



NATIONAL PLATFORM FOR SMALL SCALE FISHWORKERS

Memo No. NPSSFW/Conv/15/21

July 30, 2021

To –

**Dr. Jujjavarapu Balaji,
Joint Secretary,
Department of Fisheries,
Ministry of Fisheries, Animal Husbandry and Dairies,
Government of India.**

Sir,

The response of National Platform on the Indian Marine Fisheries Bill 2021 is enclosed.

We are thankful to Sri J. N. Swain, Secretary, Dr. Sanjay Pandey, Assistant Commissioner and you for providing us with a patient hearing yesterday and explaining the issues involved in framing of the Bill.

We are committed to work with the Department for the betterment of the small scale fisheries of the country.

With Regards,

**Pradip Chatterjee,
National Convener,
NPSSFW.**



NPSSF Submission on Indian Marine Fisheries Bill 2021

Foreword:

NPSSF welcomes the present initiative taken by the Department of Fisheries, Government of India to enact legislation for fishing in the Indian Exclusive Economic Zone beyond the territorial waters. This has been a long-standing demand of the country's marine fishing communities and their organisations. Earlier efforts taken by the Government in the matter participated by us as and when called for, did not come to fruition for reasons not known to us.

NPSSF also acknowledges the effort taken by the Department of Fisheries, Government of India to meet its representatives on a web meeting on 29.07. 2021 and is thankful to the respected Secretary, Joint Secretary and Assistant Commissioner of the Department for giving a patient and cordial hearing.

But, NPSSF is extremely unhappy with the lack of opportunity for stakeholders' consultation on the present IMFB 2021. The bill has not been translated in regional languages of all coastal states of the country thus rendering it incomprehensible to the largest stakeholders – the marine fishing communities. The Government of India, in the Department of Fisheries also failed to take any initiative to hold stakeholders' consultation on the bill in the coastal regions of the country.

As proposed by the NPSSF representatives during the meeting with the Department of Fisheries GoI, a substantive submission on the text of the IMFB 2021 is being made as in the following-

The main objections of NPSSF regarding the text of present IMFB 2021 have been:

1. Failure to reiterate the overarching principles enshrined in National Policy on Marine Fisheries 2017 to be followed by the present bill.
2. Wrong definition of 'Small Scale Fisheries'. All kinds of fishing boats including non-motorised, motorised and mechanised are included in the small-scale fisheries in the present bill. This is going to preclude the right of actual small-scale fishers to preferential access to fish resources and other entitlements regarding finance, infrastructure and welfare.
3. Lack of the right of participation of the small-scale fishers in the framing of rules and constitution of bodies to be made for the execution of the proposed act which include – MCS, measures for promotion of livelihoods and socio-economic well-being of traditional and small-scale fishers, Marine Fisheries Development and Management Plans, Marine Fisheries Policy, 'Consultative Committee' for policy guidance and adjudication of violations.
4. Lack of guidelines for consideration of available resource and capacity of fishing with application of scale subsidiarity in licensing of fishing boats.
5. Lack of statutory guidelines for migrant and vessel crew fish workers who are at work on larger vessels and fishing efforts.

It is quite obvious that the proposed Act can be functional only on adoption of the relevant Rules for its application. NPSSF strongly recommends scope of participation of small scale fishers and their organisations in preparation of the Rules.



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Comments on the text of the IMFB 2021 (as per the 23rd July draft):

Preamble: The preamble should reiterate the seven pillars mentioned in the NPMF, 2017 as overarching principles guiding the instrument and reworded as in the following –

A Bill drawn under the principles of sustainable development, socio-economic upliftment of fishers, principle of subsidiarity, partnership, inter-generational equity, gender justice and precautionary approach to promote the livelihoods and socio-economic well-being of traditional and small-scale fishers; provide for the sustainable development of fisheries resources in the Exclusive Economic Zone of India; the responsible harnessing of fisheries in the High Seas by the Indian Fishing Vessels; repeal the Maritime Zones of India (Regulation of Fishing by Foreign Vessels) Act, 1981 and for matters connected therewith and incidental thereto.

Chapter I:

Definition 3 (e): **“fishers” means “fishermen” and “fisherwomen” engaged in fishing and fishing related activities for livelihood or profit** should be replaced by:

“fishers” means “fishermen”, “fisherwomen” and “fish workers” engaged in fishing and fishing related activities for livelihood or profit;

Definition 3 (n): **“Indian fishing vessel” means a fishing vessel or a fishing boat owned by Indian national and registered under the provisions of the Merchant Shipping Act, 1958 or any other Act notified by the Central Government;** should be replaced by:

“Indian fishing vessel” means a fishing vessel or a fishing boat fully owned (free-hold title) by Indian national and registered under the provisions of the Merchant Shipping Act, 1958 any other Act notified by the Central Government;

Definition 3 (y): **“small-scale fishers” means owner-operated or entrepreneurship fisheries (not by large firms or companies) using fishing vessels less than 24-meter length overall, using relatively small amount of capital and energy, making single-day or multi-day fishing trips, providing for subsistence, domestic consumption or export;** should be replaced by:

“small-scale fishers” means owner-operated fisheries (not by large firms or companies) using non-motorized fishing boats and motorized-non mechanical fishing vessels, using relatively small amount of capital and energy, making single-day or multi-day fishing trips, providing for subsistence, domestic consumption or export and includes traditional and artisanal fishers”

Chapter II:

Sub-section 5: **On expiry of 180 days from the date of commencement of this Act, no Indian fishing vessels shall engage in fishing and fishing related activities within the exclusive economic zone and in the high seas without a valid licence issued by the licensing authority under this Act** should be replaced by:

On expiry of two years from the date of coming in force of this Act through prescribed relevant Rules, no Indian fishing vessels shall engage in fishing and fishing related activities within the exclusive economic zone and in the high seas without a valid license issued by the licensing authority under this Act.

Sub-section 6: **The licensing authority of the State Government duly authorised to grant licence for fishing under the Marine Fishing Regulation Act of the State shall be the licensing authority for the purposes of this Act,** an addition should be made as follows:

6 (a): *The licensing authority of the State Government duly authorised to grant licence for fishing under the Marine Fishing Regulation Act of the State shall be the licensing authority for the purposes of this Act.*

6 (b): *There shall be a National Authority that shall look after and coordinate the issues related to licensing from the national perspective including marine fish resources , capacity and method of fishing.*



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Sub-section 7 (4): **In granting a licence under sub-section (3), the licensing authority shall have regard to the seaworthiness, safety and manning condition of the fishing vessel as prescribed under the Merchant Shipping Act, 1958 and matters relating to protection of national security of India, maintenance of law and order or any other matter of public interest should be replaced by:**

In granting a licence under sub-section (3), the licensing authority shall have regard to:

- (a) the seaworthiness and safety of the fishing vessel as prescribed under the Merchant Shipping Act, 1958;*
- (b) manning and labour conditions under international conventions (ILO-188) and relevant national Labour Codes;*
- (c) manner of fishing, correlation between effort and stock, and principle of scale-subsidiarity under Marine Fisheries Development and Management Plans in accordance with the National Marine Fisheries Policy as may be prescribed.*

Sub-section 12: **The Central Government shall notify the national plan of action to prevent, deter and eliminate any form of illegal, unreported and unregulated fishing activities and the violations with regard to illegal, unreported and unregulated fishing shall be dealt under relevant sections of this Act** should be modified to include fishers and their organisations as follows:

The Central Government shall notify, in consultation with fishers and their organisations and the State Governments, the national plan of action to prevent, deter and eliminate any form of illegal, unreported and unregulated fishing activities and the violations with regard to illegal, unreported and unregulated fishing shall be dealt under relevant sections of this Act.

Sub-section 13 (2): **The Central Government in consultation with the State Governments shall by notification regulate, restrict and prohibit any explosive substance, destructive materials or methods of fishing** should be modified to include fishers and their organisations as follows:

The Central Government in consultation with fishers and their organisations and the State Governments shall by notification regulate, restrict and prohibit any explosive substance, destructive materials or methods of fishing.

Sub-section 14 (1): **The Central Government shall, from time to time, prepare the National Marine Fisheries Policy, in consultation with the State Governments for sustainable development of marine fisheries resources and welfare of fishers, and publish the National Marine Fisheries Policy; and Provided the Central Government may, from time to time, review and revise the National Marine Fisheries Policy, in consultation with the State Governments** should be modified to include fishers and their organisations as follows:

The Central Government shall, from time to time, prepare the National Marine Fisheries Policy, in consultation with fishers and their organisations and the Coastal State Governments for sustainable development of marine fisheries resources and welfare of fishers, and publish the National Marine Fisheries Policy; and Provided the Central Government may, from time to time, review and revise the National Marine Fisheries Policy, in consultation with the fishers and their organisations and State Governments.

Sub-section 14 (2): **The Central Government may, from time to time, in consultation with the stakeholders notify one or more Marine Fisheries Development and Management Plans in accordance with the National Marine Fisheries Policy. Provided that if the Marine Fisheries Development and Management Plan is in relation to any area within the territorial waters of India, such plan shall be formulated in consultation with the State Government under whose jurisdiction the area of the territorial waters fall** should be modified to:

The Central Government may, from time to time, in consultation with the stakeholders notify one or more Marine Fisheries Development and Management Plans in accordance with the National Marine Fisheries



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Policy. The Marine Fisheries Development and Management Plan shall be formulated in consultation with fishers and their organisations and Coastal State Governments.

Sub-section 14 (4): The Central Government in consultation with the State Government may take up fisheries development activities including creation of artificial reefs, sea ranching for enhancing fish stock, and promote recreational fishing, aqua-sports, marine tourism and any other activity for creation of additional livelihood opportunities for traditional and small-scale fishers should be replaced as follows:

The Central Government in consultation with fishers and their organisations and the Coastal State Government may take up fisheries development activities for enhancing fish stock and for creation of additional livelihood opportunities for traditional and small-scale fishers, by adopting the principle of scale subsidiarity.

Sub-section 14 (5): The Central Government may, from time to time, in consultation with stakeholders and based on fishery data, notify no fishing zones, spatial and temporal closures for such area or areas and for such period as notified, in order to ensure safety of fishers during the monsoon season when seas are rough, protection of fish species during the breeding season, scientific understanding and sustainable utilisation of fishery resources and for conservation of fish stocks and for any other matter of national interest should have an addition as follows:

The Central Government may, from time to time, in consultation with stakeholders, including fisher and their organisations, and based on fishery data, notify no fishing zones, spatial and temporal closures for such area or areas and for such period and in respect of fishing methods and categories, as notified, in order to ensure safety of fishers during the monsoon season when seas are rough, protection of fish species during the breeding season, scientific understanding and sustainable utilisation of fishery resources and for conservation of fish stocks and for any other matter of national interest.

Section 15: The Central Government in consultation with State Governments shall take measures for promotion of livelihoods and socio-economic well-being of traditional and small-scale fishers as prescribed should be modified as follows:

The Central Government in consultation with State Governments shall take measures for promotion of livelihoods and socio-economic well-being of traditional and small-scale fishers as prescribed, by adopting the principle of scale subsidiarity.

Section 16: The Central Government may authorise the State Governments to grant a special licence for allowing recreational fishing, aqua-sports, marine tourism and any other activity in accordance with such terms and conditions, as prescribed should be deleted.

Section 18: The Central Government may, through a special licence, allow a vessel to carry out survey, scientific research or investigation related with fisheries including experimental fishing in accordance with such terms and conditions, as prescribed should be modified to include fishers and their organisations as follows:

The Central Government may, through a special licence, allow a vessel to carry out survey, scientific research or investigation related with fisheries including experimental fishing in accordance with such terms and conditions, as prescribed, in consultation with fishers and their organisations.

Chapter III:

Section 20: The Central Government shall constitute and notify a Consultative Committee on Marine Fisheries in the Department of Fisheries, Government of India with representation from Centre and States including such organizations, experts and institutions for providing policy guidance on marine fisheries development, fishermen welfare and implementation of this Act must explicitly mention fishers and their organisations:



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The Central Government shall constitute and notify a Consultative Committee on Marine Fisheries in the Department of Fisheries, Government of India with representation from Centre, States and fishers and their organisations, including such organizations, experts and institutions for providing policy guidance on marine fisheries development, fisher's welfare and implementation of this Act.

Chapter IV:

Section 21: The Central Government may, by notification, appoint an officer or a subordinate officer of the Coast Guard constituted under the Coast Guard Act, 1978, or any other officer of the Central Government or officer of the State Government in consultation with that Government, as it may consider necessary, as authorised officer to exercise the powers conferred on and discharge the duties imposed upon the authorized Officer, under this Act for such class or classes of vessels in such area or for such activities as may be specified in the notification should have a sub-section added as follows:

21 (a) The Central Government may, by notification, appoint an officer or a subordinate officer of the Coast Guard constituted under the Coast Guard Act, 1978, or any other officer of the Central Government or officer of the State Government in consultation with that Government, as it may consider specified in the notification

21 (b) The Coast Guard officer, in enforcing the provisions of this Act, will do so in Joint Coordination with an Officer from the Central or State Fisheries Department as prescribed.

Section 23: The powers of authorized officer with regard to activities and vessels operating under special licence under section-16 and section-18 shall be as notified by the Central Government, the text "section-16" shall be deleted.

Chapter V:

Sub-section 25 (3): Failure to comply with the terms and conditions of the special licence granted under section 16 and section 18 shall be punishable with fine which may extend up to one lakh rupees and suspension or cancellation of licence, the text "section 16" shall be deleted.

Chapter VI:

Section 35 (1): No suit, prosecution or other legal proceeding shall lie against the authorised officer or any person for anything which is done in good faith or intended to be done in the discharge of his duty in pursuance to the provisions of this Act and;

Section 35 (2): No suit or other legal proceeding shall lie against the Government for any damage caused, or likely to be caused, for anything which is done in good faith or intended to be done in pursuance of the provisions of this Act should be replaced as follows:

35. (1) No suit, prosecution or other legal proceeding shall lie against the authorised officer or any person for anything which is done in good faith or intended to be done in the discharge of his duty in pursuance to the provisions of this Act, provided adequate precautions are taken against the unnecessary damage to life and/or property of the concerned fishers.

35. (2) No suit or other legal proceeding shall lie against the Government for any damage caused, or likely to be caused, for anything which is done in good faith or intended to be done in pursuance of the provisions of this Act, provided adequate precautions are taken against the unnecessary damage to life and/or property of the concerned fishers as prescribed.

Sub-section 36 (1): The Central Government in consultation with the State Governments by notification, shall make such rules under this Act as prescribed to carry out the provisions of this Act. In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely: should be modified to include fishers and their organisations as follows:



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The Central Government in consultation with fishers and their organisations and the State Governments by notification, shall make such rules under this Act as prescribed to carry out the provisions of this Act. In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:

Section 38: If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary should be modified as follows:

If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, in consultation with fishers and the organisations and State Governments, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary

Schedule-I: Offences and Penalties for Foreign fishing vessels

With regards to the Schedule-I, NPSSFW submits that penalties for Foreign fishing vessels be distinguished on the basis of the flag of the Foreign fishing vessel. To this effect, a separate Schedule within the Act be inserted for fishing vessels flagged to countries with which India shares an International Maritime Boundary Line (IMBL). The NPSSFW is of the opinion that a regional dialogue and cooperative mechanism be put in place with the countries of Pakistan, Bangladesh, Sri Lanka and Mauritius in order to arrive at a reciprocated schedule of penalties that takes into cognizance the historical, regional and trans-boundary nature of marine fisheries with these countries.

Accordingly,

Title **“Schedule-I: Offences and Penalties for Foreign fishing vessels”** should be modified as follows to apply to non-IMBL countries:

Schedule-I: Offences and Penalties for Foreign fishing vessels flagged to non-IMBL shared countries

Schedule-I, Offences in “Contravention of Section 4”: **Any foreign fishing vessel found fishing in the maritime zones of India may be confiscated along with its gear and catch on board and the owner or operator or the master, as the case maybe, of such vessel shall be punishable,**

- (i) **with fine which may extend upto forty lakh rupees, or**
- (ii) **with imprisonment for a term which may extend to three years, or with both** should be reworded to eliminate the imprisonment clause as it violates provisions of UNCLOS and should be reworded as follows:

Any foreign fishing vessel found fishing in the maritime zones of India may be confiscated along with its gear and catch on board and the owner or operator or the master, as the case may be, of such vessel shall be punishable, with fine which may extend up to forty lakh rupees.