

ISSUE PAPER ON THE PHILIPPINE FISHERIES MANAGEMENT

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I. CONTEXT

The Philippines is beset by poverty and widespread environmental problems. Based on research studies conducted by the National Statistical Coordination Board, two out of five Filipino families today are now living in abject poverty. In fact, the poverty incidence in the country rose from 36.8 percent (1997) to 40 percent (2000) which means that there are more families that could not afford to meet the 2,000 calories daily requirement and other basic needs.¹

Meanwhile, the country's ecological condition is rapidly reaching unsustainable level including major marine ecosystems. Mangrove areas, the breeding ground for fishes and other marine species have significantly reduced from 418,990 hectares to 139,735 hectares as a result of land conversion ranging from commercial fishponds, beach resorts, residential to industrial estates. Mangrove forests are cut for firewood and construction purposes. Farther out in the oceans, the Bureau of Fisheries and Aquatic Resources (BFAR) reported that 70% of the 34,000 square kilometers of Philippine coral reef systems that serve as crucial habitats for marine species are already dead (as of 1998). They are destroyed by the use of cyanide, dynamite fishing, industrial pollution, dumping of domestic wastes and accumulation of silts coming from denuded watershed areas. These significantly reduced municipal fish production, which serve as the main source of livelihood for the 1.2 million marginal fishermen and the 7 million people that they support. Likewise, inland lakes and rivers throughout the country are not spared from environmental destruction. Freshwater resources are degraded by over fishing, extensive fish pen operations and unregulated discharge of urban and industrial wastes. No wonder that out of the country's 421 rivers, 50 of them were already declared biologically dead in 1994 (CEC:1994).²

To date, the Filipino population now numbering more than 78 million has already exceeded the carrying capacity of their natural environment. We all know that the more people there are the smaller each Filipino's share of the benefits from the environment. There are now fewer resources that can be used for infrastructure, roads, energy plants, wastes, water and food to feed a growing population that needs to be done in the most efficient manner and in a larger scale. This means more pesticides, fertilizers and forests cut down for fuel wood, human settlements and agriculture. It is projected that more people will be pushed farther into remote upland areas to find a place they can subsist. They will be forced to thrive on marginal areas such as upland where soil quality is poor and easily eroded. They may also be forced to live on critical areas such as riverbanks and sea walls, which threaten both human life and ecology.³

By and large, there is now a growing awareness of the importance of ecological links between land and water. Aside from the flow of people, another important connection is the flow of water and silt from rivers to the coastal areas. Under natural conditions in the uplands, this flow of nutrients would maintain a healthy ecosystem. However, degradation of uplands due to deforestation would cause soil erosion and siltation affecting the coastal ecosystems.⁴ As this happens, land-based pollution in the form of industrial wastes from cities, chemical fertilizers and pesticides from farmlands dissolved in the soil, rivers and creeks have further exacerbated the alarming rate of environmental degradation. This is a critical situation that needs urgent attention considering its serious implications to our nation's food security and the survival of the present and future generations.⁵

The Philippine fishery sector is one of the major industries that contribute to the country's economy, environment, and food security. It provides direct employment for 1.2 million Filipinos composed of municipal fishers, fishfarmers and commercial fishers (NSO, 2000). From the economic and environmental perspective, the coastal resources are important assets that should be managed properly by the government and other stakeholders because it is vital to our country's food security. In fact, fish and marine products supply up to 70% of the total animal protein intake and 30% of the total protein intake of Filipinos.

The Philippine fishery is ranked 12th among the 54 top fish producing countries in the world. In 1998, it has contributed 1.8 million metric tons of fish or 2.1% to the total world catch of 86.3 million metric tons (FAO Yearbook, 1998). According to BFAR, the fishing industry has contributed 4.3% of the country's Gross National Product (GNP) in 1991.

Unfortunately, there has been a decline of fisheries productivity due to overharvesting and loss of habitats. Per capita consumption of fish has declined from 37 kilograms (1990) to 28.5 kilograms (1994), a trend attributed to the diminishing supply of fish. While there are many reasons for such decline, the open access nature of resource exploitation is considered to be a primary cause. Overfishing, the use of destructive fishing methods and habitat conversion has exacerbated the alarming degradation of coastal area. Marine environment has been increasingly threatened by pollution, reclamation and conversion of fragile habitats and unsustainable consumption habits. This alarming situation is manifested by increasing frequency of the red tide in a growing number of semi-enclosed bays.

Over the years, there has been a dramatic rise in the number of coastal dwellers who lack economic alternatives that would make them less dependent on the natural resource base. The coastal areas composed of 815 coastal and 25 cities are under increasing pressure from rapid population growth at 2.4% per annum (ADB 1993; Tan 1993). Most fisher families belong to the poorest of the poor. With the declining productivity of coastal waters combined with the lack of alternative sources of income, skills, capital, these families have made fisheries their '*livelihood of last resort*.'

In this context, the Philippine government created national agencies and special bodies to streamline operations for fisheries management in order to address the major issues confronting coastal fisheries characterized by intensive, competitive exploitation, conflicts between gear groups, resource depletion and enforcement problems (*Pomeroy and Pido, 1995*). The main objective of Philippine fisheries management is to use and conserve the fishery resources sustainably so that, they retain the capacity to promote optimum sustainable benefits for the Filipinos.

However, the inability of the national government to effectively implement fishery laws and policies resulted in weak arrangement of property rights in the Philippine fishery that is virtually unrecognized. The lack of legitimacy of the existing management authorities in fishery created a condition called as *de facto* open access whereby, state management is virtually absent and access is free and open to all. Some influential people in the government even made use of this vacuum as opportunity to create more profit at the cost of destruction of the resources by reversing fishery policies at their advantage (Aguilar III, 1999).⁶

By virtue of Republic Act 7160 or the 1991 Local Government Code (LGC), the local government units (LGUs) are now given more power to empower grassroots communities take decisions concerning their development through capacity building and the formation of self-help groups. The LGC provided the legal framework and mechanisms for people's participation, which implies that the non-government organizations (NGOs) and the people's organizations (POs) may now be considered active partners of the LGUs in local governance and other community development activities. In fact, section 35 of LGC clearly states that LGUs may enter into joint ventures and other cooperative arrangements with the NGOs and POs to facilitate basic social services and implement alternative livelihood projects aimed at developing local enterprises to diversify fisheries.

The LGC granted local government units a number of powers including the management of municipal or near shore waters. The LGUs and local communities are now given preferential rights over their municipal waters to impose rentals, services and resources for a common purpose. Peoples' organizations and cooperatives of marginal fishers are granted preferential rights to fishing privileges within municipal waters such as the establishment of fish corrals and gathering fish fry.

Indeed, the approaches to management and governance of fisheries resources are undergoing a significant transition. In the last decade, there has been a paradigm shift from stock-and-species based management to conservation and ecosystem based management. Governance is shifting toward community-based and co-management approaches, which emphasize the decentralization of management authority and responsibility to the local government units and the active participation of small fishers in coastal resource management programs and projects.⁷

Moreover, policies have shifted from open and free access, sectoral fishery policy, command-and-control instruments (the use of various harvest control regulations) and top-down risk prone approaches to limited entry, user rights and user fees, coastal zone and intersectoral policy, command and control macro-economic instruments and participatory precautionary approaches (Garcia 94). Governance of fisheries is shifting toward the use of market regulation vis-à-vis community-based management and comanagement. It is widely recognized that resources can be better managed when small fishers and other stakeholders are actively involved in the management of resources and when use rights are allocated – either individually or collectively in order to have greater access and control the resources.⁸

Fisheries comanagement can be defined “as a partnership in which government, the community of local resource users (fishers), external agents (NGOs, academic and research institutions) and other fisheries and coastal resource stakeholders (boat owners, fish traders, money lenders, tourism establishments, etc.) share the responsibility and authority for making decisions about the management of a fishery.” It seeks equity in fisheries management by empowering the weak or marginalized sectors in a community enabling them to actively participate in the management of fisheries resources. Comanagement implies that self-involvement of fishers in the management of resource will lead to a stronger commitment to comply with the management strategy and sustainable resource use.

Basically, there are two categories of comanagement, namely: (1) Community centered comanagement, and (2) stakeholder comanagement. A good example of the former category is the community-based resource management which is characterized by people-centered, community oriented, resource-based, and partnership which can be found in the Philippines.

Stakeholder comanagement, on the other hand, is commonly found in developed countries and can best be characterized as government-industry partnership that involve user groups in the making of resource management decisions. Unlike the former category, the latter gives little attention to the empowerment of small fishers and the promotion of community development activities that will address the issues of food security, growth with equity.

It can be noted that community-centered co-management is effective in so far as managing nearshore resources is concerned. But it may not be as effective for offshore resources (i.e., from 15 km and beyond) like stakeholder co-management. A concrete example of the stakeholder co-management is the establishment of the National Fisheries and Aquatic Resources Management Council (NFARMC) for national policies represented by the government, fisherfolk and fishworkers, commercial fishing and aquaculture operators and the processing sectors, NGO and the academe. Apparently, the stakeholder co-management is designed to accommodate stakeholder participation from various sectors.

Republic Act 7160 was further supported with the enactment of Republic Act 8550, otherwise known as, the Philippine Fisheries Code. Under RA 8550, the State declared food security as the overriding consideration in fisheries management. It shall ensure the attainment of the following objectives: (1) *Conservation, protection and sustained management of the country's fishery and aquatic resources*; (2) *poverty alleviation and the provision of supplementary livelihood among municipal fisherfolk*; (3) *improvement of productivity of aquaculture within ecological limits*; (4) *optimal utilization of offshore and deep-sea resources*; and (5) *upgrading of post-harvest technology*.

On June 13, 2001, Secretary Heherson Alvarez issued Department of Environment and Natural Resources Administrative No. 2001-17 (DAO 17) implementing Section 4 (58) of RA 8550. This measure laid down the implementing guidelines of delineating and delimiting the boundaries of municipal waters set at 15 kilometers from the shore. It applied the "*archipelagic principle*" which states that not only the shore of the mainland but also, the outlying islands can generate waters in favor of municipal small fishers. Hence larger areas of municipal waters can be protected against over fishing and over exploitation. It could also provide sustainable livelihood to marginal fishers and ensure the food security of our nation.⁹

As expected, the legality of DAO 17 has been questioned by the commercial fishers before the Regional Trial Court of Malabon City. They argued that by implementing DAO 17, the fishery sector will be adversely affected because many fishworkers will lose their jobs aside from undermining our nation's food security since the bulk of small pelagic fish, particularly the roundscad (*galunggong*), is caught by commercial fishers. The roundscad is commonly known as the poor man's food.

But before the Regional Trial Court could decide, the commercial fishers withdrew their case. The Committee of Representatives forwarded DAO 17 to the Department of Justice for legal opinion. The DOJ opinion was favorable to DAO 17 and even gave the National Mapping Resource Authority (NAMRIA) a 'go signal' to act as technical referee in facilitating the delineation of municipal boundaries. NAMRIA, which is under the Secretary of DENR, derived its mandate to delineate municipal waters from Sec. 123 of RA 8550.¹⁰

According to Engr. Enrique Macaspac of NAMRIA, the technical description of DAO 17 on Sec. 4 (58) of RA 8550 is very sound. It has not proven otherwise. NAMRIA has mapped the municipal waters of municipalities of at least forty (40) provinces. Validation of the municipal waters is going on.

Five years after RA 8550 has been enacted into law and tested on the ground, the Congress is scheduled to undertake mandatory review of the Philippine Fisheries Code in 2003. By its very provision, RA 8550 under Sec. 127 provides the opportunity to improve the law so that, fisheries policies and guidelines will remain relevant and responsive to changing times within the context neo-globalization. The civil society groups including the NGOs for Fisheries Reform (NFR) welcome the mandatory review as an opportunity to empower the NGO-PO community through conscientization and mass mobilization for policy advocacy and for constituency-building. By engaging into genuine dialogue and other participatory processes, the problems and issues of the marginalized fisherfolk can be raised for policy reforms along with lessons and insights gathered from the field, especially from the direct implementers of community-based coastal resource management programs. It is hoped that in the NFR regional consultations, grassroots experiences highlighting best practices on fisheries management can be used for policy advocacy while, preserving the gains of the marginalized fishers against countervailing forces hindering their progress.

II. PROBLEMS, ISSUES AND CONCERNS OF PHILIPPINE FISHERIES MANAGEMENT

The fishery resources that started out abundantly and freely available to all tend to become ecologically scarce and unsustainable in the long run. Unless their use is effectively regulated and controlled for the common good, the long-term outcome will be ecological disaster and food insecurity for all. These are the lessons we learned from the “*tragedy of the commons*” by Garret Hardin (1968).

Below is Matrix 1 indicating the various problems, issues and concerns of Philippine fisheries management gathered by the NGOs for Fisheries Reform (NFR) from various consultation/workshops involving multi-stakeholders and from secondary sources.

1. Unclear policy orientation on Philippine fisheries

Issues and Comments	Provisions	Policy Options
<p>Food security vs. Conservation</p> <p>With food security as the “overriding consideration”, this can be used to prioritize exploitation instead of conservation. It may also be used to justify decisions for importation or exportation of fish, and for commercial encroachment into municipal waters or other reserved areas</p>	<p>SEC. 2. Declaration of Policy - <i>a. to achieve food security as the overriding consideration in the utilization, management, development conservation and protection of fishery resources in order to provide the food needs of the population. A flexible policy towards the attainment of food security shall be adopted in response to changes in demographic trends for fish, emerging trends in the trade of fish and other aquatic products in domestic and international markets, and the law of supply and demand</i></p>	<p>Option 1: Amend the Declaration of Policy Chapter 1 (Sec.2, a)</p> <p>The provision should clearly state that in line with food security issues, conservation will be the primary consideration in the utilization, management and development of fisheries resources.</p> <p>Option 2: Food Security as overriding consideration but remove the term “flexible policy”</p> <p>This is to ensure that flexible policy will not be used to rationalize the importation or exportation of fish, and for commercial encroachment into municipal waters or other reserved areas.</p> <p>Option 3: Remove the “overriding consideration” clause</p>

Issues and Comments	Provisions	Policy Options
<p>Unclear concepts and definition of Integrated Coastal Area Management.</p> <p>There is no clear definition of “integrated coastal area management area.” It is not clear what is meant by this concept and there are no other directions to the government on how to pursue this kind of management.</p>	<p>SEC. 2. Declaration of Policy - f. <i>to manage fishery and aquatic resources, in a manner consistent with the concept of an integrated coastal area management in specific natural fishery management areas, appropriately supported by research, technical services and guidance provided by the State;</i></p>	<p>Option 1: Additional provision on Integrated Coastal Area Management Area.</p> <p>BFAR, in consultation with other stakeholders, to define clearly Integrated Coastal Area Management Area. The intention is to emphasize the importance of integrated coastal area management Area – its concepts, principles and processes to protect, enhance, manage and develop coastal resources.</p> <p>In addition, co-management concepts must be incorporated in the provision on Integrated Coastal Area Management Area.</p> <p>Option 2: Define clearly “Integrated Coastal Area Management Area” under Sec. 4: Definition of Terms</p> <p>BFAR to define clearly the concepts and processes of “Integrated Coastal Area Management Area” under Sec. 4: Definition of terms.</p>

2. Unsustainable and open-access condition of Municipal waters

The unsustainable and open access condition of our municipal waters resulted in increased fishing effort and competition among resource users. Left unabated, this will lead to the further destruction of coastal resources and marginalization of small-scale fishers by those with capital and technology.

Issues and Comments	Provisions	Policy Options
<p>Unclear process of delineation and delimitation of municipal waters</p> <p>The lack of legal documentation delineating and delimiting the municipal waters has resulted in over fishing and over exploitation of our nearshore fishing grounds due to the relentless encroachment of commercial fishers, with their highly exploitative fishing gears. Since the LGUs are having difficulty in establishing municipal boundaries, fishery law enforcement is difficult to implement to apprehend the violators. Based on actual experience, the commercial fishers retaliatory measure is to file a case of piracy against the deputized fishwardens who apprehended them taking advantage of the Strategic Legal Actions Against Public Participation (SLAPP).</p> <p>Without clear delineation and delimitation of municipal waters, this also leads to resource use conflicts due to ineffective fishery resource planning and management.</p>	<p>Sec 4 (58): Municipal Waters – <i>include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under Republic Act No. 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2) lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15) kilometers from such coastline. Where two (2) municipalities are so situated on opposite shores that there is less than thirty (30) kilometers of marine waters between them, the third line shall be equally distant from the opposite shore of the respective municipalities.</i></p>	<p>Option 1: Incorporate DAO 17 into RA 8550</p> <p>Incorporate DAO 17 into RA 8550 so that the delineation of municipal waters will be very clear in the law and making the policy irreversible against countervailing forces hindering the development of marginalized sectors.</p> <p>Option 2: Assert the preferential rights of Municipal Fishers by the LGUs</p> <p>Declare 15 km as close to commercial fishing and disallow commercial fishers from 10-15 km boundary.</p> <p>Option 3: Encourage inter-municipality cooperation among stakeholders</p> <p>BFAR to encourage inter-municipality cooperation among LGUs in coastal resource protection and mgt wherever possible. (e.g. common provisions in their municipal ordinances, joint operations in fishery law enforcement, among others)</p>

Issues and Comments	Provisions	Policy Options
<p>Commercial Fishers</p> <p>Illegal encroachment of commercial fishing vessels</p> <p>Illegal encroachment of commercial fishing vessels will reduce income tax of the LGUs aside from creating stiff competition at the detriment of small fishers. Unregulated fishing may likewise lead to over fishing and therefore, worsen the issues of food insecurity.</p>	<p>SEC. 18. Users of Municipal Waters- <i>All fishery related activities in municipal waters, as defined in this Code, shall be utilized by municipal fisherfolk and their cooperatives/org-anizations who are listed as such in the registry of municipal fisherfolk.</i></p> <p><i>The municipal or city government, however, may, through its local chief executive and acting pursuant to an appropriate ordinance, authorize or permit shall and medium commercial fishing vessels to operate within the then point one (10.1) to fifteen (15) kilometer area from the shoreline in municipal waters as defined herein, provided, that all the following are met:</i></p> <p><i>a. no commercial fishing in municipal waters with depth less than seven (7) fathoms as certified by the appropriate agency;</i></p> <p><i>b. fishing activities utilizing methods and gears that are determined to be consistent with national polices set by the Department.</i></p> <p><i>c. prior consultation, through public hearing, with the M/CFARMC has been conducted; and</i></p> <p><i>d. the applicant vessel as well as the ship owner, employer, captain and crew have been certified by the appropriate agency as not having violated this Code, environmental laws and related laws.</i></p> <p><i>In no case shall the authorization</i></p>	<p>Option 1: BFAR to assist LGUs by providing list of qualified commercial fishing vessels</p> <p>BFAR to issue list of qualified commercial fishing boats to operate within a close body of water such as bays, lakes, etc.</p> <p>BFAR to copy furnish all LGUs, MFARMC/BFARMC and other law enforcers.</p> <p>Option 2: LGUs should have the prerogative to decide over the management of their coastal communities/municipalities</p> <p>The exclusion of “outsiders” should be optional on the part of the LGU and the parties concerned should be able to settle differences or issues amicably.</p>

	<p>or permit mentioned above be granted for fishing in bays as determined by the Department to be in an environmentally critical condition and during closed season as provided for in Section 9 of this Code.</p>	
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Issues and Comments	Provisions	Policy Options
<p><i>Con't. on Commercial fishers</i></p> <p>Illegal encroachment of commercial fishing vessels</p> <p>This matter should be further discussed in conjunction with the grant of exclusive fishery privileges (sec. 53) since the registry may become the basis for exclusive grants. It is important to define clearly the purpose of registration.</p>	<p>Sec. 19: Registry of municipal fishers - <i>The LGU shall maintain a registry of municipal fisherfolk, who are fishing or may desire to fish in municipal waters for the purpose of determining priorities among them, of limiting entry into the municipal waters, and of monitoring fishing activities and/or other related purposes: Provided, That the FARMC shall submit to the LGU the list of priorities for its consideration.</i></p> <p><i>Such list or registry shall be updated annually or as may be necessary, and shall be posted in barangay halls or other strategic locations where it shall be open to public inspection, for the purpose of validating the correctness and completeness of the list. The LGU, in consultation with the FARMCs, shall formulate the necessary mechanisms for inclusion or exclusion procedures that shall be most beneficial to the resident municipal fisherfolk. The FARMCs may likewise recommend such mechanisms.</i></p> <p><i>The LGUs shall also maintain a registry of municipal fishing vessels by type of gear and other boat particulars with the assistance of the FARMC.</i></p>	<p>Option 3: LGUs should centralize the registration of licenses</p> <p>The registration at the LGU level should likewise deal with the double registration required by MARINA and the Philippine Coast Guard. The LGUs should be responsible in centralizing the registration of licenses so as to avoid duplication of roles and overlapping of functions.</p> <p>In addition, separate licenses should be required by the LGU from the commercial fishing vessels operating inside the 10.1 to 15 km zone.</p>

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Issues and Comments	Provisions	Policy Options
<p>Con't. on Commercial fishers</p> <p>Licensing as a legal means of exploiting fisheries resources by the commercial fishing vessels</p> <p>It should be clarified that if commercial fishing inside the 10.1 to 15 km zone is authorize, then separate licenses should be required by the LGU from the commercial fishing vessel operators.</p> <p>Is mere licensing a valid means for exploiting fisheries resources under the 1987 Constitution? This is because Sec. 2, Art XII of the 1987 Constitution prescribes co-production, joint venture, production sharing as the means for undertaking resource exploitation. Only small scale utilization by Filipino citizens comprises the exception. Thus, is the mode of issuing commercial fishing vessel and licenses constitutional? Perhaps there should be "illegalization" of this mode.</p> <p>In this regard, it is important to define clearly the purpose of registration. The registration at the LGU level should likewise deal with the double registration required by MARINA and the Philippine Coast Guard</p>	<p>Sec. 26: Commercial Fishing Vessel License and Other Licenses</p> <p><i>- No person shall operate a commercial fishing vessel, pearl fishing vessel or fishing vessel for scientific, research or educational purposes, or engage in any fishery activity, or seek employment as a fishworker or pearl diver without first securing a license from the Department, the period of which shall be prescribed by the Department: Provided, That no such license shall be required of a fishing vessel engaged in scientific, research or educational purposes within Philippine waters pursuant to an international agreement of which the Philippines is a signatory and which agreement defines the status, privileges and obligations of said vessel and its crew and the non-Filipino officials, of the international agency under which said vessel operates; Provided, further; that members of the crew of a fishing vessel used for commercial fishing except the duly licensed and/or authorized patrons, marine engineers, radio operators and cooks shall be considered as fisherfolk: Provided, furthermore, That all skippers/master fishers shall be required to undertake an orientation training on detection of fish caught by illegal means before they can be issued their fishworker licenses: Provided, /finally, That the large commercial fishing vessel license herein authorized to be granted shall allow the licensee to operate only in Philippine waters seven (7) or more fathoms deep, the depth to be certified by the NAMRIA, and subject to the conditions that may be stated therein and the rules</i></p>	<p>Option 4: LGUs should install mechanisms to ensure that licensing will not be a legal means of exploiting fisheries resources</p> <p>The LGUs should establish proper mechanisms to ensure that licensing will not lead to overexploitation of fisheries. Aside from effective fishery law enforcement, the issuance of licenses will greatly depend on environmental impact assessment studies, resource ecological assessment and other management tools that will help determine the state of the environment.</p> <p>A limit on the number of licenses must be placed depending on the CDP.</p>

	and regulations that may be promulgated by the Department.	
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Issues and Comments	Provisions	Policy Options
<p>Use of inappropriate fishing gears, methods and practices</p> <p>Due to unclear definition and classification of fishing gears in the municipalities, unregulated use of inappropriate fishing gears espousing unsustainable fishing methods and practices remain unchecked.</p> <p>However, it must be cleared that the issue on active/passive gears is extreme efficiency in sensitive fishing grounds and not necessarily destructive fishing. In fact, there are active fishing gears which may not necessarily be considered destructive and therefore, should be exempted from the BFAR's list of prohibited gears.</p> <p>In the Iloilo Conference, it was suggested that overfished species must be identified and the gears most associated with these species can be banned. However, it was pointed out that it might be easier to ban or regulate the capture of that species rather than, focusing on the method.</p>	<p>Sec. 4, No. 40 – Fishing gear – any instrument or device and its accessories utilized in taking fish and other fishery species.</p> <p><i>a. Active fishing gear – is a fishing device characterized by gear movements, and/or the pursuit of the target species by towing, lifting, and pushing the gears, surrounding, covering, dredging, pumping and seating the target species to impoundments; such as, but not limited to, trawl, purse seines, Danish seines, bagnets, paaling, drift gill net and tuna longline.</i></p> <p><i>b. Passive fishing gear – is characterized by the absence of gear movements and/or the pursuit of the target species; such as, but not limited to, hook and line, fishpots, traps and gill nets across the path of the fish.</i></p>	<p>Option 1: BFAR to elaborate its definition of active/passive fishing gears</p> <p>BFAR to come up with specific & accurate definition and classification of active/passive fishing gears.</p> <p>BFAR in cooperation of civil society should advocate for the review FAO 201 and include in the provisions a clear definition and classification of active/ passive fishing gears.</p> <p>Option 2: BFAR to issue Fishing Gear Efficiency Rate</p> <p>BFAR to study the efficiency of fishing gear and to issue periodic list of Fishing Gear Efficiency Rate. This will serve as basis in determining preference in resource planning and management</p> <p>Efficiency is dependent on the type of fishing ground and the status of fisheries. Sometimes, efficiency is affected by the number of gears used. For example, one corral may be appropriate but using three corral in series to cover the entire mouth of a river is over-efficient. The BFAR listing can only supply efficiency for one gear</p> <p>Option 3: BFAR to issue List of Overfished Species and ban/regulate the use of gears most associated with these species</p>

		BFAR, in consultation with LGU and other stakeholders, to conduct research studies identifying overfished species and the gears associated with these species. The results of the study will be the basis for banning/regulating the capture of overfished species considering the peculiarities of the municipalities.
Issues and Comments	Provisions	Policy Options
<p>Con't. on the Use of inappropriate fishing gears, methods and practices</p> <p>Classifying gears as active or passive is too sweeping and does not contextualize where the localized context where gear is used. This is the reason why there is so much controversy regarding beach seine. Beach seine is active yet, it is exempted since the penalty is on the boat operator/owner. For beach seine, fishing is done by the community pulling the seine and not by the boat, thus, there is no boat owner/operator to penalize.</p>	<p>Sec. 90: Use of Active Gear in the Municipal Waters and Bays and Other Fishery Management Areas <i>– It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears as defined in this Code.</i></p> <p><i>Violators of the above prohibitions shall suffer the following penalties:</i></p> <p><i>(1) The boat captain and master fisherman of the vessels who participated in the violation shall suffer the penalty of imprisonment from two (2) years to six (6) years:</i></p> <p><i>(2) The owner/operator of the vessel shall be fined from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) upon the discretion of the court.</i></p>	<p>Option 4: BFAR to issue guidelines for LGUs in preparing periodic list of Fishing Gear Efficiency Rate</p> <p>LGUs to regulate and monitor the use of destructive fishing gears in their municipalities using BFAR's guidelines on Fishing Gear Efficiency Rate.</p> <p>Option 5: LGUs in cooperation with organized fisherfolk organizations/cooperatives and other stakeholders will prepare the periodic list of Fishing Gear Efficiency Rate to be recommended for BFAR's approval and thereafter, made into a municipal ordinance.</p> <p>LGUs will conduct community consultations involving the fisherfolk and other stakeholders in the community in order to prepare periodic list of Fishing Gear Efficiency Rate for BFAR's approval. Upon approval, LGU shall pass a municipal ordinance regulating and monitoring the use of destructive fishing gears.</p>

Issues and Comments	Provisions	Policy Options
<p>Problems on fishery law enforcement</p> <p>Difficulty to enforce and monitor the use of active gears in the municipality</p> <p>There seems to be difficulty in enforcing penalties to fishers using active gears due to lack of human resources and budget for monitoring the use of active gear considered exploitative and destructive. In some areas, the participation of deputized fishwardens (Bantay Dagat) is waning due to lack of financial and political support from the LGUs.</p> <p>Another issue is that there is confusion between gear and method. Section 90 prohibits the method, not the gear. The difficulty is proving that this particular method was used for this gear. Example, a gill net can be passive if it is just set and it can be active if you use a scareline to drive fish into it. Same gear, same fish, different method, different efficiency.</p>	<p>Sec. 90: Use of Active Gear in the Municipal Waters and Bays and Other Fishery Management Areas – <i>It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears as defined in this Code.</i></p> <p><i>Violators of the above prohibitions shall suffer the following penalties:</i></p> <p>(1) <i>The boat captain and master fisherman of the vessels who participated in the violation shall suffer the penalty of imprisonment from two (2) years to six (6) years:</i></p> <p>(2) <i>The owner/operator of the vessel shall be fined from Two thousand pesos (P2,000.00) to Twenty thousand pesos (P20,000.00) upon the discretion of the court.</i></p>	<p>Option 1: BFAR to expand the provisions on deputation and prosecution of fishery resources by elaborating the deputation process and mechanism.</p> <p>BFAR to identify the right person or agency who must be fully authorized to implement the deputation process and mechanisms.</p> <p>Option 2: LGUs to provide financial, legal, logistical support including safety nets to assist Bantay-Dagat operations</p> <p>Encourage LGU to provide financial, legal and logistical support to assist the Bantay-Dagat operations.</p>

		Equally important is to ensure safety nets of deputized fish wardens by providing them SSS, life insurance and legal support
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Issues and Comments	Provisions	Policy Options
<p>Problems on fishery law enforcement</p> <p>Problems in monitoring, control and surveillance using deputized fishwardens</p> <p>By virtue of 7160 or the 1991 Local Government Code, the LGU should also be expressly allowed to create its own monitoring, control and surveillance within its municipal jurisdiction. We should consider whether the idea of using deputized fishwarden volunteers can really contribute to this monitoring, control and surveillance (MCS) system or explore other possible options that will strengthen fishery law enforcement needs.</p> <p>Lack of benefits and safety nets for the deputized fish wardens have resulted in their limited participation to strictly enforce fishery laws. Oftentimes, fishwardens are vulnerable to</p>	<p>Sec. 14: Monitoring, Control and Surveillance of Philippine Waters <i>- A monitoring, control and surveillance system shall be established by the Department in coordination with LGUs, FARMCs, the private sectors and other agencies concerned to ensure that the fisheries and aquatic resources in the Philippine waters are judiciously and wisely utilized and managed on a sustainable basis and conserved for the benefit and enjoyment exclusively of Filipino citizens.</i></p>	<p>Option 3: LGU to declare the allocation of share of administrative fine among stakeholders through a municipal ordinance</p> <p>LGUs to pass and approve municipal ordinance declaring the share of collective administrative fine from the violators of fishery ordinance to LGU (40%), deputized fish wardens (30%) and the community (30%) where the apprehending team reside. This is in recognition of the sacrifices of the deputized fish wardens to protect the territorial waters and generate income supporting development activities of their respective barangays and municipalities.¹⁰</p>

severe threats, legal actions, bribery and even corruption.		
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3. Inequitable Distribution of Resources

Resource use conflict arises when various stakeholders generally have open access to the coastal zone and its resources, but they have also conflicting uses for these. For instance, while the coastal zone is used as a source for fishers and gleaners, it is also used as a dumping ground for their waste.¹¹

Given the limited carrying capacity of the coastal areas, there is a need to rationalize the various uses of the resources because it is possible to have two conflicting objectives like maximizing fish production while at the same time, destroying the major marine ecosystem in the process, if the fish methods used are destructive (please see related topic Sec. 18 – Users of Municipal Waters in page 8).

Issues and Comments	Provisions	Policy Options
<p>Resource Use Conflict</p> <p>Unclear procedures and mechanisms on how to declare closed seasons to protect rare, threatened or endangered species.</p> <p>There should be a range of options and mechanisms for the LGU in protecting rare, threatened or endangered species.</p>	<p>Sec. 11: Protection of Rare, Threatened and Endangered Species. - <i>The Department shall declare closed seasons and take conservation and rehabilitation measures for rare, threatened and endangered species, as it may determine, and shall ban the fishing and/or taking of rare, threatened and/or endangered species, including their eggs/offspring as identified by existing laws in concurrence with concerned government agencies.</i></p>	<p>Option 1: BFAR as Policy Maker (Centralize)</p> <p>BFAR to issue implementing guidelines, procedure and mechanism on how to declare closed seasons to protect rare, threatened or endangered species.</p> <p>Option 2: LGU as Policy Maker and Resource Manager (Decentralize)</p> <p>The LGU to use the implementing guidelines, procedure and mechanisms of BFAR as a guide in preparing its own municipal ordinance concerning the declaration of closed seasons to protect rare, threatened or endangered species. The implementing guidelines intend to resolve resource use conflict for multi-stakeholders.</p> <p>Option 3: LGU and Community as Policy Maker and Resource Manager (Co-Management)</p> <p>The LGU and the community to use the implementing guidelines, procedure and mechanisms of</p>

		BFAR as a guide in preparing its own municipal ordinance concerning the declaration of closed seasons to protect rare, threatened or endangered species. The implementing guidelines intend to resolve resource use conflict with the multi-stakeholders.
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Issues and Comments	Provisions	Policy Options
<p>Resource Use Conflict</p> <p>Grant of preferential rights to fisherfolk organizations/ cooperatives in the municipality to which they belong over other fishers from neighboring municipalities</p> <p>It should be clarified what is meant by “<i>preference</i>” or “<i>preferential right</i>” whether this implies exclusive right of fisherfolk organizations/ cooperatives over their municipal waters. This seems to be absolute in its exclusion of all other people but what if the fisherfolk do not have the capacity to undertake the fishing activity? Perhaps, the real issue is how to manage the resources effectively without destroying the environment rather than, preventing poor fisherfolk from other municipalities to operate within the municipal waters.</p> <p>The law should explain further on how to deal with non-resident municipal fishers (see Sec. 19).</p>	<p>Sec. 17: Grant of Fishing Privileges in Municipal Waters – <i>The duly registered fisherfolk organization/ cooperatives shall have preferences in the grant of fishery rights by the Municipal/City Council pursuant to Section 149 of the Local Government Code. Provided, that the in the area where there are special agencies or offices vested with jurisdiction over municipal water by virtue of special law creating these agencies such as, but not limited to the Laguna Lake Development Authority and the Palawan Council for Sustainable Development, said offices and agencies shall continue to grant permits for proper management and implementation of the aforementioned structures.</i></p>	<p>Option 1: Maintain the declaration on the absoluteness of the preferential rights of municipal fisherfolk in their use of territorial waters.</p> <p>Option 2: Additional provisions granting financial and technical support for capability building to strengthen the capacity of municipal fisherfolk in protecting and managing their coastal resources.</p> <p>Option 3: Additional provision under penalties allowing the LGU to formulate implementing guidelines on how to deal with non-resident municipal fishers.</p>

Issues and Comments	Provisions	Policy Options
<p>Unclear guidelines on how demarcated fishery rights will be established.</p> <p>There should be additional explanations on how a demarcated fishery rights or area will be created, identified or segregated.</p>	<p>Sec 22: Demarcated Fishery Right - <i>The LGU concerned shall grant demarcated fishery rights to fishery organizations/cooperatives for mariculture operation in specific areas identified by the Department</i></p>	<p>Option 1: BFAR as Policy Maker (Centralize)</p> <p>BFAR to issue implementing guidelines, procedure and mechanism on how to demarcate fishery rights distinctively from with other fishery activities.</p> <p>Option 2: LGU as Policy Maker and Resource Manager (Decentralize)</p> <p>The LGU to use the implementing guidelines, procedure and mechanisms of BFAR as a guide in preparing its own municipal ordinance concerning the demarcation of fishery rights.</p> <p>Option 3: LGU and Community as Policy Maker and Resource Manager (Co-Management)</p> <p>The LGU and the community to use the implementing guidelines, procedure and mechanisms of BFAR as a guide in preparing its own municipal ordinance concerning the declaration of closed seasons to protect rare, threatened or endangered species. The implementing guidelines intend to resolve resource use conflict with the multi-stakeholders.</p>

		In a co-managed fishery, there is greater moral obligation on individuals to comply with set rules and regulations, since the fishers themselves are actively involved in planning, rationalizing and imposing the rules and regulations for the over-all well being of their coastal communities. It will strengthen community institutions (BFARMC and M-FARMC) that can lead to better fishery management.
Issues and Comments	Provisions	Policy Options
<p>Difference between mariculture and aquaculture.</p> <p>The law should also distinguish clearly the difference between aquaculture and mariculture because these occur in different places using different methods.</p>	<p>Sec. 4 (No.3) Aquaculture - fishery operations involving all forms of raising and culturing fish and other fishery species in fresh, brackish and marine water areas.</p> <p>There is no definition on mariculture.</p>	<p>BFAR, in consultation with other stakeholders, to define clearly the difference between mariculture and aquaculture.</p>

Issues and Comments	Provisions	Policy Options
<p>Resource Use Conflict</p> <p>Unclear procedure in determining zones</p> <p>The provision should be revised to clarify the procedure for determining the zones mentioned, for example, what is the basis of the 10% of the area?</p> <p>According to Mr. Vera, 10% is the conservative estimate of the carrying capacity of lakes for fish pens, etc. The basis will be dependent on the morphology, water quality, etc. which may be better discussed in the IRR.</p>	<p>Sec. 51: License to Operate Fish Pens, Fish Gages, Fish Traps and Other Structures for the Culture of Fish and Other Fishery Products - Fish pens, fish capes, fish traps and other structures for the culture of fish and other fishery products shall be constructed and shall operate only within established zones duly designated by LGUs in consultation with the FARMC concerned consistent with national fisheries policies after the corresponding licenses thereof have been secured. The area to be utilized for this purpose pose for individual person shall he determined by the LGUs in consultation with the</p>	<p>BFAR, in consultation with the LGU and other stakeholders, to clarify the procedure for determining various zones.</p> <p>The carrying capacity of the mariculture zone should also be highlighted as an important factor. For this reason, there should be an enumeration of suitable criteria for identifying the area for mariculture operations.</p>

	<p>concerned FARMC: Provided , however, that not over ten percent (10%) of the suitable water surface; area of all lakes and rivers shall be allotted for aquaculture purposes like fish pens, fish cages and fish traps; and the stocking density and feeding requirement which shall be controlled and determined by its carrying capacity: Provided, further, that fish pens and fish cages located outside municipal waters shall be constructed and operated only within fish pen and fish cage belts designated by the Department and after corresponding licenses therefore have been secured and the fees thereof paid.</p>	
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Issues and Comments	Provisions	Policy Options
<p>Lack of capability by the fisherfolk for the establishment or operation of fish corrals and other similar structures</p> <p>Given the lack of capability of some fishers, is it realistic to grant concessions, licenses, permits and similar privileges exclusively for municipal fisherfolk and their organizations for the establishment or operation of fish pens, fish cages, fish corrals/traps and other similar structure?</p> <p>Note that the section discusses only new concessions. Is the question implying that new concessions should be open to big investors also?</p> <p>Much of the fisheries management's failure to conserve resources has been blamed on a lack of political will by the national</p>	<p>SEC. 53. Grant of Privileges Operations of Fish Pens, Cages, Corrals, Traps and Similar Structures. - <i>No new concessions, licenses, permits, leases and similar privileges for the establishment or operation of fish pens, fish cages, fish corrals/traps and other similar structures in municipal areas shall be granted except to municipal fisherfolks and their organizations.</i></p>	<p>Additional provisions granting financial and technical support for capability building to strengthen the capacity of municipal fisherfolk in protecting and managing their coastal resources</p> <p>When small fishers are well-organized, they are able to speak with their indigenous knowledge supported by a wider consti-tuency. For instance, there are fish cages, corrals and similar structures built with low cost indigenous materials (e.g., bamboos) that are affordable for cooperatives/orgs. Also, if we will ask for subsidies, government can provide the necessary capital for municipal fishers.</p>

<p>government and LGU. A lack of political concern may stem from the common perception that fisherfolk also lack political power.</p> <p>There should be clarification on how to deal with issues of access by non-resident municipal fisherfolk (see Sec. 19)</p>		
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Issues and Comments	Provisions	Policy Options
<p>Unclear jurisdiction / management power by the LGU over aquaculture/ mariculture</p> <p>The provision should be expanded to clarify the extent of LGU jurisdiction / management power over aquaculture/mariculture areas once they are registered.</p>	<p>Sec 57: Registration of Fish /Hatcheries and Private Fishponds, etc. - <i>All fish hatcheries, fish breeding facilities and private fishponds must be registered with the LGUs which shall prescribe minimum standards for such facilities in consultation with the Department</i> <i>Provided, That the Department shall conduct a yearly inventory of all fishponds fish pens and fish cages whether in public or private lands: Provided , further, That all fishpond, fish pen and fish cage operators shall annually report to the Department the type of species and volume of production in areas devoted to aquaculture.</i></p>	<p>Option 1: BFAR as Policy Maker (Centralize)</p> <p>BFAR to issue implementing guidelines, procedure and mechanism to clarify the extent of LGU jurisdiction / management power over aquaculture/ mariculture areas once they are registered.</p> <p>Option 2: LGU as Policy Maker and Resource Manager (Decentralize)</p> <p>The LGU to use the implementing guidelines, procedure and mechanisms of BFAR as a guide in preparing its own municipal ordinance concerning the extent of LGU jurisdiction / management power over aquaculture/mariculture areas once they are registered.</p> <p>Option 3: LGU and Community as Policy Maker and Resource Manager (Co-Management)</p> <p>The LGU and the community to use the implementing guidelines, procedure and mechanisms of BFAR as a guide in preparing its own municipal ordinance</p>

		concerning the extent of LGU jurisdiction / management power over aquaculture /mariculture areas once they are registered.
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Issues and Comments	Provisions	Policy Options
<p>Unclear provisions concerning the declared fishery reserve by the government</p> <p>There should be a provision to clarify what happens to the jurisdiction over the reserve area once it is declared as a fishery reserve. It is not clear in the law if the declared fishery reserve area will be for the exclusive use of the government or can be used for other purposes such as a tourism area or reserve for agencies or entities other than the government.</p> <p>Moreover, the LGU has limited power in declaring fishery reserve and marine protected areas for their municipality.</p>	<p>Sec 80: Fishing Areas Reserves for Exclusive Use of Government.-<i>The Department may designate area or areas in Philippine waters beyond fifteen (15) kilometers from shoreline as fishery reservation for the exclusive use of the government or any of its political subdivisions, agencies or instrumentalities, for propagation, educational, research and scientific purposes: Provided, that in municipalities or cities, the concerned LGUs in consultation with the FARMCs may recommend to the Department that portion of the municipal waters be declared as fishery reserves for special or limited use, for educational, research, and/or special management purposes. The FARMCs may recommend to the Department portions of the municipal waters which can be declared as fisheries reserves for special or limited use for educational, research and special management purposes</i></p>	<p>BFAR, in consultation with the LGU and other multi-stakeholders, to issue a clear policy and implementing guidelines on fishery reserve area.</p> <p>In addition, there should be some clarification regarding whether a reserve can be designated which is NOT for the exclusive use of government such as a tourism reserve area or a reserve for agencies or entities other than the government.</p>

4. Lack of comprehensive and integrated fishery management strategies

It is generally accepted that without a comprehensive and integrated fishery management strategies, the benefits that most fisheries produce will eventually reach its unsustainable level compromising the needs of the future generation.

Issues and Comments	Provisions	Policy Options
<p>Major marine ecosystems are in danger of extinction due to lack of effective fisheries management strategies such as zoning, land use and coastal development planning</p> <p>The following major marine ecosystems are in the state of alarming situation.⁹</p> <ol style="list-style-type: none"> 1) Coral reefs are dying out – only 5% of the 27,000 km² of reefs are in excellent condition. The intermediate causes are coral mining, death by siltation, natural calamities and destructive fishing. 2) Mangroves are in danger of extinction – only 150,000 has left from the 450,000 hectares forest. The intermediate causes are conversion to ponds and residential areas, over harvesting, salinization, and natural calamities. 3) Seagrass communities – there are manifested signs of degradation. The intermediary causes are natural calamities, natural dynamics (grazing, competition, shifting sediments), diseases, mining, coastal aquaculture, siltation, blastfishing <p>Seaweed Beds are adversely affected by pollution and unsustainable harvesting. About 150 seaweeds species in the country are economically important</p>	<p>The fisheries code is filled with fishery management strategies (see Sec.6,7,8,9,10, 11, 18, 22, 23,44,45,49,51,56,80,81,86,87,88,89,90,91,92,93,94,95,96,97,98,99,101, 105, 128).</p> <p>Most of these provisions already address the artificial cause of habitat destruction.</p> <p>Yet, it may not all be adequate or appropriate to redress the root causes of the problems which include the lack of comprehensive and integrated approach in coastal development planning and fishery management strategies.</p>	<p>Additional provisions in RA 8550 promoting effective fisheries management strategies such as, but not limited to, zoning, land use and coastal development planning at the local level. There must be a comprehensive and integrated approach in coastal development planning.</p> <p>It is imperative to inform and educate the policy makers, decision-makers and the resource users about what is feasible in fishery as basis in setting objectives for zoning. The objectives of zoning are: (1) <i>harmonize different uses in an area;</i> (2) <i>protect important habitats or ecosystems;</i> (3) <i>protect important or endangered species;</i> (4) <i>minimize the impacts – on sensitive areas or fishery resources – from a variety of activities;</i> and (5) <i>reserve suitable areas for particular human activities</i></p> <p>Moreover, fishery management strategies must be consistent with the principles of CB-CRM, to wit:</p> <ol style="list-style-type: none"> 1) Empowerment – <i>strengthening the communities' access and control over coastal resources and major marine ecosystems;</i> 2) Equity – <i>providing mechanisms that ensure the protection and conservation of coastal resources for the present and future generation;</i> 3) Ecological soundness and sustainable development – <i>promoting ecologically sound technologies that recognize the</i>

		carrying capacity of resource and ecosystem.
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Issues and Comments	Provisions	Policy Options
<p>Major marine ecosystems are in danger of extinction due to lack of effective fisheries management strategies such as zoning, land use and coastal development planning</p> <p>5) Estuaries are in transition zones and vulnerable to stress as a direct result of pollution, siltation and reclamation.</p> <p>The root causes for the destruction of major marine ecosystems can be attributed to the following factors: unclear tenure, open access condition, distorted economic policies, inappropriate industrialization, population growth, vested interests of the elite, intensive, unsustainable culture practices and the lack of land and coastal use planning.</p> <p>Pollution in Coastal Areas</p> <p>Due to undefined thrust for economic development and the lack of land and coastal use plans, pollution has affected our seaweed beds and estuaries. Pollution takes in various forms such as industrial and thermal discharges, oil spill, waste generation and other land-based chemical pollution.</p>	<p><i>Sections 6,7,8,9,10, 11, 18, 22, 23, 44, 45, 49, 51, 56, 80, 81,86, 87,88,89,90,91,92,93,94,95,96,97,98,99, 101, 105, 128</i></p> <p>Lack of provisions to elaborate further the issues that will address the problems of pollution, particularly in coastal areas (<i>see section 12 (EIS), 13 (ECC), 102 (Aquatic pollution)</i>)</p>	<p>4) Respect for traditional/ indigenous knowledge – recognizing and adopting the value of indigenous knowledge and wisdom; and</p> <p>5) Gender fairness – promoting equal opportunities for meaningful participation of both men and women in resource management. Additional provisions in RA 8550 promoting effective fisheries management strategies such as, but not limited to, zoning, land use and coastal development planning</p> <p>Additional provisions to address the problems of pollution, particularly in coastal areas. It is estimated that 70% of the pollution that goes to the water (rivers, sea, etc) came from land-based pollution.</p> <p>For this reason, BFAR should expand the definition of '<i>aquatic pollution</i>'. It should include in its provisions regulatory measures on how to deal with major sources of land-based pollution, abandoned fishing vessels and other contaminating objects or man-made structure.</p>

5. Economic inefficiency

Issues and Comments	Provisions	Policy Options
<p>Auxiliary invoice not fully maximize to generate income</p> <p>The issuance of auxiliary invoice is not the same thing as licensing.</p> <p>At present, auxiliary invoices are merely means of getting revenues and do not play a role in management.</p> <p>There is no clear correspondence between the amount of the fees paid for the invoice and the actual costs of having to verify the status of the cargo, issue the invoice, etc. It is suspected that in many instances the actual costs of issuing the auxiliary invoices are much more than the fees collected.</p> <p>There are no sanctions for not issuing an auxiliary invoice or for failing to secure one.</p>	<p>Sec 15: Auxiliary invoice - <i>All fish and fishery products must have an auxiliary invoice to be issued by the LGUs or their duly authorized representatives prior to their transport from their point of origin to their point of destination in the Philippines and/or export purposes upon payment of a fee to be determined by the LGUs to defray administrative cost therefore.</i></p>	<p>BFAR to clarify that auxiliary invoice deals with the transportation of fish, not their capture of production. It is also about the LGUs power to tax the transportation of goods from one place (where it is captured) to another.</p> <p>But controlling the transportation of fisheries within an LGU can contribute to better management.</p> <p>BFAR and LGU to strictly enforce and jointly monitor the issuance of auxiliary invoice.</p>

Issues and Comments	Provisions	Policy Options
<p>Loss of cannery raw materials and export revenues to the government</p> <p>Since BFAR cannot monitor effectively foreign fishing activities, this has resulted in the loss of cannery raw materials and export revenues to our government.</p>	<p>Sec 32: Fishing by Philippine Commercial Fishing Fleet in International Waters - fishing vessels of Philippines registry may operate in international waters or waters of other countries which allow such fishing operations: Provided, that they comply with the safety, manning and other requirements of the Philippine Coast Guard, Maritime Industry Authority and other agencies concerned : Provided, however. That they secure an international fishing permit and certificate of clearance from the Department: Provided, further That the fish caught by such vessels shall be considered as caught in Philippine waters and therefore not subject to all import duties and taxes only when the same is landed in duly designated fish landings and fish ports in the Philippines: Provided, furthermore, That landing ports established by canneries, seafood processors and all fish landing sites established prior to the effectivity of this Code shall be considered authorized landing sites: Provided, Finally, that fishworkers on board Philippine registered fishing vessels conducting fishing activities beyond the Philippine Exclusive Economic Zone are not considered as overseas Filipino workers.</p>	<p>BFAR to evaluate the effectiveness of its current monitoring systems and mechanism.</p> <p>BFAR to ensure inter-agency cooperation involving the Philippine Coastguard and other stakeholders for the strict monitoring and implementation of the law under Sec. 32.</p>

6. Lack of appropriate management tools and data-base systems for Philippine Fisheries

Issues and Comments	Provisions	Policy Options
<p>Lack of appropriate management tools and database systems to determine if municipal water is overfished.</p> <p>First, it is difficult to determine if a particular municipal water is overfished because data and information are not readily available and the information unreliable.</p> <p>The existing management tools of maximum sustainable yield (MSY) and total allowable catch (TAC) are difficult to implement because we have multi-species, multi-gear Philippine fishery. This means MSY/TAC would require large amount of information and data needed to implement them, the wide variety of fishing gears used in the tropics and managers' limited ability to control access of fishers.</p> <p>Theoretically, MSY and TAC are good but in actual practice, they have become mute and academic considering that data gathering takes a lot of time, money and effort. And since it is a pre-requisite under the Code for any licensing decision, no action is being undertaken at all</p> <p>Secondly, the procedure of declaring an overfished area is unclear. That is why it is difficult for the LGU and the Department to determine whether municipal water is overfished or in danger of becoming overfished.</p>	<p>Sec. 4, No. 53- Maximum Sustainable Yield (MSY) is defined as <i>the largest average quantity of fish that can be harvested from a fish stocks/resource within a period of time (e.g. one year) on a sustainable basis under existing environmental conditions</i></p> <p>Sec. 4, No. 72 - Total Allowable Catch (TAC) is defined as <i>the maximum harvest allowed to be taken during a period of time from any fishery area, or from any fishery species or group of fishery species, or a combination of area and species and normally would not exceed the MSY</i></p> <p>Sec. 23 Limited entry - <i>Whenever it is determined by the LGUs and the Department that a municipal water is overfished based on available data or information or in danger of being overfished, and that there is a need to regenerate the fishery resources in that water, the LGU shall prohibit or limit fishery activities in the said waters.</i></p>	<p>Option 1: Continue using MSY/TAC but make it user-friendly</p> <p>BFAR to come-up with user friendly tool ensuring community participation in data gathering and monitoring MSY and TAC.</p> <p>Option 2: Use MSY / TAC applying the precautionary principle with multistakeholders</p> <p>In the absence of data and information on the extent of a stock, it is best for resource managers and other stakeholders to apply the precautionary principle assuming that the MSY has already been exceeded. Hence, a need for the reduction of specific targets before entering the risk of unsustainable levels of fishing, to wit:¹²</p> <ul style="list-style-type: none"> • The risk of the fishery entering undesirable state • The risk of the ecosystem suffering long-term disruption • The risk of extinction of the exploited species <p>If the science required of knowing is costly, precautionary measure is the best policy to regulate the harvest from a fish stock/resource on a sustainable basis.</p>

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Issues and Comments	Provisions	Policy Options
<p>Con't.</p> <p>Lack of appropriate management tools and database systems to determine if municipal water is overfished.</p> <p>Given the available data and researches commissioned by BFAR, moratoria were never implemented despite the need for it. Basically, the issue is ineffective governance and lack of political will by the concerned authorities.</p>	<p>Sec. 128: Moratoria - <i>The Department shall, upon the recommendation of the Bureau, have the power to declare a moratorium on the issuance of licenses for commercial fishing vessels to operate in specified area or areas in Philippine waters for a limited period of time if there are indications of overfishing brought about by a decrease in the volume and sizes of fish caught therein or for conservation or ecological purposes.</i></p> <p><i>No new licenses and similar privileges on exploitation of specific fisheries areas in Philippine waters and aquaculture production areas</i></p>	<p>To attain effective fishery management, it is also suggested to set realistic targets for reduction of the fishing effort based on simpler approaches and agreed upon by multi-stakeholders. This implies strengthening the participatory aspect in decision-making and policy making and not solely relying on scientific approaches which lends itself to the regulatory approach of fishery management rather than, promoting collaborative & participatory approaches. Measures that are easily communicated among multi-stakeholders, that intuitively relate to the status of the resource and enforceable at the community level will probably be successful.</p> <p>Look for Alternative Tools and Mechanisms other than MSY/TAC</p> <p>Since catch ceiling and quotas are not implementable in the Philippine setting, the government must be able to establish alternative mechanisms for limiting access and use of resources. Perhaps the mechanism for MSY should not be stated in the law anymore so that, the management agency is not tied up with only single mechanism when others may be available. It is suggested to downplay MSY.</p> <p>Experience says that TAC is better suited to temperate regions with discrete single-species fisheries and therefore, calculable TAC than to the multi-species, multi-gear Philippine fishery. TAC would</p>

	<p><i>shall be issued in accordance with this Code. Such moratoria shall not exceed five (5) years from the effectivity of this Code</i></p>	<p>require large amount of information and data needed to implement them, the wide variety of fishing gears used in the tropics and managers' limited ability to control access of fishers.¹³</p>
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7. Unclear policies concerning foreign corporations and the introduction of dangerous foreign species

Issues and Comments	Provisions	Policy Options
<p>Inconsistency of policy on the use of Philippine waters exclusively for Filipinos and yet, granting fishing company to be 40% foreign owned.</p> <p>If this is related to Sec. 27 of the Code which provides for a 60/40 equity rule in ownership and operation of fishing vessels, there is inconsistency in our policy whether we should allow foreign interests to engage in fishing or not.</p>	<p>Sec. 5: Use of Philippine Waters - <i>The use and exploitation of the fishery and aquatic resources in Philippine waters shall be reserved exclusively to Filipinos: Provided, however, that research and survey activities may be allowed under strict regulations, for purely research, scientific, technological and educational purposes that would also benefit Filipino citizens.</i></p> <p>SEC. 27. Persons Eligible for Commercial Fishing Vessel license. <i>- No commercial fishing vessel license shall be issued except to citizens of the Philippines partnerships or to associations, cooperatives or corporations duly registered in the Philippines at least sixty percent (60%) of the capital stock of which is owned by Filipino Citizens. No person to whom a license has been issued shall sell, transfer or assign, directly or indirectly his stock or interest therein to any person not qualified to hold a license. Any such transfer, sale or assignment shall be null and void and shall not be registered in the books of the association, cooperative or corporation.</i></p> <p><i>For purposes of commercial fishing, fishing vessels owned by citizens of the Philippines, partnerships, corporations, cooperatives or associations qualified under this</i></p>	<p>Option 1: Abolish 60-40 equity rule in favor of Filipino fishers</p> <p>Option 2: Maintain 60-40 equity rule but ensure that the sales and profit on fisheries will not be taken out of the Philippines</p>

	<p><i>section shall secure Certificates of Philippines Registry and such other documents as are necessary for fishing operations from the concerned agencies Provided, 'that the commercial fishing vessel license shall be valid for a period to be determined by the Department</i></p>	
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Issues and Comments	Provisions	Policy Options
<p>Unclear process and mechanisms that will ensure that the bio-safety standard shall be enforced.</p>	<p>Sec. 10: Introduction of Foreign Aquatic Species. <i>No foreign finfish, mollusk, crustacean or aquatic plants shall be introduced in Philippine waters without a sound ecological, biological and environmental justification based on scientific studies subject to the bio-safety standard as provided for by existing laws Provided, however, That the Department may approve the introduction of foreign aquatic species for scientific/research purposes</i></p>	<p>Option 1: BFAR to issue a clear implementing guidelines and mechanism to ensure bio-safety standard.</p> <p>Option 2: LGU to use the implementing guidelines and mechanism of BFAR to ensure bio-safety.</p> <p>Option 3: The LGU together with other multi-stakeholders will implement the guidelines and mechanism of BFAR to ensure bio-safety.</p>

8. Institutional and Legal Constraints

Issues and Comments	Provisions	Policy Options
<p>Lack of clear explanations of national laws and sub-decrees resulting in different interpretations of RA 8550 with the following national laws:</p> <ul style="list-style-type: none"> • Local Government Code (LGC) • The Agriculture and Fisheries Modernization Act (AFMA) • Labor Code concerning the protection, rights and privileges for fisher 	<p>Absence of provisions that will explain and integrate national laws and sub-decrees consistent with the principles and objectives of RA 8550</p>	<p>Separate or additional provisions that will unify and harmonize national laws and sub-decrees with RA 8550.</p>

<p>workers and child labor</p> <ul style="list-style-type: none"> • National Integrated Protected Areas (NIPAS) especially watershed protected areas found within the major marine ecosystems. 		
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Issues and Comments	Provisions	Policy Options
<p>Lack of inter-agency coordination between national structures and local bodies created for environmental protection and enhancement.</p> <p>Fisheries and coastal management projects can be thwarted by supra-community level organizations or national government institutions</p> <p>A. National Level</p> <ul style="list-style-type: none"> • NAFC and NFARMC • Bureau of Agricultural Research with PCAMMARRD and NFRDI <p>B. Local Level</p> <ul style="list-style-type: none"> • SAFDZ, FARMC and PAMB 	<p>Absence of provisions that will promote inter-agency coordination between national structures and local bodies created for environmental protection and enhancement.</p>	<p>Separate or additional provisions that will promote inter-agency cooperation, roles and responsibilities.</p>

It is noteworthy that most of the issues and concerns discussed in this paper were taken from the sharing of NFR members, the CRM Net and from the notes of Atty. Jay Batongbacal who have participated in the preliminary scoping exercise and the recently held Conference in Iloilo. The authors do not wish to claim all the credits nor pretend that they have done all the research work.

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