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PP	Restricted to other programme participants (including the Commission Services)	
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WP 10.1. Deliverable: 'Report on national legal commitments to sustainable marine fisheries (with database)'

Summary:

Workpackage 10 has developed a database, including

- a) country profiles,
- b) a web-based annotated links inventory (<http://www.incofish.org/IncoFishv1/Results/AnnoLinksWP10.php>) and
- c) a web-based fisheries ministries compendium (http://www.incofish.org/IncoFishv1/Workpackages/WP10/ministry_guide.php).

The database provides easy access to national and international legislation and legal information regarding sustainable marine fisheries. It is aimed at government officers, NGOs, businesses as well as academics.

While the 'links inventory' and the 'fisheries ministries compendium' offer pre-selected access to internet sources focussing on fisheries legislation and respective administrative structures world wide, the 'country profiles' present a 15 to 35 pages overview of national legislation concerned with sustainable marine fisheries and empirical information concerning fisheries management.

Up to now, existing databases had merely offered comparatively unspecific links and rather general information about national conservation measures regarding marine fisheries resources.

To attain the above described objectives, a common structure, based on indicators, has been developed for the country profiles, including

- the respective country's participation in international agreements concerned with the conservation of marine fisheries resources,
- its participation in regional fisheries bodies,
- an overview of respective national legislation towards sustainable marine fisheries (distinguishing between coastal and EEZ fisheries),
- a review of available empirical information on management actions and the state of the marine resources.

Moreover, pertinent internet-links and a bibliography are included. Based on this structure, profiles of South-Africa, India, Russia and Sri Lanka have been elaborated.

The 'links inventory' is divided into three sub-sections. The first two sections offer useful link lists and websites with relevance to international fisheries law. The third section presents information available on the web on national fisheries laws. All annotations follow the same structure giving a brief overview of the provider, the content and the available information of the web-pages.

The 'fisheries ministries compendium' offers a comprehensive link list giving access to nearly all ministries responsible for fisheries issues world wide. The list briefly describes what the user will find on the ministries' web-portals.

The data base is available on the INCOFISH portal. To further its usefulness, the database will also be linked to other data bases.

D 10.1: Profile of Sri Lankan legal commitments to sustainable marine fisheries

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I. International legal commitments to sustainable marine fisheries

1. *Participation in international agreements*

	Date of signature	Date of ratification	Entry into force
Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (New York, 1995)	09 Oct 1996	Accession 24 Oct 1996	11 Dec 2001
Agreement for the Establishment of the Indian Ocean Tuna Commission (1993)	25 Nov 1993	Acceptance 13 Jun 1994	27 Mar 1996
Agreement for the Establishment of the Network of Aquaculture Centres in Asia and the Pacific (Bangkok, 1988)	05 Sep 1988	Accession 05 Jan 1989	11 Jan 1990
Agreement for the Establishment of the Intergovernmental Organization for Marketing Information and Technical Advisory Services for Fishery Products in the Asia and Pacific Region (INFOFISH) (Kuala Lumpur, 1985)		Accession 06 May 1987	03 Mar 1987
United Nations Convention on the Law of the Sea (Montego Bay, 1982)	10 Dec 1982	Accession 19 Jul 1994	16 Nov 1994
Rome Declaration on the Implementation of the Code of Conduct for Responsible Fisheries	11 Mar 1999		
Agreement for the Establishment of the Asia-Pacific Fishery Commission (Baguio, 1948)	21 Feb 1949	Accession 21 Feb 1949	09 Nov 1948

	Date of signature	Date of ratification	Entry into force
Optional Protocol of Signature Concerning the Compulsory Settlement of Disputes Arising out of the United Nations Conference on the Law of the Sea		Accession 30 Oct 1958	30 Sep 1962
Convention on Fishing and the Conservation of the Living Resources of the High Seas	30 Oct 1958		

2. Participation in Regional Fisheries Bodies

APFIC	Asian Pacific Fishery Commission
BIMSTEC	Bangladesh, India, Myanmar, Sri Lanka, Thailand Economic Cooperation
BOBLME	Bay of Bengal Large Marine Ecosystem Programme
BOBP	Bay of Bengal Programme - Intergovernmental Organisation
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
InfoFish	Intergovernmental Organisation for Marketing Information and Technical Advisory Services for Fishery Products in the Asia Pacific Region
IOFC	Indian Ocean Fishery Commission
IOTC	Indian Ocean Tuna Commission
NACA	Network of Aquacultural Centres in Asia Pacific
SAARC	South Asia Association for Regional Cooperation
SACEP	South Asia Cooperative Environmental Programme
WIOTO	Western Indian Ocean Tuna Organisation

3. Conservation commitments in access agreements with developing countries

According to UNCLOS, a country may share its surplus total allowable catch (TAC) with other countries. There are no examples of such arrangements between Sri Lanka and other developing countries. Although the waters of the Indian Ocean, for example, possess tuna resources that are under-used and harvested by distant water fishing nations (DWFNs)¹, riparian States, which include Sri Lanka, have not made attempts of concluding access agreements among themselves. However, according to Sri Lanka vision and policy objectives², the government aims at providing incentives to fishermen for exploiting fisheries resources in international waters and in the EEZ of other coastal states under licence.

Successful access agreements with other Indian Ocean States are negotiable since small fishing vessels have significantly improved their range of operations.³ In addition, Sri Lanka has excess capacity in small-scale fisheries and could venture in fisheries of countries with lower capacity e.g. Seychelles, Madagascar, Mozambique and Somalia.⁴

Access agreements with other countries of the region could have a number of advantages: they could lead to better living standards for small-scale fishermen; reduce pressure on national fishing grounds; help transfer small-scale fishing technology, for example, from South Asia to East Africa and islands in the Indian Ocean; and reduce the often tragic confrontations which at times result from ignorant and unintended violation of maritime boundaries.⁵ Such agreements, however, must recognise the importance of responsible fisheries management and make provisions for non-destructive small-scale fishing techniques and practices. In addition, they

¹ The Hindu (22.09.01), online edition of India's national newspaper at <http://www.hinduonnet.com/2001/09/22/stories/05222524.htm>: The Indian Ocean Tuna Commission estimates that DWFNs (Japan, Taiwan, France, Spain and Italy) harvest approximately 470,000 tonnes of tuna and tuna-like fish from the Indian Ocean region.

² Vision, Policy Objectives and Policy Recommendations, available online at www.apfic.org/modules/xfsection/download.php?fileid=112.

³ The Hindu (22.09.01), online edition of India's national newspaper at <http://www.hinduonnet.com/2001/09/22/stories/05222524.htm>.

⁴ Cf. *ibid.*

⁵ *Ibid.*

must incorporate licensing and access fee requirements to be likewise financially viable for the State granting access.

II. National legislation towards sustainable marine fisheries

1. Fisheries management measures in the Exclusive Economic Zone (EEZ)

The Maritime Zones Law 1976 (Act No. 22 of 1976)⁶ of Sri Lanka defines the limits of the territorial seas of Sri Lanka. Section 5 of the Maritime Zones Law deals with the maritime jurisdiction and optimum utilisation of the Exclusive Economic Zone (EEZ), the Continental Shelf, the sea-bed and related natural resources.

In the exclusive economic zone, the Republic has:

- (a) sovereign rights for the purpose of exploration, exploitation, conservation and management of the natural resources, both living and non-living, as well as for producing energy from tides, winds and currents.
- (b) exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution.

The Foreign Fishing Boats Act 1979 (Act No. 59 of 1979) came into effect in order to regulate, control and manage fishing and related activities by foreign boats and vessels within the territorial waters of Sri Lanka. Even though the Foreign Boats Act provides no specific measures on fisheries management, part II deals with limitations on overfishing and related activities by foreign fishing boats within the territorial waters. Sections 5 and 6, respectively, deal with the procedure of issuing licence, payment of prescribed fee, fishing gear of such boat and the approval officer of such licence in respect of any foreign fishing boat. Section 7 allocates powers to the Minister of Fisheries to prescribe the areas of Sri Lankan waters which shall be reserved for fishing by Sri Lankan fishing vessels. Section 8 assigns the powers and discretion to the Minister of Fisheries to make regulations for foreign vessels.

⁶ See IV. Materials.

Part III deals with powers of authorised officers under the Act in respect of any foreign fishing boat. Section 14 provides exclusive powers to the authorised officer to stop, control, search, and board any foreign fishing boat in Sri Lankan waters. Under section 14 the authorised officer has powers to examine any fishing nets, fishing gear on board, any fish or other aquatic resources or any belonging of such foreign fishing boat.

Furthermore, part IV of the Foreign Fishing Boats Act deals with offences, non-compliance and the power to dispose of illegal catches by foreign vessels.

‘Every permit issued under Section 6 shall be subject to such conditions as may be prescribed and to such other conditions (hereinafter referred to as “special conditions”) as the Director may think fit to attach to such permit, having regard to the period for which the permit is being issued, the areas within which foreign fishing boat is authorised by such permit to be used for fishing and related activities, the methods of fishing employed, and the type of gear used, by such boat.’

Section 26 of the Act specifically deals with the powers of the Minister of Fisheries to make regulations in respect of fishing gear of any foreign boat when prohibited from fishing in Sri Lankan waters, the form of application for a permit under section 6 of the Act, the fees to be paid, bonds and other securities and employment of Sri Lankan citizens on board.

The Fisheries Act 1940 (Act No. 24 of 1940)⁷ was unable to meet the demands of fisheries management. In 1996, steps were taken to adopt the latest Fisheries and Aquatic Resources Act (Act No. 2 of 1996)⁸ which comprises 67 sections and 10 parts.

Part I creates the Fisheries Advisory Council to advise the Minister of Fisheries with regard to fisheries administration and management. The Fisheries Advisory Council is responsible for advising the Minister of Fisheries regarding all matters relating to

⁷ See IV. Materials.

⁸ See IV. Materials.

the management, regulation, conservation and development of fisheries and aquatic resources in Sri Lanka.⁹

Part II of the Fisheries and Aquatic Resources Act provides regulations on licensing of fishing operations. No person shall engage in any prescribed fishing operation except under the authority of a licence, s. 6(1). Section 7 states that a licence shall be obtained from the Licensing Officer of the Administrative District or the Director. Sections 8 states that such fishing operations shall be practised in accordance to the terms and conditions prescribed in the licence by the Director. This provision of the Act, however, does not enumerate the terms and conditions of a licence or give a guideline to the Director's legislative mandate. It is hard therefore to speculate the limits of such terms and conditions. Nevertheless, from the legislative powers of the Minister under section 61 and other sections of the Act, an inference of likely terms and conditions of a licence may be made. These may include: permitted/prohibited fishing methods (e.g. depending on the fishery) and/or gear (cf. ss. 27 and 28); species of fish to be or not to be caught (cf. s. 29) or exported (s. 30(1)); protection of the aquatic environment; regulation of time and manner of taking fish and other aquatic resources; handling and distribution of fish and other aquatic resources and the maintenance of quality of fish, fish products and other aquatic resources etc.

Part III of the Fisheries and Aquatic Resources Act deals with general conditions on registration of local fishing boats. No (local) fishing boat shall undertake any fishing activity on Sri Lankan waters unless it has been registered by the Director as required by the law in section 15. Thus, the general fishing licence mentioned above does not apply to fishing boats but rather to the fishing activity per se. The Act does not make it clear whether registration of a boat without a fishing licence, on the other hand, also serves as a licence to catch fish.

Part IV of the Fisheries and Aquatic Resources Act deals with the protection of fish and aquatic resources. Section 27 specifically prohibits the use of any poisonous, explosive or stupefying substance or other noxious or harmful material or substance

⁹ Section 4.

in Sri Lankan waters for the purpose of poisoning, killing, stunning or disabling any fish or other aquatic resources. Section 28 provides for restrictions on use, possession or having any prohibited fishing gear on board¹⁰ any local fishing boat, or engaging in any prohibited fishing method in any area of Sri Lankan Waters.

Part V of the Fisheries and Aquatic Resources Act deals with fisheries conservation. According to section 36 of the Act, the Minister of Fisheries has power to declare any area of Sri Lankan waters or any land adjacent to it to be fisheries reserves. Section 37 of the Act prohibits fishing, mining, collection or gathering of any aquatic resources within such reserve except upon a permit obtained from the Director of the Ministry of Fisheries.

Part VII of the Act consists of provisions on dispute settlement in relation to fishing. Part VIII deals with powers of fisheries administration officers. In order to ensure compliance with the provisions of the Act, the Director, under section 46, may give implementation powers to fisheries officers not below the rank of fisheries inspector. Such fisheries officers are known as 'authorized officers' and have the power to:

- (a) stop, go on board and search any fishing boat in Sri Lankan waters or any local fishing boat engaged in fishing operations in the high seas, and examine such boat, the crew thereof, the fishing gear and other equipment carried therein and any fish or other aquatic resources found on board such boat;
- (b) stop and search any vehicle transporting any fish or other aquatic resources; or
- (c) examine and take copies of any licence, permit, book, certificate or other document required to be obtained or maintained by or under this Act.

Where he has reason to believe that an offence under this Act has been committed, an authorized officer may, with or without a warrant:

¹⁰ This definitely eases monitoring of violations connected to usage of prohibited gear and eliminates the chances of secret usage of such gear.

- (a) enter and search at all reasonable hours of the day, any premises in which he has reason to believe such offence has been committed;
- (b) enter and search at all reasonable hours of the day any premises in which fish or other aquatic resources taken in contravention of the provisions of this Act or any regulation made thereunder are being stored or kept;
- (c) take samples of any fish or other aquatic resources found in any premises searched under paragraph (a) or paragraph (b);
- (d) arrest any person found in any such premises who he has reason to believe has committed an offence under this Act or any regulation made thereunder;
- (e) seize any boat, engine, fishing net or other fishing gear or equipment, or any vehicle or thing which he has reason to believe has been used in or in connection with the commission of an offence under this Act or any regulation made thereunder;
- (f) seize any fish or other aquatic resources or stores of cargo which he has reason to believe have been taken in the commission of such offence, or have been landed, sold, bought, received, or possessed in contravention of this Act or any regulation made thereunder; or
- (g) seize any poisonous, explosive or stupefying substance or other noxious or harmful material or substance which he has reason to believe has been used, or was possessed, in contravention of this Act.

In case of seizure, the authorized officer shall produce, as soon as possible, the seized items before a magistrate's court of competent jurisdiction which shall make such order as it may deem fit relating to the detention or custody of seized items, pending the conclusion of any proceedings instituted in respect of those items. The authorized officer may sell fish and other aquatic resources seized due to their perishable nature: the proceedings of such sale shall be deposited in the magistrate's court.

The Director, under section 47, may also empower in writing any authorized officer to seize and remove any fishing boat, engine, fishing net or other fishing gear or equipment in respect of which an agreement of payment of any sum to the government in connection to these items has been defaulted. For this purpose, the officer may enter and search any premises or place in which he has reason to believe such fishing boat, engine, fishing net or other fishing gear, or equipment is kept.

Part IX of the Act lays down fines and penalties for offences against the fisheries Act.

The competent authority to administer, implement policies and promulgate regulation on fisheries management under the Fisheries Act of 1996, and regulate fisheries is the Ministry of Fisheries and Aquatic Resources of Sri Lanka.¹¹

The Export and Import of Live Fish Regulations, 1998¹² adopted under the Fisheries Act state that export and import of live fish is acceptable only with the permission of the Director of the Ministry of Fisheries. Under the Fisheries Act, the government of Sri Lanka adopted the Fish Products (Export) Regulations, 1998¹³ to enact rules relating to fish processing establishments, fishing vessels which directly involve fish processing activities on board and requirements for the handling of live fish and aquaculture products intended for export or marketing.

The Aquaculture Management Regulations 1996¹⁴ adopted under the Fisheries Act of 1996 provide measures to establish and operate aquaculture enterprises under four specific categories within the framework of specific procedure. Under the regulation the granting of licence to establish aquaculture enterprises is subject to environmental protection, impact assessment and approval of the Coast Conservation Department of Sri Lanka.¹⁵

¹¹ Ministry of Fisheries and Aquatic Resources of Sri Lanka, <http://www.fisheries.gov.lk/>.

¹² See IV. Materials.

¹³ See IV. Materials.

¹⁴ See IV. Materials.

¹⁵ Coast Conservation Department of Sri Lanka, <http://www.ccd.gov.lk/>.

The Aquaculture Management (Disease Control) Regulations, 2000¹⁶ adopted under the Fisheries Act of 1996 give provisions regarding disease control requirements and prevention methods under the schedules of the regulation. The Food and Agriculture Organisation of the United Nations published detailed recommendations for development of a comprehensive national policy on the import and export of aquatic animals, management of coastal shrimp culture, and establishment of aquatic animal health, quarantine and certification program for Sri Lanka.¹⁷ The disease control, prevention and quarantine measures are meant to minimise and/or stop the spread of diseases in aquatic animals through their importation and exportation, and to eradicate existing diseases.¹⁸ In the late 1990s, viral diseases and the spread of Epizootic Ulcerative Syndrome, a disease of fresh- and brackishwater fishes, caused great losses in shrimp culture and aquaculture and artisanal fisheries, respectively, throughout much of Asia.¹⁹ In Sri Lanka, severe economic losses²⁰ in aquaculture production facilities – in particular shrimp culture industry – due to diseases of apparent exotic origin almost caused the collapse of the industry.²¹ These diseases appear to have been introduced into the country through the importation of infected postlarvae and/or broodstock shrimp.²² The resulting losses showed the potential economic and social benefits gained through protection of wild fisheries and aquaculture industry from exotic pathogens and prompted numerous countries in Southeast Asia to establish procedures, expertise and facilities for the quarantine and certification, not only of fish and fish products for export, but also of fish and invertebrates in their respective habitats.²³

¹⁶ See IV. Materials.

¹⁷ R. Arthur, *Disease Prevention and Health Management in Coastal Shrimp Culture, Sri Lanka*, Technical Cooperation Programme (Bangkok: FAO, 1998), available online at <http://www.fao.org/docrep/field/376707.htm#1.0introduction-a>.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ From the late 1980s to 1996, economic losses caused by these diseases amounted to more than 26 million US dollars: *ibid.*

²¹ R. Arthur, *Disease Prevention and Health Management in Coastal Shrimp Culture, Sri Lanka*, Technical Cooperation Programme (Bangkok: FAO, 1998), available online at <http://www.fao.org/docrep/field/376707.htm#1.0introduction-a>.

²² Ibid.

²³ Ibid.

The Aquaculture (Monitoring of Residues) Regulations, 2002²⁴ provide additional provisions regarding the establishment of aquaculture enterprises, and a self-monitoring system, to ensure and observe the appropriate withdrawal periods of fish. Additionally, the National Aquatic Resources Research and Development Agency²⁵, established under the National Aquaculture Act 1998 (Act No. 53 of 1998)²⁶ is responsible for making policies for the development of the aquaculture sector in Sri Lanka. Critiques²⁷ have argued that effective laws, as well as transparent self-regulatory systems, are needed to implement the policies that would lead to an increase in the productivity of marine fisheries.

Even though Sri Lankan fishing sector was affected by the Tsunami disaster, present studies report that the fish-export processing sector has grown significantly.²⁸

In summary, the following tools are used to manage fisheries in the EEZ:²⁹

- a) licensing of fishing operations;
- b) registration of vessels;
- c) determining allowed and prohibited fishing methods and gear;
- d) determining permitted areas of fishing;
- e) determining permitted species for harvesting;
- f) setting time for fishing;
- g) using closed and open seasons for fishing;
- h) declaring certain areas as reserves;

²⁴ See IV. Materials.

²⁵ National Aquatic Resources Research and Development Agency, <http://www.nara.ac.lk/>.

²⁶ See IV. Materials.

²⁷ M. Aeron-Thomas, *Integrated Coastal Management in Sri Lanka: A Policy Review*, Livelihood-Policy Relationships in South Asia, Working Paper 4, available online at <http://www.geog.leeds.ac.uk/projects/prp/pdfdocs/slpolicy.pdf>, p. 16; W. Edeson, 'Review of legal and enforcement mechanisms in the BOBLME Region', Bay of Bengal Large Marine Ecosystem (BOBLME) Theme report GCP/RAS/179/WBG (FAO-BOBLME Programme), available online at <http://www.fao.org/fi/boblme/website/index.htm>, pp. 62, 68, 69, 70.

²⁸ S. Subasinghe, *Assessment of rehabilitation and reconstruction needs in the Tsunami affected post-harvest fisheries sector: Sri Lanka* (FAO, 2005), available online at ftp://ftp.fao.org/FI/DOCUMENT/tsunamis_05/sri_lanka/cons_miss_rep/Subasinghe_Apr_05.pdf.

²⁹ Cf. Sri Lanka Fishery Country Profile, UN FAO (FID/CP/LKA, January 2006), available online at <http://www.fao.org/fi/fcp/en/LKA/profile.htm>.

- i) using authorized officers to control and monitor fishing activities;
- j) controlling import and export of fish;
- k) controlling and preventing the spread of disease;
- l) decentralisation of power by creating management authorities (for their formation and functions see below);
- m) using fines and penalties as violation deterrents.

In Sri Lanka, output control tools such as total allowable catch (TAC) limits, individual transferable quotas (ITQs) or non-transferable quotas have not yet been introduced.³⁰

2. Fisheries management measures in the coastal zone

The Coast Conservation Act 1981 (Act No. 57 of 1981)³¹ makes provisions for the survey of the coastal zone and the preparation of a coastal zone management plan, in order to regulate, manage and control coastal development activities. Under the Coast Conservation Act, the Department of coast conservation is responsible for conducting surveys, the preparation of a coastal zone management action plan and regulating development activities within the coastal zone. Part I of the Act states that the Director of the coast conservation department is responsible for the administration, implementation of the provisions of the Act, execution of schemes of works for coastal conservation within the coastal line and conduct of research in collaboration with other institutes for the purpose of coast conservation in Sri Lanka. Section 6 creates a coast conservation advisory council to advise the Minister or Director on matters relating to the development, management and other coastal conservation activities. Part II of the Act deals with coastal zone management actions. Section 11 instructs the Director of coast conservation to prepare reports in respect of dumping sites, all coral reefs found within the coastal line, all commercial exploitable mineral deposits, sea erosions on the coastal line and fisheries or other substances of the coastal zone.

³⁰ Ibid.

³¹ See IV. Materials.

As mentioned above, there are various traditional community-based management practices in Sri Lanka which are located throughout the coastal areas of the country.³² The main motivations for co-management have been conflicts and resource depletion.³³

The formation and functionality of community-based bodies are provided by sections 31-33 of the Fisheries and Aquatic Resources Act 1996. Accordingly, fishermen registered³⁴ in any area designated by the Minister as a fisheries management area may form a fisheries committee which shall act as the fisheries management authority of that particular fisheries management area. A fisheries committee may make an application for registration to the Director who shall subsequently publish a notification of such registration in the Gazette. From and after the date of registration of a fisheries committee such committee shall be a body corporate with perpetual succession and a common seal and may sue and be sued by the name by which it is registered. The Director or an officer authorised by him for that purpose may make regulations in respect of election of office bearers of a registered fisheries committee, powers of such committee and the procedure for the transaction of business by such committee, accounts to be maintained by such committee and the audit of such accounts. The Director may cancel the registration of any fisheries committee that has been inactive or has failed to conduct itself in the interests of its members, and make arrangements for its liquidation.

³² O. Gulbrandsen, *Development of Outrigger Canoes in Sri Lanka*, Bay of Bengal Programme: Small-Scale Fisherfolk Communities, FAO Working Papers BOBP/WP/61 (Revised) (Madras: 1990), available online at http://www.fao.org/documents/show_cdr.asp?url_file=/docrep/007/ae440e/ae440e00.htm. For details of how they are located in the different regions of the country see G. Macfadyen, P. Cacaud and B. Kuemlangan, 'Policy and legislative frameworks for co-management: Paper prepared for the APFIC Regional Workshop on 'Mainstreaming Fisheries Co-management in Asia Pacific', Seim Reap, Cambodia, 9-12 August 2005 (2005), available online at www.apfic.org/modules/xfsection/download.php?fileid=53, 17-20, 18.

³³ G. Macfadyen, P. Cacaud and B. Kuemlangan, 'Policy and legislative frameworks for co-management', paper prepared for the APFIC Regional Workshop on 'Mainstreaming Fisheries Co-management in Asia Pacific', Seim Reap, Cambodia, 9-12 August 2005 (2005), available online at www.apfic.org/modules/xfsection/download.php?fileid=53.

³⁴ These may be fishermen residing or engaged in fishing in the given fisheries management area or part thereof, or migrant fishermen.

The fisheries committees (authorities) manage management areas through various ways, *inter alia*: making recommendations to the Minister, with community participation, concerning the conduct of fishing operations and the use of different types of fishing gear in that fisheries management area; the establishment of closed seasons for fishing or closed seasons for the taking of specified species of fish in that fisheries management area; and the times during which fish may be taken (s. 31). A fisheries committee may of its own accord formulate a fisheries programme for its area and implement that programme; assist its members to obtain boats, gear, and equipment to be used in fishing operations; carry out social infrastructure and welfare activities with a view to improving the living standards of the fishing community of that area; and engage in such other activities as are approved by the Director as beneficial to the fishing community of the area (s. 32). It is also the duty of every fisheries committee to form, prepare, revise and maintain, in the prescribed manner, a register of fishermen residing or engaged in fishing within the area of authority of such committee (s. 33). However, the first register shall be prepared and certified by the Director (*ibid.*).

The government of Sri Lanka has settled disputes between user groups over a number of decades as a result of which regional-specific regulations have been developed.³⁵ The Fisheries Ordinance 1940 also offers detailed provisions to deal with disputes. Sections 20 and 20A provide regulations to appoint a committee of inquiry or a commissioner to deal with fishing disputes. This process has produced many area-specific regulations such as the Chilaw Lagoon Fisheries Regulations of 1993.³⁶ The Government also formed a commission to settle disputes and fix equitable fishing times and areas for fishermen living on the lagoon.³⁷

³⁵ G. Macfadyen, P. Cacaud and B. Kuemlangan, 'Policy and legislative frameworks for co-management', paper prepared for the APFIC Regional Workshop on 'Mainstreaming Fisheries Co-management in Asia Pacific', Seim Reap, Cambodia, 9-12 August 2005 (2005), available online at www.apfic.org/modules/xfsection/download.php?fileid=53.

³⁶ *Ibid*: Stake net fishing is practised with the main species caught being prawns. The fishing rights are shared between three clans, who together formed the Traditional Kattudel Owners Association. The three main groups, each closely associated with a particular church, are allocated different fishing days. Sub-groups are organised for fishing purposes. Since only male descendants of Kattudel fishermen can become owners, entry to the fishery is limited, and any disputes are dealt with by the Association. The areas set aside by custom for the Kattudel

III. Review of available empirical information

Due to increased global and local demand for fish products, Sri Lanka is starting to expand fishing as an industry. Marine fishing and fishing related activities provide employment opportunities for the rural population living around the coastal area of the country. The fisheries sector of Sri Lanka employs 142,500 active fishermen and about another 20,000 people in related industries.

1. Management actions

The government of Sri Lanka has passed several acts, regulations and sub-laws in order to address the management, regulation, conservation and development of marine fisheries in Sri Lanka. While the Ministry of Fisheries is responsible for fishery administration and policy making, the National Aquatic Resources Authority functions as a research and development institute for fisheries. Accordingly, regulations passed under the Fisheries and Aquatic Resources Act 1996 strengthened the involvement of state officials in the management and development actions of fisheries. Pensions and insurance benefits granted under the Fishermen's Pension and Social Security Benefit Scheme Act 1990 (Act No. 23 of 1990) encouraged local communities to participate in the fishing industry in Sri Lanka. In 1998, in addition to bank loans, the Asian Development Bank provided technical assistance to the fisheries sector of Sri Lanka.³⁸ The Bay of Bengal Programme provided credit facilities and comprehensive banking services to the fishing communities in order to increase operational efficiency, profitability in fisheries and facilitate the management of incomes within the economic units of the fisherfolk families.

fishing industry have, as a result of conflict with fishermen using other methods, been demarcated by the courts.

³⁷ G. Macfadyen, P. Cacaud and B. Kuemlangan, 'Policy and legislative frameworks for co-management', paper prepared for the APFIC Regional Workshop on 'Mainstreaming Fisheries Co-management in Asia Pacific', Seim Reap, Cambodia, 9-12 August 2005 (2005), available online at www.apfic.org/modules/xfsection/download.php?fileid=53.

³⁸ C. Fernando and D. Attanayake, *A Shri Lanka Credit Project to Provide Banking Services to Fisherfolk*, FAO Reports BOBP/REP/55 (Madras: Bay of Bengal Programme, 1992), available online at http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/007/AD882E/AD882E00.HTM.

However, economic factors, the lack of legal enforcement, the non-availability of long-standing policies based on local communities, a poor economic infrastructure, and unsatisfactory living standards in fishing communities have all marginalized the effectiveness of the present fisheries Act.

Even though the fishery industry contributes only 2% to the Gross Domestic Product, 65% of animal protein consumed in the country comes from the fishery industry.³⁹ In recent years, environmentalists have found that dolphin catching, trading and consumption has increased in Sri Lanka.⁴⁰ Edeson⁴¹ points out that Sri Lankan legislation has strong desires to protect the environment, including the environment beyond the EEZ. The Fisheries and Aquatic Resources Act 1996, for example, provides for control of local fishing boats on high seas (s. 46). However, fisheries legislation is still inadequate to address the issues of high sea fishing.⁴² In fact, though control of local fishing boats on high seas is provided by the 1996 Act (s. 46), fisheries legislation neither provides for licence requirement for high seas fishing nor gives effect to the UN Stocks Agreement and the FAO Compliance Agreement.⁴³ Giving effect to these agreements would avail a good opportunity to incorporate modern concepts such as precautionary and ecosystem approaches to fisheries management.

At national level, the Ministry of fisheries, Coast Conservation Department, Marine Pollution Prevention Authority and National Aquatic Resources Research and Development Agency are responsible for the policy making and management

³⁹ J. M. Morris, M. Hotta and A. R. Atapattu (eds.), *Report and Proceedings of the Sri Lanka/FAO National Workshop on Development of Community-based Fishery Management: Colombo, 3-5 October 1994*, FAO Reports BOBP/REP/72 (Madras: Bay of Bengal Programme, 1996), available online at

http://www.fao.org/documents/show_cdr.asp?url_file=/docrep/007/ad899e/ad899e00.htm.

⁴⁰ P. Dayarantne and L. Joseph, *A Study on Dolphin Catches in Sri Lanka*, FAO Reports BOBP/REP/56 (Madras: Bay of Bengal Programme, 1996), available online at http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/007/AD883E/AD883E00.HTM.

⁴¹ W. Edeson, 'Review of Legal and Enforcement Mechanisms in the BOBLME Region' Bay of Bengal Large Marine Ecosystem (BOBLME) Theme report GCP/RAS/179/WBG (FAO-BOBLME Programme), available online at http://www.fao.org/fi/boblme/website/stud_meet_files/theme_legal.pdf.

⁴² Ibid.

⁴³ Ibid.

actions. At the provincial level, provincial councils established under the 13th Amendment to the constitution of Sri Lanka⁴⁴ are responsible for formulating or enforcement of national policies for the conservation and management actions. Even though there is no legal power for non-governmental organisations, local associations and private sector related societies to involve themselves in conservation and management actions, a number of them are showing a significant interest in fisheries management actions in Sri Lanka. On national level the Coast Conservation Department of Sri Lanka has taken all measures to combat coastal erosion, install coast protection structures, use set back lines, remove human settlements from eroding areas and curtail illegal fishing practices. Even though the Coast Conservation Amendment Act 1998 prohibits and imposes strong penalties in respect of coral mining, storing, processing, removal and transporting, the law enforcement is still undermined due to the involvement of local politicians, lack of law enforcement officers and logistics problems.⁴⁵

Nevertheless, the Coast Conservation Department has taken intensive steps in relation to banning of all activities pertaining to sea coral mining, conducting awareness programmes for school children, teachers and key stakeholders, supporting research on coral reefs and rehabilitation.

Sri Lanka has four national parks and 17 other marine water areas designated as marine sanctuaries. Sri Lanka has established marine protected areas containing coral reefs such as Hikkaduva nature reserve declared in 1998, bar reef marine sanctuary declared in 1992, Pigeon island national park located in the Trincomalee district and Bounavista marine sanctuary located in Galle District.

The World Fish Centre suggests that sustainable fish production largely depends on reliable technology and analytic information tools in relation to Sri Lankan marine

⁴⁴ 13th Amendment to the Constitution of Democratic Socialist Republic of Sri Lanka.

⁴⁵ A. Premeratne, 'Case Study on evaluation of management strategies used for coastal resources management with particular reference to experience in controlling coral mining in Sri Lanka', paper presented at the Second International Tropical Marine Ecosystems Management Symposium (ITEMS 2), Manila, Philippines, March 24-27, 2003, Theme 5, available online at http://www.reefbase.org/References/ref_literature.asp?ID=14729&searchactive=yes&Submit=search.

fish production.⁴⁶ Even if not presently realised, it was noted that lack of long term management actions, poverty in the fishing community and lack of legal review focused on management actions are major barriers to coastal management arrangements in Sri Lanka.

Biologists and coast conservation researches point out that an appropriate regulatory system needs to be implemented in order to ensure the conservation of marine resources, as well as to establish sustainable fisheries management in Sri Lanka.⁴⁷ Marine biologists found that even though many ministries and departments have been established for coastal management and marine fishing activities, protection activities are ignored in Sri Lanka.⁴⁸ In legal terms, Joseph⁴⁹ argues that Sri Lanka still has not recognised the relative importance of the conservation, management, exclusive powers of the exclusive economic zone, control over marine fisheries and related resources in order to promote sustainable fisheries management.

2. *State of marine resources*

The Exclusive Economic Zone of Sri Lanka is 500800 km². The coastal and marine environment of Sri Lanka comprises various species, habitats, coral reefs and other natural resources. Sri Lanka has about 190 hard coral species. Coral reefs are under threat and remaining reefs are highly degraded. Generally, many of the coral reefs which are located in the Indian Ocean are being degraded.⁵⁰ The national report

⁴⁶ G. T. Silvestre, L. R. Garces, I. Stobutzki, M. Ahmed, R. A. V. Santos, C.Z. Luna and W. Zhou, 'South and South-East Asian coastal fisheries: their status and directions for improved management: conference synopsis and recommendations', in Silvestre, G. et al. (eds.), *Assessment, Management and Future Directions for Coastal Fisheries in Asian Countries* (Penang, Malaysia: WorldFish Center, 2003), available online at <http://www.worldfishcenter.org/trawl/publications/assessment/pdf/Chapter-01-FA.pdf>.

⁴⁷ G. L. Preston and Y. S. Yadava, *Learning of the Third Phase of the Bay of Bengal Programme for Coastal Fisheries Management 1994-1999*, REP/85 (Chennai, India: Bay of Bengal Programme, 2000), available online at <ftp://ftp.fao.org/docrep/fao/007/ad917e/ad917e00.pdf>.

⁴⁸ Ibid.

⁴⁹ L. Joseph, *National Report of Sri Lanka on the Formulation of a Transboundary Diagnostic Analysis and Strategic Action Plan for the Bay of Bengal Large Marine Ecosystem Programme* (Bay of Bengal Programme), available online at http://www.fao.org/fi/boblme/website/nat_rep/Nat_Sri%20Lanka.PDF.

⁵⁰ G. L. Preston and Y. S. Yadava, *Learning of the Third Phase of the Bay of Bengal Programme for Coastal Fisheries Management 1994-1999*, REP/85 (Chennai, India: Bay of Bengal Programme, 2000), available online at <ftp://ftp.fao.org/docrep/fao/007/ad917e/ad917e00.pdf>.

published by the Bay of Bengal Programme states that the coastal zone of Sri Lanka contains about 62% of the industrial establishments and 70% of the tourist infrastructure facilities.⁵¹

As far as the main marine resources are concerned, Sri Lanka has small pelagic fish, namely sardines, mackerels and herrings which are exploited by beach seines and small-mesh gill nets; large pelagic fish which presently largely contribute to Sri Lankan annual fish production; demersal fish which are caught by trawling, bottom set nets, bottom lines and hand lines; about thirty species of prawns and six species of spiny lobsters which are available in coral reefs, sandstones, rocks and mud banks.⁵²

The main marine fishing gear in coastal areas is the gill net, although additionally, trolling lines, bottom set nets, and bottom long lines are used.⁵³ Over-exploitation of fisheries is evident and pelagic fisheries are under threat. Biological studies indicate that South Asian coral reefs and marine resources are highly affected by over-fishing, destructive methods of collecting reef resources, and bomb fishing.⁵⁴ Sri Lanka still continues to practice blast fishing and purse seining even in marine water areas designated for conservation sites, namely the Pigeon Islands, the National Park in Trincomalee, the Bar Reef Marine Sanctuary and the Rumassala Sanctuary.⁵⁵

⁵¹ Ibid.

⁵² A. Rajasuriya, H. Zahir., E. V. Muley, B. R. Subramanian, K. Venkataraman, M. V. M. Wafer, S. M. Munjurul Hannan Khan, E. Whittingham, 'Status of Coral Reefs in South Asia: Bangladesh, India, Maldives and Sri Lanka', in C. Wilkinson (ed.), *Status of Coral Reefs of the World: Australian Institute of Marine Science, Townsville, Australia, 2000*, pp. 95-115. Also available online at http://www.seaturtle.org/PDF/GCRMN_2000c_AIMS.pdf, (copy and paste (or type) on browser).

⁵³ T. Hammerman, *Fish Trap Trials in Sri Lanka*, Bay of Bengal Programme: Development of Small-Scale Fisheries, FAO Working Papers BOBP/WP/42 (Madras: 1986), available online at http://www.fao.org/documents/show_cdr.asp?url_file=/docrep/007/ae110e/ae110e00.htm.

⁵⁴ A. Rajasuriya, K. Venkataraman, E.V. Muley, H. Zahir and B. Cattermoul, 'Status of Coral Reefs in South Asia: Bangladesh, India, Maldives and Sri Lanka' (2002) in C. Wilkinson (ed), *Status of Coral Reefs of the World: Australian Institute of Marine Science, Townsville, Australia, 2002*, pp. 101-122. Also available online at <http://www.aims.gov.au/pages/research/coral-bleaching/scr2002/pdf/scr2002-06.pdf>.

⁵⁵ Ibid.

After expanding marine ornamental fishing industry in Sri Lanka, fishing communities started to practise destructive methods of catching coloured-fish, the misuse of natural resources for fishing, and the overuse of diving chemicals which adversely affected sustainable management of the ornamental marine fisheries in Sri Lanka.⁵⁶ Marine biologists have continuously criticised the legal authorities of the government for failing to stop illegal fishing operations and coral mining.⁵⁷ Marine aquarium and coral reefs have suffered from a high sediment level, land-based pollution, and crude-oil pollution through industrial establishments, including exceptional increase in the sea surface temperature.⁵⁸ Generally, South Asia has a poor history of collecting documentation and statistical information on endangered species, reef fisheries, and biological substances. However, biological reports indicate that the major causes of reef degradation and marine pollution are: coral mining, sedimentation, destructive fishing practices (including blast fishing, and the use of bottom set nets), unlimited resource exploitation, the harvesting of ornamental fish, and population growth in the coastal areas of Sri Lanka.⁵⁹

In order to curb marine pollution, which according to recent analysis is caused by release of untreated or partially-treated water, toxic substances from industry, release of a high volume of waste loads, unsanitary disposal methods, inadequate municipal disposal facilities, and pollution from the coastal line tourist sector⁶⁰, the Marine Pollution Prevention Act 1981(Act No. 59 of 1981) was enacted. It provides provisions for the reduction and control of pollution in Sri Lankan waters. The Maritime Zones Law 1976 also provides provisions for the declaration of maritime pollution prevention zones (s. 7). Under s. 7(1) the President of Sri Lanka has

⁵⁶ S. U. K. Ekaratne, *A Review of Status and Trends of Exported Ornamental Fish Resources and Their Habitants in Sri Lanka*, FAO Reports BOBP/REP/88 (Chennai, India: Bay of Bengal Programme, 2000), available online at http://www.fao.org/documents/show_cdr.asp?url_file=/docrep/007/ad920e/ad920e00.htm.

⁵⁷ Rajasuriya, 'Status of Coral Reefs', 2002, pp. 110-117 (link: 10-17).

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ L. Joseph, *National Report of Sri Lanka on the Formulation of a Transboundary Diagnostic Analysis and Strategic Action Plan for the Bay of Bengal Large Marine Ecosystem Programme* (Bay of Bengal Programme), available online at http://www.fao.org/fi/boblme/website/nat_rep/Nat_Sri%20Lanka.PDF.

exclusive powers to declare any zone of the sea adjacent to the territorial sea, and the sea-bed and sub-soil thereof to be the pollution prevention zone of Sri Lanka. To give synergy to these efforts, there exists a National Aquatic Resources Research and Development Agency of Sri Lanka which has a number of marine conservation projects.⁶¹ They are engaged in prevention of marine oil pollution, dumping or causing the escape of waste oil or harmful substances into Sri Lankan waters, engaging in any developmental activity within the Coastal zone without a permit, and discharging waste or oil into the environment without a license.⁶²

⁶¹ Ibid., pp. 8–28; Anil Premeratne, http://66.249.93.104/search?q=cache:7D3JfMDf09QJ:www.icriforum.org/itmems/presentations/20_CoralMiningAPremaratne_T5.doc+Case+Study+on++Evaluation+of+Management+by+Anil+Premaratne&hl=de&gl=d.

⁶² Ibid.

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VI. Links

Ministry of Fisheries and Aquatic Resources	http://www.fisheries.gov.lk/
National Aquaculture Development Authority	http://www.nara.ac.lk/
Fishery Harbours Corporation	http://www.fisheries.gov.lk/
National Aquatic Resources Research and Development Agency	http://www.nara.ac.lk/
Cost Conservation Department of Sri Lanka	http://www.ccd.gov.lk/
Central Environment Authority	http://www.cea.lk/
Attorney General's Department of Sri Lanka	http://www.attorneygeneral.gov.lk/
