concessions to the fisheries sector. It is suggested that a study be undertaken of the impact of the present duties on fuel and any remission of duties as part of a comprehensive review of the Government's policy towards incentives and concessions for the fisheries sector. It should be noted that under section 4(1) of the Customs Tariff Act the Minister is authorized to remit or refund duties on imports. This power, at least in respect of the fisheries sector, has been exercised up to now on a case-by-case basis, rather than as part of an overall incentives policy.

3.2.5 Processing and marketing

At a time when the Seychelles is embarking upon a programme for the development of its tuna fishing industry, the need for proper controls over fish processing quality is particularly pressing, in order to protect the reputation of the Seychelles products on new export markets. The main burden for quality control will obviously be on the industry itself. But, it is suggested, some basic governmental controls over the quality of export products will also be required.

Domestic marketing controls are presently exercised under the Public Health Act, although the controls do not appear to be fully enforced, and the penalties provided for are in any case somewhat low. Controls over the export of fish are exercised under the Fish Export Act which, it is suggested, is in need of being updated. The agricultural appeals tribunal provided for under the Act, for example, does not exist in practice. The permissible grounds for the refusal to grant an export permit should also be expanded to include the prohibition of exports when insufficient fish is available to supply the local market adequately. Finally, the system of assessors provided for under the Act to assist the Permanent Secretary in the implementation of the Act has never functioned in practice. It is suggested that the powers of inspecting fish for export should be conferred instead on the Chief Fisheries Officer. It is noted that no regulations have yet been issued for the detailed implementation of the Fish Export Act, and that such regulations will eventually be needed.

4. THE ESTABLISHMENT OF STATE-OWNED COMMERCIAL FISHING OPERATIONS

The terms of reference of the mission included advising on any legal and institutional matters arising from a Government decision to get up a state-owned company fishing commercially for tuna and skipjack. The company would be operated with the technical/management assistance of a French company and with the financial assistance of the French Government, in accordance with the terms of the Procès-verbal of 16 December, 1977, and the financing Convention of 3 February, 1978, between the Government of France and the Seychelles (see above s. 2.1.3.2). The establishment and operation of the state fishing activities are the subject on ongoing advice by an IOP/NORAD commercial fisheries adviser, Mr. Kroepelien. The present report will not therefore deal with any commercial aspects of the proposed operation, or with underlying economic considerations and presumptions, but will deal purely with legal and institutional matters.

4.1 The establishment of the state-owned company

The proposed state-owned company may be established either as a limited company under the Companies Act, 1972, albeit with its shareholding wholly owned by the Seychelles Government, or as a public corporation under a separate decree. In the event that the Government should wish to establish the proposed company by decree, a draft decree to this effect is annexed as Appendix F to this report.

4.2 Management and other agreements for the operation of the company

Following the lines set out in the Procès verbal between the Governments of the Seychelles and France, the following draft agreements have been drawn up: (i) a contract between the French company, ACF, and the proposed Seychelles Tuna Fisheries Development Company Ltd. (hereinafter referred as DEVCO), for the purpose of establishing a management company to be known as the Seychelles Tuna Fisheries Management Company Ltd. (hereinafter referred to as MANCO); (ii) a contract between ACF and MANCO for the provision of technical assistance by the former to the latter, and (iii) a contract between DEVCO and MANCO providing for the management by the latter of the fishing vessels and related shore facilities owned by DEVCO, pursuant to the assistance provided by the Government of France under the December 1977 Procès-Verbal and the Government of the United Kingdom under the Independence Loan.

The draft agreements are annexed as Appendix G to this report.

Of the three draft agreements referred to above, contract (ii) between ACF and MANCO may perhaps be dispensed with, as the substance is already covered by the contract (i) between ACF and DEVCO. The draft contract is, however, included in view of the eventuality of a fifth tuna boat being contributed by ACF, to be managed by MANCO.

While the above draft agreements have been drawn up to conform with the general lines laid down in the 1977 Procès-Verbal, it should be noted that the interposition of a management company (MANCO) in which the Seychelles Government has a majority holding, between ACF and DEVCO, seems to serve little purpose other than to attenuate the responsibility of ACF for the management of the fisheries operations.

APPENDIX A - A DRAFT DECREE FOR THE CONTROL OF FOREIGN FISHING VESSELS

CONTROL OF FOREIGN FISHING VESSELS DECREE, 1979

(DECREE NO. OF 1979)

A DECREE to control, regulate and manage fishing and related activities by foreign fishing vessels in the Exclusive Economic Zone and on the continental shelf of Seychelles and to provide for matters connected therewith or incidental thereto.

IT IS HEREBY DECREED by the President as follows -

PART I - PRELIMINARY

Short title and commencement. 1. This Decree may be cited as the Control of Foreign Fishing Vessels Decree, 1978, and shall come into operation on , 1979.

Interpretation. 2. In this Decree, unless the context otherwise requires -

"ancillary vessel" means any foreign vessel used for provisioning, servicing, repairing or maintaining any foreign fishing vessel operating within the marine areas under the jurisdiction of Seychelles;

"authorized officer" means a public officer authorized by the Minister for the purpose of this Decree;

"by-catch" means any species taken incidentally when fishing for species in respect of which a licence has been issued;

No. 15 of 1977. "continental shelf" means the continental shelf of Seychelles defined by section 5 of the Maritime Zones Act, 1977;

"Court" means the Supreme Court;

"Exclusive Economic Zone" means the Exclusive Economic Zone of Seychelles defined by or under section 6 of the Maritime Zones Act, 1977;

"fish" means any aquatic animal, whether piscine or not, and includes any shellfish, crustacean, turtle or aquatic mammal, and the young, fry, eggs, and spawn thereof;

"fishing" means fishing for, catching, taking or killing fish by any method;

"fishing vessel" means any vessel used for -

(i) fishing; or

(ii) processing; or

(iii) transporting fish from fishing grounds within the marine areas under the jurisdiction of Seychelles;

"foreign fishing vessel" means any fishing vessel other than a local fishing vessel;

"licence" means a licence issued under section 5;

"licensee" means the person to whom the licence is issued;

"local fishing vessel" means any fishing vessel which is a Seychelles ship (as defined by section 5 of the Merchant Shipping (Temporary Provisions) Act, 1976) and which is -

No. 21 of 1976.

- (a) wholly owned by one or more persons who are citizens of Seychelles or by a Statutory Corporation established under the law of Seychelles or by the Government of Seychelles; or;
- (b) wholly owned by any company, society or other association of persons established under the law of Seychelles, of which at least 51% of the shares are held by citizens of Seychelles or by a Statutory Corporation established under the law of Seychelles, or by the Government of Seychelles;

"marine areas under the jurisdiction of Seychelles" means the Exclusive Economic Zone and in respect of foreign fishing vessels engaged in fishing for sedentary species on the continental shelf beyond the Exclusive Economic Zone, includes the waters superjacent to the continental shelf beyond the Exclusive Economic Zone;

"master", in relation to a fishing vessel, means the person for the time being having command or charge of the vessel;

"owner", in relation to a fishing vessel, includes any body of persons, whether incorporated or not, by whom the vessel is owned, and any charterer, sub-charterer, leasee, or sub-leasee of the vessel;

"processing", in relation to fish, includes freezing, canning, salting, smoking, cooking, pickling, drying or otherwise preserving or preparing fish by any method;

"sedentary species" means organisms which, at the harvestable stage, either are immobile on or under the sea bed or are unable to move except in constant physical contact with the sea bed or the subsoil;

"territorial sea" means the territorial water of Seychelles as defined by section 3 of the Maritime Zones Act, 1977;

"this Decree" includes any statutory instrument made thereunder.

PART II - CONTROL OVER FISHING AND RELATED ACTIVITIES BY FOREIGN FISHING VESSELS

Prohibiting
of fishing.

3. No foreign fishing vessel shall be used for fishing within the Exclusive Economic Zone or for fishing for sedentary species on the continental shelf except in accordance with a licence issued by the Minister in respect of that fishing vessel.

Stowing of
gear.

4. When any foreign fishing vessel that is not licensed enters the marine areas under the jurisdiction of Seychelles the fishing gear of such vessel shall at all time while in such marine areas be kept stowed in the prescribed manner.

Issue of
licences.

5. (1) The Minister may issue to the owner of any foreign fishing vessel a licence to fish within the Exclusive Economic Zone or to fish for sedentary species on the continental shelf for such period of time as may be specified in the licence.

(2) In granting a licence under this section, the Minister may attach to the licence conditions relating "inter alia" to all or any of the following matters -

- (a) the areas within which fishing is authorized;
- (b) the period during which fishing is authorized;
- (c) the species, size, sex, age and quantities of fish that may be taken;
- (d) the methods by which fish may be taken;
- (e) the types, size, and amount of fishing gear that may be used by a foreign fishing vessel;
- (f) the use, transfer, transshipment, landing and processing of fish taken;
- (g) entry by foreign fishing vessels to Seychelles ports, whether for the inspection of its catch or for any other purpose;
- (h) statistical and other information required to be given by the foreign fishing vessel to the Government, including statistics relating to catch and effort and reports as to the position of the vessels;
- (i) the conduct by the foreign fishing vessel of specified programmes of fisheries research;
- (j) the training of citizens of Seychelles in the methods of fishing employed by the foreign fishing vessel and the transfer to Seychelles of technology relating to fisheries;
- (k) the keeping on board of the foreign fishing vessel of the licence issued in respect of it;
- (l) the marking of the foreign fishing vessel, and other means for its identification.
- (m) directions, instructions, and other requirements given or made by Government ships or aircraft to the foreign fishing vessel that shall be complied with by the vessel;
- (n) the placing of observers on the foreign fishing vessel and the reimbursement to the Government by the licensee of the costs of doing so;
- (o) the installation on the foreign fishing vessel and maintenance in working order of a transponder or other equipment for the identification and location of the vessel and of adequate navigational equipment to enable its position to be fixed from the vessel;

- (p) the carriage on board the foreign fishing vessel of specified communication equipment, specified nautical charts, nautical publications, and nautical instruments; and
- (q) such other matters as the Minister may consider necessary or expedient for the conservation or management of the fisheries resources of Seychelles.

Licensing fees.

6. There shall be payable by every licensee to the Government in respect of the granting of a licence such fees as may, from time to time, be prescribed.

Suspension and cancellations of licences.

7. (1) The Minister may suspend or cancel any licence -

- (a) where he is satisfied that any foreign fishing vessel in respect of which the licence has been issued has been used in contravention of this Decree or of any conditions of the licence; or
- (b) where he is satisfied that such action is necessary or expedient for the proper management of fisheries.

(2) Where any licence has been suspended or cancelled for the reasons set out in subsection (1) (b), a proportion of any fees paid for the licence representing the unexpired period shall be reimbursed to the licensee at his request.

(3) No suspension or cancellation of a licence under subsection (1) shall be reviewable or called into question in any court on the ground that such suspension or cancellation was not necessary or expedient for the proper management of fisheries.

Fishing for research.

8. Notwithstanding section 3, the Minister may, in writing, authorize a foreign fishing vessel to be used for fishing within the Exclusive Economic Zone or for fishing for sedentary species on the continental shelf for the purpose of scientific research; any such fishing shall be conducted in accordance with such conditions the Minister may impose.

PART III - POWERS OF AUTHORIZED OFFICERS

Powers of authorized officers.

9. (1) For the purpose of enforcing the provisions of this Decree, an authorized officer may, with or without a warrant -

- (a) require any foreign fishing vessel within the Exclusive Economic Zone to stop and to do anything else which will facilitate the boarding of the vessel;
- (b) board the vessel;
- (c) require to be produced, examine and make copies of any licence, logbook or other document relating to the vessel or to the catch on board;
- (d) require to be produced and examine any net or other fishing gear on board or belonging to the vessel and inspect any fish on board the vessel; and

(e) require persons on board the vessel to do anything which appears to him to be necessary to ascertain whether any offence has been committed.

(2) Where an authorized officer has reasonable cause to believe that an offence against this Decree or against any other written law relating to fishing has been committed, he may, with or without a warrant -

(a) seize and detain any vessel including any fishing gear, fish, equipment, stores and cargo found on board or belonging to the vessel, and seize and detain any fishing gear abandoned by the vessel; and

(b) arrest any person who he believes has committed such offence.

(3) In effecting the seizure of a vessel under this section, an authorized officer may use such force as may be reasonably necessary.

(4) A foreign fishing vessel seized under this section and the crew thereof shall be brought to Port Victoria as soon as possible.

(5) A foreign fishing vessel or other thing detained under this section shall, as soon as practicable, be delivered into the custody of the Commissioner of Police and shall be released upon demand to the owner or master if no proceedings are instituted within 10 days of such delivery against the owner or master in respect of an offence against this Decree.

(6) Where a charge is laid the Court may make such order as it may deem fit relating to the detention or custody of the vessel or other things pending the conclusion of any proceedings instituted in respect of that vessel or other things.

(7) The provisions of this section shall apply mutatis mutandis in respect of foreign fishing vessels found fishing for sedentary species on the continental shelf.

Hot
pursuit.

10. Where, following the commission in the Exclusive Economic Zone of an offence against this Decree or against any other written law relating to fishing by any foreign fishing vessel, such vessel is pursued beyond the limits of the Exclusive Economic Zone, the powers conferred on authorized officers under section 9 shall be exercisable in respect of such vessel beyond the limits of such zone in the circumstances and to the extent recognized by international law.

Bar to
actions.

11. (1) No action shall lie against the Government or against any authorized officer for damage in any civil court for any act done or ordered to be done in good faith in pursuance to this Decree.

(2) No prosecution of any authorized officer, or action which may lawfully be brought against any authorized officer, in respect of anything done in pursuance of this Decree shall be entertained by any Court unless it be instituted within six months from the date of the act complained of.

PART IV - OFFENCES AND LEGAL PROCEDURES

Licensing offences.

12. (1) Where any foreign fishing vessel that is not licensed is used for fishing in the Exclusive Economic Zone or is used for fishing for sedentary species on the continental shelf, the owner and the master shall each be guilty of an offence and liable to a fine not exceeding Rs.

(2) Where any foreign fishing vessel that is not licensed displays any marking or other means of identification that indicates or tends to show that it is licensed, the owner and the master shall each be guilty of an offence and liable to a fine not exceeding Rs.

(3) Where any foreign fishing vessel is used for fishing within the Exclusive Economic Zone or for fishing for sedentary species on the continental shelf in contravention of any condition of a licence the owner and the master shall each be guilty of an offence and liable to a fine not exceeding Rs.

Offence in respect of stowing.

13. Where any foreign fishing vessel that is not licensed enters within the marine area under the jurisdiction of Seychelles without keeping its fishing gear stowed in the prescribed manner, the owner and the master shall each be guilty of an offence and liable to a fine not exceeding Rs.

Obstruction of authorized officers.

14. Any person who in any way prevents or hinders any authorized officer from exercising the powers conferred by sections 9 and 10 shall be guilty of an offence and liable to a fine not exceeding Rs.

Presumption.

15. (1) Subject to subsection (2) where any fish is found on board any foreign fishing vessel within the Exclusive Economic Zone, such fish shall be presumed, until the contrary is proved, to have been taken within the Exclusive Economic Zone by such vessel.

(2) A radio call made by a foreign fishing vessel before entering the Exclusive Economic Zone indicating that the vessel is exercising its right of free navigation through the Exclusive Economic Zone and notifying its proposed route and the quantity of fish on board shall suffice to rebut the presumption in subsection (1).

Forfeiture.

16. When a person is convicted of an offence against this Decree, the Court -

- (a) may, or, in the case of an offence specified in section 12 (1), shall, order that any fish found on board the vessel when seized, or the proceeds of sale of such fish where the Court has made an order under section 9 (6) that such fish be sold, shall be forfeited to the Government;
- (b) may, or, in the case of a second or subsequent conviction, shall, order that any vessel used in or in connection with the commission of an offence, together with its fishing gear, equipment, stores and cargo, shall be forfeited to the Government;
- (c) shall order that any costs incurred in holding the vessel in detention, and any cost of repatriation of any member of the crew of the vessel, shall be payable by the person convicted.

Bonds.

17. (1) Where any foreign fishing vessel is detained under section 9 and a charge is laid in respect of that vessel, the owner of the vessel, licensee, master or authorized local agent designated in respect of the vessel, may apply to the Court for the release of the vessel on the provision of a satisfactory bond in accordance with this section.

(2) The Court shall order the release of the vessel on the execution by a person or persons approved by the Court of a satisfactory bond in an amount not less than the aggregate of the value of the vessel, including all fishing gear, equipment, stores and cargo, the value of the fish on board at the time of seizure (except where such fish has been sold), the expenses incurred in the detention of the boat and in the repatriation of any member or members of the crew, and the maximum fine to which the defendant would be liable if convicted of the offence.

(3) Notwithstanding subsection (2), the Court may, where it is satisfied that there are special circumstances to justify it in doing so, order that the bond shall be less than the amount required by that subsection.

(4) The release of any bond executed under this section shall be conditional upon -

(a) a finding by the Court that the vessel has not been used in the commission of an offence against this Decree -

(i) payment in full within 14 days of the date of the judgment of the Court of any fine imposed and any costs ordered to be paid under section 16 (c); and

(ii) where the Court so orders, delivery to the Court of the vessel, including all fishing gear, equipment, stores and cargo, and of any fish ordered to be forfeited, without any impairment of their value, or payment of the monetary value thereof as determined by the Court.

(5) The amount specified in the bond shall be recoverable in full in any Court of competent jurisdiction, as a debt due to the Government jointly and severally by the person or persons by whom the bond is given, unless the person or persons prove the due performance of the condition on which the bond is released.

Vessel to be held as security.

18. Where the master or the owner of a foreign fishing vessel has been convicted of an offence against this Decree, the vessel including its fishing gear, equipment, stores and cargo, if not ordered forfeit by the Court, shall be held until such time as the fine, costs and other monies ordered by the Court to be paid have been paid, and if payment in full has not been made within 30 days, the vessel shall be sold and payment made from the proceeds.

PART V - GENERAL PROVISIONS

Regulations.

19. (1) The President may make regulations for the better carrying out of the provisions of this Decree and, without prejudice to the generality of the foregoing, may make regulations -

(a) prescribing the form and conditions of and manner of application for licences;

- (b) prescribing the terms of duration, the form and content of licences;
- (c) prescribing the fees payable to the Government for the issue of licences;
- (d) prescribing procedures for effecting the control and seizure of foreign fishing vessels;
- (e) requiring that applicants for licences, and licensees designate authorized local agents in Seychelles in respect of foreign fishing vessels operations;
- (f) providing for such other measures as are necessary or expedient to ensure that foreign fishing vessels are used for fishing within the Exclusive Economic Zone or for fishing for sedentary species on the continental shelf only in accordance with the terms and conditions of their licences;
- (g) requiring that applicants for licences or licensees or both should maintain bonds or other forms of security for the fulfilment of any obligation under their licences;
- (h) delimiting areas of the Exclusive Economic Zone in which fishing shall be reserved to local fishing vessels and local fishermen;
- (i) providing for compensation payable to Seychelles citizens or to the Government in the event of any loss or damage caused by the foreign fishing vessel to other fishing vessels or their gear or catch, or to cables or to other Seychelles interests;
- (j) providing that any breach of such regulation shall be an offence and providing for penalties by way of fines not exceeding Rs.
- (k) specifying the requirements to be observed by foreign fishing vessels while in the Exclusive Economic Zone of Seychelles, and prescribing methods of stowing fishing gear when prohibited from fishing;
- (l) regulating the activities of ancillary vessels and requiring such vessels to be licensed and prescribing the fees, forms, etc., for such licences.

(2) Regulations made under this section may make different provisions for different parts of the territorial sea or of the Exclusive Economic Zone and for different species of fish.

Repeals.

20. The Fishery Limits Act and the Proclamation No. 6 of 1969 are hereby repealed.

GIVEN at the State House, Mahé, Seychelles, this
of 1979.

day

APPENDIX B - DRAFT FOREIGN FISHING VESSELS REGULATIONS

S.I. No. of 1979

CONTROL OF FOREIGN FISHING VESSELS DECREE, 1979
(No. of 1979)

Foreign Fishing Vessels Regulations, 1979

In exercise of the powers conferred by section 19 of the Foreign Fishing Vessels Decree, 1979, the President hereby makes the following Regulations -

- Citation. 1. These Regulations may be cited as the Foreign Fishing Vessels Regulations, 1979.
- Application for licence. 2. An application for a licence shall be in writing, signed by the owner of the foreign fishing vessel in respect of which the licence is sought, and countersigned by the authorized local agent named in the application, and shall contain the following information -
- (a) the name and description of the vessel, its equipment and crew complements;
 - (b) the flag state and home port of the vessel;
 - (c) the name of the owner and master of the vessel;
 - (d) the side number of the vessel, its radio frequencies, call sign and signal letters;
 - (e) a description of the proposed fishing operations or related activities including -
 - (i) the species to be fished;
 - (ii) the method of fishing and type and dimensions of gear to be used;
 - (iii) the area or areas to be fished;
 - (iv) the amount of fish to be caught;
 - (v) the period of time for which a permit is sought;
 - (vi) the place in which the fish is to be landed and/or processed, and a description of the ultimate destination and use of the fish; and
 - (vii) a description of support operations, and the name and licence number (if any) of fishing vessels in support of which related activities are to be carried out;
 - (f) a description of any joint venture or other contractual arrangements with Seychelles business interests in connection with the fishing operations;

- (g) a brief description of any related fishing operations sought to be undertaken in the marine areas under the jurisdiction of Seychelles by other vessels belonging to or under the control of the foreign fishing vessel owner;
- (h) the name and address of the local authorized agent appointed by the owner to represent him in all dealings with officials of the Government, and evidence of the extent to which the local agent is authorized to undertake legal and financial obligations on behalf of the owner; and
- (i) such other information as may be requested by the Minister in clarification or ampliation of the information furnished by the applicant.

Form of
licence.

3. Every licence shall be in the form set out in the First Schedule.

Licence
fees.

4. The fees for licences shall be payable at the appropriate rate set out in the Second Schedule.

No foreign
fishing in the
territorial
sea.

5. No licence issued shall purport to authorize or be valid for fishing operations in the territorial sea by any foreign fishing vessel.

Conditions of
licence.

6. A licence issued in respect of a foreign fishing vessel shall be subject to the following conditions -

- (a) the owner of the vessel shall appoint and maintain a local authorized agent in Mahé, who shall be authorized to accept legal and financial responsibility on behalf of the owner in respect of the operations undertaken by the vessel and to accept service or any notice, summons or other document on behalf of the owner in any legal proceedings arising out of the conduct of the fishing operations or related activities by the vessel; the local representative shall be a person resident in Mahé and having a permanent office or establishment in Mahé;
- (b) the owner of the vessel or the authorized local agent shall, if required by the Minister, execute and maintain a bond in an amount and form satisfactory to the Minister, to guarantee performance of the obligations under the licence;
- (c) the master of the vessel or the authorized local agent shall notify the Minister of the estimated time and location of entry of the vessel into the marine areas under the jurisdiction of Seychelles not less than 24 hours prior to such entry, and shall at the same time notify the Minister of -
 - (i) the approximate fishing plan or schedule of activities to be carried out under the licence;
 - (ii) the date of arrival of the vessel at Port Victoria for initial inspection unless exempted from such inspection; and
 - (iii) the species of fish on board the vessel, and the quantity and condition of each species;

- (d) after entry into the marine area under the jurisdiction of Seychelles, the vessel shall proceed directly and immediately to Port Victoria for initial inspection by an authorized officer unless exempted from such inspection by the Minister and shall not be used for fishing or related activities in such area until such time as such inspection has been carried out or such exemption has been given;
- (e) the licence shall be valid only for such activities, for such period and for such area or areas as are specified in the licence;
- (f) where fishing is authorized by the licence -
 - (i) only such species of fish shall be fished for, in such quantities, using such methods of fishing and such fishing gear as are authorized by the licence;
 - (ii) no by-catch shall exceed such percentage as may be specified in the licence;
 - (iii) all relevant laws and regulations regarding the conservation and management of fisheries resources in Seychelles and the conduct of fishing operations shall be complied with;
 - (iv) the master of the vessel shall cause written records to be maintained on a daily basis of the fishing effort and catch of the vessel, in the form set out in the Third Schedule;
- (g) any transshipment of fish must be done in Port Victoria under the control of authorized officers unless otherwise authorized in the licence;
- (h) the written records required to be maintained under paragraph (f) shall be transmitted by the master of the vessel to the Minister -
 - (i) monthly or at the request of the Minister, or of any fisheries officer on his behalf, or by any authorized officer, at any time during the term of the licence; and
 - (ii) in any event, not later than 30 days after the expiry of the licence;
- (i) the master of the vessel shall cause radio reports to be made to the Minister at weekly intervals and such reports shall contain the following information -
 - (i) the name of the vessel;
 - (ii) the licence number;
 - (iii) the precise geographical position of the vessel in terms of longitude and latitude;
 - (iv) the quantity in kilograms, of each species of fish in the hold;
 - (v) the quantity in kilograms, of each species of fish caught since the last report or the last inspection in Port Victoria;

- (vi) the quantity in kilograms, of each species of fish transferred, if the licence authorizes such transfer, to other vessels since the last report or the last inspection in Port Victoria;
- (j) the master of the vessel or the authorized local agent shall notify the Minister or any designated fishery officer of the estimated time of entry of the vessel into Port Victoria, at least 24 hours prior to such entry;
- (k) the master of the vessel shall bring the vessel into Port Victoria for inspection at any time when required to do so by the Minister or any authorized officer;
- (l) where the vessel is in any marine area under the jurisdiction of Seychelles where it is not authorized by its licence to engage in fishing, all fishing gear shall be stowed in accordance with the manner prescribed in these Regulations;
- (m) the vessel shall at all times while in any marine area under the jurisdiction of Seychelles -
 - (i) fly the flag of its flag state; and
 - (ii) display in places clearly visible both from the sea and from the air, the letters and numbers identifying the vessel and assigned to it in the licence, in white markings of at least 90 centimetres in height in the case of a vessel whose overall length exceeds 18 metres or 45 centimetres in height in any other case, on a black background;
- (n) the master of the vessel shall permit an observer or observers designated in writing by the Minister to go on board and remain on board the vessel for any or all of the period of validity of the licence, and shall -
 - (i) provide the observer or observers with suitable food and accommodation while on board;
 - (ii) cooperate fully with each observer in the performance of his duties; and
 - (iii) arrange for the observer or observers to send or receive messages by way of the radio telegraph or radiotelephone facilities on board the vessel;
- (o) the master of the vessel shall, at all times while in marine areas under the jurisdiction of Seychelles comply with any directions or instructions given to him by any authorized officer and, in particular, shall bring the vessel when requested to do so, permit and facilitate any authorized officer to board the vessel and cooperate with such officer in any inspection carried out by him;
- (p) the vessel shall have on board at all times while in marine areas under the jurisdiction of Seychelles such communications and position fixing equipment as may be specified in these Regulations or in the licence as required.

- (q) the master of the vessel or the authorized local agent shall notify the Minister or any designated fishery officer, of the estimated time and location of the departure of the vessel from marine areas under the jurisdiction of Seychelles not less than 48 hours prior to such departure, and shall at the same time notify him of the following -
 - (i) the expected date of arrival of the vessel in Port Victoria for final inspection unless exempted from such inspection; and
 - (ii) the species of fish on board the vessel, and the quantity and condition of each species;
- (r) before leaving marine areas under the jurisdiction of Seychelles, the vessel shall proceed to Port Victoria for final inspection by an authorized officer, unless exempted from such final inspection by the Minister;
- (s) after final inspection, the vessel shall depart directly from marine areas under the jurisdiction of Seychelles and shall not be used for fishing or related activities before such departure; and
- (t) any records, reports or notifications required to be maintained or made under this regulation shall be maintained or made in the English or French language; in every communication by radio, flag or light between any licensed vessel in marine areas under Seychelles jurisdiction and any Government authority, the signals specified in the "International Code of Signals" published by the Inter-Governmental Maritime Consultative Organization Marine Safety Committee shall be used.

Prescribed manner of stowage of gear.

7. Any foreign fishing vessel prohibited from fishing in marine areas under the jurisdiction of Seychelles under section 3 shall, while within such areas stow its fishing gear in accordance with the following provisions -

- (a) all such gear shall be carried wholly inboard and shall be stowed below deck or otherwise removed from the place where it is normally used for fishing and placed where it cannot be readily used for fishing;
- (b) all nets, trawlboards and weights shall be disconnected from their towing or hauling wires, ropes or rigid frames; and
- (c) all fishing gear carried on deck shall be secured to some part of the superstructure of the vessel.

Signals.

8. (1) For the purpose of section 9 or regulation 6 -

- (a) the signal to be used for requiring a foreign fishing vessel to bring to, is the International Code of Signals, signal "L";
- (b) the signal to be used for requiring a foreign fishing vessel to bring to to be boarded is the International Code of Signals, signal "SQ 3".

(2) Signals may be given by flag, signal lamp, loud-speaker, horn, siren, message block, whistle or radio.

Penalties
for
contravention.

9. Where any provision of these Regulations (except regulation 7) is contravened in respect of any foreign fishing vessel to which it applies the owner and the master shall each be guilty of an offence and liable to a fine of Rs.

FIRST SCHEDULE

Regulation 3

REPUBLIC OF SEYCHELLES

FOREIGN FISHING VESSELS LEGISLATION 197

FOREIGN FISHING VESSEL LICENCE

No.

Issued to

Address

.

Name and address of owner of vessel if different from above

.

Name and address of agent or other legal representative in Seychelles

.

Name and address of master of vessel

.

Name of vessel

Type of vessel

Port and country of registry

Registration number

Fishing vessel identification mark

Signal letters

Length Registered net tonnage

Engine horse power

Radio call sign Frequency

The vessel, details of which appear above, is hereby authorized to do such of the following as may be indicated on this licence:

Authorization to fish within marine areas under the jurisdiction of Seychelles

Description of fishing operations authorized

.

.

.

Areas to be fished

.

.

.

Species of fish to be taken

Requirements concerning disposal of by-catch

Reporting requirements

Authorized landing places

Special conditions

Period of validity from Date of issue

until

Fees paid

Approved
Minister of Agriculture and Land Use

This licence is granted subject to the following conditions -

1. The holder shall comply with and ensure that the vessel is used in conformity with the provisions of the Control of Foreign Fishing Vessels Decree 197.. and the Foreign Fishing Vessels Regulations 197..
2. (Here insert any other conditions to which licence is subject).

SECOND SCHEDULE

Regulation 4

FEEES PAYABLE FOR FOREIGN FISHING VESSELS LICENCES

THIRD SCHEDULE

Regulation 6

FORM OF WRITTEN RECORD TO BE MAINTAINED

Made this

day of

, 1979

(F.A. RENE)
PRESIDENT

No. 21 of 1976.

ship (as defined by section 5 of the Merchant Shipping (Temporary Provisions Act, 1976) and which is -

- (a) wholly owned by one or more persons who are citizens of Seychelles or by a Statutory Corporation established under the law of Seychelles or by the Government of Seychelles; or
- (b) wholly owned by any company, society or other association of persons established under the law of Seychelles, of which at least 51% of the shares are held by citizens of Seychelles or by a statutory corporation established under the law of Seychelles, or by the Government of Seychelles;

"marine areas under the jurisdiction of Seychelles" means the Exclusive Economic Zone and in respect of fishing vessels engaged in fishing for sedentary species on the continental shelf beyond the Exclusive Economic Zone, includes the waters superjacent to the continental shelf beyond the Exclusive Economic Zone;

"master", in relation to a fishing vessel, means the person for the time being having command or charge of the vessel;

"Minister" means the Minister or other person for the time being charged with overall responsibility for fisheries matters;

"new fishing vessel" means any fishing vessel on which construction work is commenced or which is purchased or imported following the date of coming into operation of this Decree and in respect of which no licence under section 5 has previously been issued;

"processing", in relation to fish, includes freezing, canning, salting, smoking, cooking, pickling, drying or otherwise preserving or preparing fish by any method;

"protected areas" means protected areas established by the Minister under section 32;

"sedentary species" means organisms which, at the harvestable stage, either are immobile on or under the sea bed or are unable to move except in constant physical contact with the sea bed or the subseil;

"territorial waters" means the territorial waters of Seychelles as defined by section 3 of the Maritime Zones Act;

"this Decree" includes any statutory instrument made thereunder.

PART II - ADMINISTRATION

Chief
Fisheries
Officer.

3. (1) There shall be a Chief Fisheries Officer and such other fisheries officers as may be necessary for the purpose of this Decree.

(2) The Chief Fisheries Officer shall have have general responsibility for the management, supervision and development of fisheries and the implementation of the purpose of this Decree throughout Seychelles.

(3) The Chief Fisheries Officer shall act as secretary to the Board.

(4) The Chief Fisheries Officer may, in writing, delegate the exercise of any or all of the powers and functions conferred upon him by this Decree to such person as he may think fit, provided that the delegation of any power or function shall not prevent the exercise by the Chief Fisheries Officer of any power or function so delegated.

Fisheries
Advisory
Board.

4. (1) There shall be a Fisheries Advisory Board which shall consist of the following members;

- (a) the Permanent Secretary of the Ministry responsible for fisheries matters or his representative who shall act as Chairman;
- (b) the Chief Fisheries Officer or his representative who shall act as Secretary;
- (c) the Permanent Secretary of the Ministry responsible for economic development and planning or his representative;
- (d) three other members, who shall not be public officers, appointed by the Minister from among fishermen or other persons actively engaged in the fisheries sector;

(2) The Board may invite to attend its meetings in an advisory capacity such other person or persons as it may think fit.

(3) The Board shall adopt rules and regulations to govern its proceedings. Meetings of the Board shall be convoked by the Chairman at least once a year.

(4) The functions of the Board shall be to advise the Minister on all matters relating to the development, planning and management of fisheries and related industries throughout Seychelles, including the development of the Government's policy towards the licencing or other authorization of foreign fishing operations. In particular the Board shall be consulted prior to -

No. 5
of 1979.

- (a) the enactment of any amendment to this Decree or to the Control of Foreign Fishing Vessel Decree, 1979;
- (b) the making of any regulation under this Decree or the Control of Foreign Fishing Vessels Decree 1979.

PART III - LICENSING

Local
fishing vessel
licences.

5. (1) All local fishing vessels whatever their size and method of propulsion shall be licensed.

(2) Application for a licence under this section shall be made to the Chief Fisheries Officer and shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) The Chief Fisheries Officer may, upon proper application in accordance with the provisions of the preceding subsection, issue a licence in respect of any local fishing vessel, provided that -

- (a) where a fishing vessel is required to be registered under the legislation regulating merchant shipping, no licence shall be issued or renewed in respect of such vessel unless there is subsisting a valid certificate of registry;
- (b) where a fishing vessel is required to hold a certificate of compliance with any safety convention to which the Republic of Seychelles is a party, no licence shall be issued or renewed in respect of such vessel unless there is subsisting a valid certificate;
- (c) the Chief Fisheries Officer may refuse to issue or renew any licence in respect of any fishing vessel where he is satisfied that such restraint is in the interest of the proper management of the fishery resources or that harbour, landing, storage

or handling facilities are inadequate to deal with more fishing vessels;

(4) Applications in respect of any new fishing vessel may be made before construction of the vessel is commenced or before the vessel is purchased or imported and in such a case the Chief Fisheries Officer shall indicate in writing whether or not a licence will be issued for such vessel on its completion, purchase or importation, subject to compliance with the requirements of this Decree;

(5) The Minister may, by order, require that any application in respect of a new fishing vessel shall be made before construction of the vessel is commenced or before the vessel is purchased or imported.

Duration and conditions of licences.

6. (1) The validity of a licence shall not, except with the prior written approval of the Minister endorsed on the licence, extend beyond one year from the date of issue thereof.

(2) Every licence shall be subject to such conditions as may be prescribed in this Decree or to such further conditions as the Chief Fisheries Officer may endorse thereon.

(3) No licence shall be transferable except with the written permission of the Chief Fisheries Officer endorsed upon such licence.

(4) It shall be a condition of any licence that there shall be marked on the vessel in respect of which the licence is granted such letters and numbers of identification as may be assigned to that vessel by the Chief Fisheries Officer in such manner as he may specify or as may be prescribed in any regulation made under this Decree.

Permits for fishing gear.

7. (1) The Minister may, by regulation, specify the types of fishing gear in respect of which it shall be necessary to hold a fishing gear permit.

(2) Any person who operates, or being the owner, allows to be operated any fishing gear specified in any Regulations made under the preceding subsection, or possesses any such gear on any fishing vessel except under a valid permit issued under this section or a valid licence issued under the Control of Foreign Fishing Vessels Decree, 1979, shall be guilty of an offence and liable to a fine not exceeding Rs.

(3) The Chief Fisheries Officer may, upon proper application thereof and upon payment of the prescribed fee issue a permit authorizing the use of any fishing gear.

Appeals.

8. Any person aggrieved by the refusal of the Chief Fisheries Officer to issue a licence or permit or by the suspension or cancellation of any licence or permit already issued, may appeal against such refusal, suspension or cancellation within a period of 14 days to the Minister whose decision shall be final.

Exemption.

9. The Minister may exempt any person or vessel or any type or class of person or vessel from any of the requirements of this Decree concerning licences or permits.

PART IV - OYSTER BEDS

Granting of exclusive rights over oyster beds.

10. (1) The Minister may, after the expiration of the period hereinafter mentioned and subject to such conditions as he may think fit, and to the payment of such fee as may be prescribed, grant to any person the exclusive right of depositing, propagating and taking oysters within certain fixed limits and during a specified period.

(2) Notice of any application for such grant shall be published at the expense of the applicant in the Gazette calling upon any person to

lodge, within fifteen days, their objections to the grant being made.

(3) A certificate issued by the Minister stating that a grant has been made under subsection 1, and specifying the limit and extent of the oyster bed shall be conclusive evidence in all courts of law of the right of the person mentioned in such certificate and of the limit and extent aforesaid.

PART V - POWERS OF AUTHORIZED OFFICERS

11. For the purpose of ascertaining whether there is or has been any contravention of the provisions of this Decree any authorized officer may, without a warrant -

- (a) stop and board any fishing vessel, require to be produced and take copies of any licence or other document required under this Decree and make any examination concerning that vessel, its equipment, fishing gear, crew or fish carried on board;
- (b) stop any vehicle transporting or reasonably suspected of transporting fish and search such vehicle.

Arrests and seizures.

12. (1) Where he has reasonable ground for believing that an offence against the provisions of this Decree has been committed, any authorized officer, without a warrant, and with such assistance as he may consider necessary, may -

- (a) enter, at all reasonable hours, any premises other than premises used exclusively as a dwelling house, in which he has reason to believe such offence has been committed, or fish taken in contravention of such provisions are being stored and search such premises;
- (b) take samples of any fish, or fish product found in any vessel, vehicle or premises searched under this section or the preceding section;
- (c) arrest any person who he has reason to believe has committed such offence;
- (d) seize any vessel, vehicle, fishing gear, nets or other fishing appliance which he has reason to believe has been used in the commission of such offence, or in respect of which the offence has been committed;
- (e) seize any fish which he has reason to believe has been caught in the commission of an offence, or is possessed in contravention of this Decree;
- (f) seize any explosive, poison or other noxious substance which he has reason to believe has been used or is possessed in contravention of section 17.

(2) A written receipt shall be given for any article or thing seized under the preceding subsection and the grounds for such seizure shall be stated in such receipt.

Fish seized may be sold.

13. Any fish or other article of a perishable nature seized under the provisions of section 12 may, on the direction of the Chief Fisheries Officer, be sold and the proceeds of sale shall be delivered into the custody of the Chief Fisheries Officer.

Identification of authorized officers.

14. An authorized officer not in uniform when acting under the provisions of this Decree, shall, on demand, declare his office and produce to any person against whom he is taking action such identification or written authority as may be reasonably sufficient to show that he is an authorized officer for the purpose of this Decree.

Non-liability of authorized officers.

15. No authorized officer shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Decree.

PART VI - OFFENCES AND LEGAL PROCEEDINGS

Licensing offences.

16. Any person who operates, or being the owner or charterer allows to be operated, any local fishing vessel except under and in accordance with the conditions of a valid licence, shall be guilty of an offence and liable to a fine not exceeding Rs.

Fishing with noxious substances and prohibited gear.

17. Any person who -

- (a) uses or attempts to use any explosive, or any poison, or any other noxious substance for the purpose of killing, stunning, disabling or catching fish or in any way rendering such fish more easily caught; or
- (b) carries or has in his possession any explosive, poison or other noxious substance referred to in subsection (a), in circumstances which raise a reasonable presumption that such explosive, poison or other noxious substance is intended to be used for any of the aforesaid purposes; or
- (c) uses or attempts to use for fishing, sells or offers for sale any fishing gear or fishing appliance which does not comply with any regulation made by the Minister under section 32 of this Decree;

shall be guilty of an offence and liable to a fine not exceeding Rs. ...

Fishing in protected areas and for protected species, etc.

18. Any person who -

- (a) fishes or attempts to fish in protected areas or in oyster beds in contravention of any regulation made by the Minister under section 32;
- (b) fishes or attempts to fish for any species of fish protected by any regulation made by the Minister under section 32;
- (c) fishes for or attempts to fish for any fish under the size prescribed by the Minister under section 32;

shall be guilty of an offence and liable to a fine not exceeding Rs. ...

Prohibition of possession and sale.

19. Any person who, knowing or having reasonable ground for believing that any fish has been taken in contravention of the provisions of section 16, 17 or 18, receives or is found in possession of such fish shall be guilty of an offence and liable -

- (a) where the circumstances of such receipt or possession raise a reasonable presumption that the fish is intended to be sold in the course of business, to a fine not exceeding Rs.; or
- (b) where no such presumption arises, to a fine not exceeding Rs...

Obstruction
etc.

20. Any person who -
- (a) wilfully obstructs any authorized officer in the exercise of any of the powers conferred on him by this Decree; or
 - (b) fails to comply with any lawful requirement imposed or to answer any lawful enquiry made by any authorized officer under this Decree;

shall be guilty of an offence and liable to a fine not exceeding Rs. ...

Other
offences.

21. Any person who contravenes any provision of any regulation made under this Decree shall be guilty of an offence and shall, if no specific penalty is prescribed therefore, be liable to a fine not exceeding Rs.

Destroying
incriminating
evidence.

22. Any person who destroys or abandons any fish, fishing gear, net or other fishing appliance, explosive, poison, or any noxious substance or any other thing with intent to avoid their seizure or the detection of an offence against this Decree, shall be guilty of an offence.

Fishing, etc.
in oyster beds.

23. Any person other than the grantee of rights over any oyster bed or any person authorized by him who, within the limits of the said oyster bed -

- (a) fishes or dredges any oyster bed;
- (b) catches or attempts to catch any fish;
- (c) places any implement, apparatus or thing prejudicial to the oyster fishery; or
- (d) disturbs in any manner the oyster bed or oysters or the oyster fisheries;

shall be guilty of an offence and liable to a fine not exceeding Rs....

Master liable
for offences
committed on
his vessel.

24. Where any offence against this Decree has been committed by a company or by any member of a partnership, every officer of that company or any other member of the partnership shall be liable for such offence unless he proves to the satisfaction of the court -

- (a) that he used due diligence to secure compliance with this Decree; and
- (b) that such offence was committed without his knowledge, consent or connivance.

Compounding
of offences.

26. The Chief Fisheries Officer may compound any offence against this Decree for a sum of money not less than one-fifth of the maximum fine provided for such offence.

Power of court
to order
forfeiture.

27. Where any person is convicted of an offence against this Decree, the Court, in addition to any other penalty imposed -

- (a) may order that any fishing vessel, fishing gear, net or other fishing appliance used in the commission of such offence shall be forfeited and that any licence issued under this Decree shall be suspended for such period of time as the Court may think fit, or be cancelled; and
- (b) shall order that any fish caught in the commission of such offence, or the proceeds of sale of any fish under section 13, any explosive, poison or any noxious substance used in the commission of such offence, and any fishing gear or other

fishing appliance possessed or carried on board any fishing vessel in contravention of any provision of this Decree, shall be forfeited.

Presumption.

28. All fish found on board any fishing vessel which has been used in the commission of an offence against this Decree shall, unless the contrary is proved, be presumed to have been caught in the commission of such offence.

Disposal of seized goods.

29. (1) If a decision is made not to bring any prosecution or if any prosecution results in an acquittal, any fish or other article seized under section 12 shall be returned, or the proceeds of any sale made under section 13 paid to the owner of the fish or other article at the time when the fish or other article was seized.

(2) Any vessel, fishing gear, fishing appliance or other thing seized under section 12 which is not ordered to be forfeited under section 27, shall be returned to its owner.

(3) Where any vessel, fishing gear, fishing appliance, fish or other thing has been seized under section 12, the Court may order its release on receipt of a satisfactory bond or other security from any person claiming such property, conditioned on such person -

- (a) delivering such property to the Court upon the order of the Court, without impairment of its value, and paying in full any fine imposed by the Court in pursuance of this Decree; or
- (b) paying the monetary value of such property in accordance with an order or judgment of the Court, together with any fine imposed.

Vessel to be held as security.

30. Where the master or the owner of a local fishing vessel has been convicted of an offence against this Decree, the vessel, including its fishing gear, equipment, stores and cargo, shall be held until such time as the fine has been paid, and if payment in full has not been made within 30 days, the vessel may be sold by public auction and payment made from the proceeds.

PART VII - GENERAL PROVISIONS

Fishing for scientific research.

31. The Minister may, in writing, for the purpose of scientific research, exempt any vessel or person from all or any of the provisions of this Decree, and, in making such exemption, may impose such conditions as he may think fit.

Regulations.

32. (1) The Minister may make such regulations as he considers necessary for the proper management and development of fisheries and related industries.

(2) In particular and without prejudice to the generality of the foregoing powers, regulations made under sub-section (1) may -

- (a) specify the procedure for the issue of licences, the form thereof, and the form of applications therefore;
- (b) prescribe the licence fees payable under this Decree and the fees payable by grantees of rights over oyster beds;
- (c) regulate the conduct of fishing operations in marine

areas under the jurisdiction of Seychelles;

- (d) provide for the conservation and protection of any or all species of fish for an indefinite period of time, or for a specified period in any year, and either generally or in protected areas by, inter alia:
 - (i) prohibiting the catching or disturbing of fish or fish belonging to specified species;
 - (ii) prescribing limits on the amount, size or weight of fish caught, and retained;
 - (iii) prohibiting any specified type of fishing gear or method of fishing;
 - (iv) prescribing technical characteristics of fishing gear, such as required minimum mesh sizes for nets and fish traps;
- (e) regulate the organization of sport fishing;
- (f) regulate the landing of fish, prescribe and provide for the management and control of fishing ports and fish landing areas;
- (g) regulate the marketing, distribution and export of fish;
- (h) prescribe all necessary measures to ensure the quality of fish, including:
 - (i) methods and procedures to be adopted and the substances to be used in fish handling, storage and processing;
 - (ii) the inspection of fishing vessel and their catches of fish products;
 - (iii) minimum standards for the merchantable quality of fish or fish products;
 - (iv) the method of analysis of fish and fish products;
- (i) require any person engaged in fishing, marketing, processing, including any fish dealer, to supply such information as may be necessary to improve the collection of statistics relating to the fishing industry;
- (j) prescribe the powers to be exercised by fishery officers;
- (k) create offences and provide that contravention of, or failure to comply with, any such regulations shall be an offence.

Repeals.

33. The Fisheries Act, the Protection of Shells Act, the Whale and Other Fisheries Act, the Whaling Industry (Regulation) Act, and the Seal Fisheries (North Pacific) Act are repealed.

APPENDIX D

S.I. No. of 1979

FISHERIES DECREE, 1979
(No. of 1979)

THE FISHERIES REGULATIONS, 1979

S.I. No. of 1979

FISHERIES DECREE, 1979
(No. of 1979)

THE FISHERIES REGULATIONS, 1979

In exercise of the powers conferred by section 32 of the Fisheries Decree, 1979, the Minister hereby makes the following Regulations:

- Short title. 1. These regulations may be cited as the Fisheries Regulations, 1979.
- Definitions. 2. In these regulations unless the context otherwise indicates, any expression to which a meaning has been assigned in the Fisheries Decree, 1979, bears the meaning assigned thereto and -
"Decree" means the Fisheries Decree, 1979;
"harpoon" does not include any missile ejected from a spear-gun;
"reef pass" means a channel through a reef which is permanently covered with water at all states of the tide;
"seal" means any species of pinnipedian;
"spear gun" means any device or instrument designed to propel any missile under water for the purpose of catching, impaling or killing fish;
"stationary net" means any set net or other type of fishing net anchored to the bottom or fixed by stakes;
"whale" means any species belonging to the families balaenidae, eschrichtidae, balaenopteridae or physiteridae.
- Form of licences. 3. Every licence, permit or certificate issued under this Decree shall be in the appropriate form set out in the first schedule to these Regulations.
- Licence fees. 4. (1) The fees for licences, permits and certificates issued under the Decree shall be payable at the appropriate rate specified in the second schedule to these Regulations.
(2) Where a licence, permit or certificate is issued for a period of less than one year, the fees payable therefor shall be reduced proportionately.
- Duplicate licences. 5. The Chief Fisheries Officer may, if he is satisfied that a licence, permit or certificate has been lost or destroyed, issue a duplicate licence, permit or certificate subject to the payment of the charge specified in relation thereto in the second schedule to these Regulations.

Modifications
to fishing
vessels.

6. Any substantive modification to a fishing vessel, including any alteration in the engine or hull, shall be notified within thirty days to the Chief Fisheries Officer who shall take note of such alteration and may, if he thinks fit, issue a new licence, or amend the existing licence and require the payment of a further fee or portion thereof.

Marking of
fishing
vessels.

7. The marking of any fishing vessel required under section 6(4) of the Decree shall be in accordance with the following provisions:

- (a) the letters and number assigned to the vessel shall be legibly painted and maintained so painted on each side of the vessel on the swell of the bow;
- (b) the letters and numbers shall be painted in the white on a black background and each letter and number shall be at least fifteen centimeters in height and each stroke thereof shall be not less than two and a half centimeters in breadth.

Marking of
fishing gear.

8. (1) Each fishing gear in respect of which a permit has been issued under section 7 of this Decree shall be marked with a lead seal by a fisheries officer in accordance with directions to be given by the Chief Fisheries Officer.

(2) Any person who operates, or being the owner allows to be operated, any fishing gear in respect of which a permit has been issued under section 7 of the Decree, and which has not been marked in accordance with this regulation shall be guilty of an offence.

General
conditions of
licences.

9. Every licence issued under section 5 shall be subject to the following general conditions:

- (a) the master of the vessel shall present his catch for examination and weighing if called upon to do so by any fisheries officer;
- (b) the master of any vessel of over ... gross tons shall submit such returns of catch at such times and in such form as the Chief Fisheries Officer may require.

Minimum mesh
size of nets.

10. The minimum mesh size for nets used for fishing shall be as set out in the third schedule hereto.

Unlawful use
of nets.

11. (1) It shall not be lawful for any person to fish with two or more nets placed behind each other in such manner as practically to diminish the size of the meshes of the nets used, or to cover the nets used with canvas or any other material or to join together two or more nets so as to increase the length or the width of the nets, to less than the dimensions set out in the third schedule to these Regulations:

Provided that the provisions of this regulation shall not apply to stationary nets.

(2) Any person using any means specified in the preceding paragraph or any other artifice to diminish the size of the meshes of the nets to less than the dimensions set out in the third schedule hereto shall be guilty of an offence.

- Prohibition of mosquito nets. 12. It shall not be lawful to use any mosquito net to fish for any species of fish in any part of the marine area under the jurisdiction of Seychelles.
- Demersal trawling limited. 13. (1) No person shall use any demersal trawl net for fishing within the limits of the territorial sea.
(2) No person operating a local fishing vessel with an engine or engines having a total horse power exceeding ... h.p. shall use any demersal trawl net for fishing outside the limits of the territorial sea.
- Unauthorized devices. 14. No person shall fish with a spear gun or with a gunny bag or canvas or cloth of any description, or using creepers, leaves or herbs.
- Spear guns. 15. (1) No person shall sell or offer for sale any spear gun in Seychelles.
(2) The possession of any spear gun in circumstances which raise a reasonable presumption that the spear gun has recently been used, or is intended to be used, for fishing is prohibited.
- Minimum mesh size for fish traps. 16. No person shall use or have in his possession any fish trap unless the meshes of the sides or surrounding parts of the trap, not including the "gueule" or entrance, are of such size and width as to allow a sphere of forty millimeters in diameter to be passed through such meshes without touching the sides thereof.
- Light fishing for crustaceans prohibited. 17. No person shall use or cause to be used any light at night for the purpose of fishing for any crustacean.
- Protected areas. 18. The following shall be protected areas:
(a) in the waters around Mahé -
(i) the whole of the reef situated on the east coast of Mahé from North East Point to South Point and where such reefs extend less than one thousand meters from high water mark such portion of the sea as is within one thousand meters of high water mark;
(ii) the whole area enclosed by a line drawn from North East Point to the northernmost point of St. Anne Island, thence through the easternmost points of Moyenne and Long Islands to Rat Island and thence to Pointe Larne;
(b) in the waters around Praslin -
the whole of the reefs situated on the south east coast of Praslin from an imaginary line drawn from "Roche Corbijeaux" to the northernmost point of North Cousin Island to Anse Cousin Island to Anse Marie Louise inclusive, and where such reefs extend less than one thousand meters from high water marks such portion of the sea as is within one thousand meters of high water mark;
(c) in the waters around La Digue -
the whole of the reef situated on the west coast of La Digue from the northernmost point of that island to its southernmost point and where such reefs extend less than one thousand meters from high water mark such portion of the sea as is within one thousand meters of high water mark.

Fishing in protected areas.

19. (1) No person shall fish in a protected area except with a hand-line, harpoon, fish trap or net used in accordance with the conditions set out in the following paragraph.

(2) Fishing in a protected area may be carried out only -

(a) during the period from 5 a.m. to 7 p.m.;

(b) if, where a net is used, the net is an encircling net; and

(c) in respect of any of the following -

anchovy, balao, banane, becune, betail, breton, caranx, fiambaze, flying fish, lubine, mackerel, mullet, pretre, sardine, tauve.

(3) Nothing in this section shall be taken as authorizing fishing in a protected area by means of a net dragged across the sea bed.

Obstruction of reef passes prohibited.

20. It shall not be lawful to place any net or fish trap across any reef pass so as to prevent the free ingress or egress of fish, or to fish with any net or fish trap in any reef pass.

Protecting shells at certain places.

21. (1) No person shall, except as provided in the following paragraph, collect any shell from, or disturb any shell or its natural environment on, any reef or rock or the bed of any lagoon at any of the places described in the fourth schedule to these regulations.

(2) The prohibition contained in the preceding paragraph shall not apply with respect to Pinna (Hache d'Armes) or Cockles (Palourdes).

Blasting coral or reef prohibited except under licence.

22. No person shall use, or possess with intention to use, any explosive for the purpose of blasting any coral or reef in the sea in any part of Seychelles except under and in accordance with a licence granted by the Minister.

Protection of shells at certain places.

23. (1) No person shall, except as provided in the following paragraph -

(a) collect any shell from, or

(b) disturb any shell or its natural environment on,

the foreshore or any reef or rock or the bed of any lagoon at any of the places described in the fourth schedule to these regulations.

(2) The prohibition contained in the preceding paragraph shall not apply with respect to Pinna (Hache d'Armes) or Cockles (Palourdes).

Blasting corals or reefs prohibited except under licence.

24. No person shall use, or possess with intention to use, any explosives for the purpose of blasting any coral or reef in the sea in any part of Seychelles except under and in accordance with a licence granted by the Minister.

Protection of triton couch shells.

25. (1) No person shall -

(a) collect any Triton Couch (Lancive) shell from, or

(b) disturb any Triton Couch (Lancive) shell or its natural environment on,

the foreshore or any reef or rock or the seabed anywhere in Seychelles.

(2) No person shall purchase, sell, offer or expose for sale or export or attempt to export from Seychelles any Triton Couch (Lancive) shell.

Protection of certain marine mammals.

26. No person shall

- (a) kill or attempt to kill any whale or seal; or
- (b) harass any whale or seal so as to disturb its natural behavior or breeding habits; or
- (c) take any whale or seal for scientific research or public display except with the written permission of the Minister.

Protection of certain female crustaceans.

27. (1) No person shall catch, or cause to be caught, or be in possession of, or sell, or buy any female crustacean in the berried state, that is to say with eggs adherent, of the family scyllaridae or palinuridae or of the genus machrobrachium or scylla, known locally as homard, langouste, camaron and crabe de carlet respectively:

Provided that the accidental catching (except by harpooning) of any such female shall not be held to be a contravention of this section if such female is returned to the water forthwith and with the least possible injury.

(2) No person shall remove the eggs from any berried female crustacean.

Protection of certain crustaceans.

28. (1) No person shall catch and retain, sell or be in the possession of, or buy any crustacean of less than the following dimensions measured from the tip of the rostrum to the end of the tail or the carapace.

- (i) family scyllaridae (homard) 25 cm.
- (ii) family palinuridae (langouste) 25 cm.
- (iii) family palaemonidae, genus machrobrachium (camaron) 9 cm.
- (iv) family portunidae, genus scylla (crabe de carlet) 11 cm.

(2) Any undersized crustacean caught accidentally shall be returned to the sea forthwith and with the least possible injury.

Unlawful camaron fishing.

29. Any person who catches or is found in or by any river or stream having in his possession any camaron and who is not the owner of land boarded or traversed by such river or stream or a person authorized by such owner, shall be guilty of an offence.

FISHERIES REGULATIONS, 1979

FIRST SCHEDULE

(Regulation 3)

FORMS OF LICENCES, PERMITS AND CERTIFICATES

REPUBLIC OF SEYCHELLES
FISHERIES REGULATIONS, 1979

FORM 1

FISHING VESSEL LICENCE No

Issued to

Address

.....

Name of Vessel Fishing Vessel Identification mark

Port of Registry (if any) Registration number (if any)

Radio call sign (if any) Frequency

Dimension of vessel

Length

Tonnage

Method of propulsion

Inboard engines, number of horse power

Outboard engines, horse power

Type of fishing equipment

Areas to be fished

Species of fish to be taken

Fish to be landed at

Fee paid (if any) Rs . . .

This licence is valid for the period commencing

until

Date of issue

.....
Signature of the
Chief Fisheries Officer

This licence is granted subject to the following conditions:

1. The holder shall comply with and ensure that the vessel is used in conformity with the provisions of the Fisheries Act 197- and any regulations made thereunder.
2. (here insert any other conditions to which licence is subject).

REPUBLIC OF SEYCHELLES
FISHERIES REGULATIONS, 1979

FORM 2

CERTIFICATE OF RIGHT TO AN OYSTER BED No. ...

It is hereby certified that

Mr.. (full name)

Address
.

is granted the exclusive right of depositing, propagating, and having oysters within
the area hereinafter described

.
. (description of the area)

This certificate is valid from to and is
not transferable.

The holder is required to report monthly to the Chief Fisheries Officer the
quantities of oysters taken.

Fees paid Rs.

Date of issue

Signed

Minister of Agriculture

This certificate is granted subject to compliance with the Fisheries Decree, 1979,
and regulations made thereunder and the conditions endorsed overleaf.

FISHERIES REGULATIONS, 1979

SECOND SCHEDULE

(Regulation 4)

ANNUAL FEES FOR LICENCES, PERMITS AND CERTIFICATES

FISHERIES REGULATIONS, 1979

THIRD SCHEDULE

(Regulation 10)

MINIMUM MESH SIZE OF NETS

FISHERIES REGULATIONS, 1979

FOURTH SCHEDULE

(Regulation 23)

(a) Mahé -

(i) From Rat Island southwards to Pointe au Sel;

(ii) From North East Point northwards to the northern boundary of the Carama Beach.

(b) Praslin -

From (and including Anse Boudin) eastwards to Pointe Zanquilles.

(c) La Digue -

From the lighthouse at La Passe northwards to Grosse Roche.

(d) North Cousin or Cousin, Curieuse, St. Anne, Cerf, Cécille, Long, Moyenne and Round -

All round the islands.

APPENDIX E - THE CONSTITUTION OF SEYCHELLES - SCHEDULE I

Islands of the Seychelles Archipelago

Name:

Island on the North Coast of Mahé:

North Islet

Other Islands:

Silhouette

North

Les Mamelles

Récif

Frigate

L'Ilot

Praslin

La Digue

Curieuse

Félicité

Mary Anne

East Sister

West Sister

Ave Maria Rock

Albatross Rocks

Round

St. Pierre

Rat

Aride

North Cousin

South Cousin

Booby or Ile aux fous

Denis or Orixia

Bird or Sea Cow

Plate or Flat

Coëtivy

African Islands, consisting of:

North

South

Eagle or Rémire

D'Arros

St. Joseph Group, consisting of:

St. Joseph

Resource

Fouquet

Benjamin

Carcassaye

Pélican

Aux Chiens

Poule or Pol

Poivre Islands, consisting of:

North

South

West

Etoile

Desroches

Marie Louise

Des Neufs

King Ross or Lampériaire

Boudeuse

Alphonse Group, consisting of:

Alphonse

Bijoutier

St. François

Providence Group, consisting of:

Providence

Cerf or South Bank

St. Pierre

Cosmoledo Group, consisting of:

Menai

Observation Islet

Middle Islet

East Island

West Island

Goëlette

Polite

Wizard

Pagoda

South and other small Islets

Astove

Assumption

Aldabra Group, consisting of:

West Island
Middle Island
South Island

Polymnie Island
Cocoanut Island
Euphratis and other small islets

Farquhar Islands

Islands on the West Coast of Mahé

Chauve Souris
Vache Marine
Thérèse

Ilot de l'Islette
Conception

Islands on the East Coast of Mahé

Hodoul
St. Anne
Cerf
Faon or Cachée
Long
Moyenne
Round

Beacon or Ile Sèche
Harrison Rock
Anonyme
South East
Brulée or Rat
Souris

APPENDIX F - A DRAFT DECREE FOR THE ESTABLISHMENT OF THE SEYCHELLES
TUNA FISHERIES DEVELOPMENT CORPORATION

A DECREE to provide for the establishment of the Seychelles Tuna Fisheries Development Corporation.

IT IS HEREBY DECREED by the President as follows:

- Short title. 1. This Decree may be cited as the Seychelles (Tuna) Fisheries Development Corporation Decree, 197 .
- Interpretation. 2. In this Decree, unless the context otherwise requires -
- "Board" means the Board of Directors of the Corporation;
- "Chairman" means the Chairman of the Board;
- "Corporation" means the Seychelles Tuna Fisheries Development Corporation;
- "Minister" means the Minister responsible for fisheries.
- Establishment of the Corporation. 3. There is hereby established the Seychelles Tuna Fisheries Development Corporation, which shall be a body corporate, having perpetual succession and which may sue or be sued in its own name.
- The Board. 4. (1) The operations of the Corporation shall be controlled by a Board consisting of a Chairman and not more than four other members.
- (2) The Chairman and other members of the Board shall be appointed by the Minister and shall hold office for such term and subject to such conditions as the Minister may determine.
- (3) The Minister shall, when appointing the members of the Board, give consideration to the need for the adequate representation of commercial experience on the Board.
- (4) In the absence of the Chairman from any meeting, the members of the Board present shall appoint a Deputy Chairman for that meeting.
- (5) The decisions of the Board shall be by majority vote and, in addition to an original vote, in any case in which the voting is equal, the Chairman or in his absence the Deputy Chairman shall have a casting vote.
- (6) Any three members of the Board shall form a quorum.
- (7) Subject to the provisions of the last three preceding subsections, the Board shall adopt its own rules of procedure.
- The functions of the Corporation. 5. The functions of the Corporation shall be -
- (a) to engage in commercial (tuna) fishing operations and to operate as a commercial (tuna) fisheries enterprise; and
- (b) to promote the development of locally-owned (tuna) fisheries enterprises in Seychelles.
- Powers of the Corporation. 6. The Corporation shall have the power generally to do all things reasonably necessary for or incidental to the discharge of its functions

under the last preceding section and shall in particular, without prejudice to the generality of the foregoing, have the power -

- (a) to undertake fishing operations;
- (b) to buy, sell, construct, import, charter or contract for fishing vessels and fishing equipment;
- (c) to train fishermen in the operation of fishing vessels and equipment;
- (d) to construct or manage, or otherwise establish freezing, storage and fish processing facilities;
- (e) to contract with any other person for the supply of fish and fish products to or from such person;
- (f) with the approval of the Minister, to enter into equity participation in any fishing or fisheries or in any industry dealing in fishing supplies and equipment;
- (g) to enter into any contract, including any contract for the management of its operations;
- (h) to acquire, hold, sell, transfer, dispose of or otherwise deal with any real or personal property;
- (i) to borrow money on such terms as may be approved by the Minister

Corporation to act in accordance with instructions of the Minister.

7. In the discharge of its functions, the Corporation shall act in accordance with any general policy instructions given to it from time to time by the Minister.

The General Manager of the Corporation.

8. (1) The Board may, with the approval of the Minister, appoint a General Manager who shall be responsible for the day to day administration and management of the affairs of the Corporation.

(2) The General Manager shall be a person having considerable commercial experience and competence.

Officers and servants of the Corporation.

9. The General Manager may appoint such other officers and servants as he may consider necessary for the efficient conduct of the affairs of the Corporation, subject to budgetary approval by the Board.

Tenure of office, salaries and conditions of service of the General Manager and other officers and servants of Corporation.

10. (1) The General Manager and other officers and servants of the Corporation shall hold office for such period or periods, receive such salaries and allowances and be subject to such conditions of service as may be determined by the Board with the approval of the Minister.

(2) In establishing the salaries and conditions of service of crews of fishing vessels, the Board shall take into account the need for providing production incentives based on the catch rate of each fishing vessel.

Members, officers and servants of the Corporation not personally liable.

11. No member, officer or servant of the Corporation shall be personally liable for any act or default of the Corporation done or committed to be done in good faith and without negligence in the course of the operations of the Corporation.

Capital, funds
and revenues of
the Corporation.

12. The capital, funds and revenues of the Corporation shall consist of -
- (a) the vessels, equipment and other property listed in the Schedule to this Decree which is presently owned by the Government and operated or controlled by the Ministry of _____ which vessels, equipment and other property are hereby transferred to the Corporation but subject to any charge or lien attaching to them;
 - (b) such other vessels, equipment and property as may be transferred by the Government to the Corporation from time to time on such terms and conditions as the Government may determine;
 - (c) all property of whatever nature that may from time to time be purchased by the Corporation;
 - (d) the sum of Rs. _____, which shall be paid to the Corporation by the Government in _____ instalments of Rs. _____ the first at the commencement of this Decree, and the second on the _____ day of _____ 197 _____;
 - (e) such sums as may be appropriated to the Corporation as required from time to time in the annual or supplementary estimates of the Government;
 - (f) all moneys earned or arising from commercial operations of the Corporation;
 - (g) sums borrowed by the Corporation in accordance with the provisions of this Decree.

Accounts.

13. (1) The Corporation shall keep proper accounts and other records of its operation and shall prepare or cause to be prepared a statement of its accounts in respect of each financial year.
- (2) The accounts of the Corporation shall be audited at the close of each financial year by the Auditor General or by an independent auditor appointed by the Board.

Reports.

14. As soon as practicable after the end of each financial year, the Corporation shall transmit to the Minister -
- (a) a copy of the statement of its accounts;
 - (b) a copy of any reports made by the Auditor;
 - (c) a report dealing with the activities of the Corporation during the preceding financial year, and containing such other information relating to the activities and policy of the Corporation as the Minister may from time to time require.

The Companies
Act, 1972 is
inapplicable.

15. The entire contents of the Companies Act, 1972 shall not be applicable to the Seychelles (Tuna) Fisheries Development Corporation Decree, 197 _____.

No stamp duty.

16. The Seychelles Tuna Fisheries Development Corporation shall be exempt from the payment of stamp duty.

GIVEN at State House, Mahé, Seychelles, this _____ day of
197 _____.

SCHEDULE

List of vessels, equipment and
other property to be transferred
to the Corporation on the coming
into force of this Decree

APPENDIX G - DRAFT AGREEMENTS RELATING TO THE OPERATIONS
OF THE SEYCHELLES TUNA FISHERIES DEVELOPMENT COMPANY

Contract No. 1

AGREEMENT BETWEEN ARMENT COOPERATIF
FINISTERIEN AND SEYCHELLES TUNA
FISHERIES DEVELOPMENT COMPANY, LTD.

I.
Parties

This Agreement is made by and between Arment Cooperatif Finisterien (hereinafter referred to as "ACF"), a French cooperative organization with registered offices at France, and Seychelles Tuna Fisheries Development Company, Ltd. (hereinafter referred to as "DEVCO"), a Seychelles company with registered offices at Victoria, Republic of Seychelles.

II.
Purpose of the Agreement

The purpose of this Agreement is to give effect to certain plans of the Government of Seychelles for the development of the high seas tuna fishery in the Indian Ocean. The Government of Seychelles, having received certain commitments of assistance from the French Republic in a procès-verbal executed on December 15, 1977, and certain other commitments for assistance from the Government of the United Kingdom upon the occasion of the independence of the Republic of Seychelles, is desirous of encouraging the development of a domestically-based and -controlled high seas tuna fishery. To this end, the Government of Seychelles has created DEVCO by Presidential Decree dated , 1978. DEVCO owns and will own certain fishing vessels and related shoreside fish processing and refrigeration equipment, and wishes to enlist the expert assistance of ACF in the efficient and aggressive management of these resources for the benefit of the republic of Seychelles.

III.
Obligations of the Parties

A.

The parties agree to incorporate, 1979, a Seychelles company to be known as Seychelles Tuna Fisheries Management Company, Ltd. (hereinafter referred to as "MANCO"), with offices at Victoria, Seychelles. MANCO shall be incorporated under the Seychelles Companies Act 1972, and shall be organized for the purpose of managing a high seas fishing enterprise. The parties note their understanding that the tax status of MANCO shall be determined in accordance with Seychelles law, and that their obligations in respect of this Agreement are independent of such treatment.

B.

The authorized capital of MANCO shall be SRs. (equivalent to FF 500,000 at the time of incorporation). DEVCO shall, at or before the time of the incorporation of MANCO, contribute as its share of MANCO paid-in capital, 75% of the authorized share capital in cash at par. The remaining 25% of authorized share capital shall be paid in cash at par at the same time by ACF.

C.

The shares owned by ACF shall not be sold, transferred, pledged, hypothecated, encumbered or disposed of by ACF in whole or in part without the prior written consent of DEVCO. Except as provided below in respect of the purchase of shares by the Government of Seychelles or as further agreed by the parties, no other person may own shares in DEVCO.

D.

The parties agree that each of them will sell any and all shares they may own in MANCO to the Republic of Seychelles at any time at the request of the Government of Seychelles at a price not less than the share capital paid in by each of the parties for its respective shares.

E.

The parties agree that each will contribute additional share capital in the ratio 3:1 as between DEVCO and ACF up to a maximum of an additional FF 500,000 or equivalent in SRs.

F.

Each party shall have the right to inspect the books and records of MANCO at all reasonable times with or without notice to the other party.

G.

The parties agree that DEVCO shall on its behalf, and no later than 60 days after the effective date of this Agreement, enter into a management contract with MANCO under which MANCO shall manage the business of DEVCO's fishing enterprise. The parties additionally agree that ACF shall, no later than 60 days after the effective date of this Agreement, enter into a contract with MANCO under which ACF will provide certain technical assistance to MANCO for the conduct of MANCO's business. The management contract with MANCO shall provide for a reasonable compensation to MANCO for its efforts, while maximizing return to DEVCO. For its part, the contract between ACF and MANCO shall provide that ACF shall be reimbursed by MANCO for its reasonable expenses incurred in the provision of technical assistance to MANCO. This technical assistance shall include the provision of the services of a Technical Director and Capitaine d'Armement to be selected by ACF with the consent of MANCO. ACF shall be paid its expenses upon monthly invoice to MANCO, but such reimbursement of expenses shall not exceed in any month $2\frac{1}{2}\%$ of $1/12$ of the annual turnover of MANCO.

H.

ACF further agrees that upon the request of DEVCO, it will provide to MANCO, without charge, a seaworthy tunaboat suitable for operations in the Indian Ocean, which vessel shall be subject to the management and control of MANCO along with such other vessels as may be made available to it by DEVCO. In this event, MANCO shall be responsible for expenses incurred in operation of this tunaboat, but shall be entitled to any profits that may be realized from the operation of this vessel. If required by the law of the Republic of Seychelles for the purpose of obtaining permission to fish in Seychellois waters, ownership of this vessel shall be transferred to MANCO, in order that it may enjoy Seychelles nationality.

IV.

Consideration

Consideration for this Agreement shall be, and is acknowledged to be, the promises mutually given herein. Each party acknowledges that these promises of future performance represent lawful consideration and that this Agreement shall be binding according to its terms.

V.

Applicable Law

This Agreement shall be governed by and construed in accordance with the law of the Republic of Seychelles.

VI.

Disputes and Enforcement

Any action to enforce the provisions of this Agreement shall be brought in a court of competent jurisdiction of the Republic of Seychelles, and each party consents to be sued in such court. Any judgment obtained in such court shall be enforceable in other national courts including the courts of the French Republic if necessary to give effect to such judgment.

ALTERNATE

Any dispute with respect to the terms and conditions of this Agreement shall be referred for binding arbitration to the International Chamber of Commerce.

VII.

Term

This Agreement shall be effective for five (5) years from the effective date. It may be extended by agreement of the parties. Either party may withdraw from this Agreement by giving one year's prior notice in writing of such withdrawal.

VIII.

Effective Date

This Agreement is effective upon signature by the below-indicated authorized representatives of ACF and DEVCO.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of _____, 1978.

SEYCHELLES TUNA FISHERIES
DEVELOPMENT COMPANY, LTD.

By _____ (L.S.)
Its President

ARMEMENT COOPERATIF FINISTERIEN

By _____ (L.S.)
Its President

Victoria,
Republic of Seychelles

Contract No. 2

AGREEMENT BETWEEN ARMEMENT COOPERATIF
FINISTERIEN AND SEYCHELLES TUNA FISHERIES
MANAGEMENT COMPANY, LTD.

I.

Parties

This Agreement is made by and between Armement Cooperatif Finisterien (hereinafter referred to as "ACF"), a French cooperative organization with registered offices at France, and Seychelles Tuna Fisheries Management Company, Ltd. (hereinafter referred to as "MANCO"), a Seychelles company with registered offices at Victoria, Republic of Seychelles.

II.

Purpose of the Agreement

The purpose of this Agreement is to give effect to certain plans of the Government of Seychelles for the development of the high seas tuna fishery in the Indian Ocean. By Presidential Decree dated , 1978, the Republic of Seychelles created DEVCO in order to develop these tuna fishery resources and to own and enjoy the profits of a fleet of tuna fishing vessels and related shoreside fish processing and refrigerating equipment, all of which has been provided under a series of international arrangements, agreements and loans. On , 1978, DEVCO and ACF, for the better achievement of Seychellois objectives in the conservation, management and exploitation of these tuna fishery resources, entered into an Agreement for the establishment of MANCO. The present Agreement implements ACF's obligations to DEVCO under that Agreement.

III.

Obligations of the Parties

The parties agree that ACF shall select for employment by MANCO a Technical Director and (if required by MANCO) a Capitaine d'Armement who shall, upon acceptance and employment by MANCO, be responsible for the general conduct of the business of MANCO in accordance with the articles of incorporation and bye-laws of MANCO and applicable provisions of Seychelles law. These persons shall devote their full time and professional efforts to the business of MANCO and shall be compensated at a reasonable rate to be determined in accordance with negotiations between the parties and in light of prevailing labour market conditions. Such persons shall receive a salary and fringe benefits to be agreed upon in separate employment contracts, but shall not share in the profits of MANCO.

ACF shall also provide to MANCO such other technical assistance as MANCO may from time to time request. This technical assistance shall be provided directly or paid for by ACF at reasonable rates subject to reimbursement by MANCO. No such services shall, however, be rendered to MANCO without the prior written approval of authorized officials of MANCO. Such approval may be given on an annual basis by means of an agreed budget. Such reimbursement may not, in any calendar year, exceed 2.5% of the annual turnover of MANCO. For purposes of this Agreement, reimbursable expenses shall include out-of-pocket expenses incurred by ACF in respect of MANCO operations, such as the cost of consultants, stationery, office furnishings and equipment and necessary travel and subsistence allowances. MANCO shall pay these expenses monthly upon presentation of a verified account by ACF.

In the event the person or persons hired by MANCO upon the recommendation of ACF shall resign such employment after having assumed his or their duties, and before the agreed termination date of his or their employment, or in the event such person or persons shall be discharged for cause by MANCO, ACF shall promptly submit the name or names or replacement personnel to MANCO in order that the position(s) may be filled without

delay. ACF shall be fully liable for any costs incurred in connection with the replacement of employees who resign or are discharged, and shall not be entitled to reimbursement for such expenses.

MANCO agrees to undertake the management of a tuna fishing vessel owned by ACF in the event ACF offers such vessel for MANCO management in accordance with the request of DEVCO and pursuant to the Agreement between ACF and DEVCO dated , 1978. If necessary for the purpose of engaging in the fisheries of Seychelles, MANCO shall buy or charter such a vessel from ACF in order that the vessel may enjoy Seychelles nationality, but any such purchase shall be for one Rupee and any such charter shall be for one Rupee per annum. In the event the vessel shall no longer be used by MANCO for tuna fishing under the Agreement between DEVCO and ACF, ACF shall be entitled to repurchase the vessel, if it has been sold, for the price paid, and if it has been chartered, then it shall be entitled to possession upon payment of one Rupee. At all times when the vessel is owned or chartered by MANCO, it shall be the responsibility of ACF to provide sufficient insurance in favour of MANCO. The cost of such insurance shall not be reimbursable.

In the event the vessel is lost at sea or otherwise becomes unavailable for the service intended, ACF shall provide a replacement vessel within 30 days at its own expense. The voyage cost of such replacement shall not be reimbursable.

During the time MANCO is responsible for the operation of the ACF vessel, MANCO shall pay the salaries and customary social and operational expenses of the vessel and its crew. Profits and losses from the operation of this vessel shall accrue to MANCO and be fully integrated into MANCO's operating budget with all other profits and losses. Manning of this vessel shall be as determined by MANCO, except that the officers of the vessel shall be nominated by ACF subject to the approval of MANCO, which approval shall not unreasonably be withheld. MANCO may, at its discretion, add to the crew a maximum of ten fishermen of Seychellois nationality, who shall be compensated commensurate with the compensation paid to other members of the crew with similar qualifications. ACF shall provide a training programme in fishing gear and methods, shipboard engineering, navigation and piloting, for Seychellois employees. The expenses of this training programme shall not be reimbursable.

IV.

Consideration

Consideration for this Agreement shall be, and is acknowledged to be, the promises mutually given herein. Each party acknowledges that these promises of future performance represent lawful consideration and that this Agreement shall be binding according to its terms.

V.

Applicable Law

This Agreement shall be governed by and construed in accordance with the law of the Republic of Seychelles. This provision shall be without prejudice, however, to the right of ACF employees to the benefits of the social legislation of the French Republic to the extent those benefits may be more generous than those of the Republic of Seychelles.

VI.

Disputes and Enforcement

Any action to enforce the provisions of this Agreement shall be brought in a court of competent jurisdiction of the Republic of Seychelles, and each party consents to be sued in such court. Any judgment obtained in such court shall be enforceable in other national courts including the courts of the French Republic if necessary to give effect to such judgment.

ALTERNATE

[Any dispute with respect to the terms and conditions of this Agreement shall be referred for binding arbitration to the International Chamber of Commerce.]

VII.

Term

This Agreement shall be effective for five (5) years from the effective date. It may be extended by agreement of the parties. Either party may withdraw from this Agreement by giving one year's prior notice in writing of such withdrawal. In the event either party to the Agreement between ACF and DEVCO dated _____, 1978, withdraws from that Agreement, or in the event that Agreement expires of its own force prior to the expiry of this Agreement, then this Agreement shall expire at the same time as such withdrawal or expiry.

VIII.

Effective Date

This Agreement is effective upon signature by the below-indicated authorized representatives of ACF and MANCO.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of _____, 1978.

SEYCHELLES TUNA FISHERIES
MANAGEMENT COMPANY, LTD.

By _____ (L.S.)
Its President

ARMEMENT COOPERATIF FINISTERIEN

By _____ (L.S.)
Its President

Victoria,
Republic of Seychelles

Contract No. 3

MANAGEMENT CONTRACT BETWEEN SEYCHELLES
TUNA FISHERIES DEVELOPMENT COMPANY, LTD.
AND SEYCHELLES TUNA FISHERIES
MANAGEMENT COMPANY, LTD.

I.

Parties

This Contract is made by and between the Seychelles Tuna Fisheries Development Company, Ltd. (hereinafter referred to as "DEVCO"), a Seychelles corporation created by Presidential Decree dated , 1978, with registered offices at Victoria, Republic of Seychelles, and the Seychelles Tuna Fisheries Management Company, Ltd. (hereinafter referred to as "MANCO"), a Seychelles company with registered offices at Victoria, Republic of Seychelles.

II.

Purpose of the Contract

The purpose of this Contract is to give effect to certain plans of the Government of Seychelles for the development of the high seas tuna fishery in the Indian Ocean. By Presidential Decree dated , 1978, the Republic of Seychelles created DEVCO in order to develop these tuna fishery resources and to own and enjoy the profits of a fleet of tuna fishing vessels and related shoreside fish processing and refrigerating equipment, all of which has been provided under a series of international arrangements, agreements and loans. On , 1978, DEVCO and Armement Cooperatif Finisterien ("ACF"), for the better achievement of Seychellois objectives in the conservation, management and exploitation of these tuna fishery resources, entered into an Agreement for the establishment of MANCO. The present Contract implements that Agreement with respect to DEVCO's and MANCO's obligations.

III.

Obligations of the Parties

In accordance with the Agreement between DEVCO and ACF dated , 1978, DEVCO has purchased four tuna boats. DEVCO will charter these vessels to MANCO, for the consideration of one Rupee per vessel per year, for the period of this Contract for the purpose of their efficient operation in the Indian Ocean tuna fishery. Title to these vessels shall at all times remain in DEVCO.

DEVCO will also lease to MANCO the cold storage plant and other related fish processing equipment now owned by DEVCO at Victoria, Republic of Seychelles. The annual rental for the plant and related fish processing equipment shall be one Rupee.

MANCO, in turn, shall be responsible for the general conduct of operations of the vessels and plant and related fish processing equipment referred to above. This shall include exploratory and commercial tuna fishing, processing and marketing in Seychelles and for export. No fish caught by MANCO vessels shall be exported if a market for such fish exists in Seychelles. For its efforts, MANCO shall be entitled to a management fee consisting of an amount equivalent to its reasonable expenses plus 10% thereof, up to an annual maximum of 2.5% of the annual turnover of MANCO minus any payments on balances due to the Caisse Centrale de Cooperation Economic. MANCO shall not itself, however, make payments to the Caisse Centrale.

MANCO shall not, without the prior written consent of DEVCO, purchase vessels, vehicles, aircraft, real property or other capital assets of a value over XX,XXX Rupees. DEVCO shall also not initiate lines of credit, or in any manner encumber property to which it does not have legal title, including such vessels and other property that may be placed in its charge by DEVCO or Armement Cooperatif Finisterien (hereinafter referred to as "ACF").

MANCO shall consult at least monthly with DEVCO on the general conduct of the business, including marketing strategies, and shall make policy recommendations to DEVCO and promptly implement the policy instructions provided by DEVCO. MANCO shall submit to DEVCO such written and oral reports as DEVCO may from time to time require, and shall submit to DEVCO and ACF complete financial statements monthly and at such other times as DEVCO or ACF may request.

DEVCO shall have the right to inspect the books and records of MANCO at all reasonable times with or without notice to MANCO or ACF.

During the term of this Contract, MANCO shall take out and prepay sufficient insurance to protect DEVCO in respect of the possible loss of or damage to DEVCO's vessels and such other property as DEVCO may, in accordance with this Contract, place in MANCO's charge. MANCO shall also be responsible for the procurement of appropriate liability insurance.

Title to all fish caught by or on account of MANCO, whether or not from vessels owned by DEVCO shall lie in DEVCO, and shall be marketed at the prevailing market prices by MANCO for the account of DEVCO.

During the time MANCO is responsible for the operation of DEVCO's vessels and shoreside equipment, MANCO shall pay the salaries and customary social and operational expenses of the vessels and equipment, and the crews and other personnel. Manning of the vessels and shoreside equipment shall be as determined by MANCO, except that officers of the vessels shall be nominated by ACF subject to the approval of MANCO, which approval shall not be unreasonably withheld. MANCO shall, upon the request of DEVCO, add to the crew of each vessel a maximum of ten fishermen of Seychellois nationality, who shall be compensated commensurate with the compensation paid to other members of the crews with similar qualifications. MANCO employees of Seychellois nationality assigned to the crews of vessels owned by DEVCO shall be included within a training programme in fishing gear and methods, shipboard engineering, navigation and piloting.

IV. Consideration

Consideration for this Contract shall be, and is acknowledged to be, the promises mutually given herein. Each party acknowledges that these promises of future performance represent lawful consideration and that this Contract shall be binding according to its terms.

V. Applicable Law

This Contract shall be governed by and construed in accordance with the law of the Republic of Seychelles. This provision shall be without prejudice, however, to the right of MANCO employees of French nationality to the benefits of the social legislation of the French Republic to the extent those benefits may be more generous than those of the Republic of Seychelles.

VI. Disputes and Enforcement

Any action to enforce the provisions of this Contract shall be brought in a court of competent jurisdiction of the Republic of Seychelles, and each party consents to be sued in such court. Any judgment obtained in such court shall be enforceable in other national courts including the courts of the French Republic if necessary to give effect to such judgment.

ALTERNATE

Any dispute with respect to the terms and conditions of this Contract shall be referred for binding arbitration to the International Chamber of Commerce.

VII.
Term

This Contract shall be effective for five (5) years from the effective date. It may be extended by agreement of the parties. Either party may withdraw from this Contract by giving one year's prior notice in writing of such withdrawal. In the event either party to the Agreement between ACF and DEVCO dated _____, 1978, withdraws from that Agreement, or in the event that Agreement expires of its own force prior to the expiry of this Agreement, then this Contract shall expire at the same time as such withdrawal or expiry.

VIII.
Effective Date

This Contract is effective upon signature by the below-indicated authorized representatives of DEVCO and MANCO.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of _____, 1978.

SEYCHELLES TUNA FISHERIES
DEVELOPMENT COMPANY, LTD.

By _____ (L.S.)
Its President

SEYCHELLES TUNA FISHERIES
MANAGEMENT COMPANY, LTD.

By _____ (L.S.)
Its President

Victoria,
Republic of Seychelles

TECHNICAL REPORTS OF THE INDIAN OCEAN PROGRAMME

1. Iran - Formation of a Fisheries Development Branch within the ADBI. Labon, A., IOP/TECH/75/1.
2. Pêcherie de Crevettes - Rapport au Gouvernement de la Republique Malgache. Labon, A., IOP/TECH/75/2 (not published).
3. Fisheries Development Possibilities in the Republic of Kenya. Labon, A., IOP/TECH/75/3.
4. A Report on the Building Up of a Statistical System for the Collection of Marine Fisheries Statistics in the United Arab Emirates. Banerji, S.K., IOP/TECH/75/4.
5. Report to the Ministry of Agriculture and Fisheries - United Arab Emirates. Labon, A., IOP/TECH/75/5.
6. Some Developments in the Tuna Fisheries in the Indian Ocean. Kearney, R.E., IOP/TECH/75/6.
7. Statistical System of Marine Fisheries in Mauritius. Banerji, S.K., IOP/TECH/76/7.
8. Establishment of an Agricultural and Fisheries Development Authority in the United Arab Emirates. Gustafsson, N. and G.K.F. Moore, IOP/TECH/76/8.
9. United Arab Emirates - Programme of Development of Fishery Harbours and Landing Places Reconnaissance Survey Report. Guckian, W., IOP/TECH/76/9.
10. Fishery Statistical System in Sri Lanka. Banerji, S.K., IOP/TECH/76/10.
11. Summary Report on Cruise of the R/V SHOYO MARU in the North Arabian Sea. Yamanaka, H., Y. Nishigawa, J. Morita (translated and edited by S. Hayasi, Indian Ocean Programme), IOP/TECH/76/11.
12. The Sultanate of Oman Five Year Fisheries Development Plan. Labon, A., IOP/TECH/77/12 (not published).
13. Fisheries and Marketing in the Yemen Arab Republic. Campleman, G., V. Perovic and B. Simons, IOP/TECH/77/13.
14. Summary Report on Cruise of the R/V SHOYO MARU in the North Arabian Sea. Yamanaka, H., M. Yukinawa and I. Nakamura, IOP/TECH/77/14.
15. Report of the Joint Mission to Plan Development of the Sardinella Fisheries in the Bali Strait, IOP/TECH/77/15.
16. Markets for Fish Meal in the Near East Region. Naylor, J., IOP/TECH/78/16.
17. Development of Fisheries in the Exclusive Economic Zone of Sri Lanka. Campleman, G., IOP/TECH/78/17.
18. Implications of the Extended Zones of Maritime Jurisdiction for the Fishing Industry of Thailand. Labon, A., J. Carroz and J. Gulland, IOP/TECH/78/18 (restricted).
19. Report of a Mission to Examine the Implications of the New Ocean Regime for Fisheries Development in Somalia. Silva, L.I.J., R.L. Payne, J.J. Kamona and G.F.K. Moore, IOP/TECH/78/19 (restricted).

20. Development of Fisheries in the Exclusive Economic Zone of the Seychelles. Payne, R.L., M. Savini, IOP/TECH/78/20 (restricted).
21. Small-Scale One Boat Purse Seining in Sri Lanka. Pajot, G., IOP/TECH/78/21.
22. Legal and Institutional Aspects of Fisheries Management in Sri Lanka with Particular Reference to the Control of Foreign Fishing in the Exclusive Economic Zone. Moore, G., IOP/TECH/78/22 (restricted).
23. Monitoring and Control Systems for Fisheries in the Exclusive Economic Zone of Bangladesh. Moore, G., IOP/TECH/78/23 (restricted).
24. United Republic of Tanzania: Fisheries Legislation in Zanzibar. Christy, L.C., IOP/TECH/79/24 (restricted).
25. Fish Trade in the Near East Region. Hotta, M., IOP/TECH/79/25.
26. Western Indian Ocean Fishery Resources Survey. Report on the Cruises of the R/V PROFESSOR MESYATSEV, December 1975 - June 1976/July 1977 - December 1977 by Birkett, L., IOP/TECH/79/26 (in preparation).
27. Improvement and Expansion of the Karachi Fish Harbour. Breimer, M., IOP/TECH/79/27.
28. Remise en Service du Centre National de Recherches Oceanographiques (CNRO) a Nosy Bé, Madagascar. Jitts, H., and D. Sahrhage, POI/TECH/79/28
29. Marine Fisheries Legislation in Kenya. Christy, L.C., IOP/TECH/79/20
30. Legal and Institutional Aspects of Fisheries Management and Development in the Exclusive Economic Zone of the Republic of Seychelles. Savini, M. and B.H. Dubner, IOP/TECH/79/30.

