

# ACT ON THE PRESERVATION, MANAGEMENT AND USE OF AGRO-FISHERY BIORESOURCES

Wholly Amended by Act No. 10938, Jul. 25, 2011

Amended by Act No. 11693, Mar. 23, 2013

## Article 1 (Purpose)

The purpose of this Act is to contribute to the development of agriculture and fishery, farming and fishing villages, and the national economy by securing diversity of agro-fishery bioresources and enhancing the competitiveness of the agro-fishery bioindustry through systematic preservation and management, and sustainable use of agro-fishery bioresources.

## Article 2 (Definitions)

The terms used in this Act shall be defined as follows:

1. The term "agro-fishery bioresource" means any of the followings:

(a) The term "agricultural bioresource" means any real animals, plants, microorganisms, and other living creatures with the real or potential value for agriculture defined in subparagraph 1 (a) of Article 3 of the Framework Act on Agriculture and Fisheries, Rural Community and Food Industry and information, such as valuable facts verified through the use of such living creatures; *<Amended by Act No. 11693, Mar. 23, 2013>*

(b) The term "fishery bioresource" means any fishery resources defined in Article 2 (1) 1 of the Fishery Resources Management Act and living creatures, such as microorganisms related to fishery resources, and information, such as valuable facts verified through the use of such living creatures; *<Amended by Act No. 11693, Mar. 23, 2013>*

2. The term "agro-fishery biotic resource" means any of the followings:

(a) The term "agricultural biotic resource" means any genetic resource, living creature, part of a living creature, population, or elements of an organism with the real or potential value for agriculture defined in subparagraph 1 (a) of Article 3 of the Framework Act on Agriculture and Fisheries, Rural Community and Food Industry;

(b) The term "fishery biotic resource" means any fishery resource defined in Article 2 (1) 1 of the Fishery Resources Management Act, any living creature, such as microorganisms related to fishery resources, part of a living creature, population, elements of an organism, or a genetic resource;

3. The term "agro-fishery biodiversity" means the diversity set forth in the following items, including the diversity within a species, among species, and of ecosystems:

- (a) Diversity of living creatures which occurs in all sources, including land or aquatic ecosystems and the combination thereof and has the real or potential value for agriculture defined in subparagraph 1 (a) of Article 3 of the Framework Act on Agriculture and Fisheries, Rural Community and Food Industry;
  - (b) Diversity of living creatures, such as fishery resources defined in Article 2 (1) 1 of the Fishery Resources Management Act and microorganisms related to fishery resources;
4. The term "genetic substance" means a plant, animal, microorganism, and other original substance containing a unit of genetic functionality;
5. The term "agro-fishery genetic resource" means a genetic resource contained in an agro-fishery biotic resource and has the real or potential value. Among them, seeds, trophosomes, pollen, cell lines, genes, silkworm eggs, breeding stocks, fisheries seeds, ova, fertilized ova, spores, semen, germs, fungi, and viruses shall be classified into the following categories:
- (a) Wild species: Species that inhabit or grow in nature, such as in a mountain, field, river (including a stream, dam, lake, swamp and reservoir) or the sea;
  - (b) Endemic species: Species that grow, or are raised or farmed in a locality or waters (hereinafter referred to as "locality") and have adapted themselves to the climate, natural features or underwater environment of the locality without being crossbred with any other species in another locality;
  - (c) Cultivated species: Species artificially modified in the course of evolution to satisfy human needs;
  - (d) Imported species: Species imported from any foreign country which do not fall under any category of wild species, endemic species, nor cultivated species in the Republic of Korea;
6. The term "preservation in the locality" means to preserve any agro-fishery biotic resource within its natural habitat. In such cases, as regards the cultivated species, it means to preserve them in an environment wherein their intrinsic characteristics are developed;
7. The term "preservation outside the locality" means to preserve any agro-fishery biotic resource in any place other than its natural habitat;
8. The term "sustainable use" means to use biodiversity elements in a manner, and to the degree, not causing the reduction of biodiversity over a long period, while maintaining the potentiality of biodiversity to satisfy needs and desires of the present and future generations;
9. The term "jurisdictional waters" means any of the following waters:
- (a) Territorial seas and internal waters as defined in Articles 1 and 3 of the Territorial Sea and Contiguous Zone Act;
  - (b) An exclusive economic zone as defined in Article 2 of the Exclusive Economic Zone Act;
  - (c) Inland waters as defined in subparagraph 1 of Article 2 of the Inland Water Fisheries Act.

### **Article 3 (Responsibilities of State, etc.)**

- (1) The State and local governments shall each establish and implement policies necessary for the preservation, management, and use of agro-fishery bioresources to ensure the diversity of agro-fishery bioresources and the sustainable use thereof.

(2) The State and local governments shall endeavor to acquire agro-fishery bioresources and share the profits derived therefrom to ensure the diversity of bioresources, sustainable use thereof, and fulfillment of the international norms.

(3) Every citizen shall fully cooperate with the State and local governments in efficiently promoting programs established and implemented by the State and local governments for the preservation, management, and use of agro-fishery bioresources.

#### **Article 4 (Relationship with other Acts)**

Except as otherwise provided by any other Act, the preservation, management, and use of agro-fishery bioresources shall be governed by this Act.

#### **Article 5 (Establishment, etc. of Master Plans)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall establish a master plan for the preservation, management, and use of agro-fishery bioresources (hereinafter referred to as "master plan") in order to preserve agricultural bioresource or fishery bioresource and ensure sustainable use of such resources. *<Amended by Act No. 11693, Mar. 23, 2013>*

(2) A master plan shall include the following:

1. Matters concerning the collection, evaluation, and registration of agro-fishery bioresources;
2. Matters concerning the efficient preservation and management of agro-fishery bioresources;
3. Matters concerning facilitating the use of agro-fishery bioresources, such as distribution of such resources;
4. Matters concerning increasing the diversity of agro-fishery bioresources;
5. Matters concerning the informatization of agro-fishery bioresources.

(3) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall establish and implement an implementation plan for the preservation, management and use of agricultural bioresource or fishery bioresource (hereinafter referred to as "implementation plan") in conformity with a master plan. *<Amended by Act No. 11693, Mar. 23, 2013>*

(4) Matters necessary for the establishment and implementation of a master plan and implementation plans shall be prescribed by Presidential Decree.

#### **Article 6 (Surveys, Recording, etc.)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall survey the current status of agro-fishery bioresources preserved in and outside each locality and collect data thereon to preserve agro-fishery bioresources in a safe condition. *<Amended by Act No. 11693, Mar. 23, 2013>*

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall endeavor to secure the following agro-fishery bioresources held by international organizations, foreign countries, etc., through international cooperation: *<Amended by Act No. 11693, Mar. 23, 2013>*

1. Agro-fishery bioresources, such as wild or endemic species, taken out of the Republic of Korea;

2. Agro-fishery bioresources necessary for research for developing varieties and any other purposes.
- (3) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall prepare a list of agro-fishery bioresources surveyed or collected under paragraph (1) or secured under paragraph (2). *<Amended by Act No. 11693, Mar. 23, 2013>*
- (4) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall require the head of an agency responsible for agro-fishery bioresources under Article 14 (1) to record the agro-fishery bioresources worth preserving, among those listed in paragraph (3), on the list of preserved agro-fishery bioresources. *<Amended by Act No. 11693, Mar. 23, 2013>*
- (5) Matters necessary for conducting surveys on the current status of agro-fishery bioresources and collecting data thereof, preparing a list of agro-fishery bioresources, and recording agro-fishery bioresources on the list of preserved agro-fishery bioresources pursuant to paragraphs (1) through (4) shall be prescribed by Ordinance of the Ministry of Agriculture, Food and Rural Affairs or Ordinance of the Ministry of Oceans and Fisheries. *<Amended by Act No. 11693, Mar. 23, 2013>*

#### **Article 7 (Analysis, Evaluation, etc.)**

- (1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall analyze and evaluate genetic characteristics, etc. of agro-fishery bioresources for facilitating the use thereof and grade them according to their value for preservation. *<Amended by Act No. 11693, Mar. 23, 2013>*
- (2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall disclose the results of analysis and evaluations under paragraph (1) to the public, as prescribed by the Official Information Disclosure Act. *<Amended by Act No. 11693, Mar. 23, 2013>*
- (3) Matters necessary for the analysis, evaluation, and grading under paragraph (1) shall be prescribed by Ordinance of the Ministry of Agriculture, Food and Rural Affairs or Ordinance of the Ministry of Oceans and Fisheries. *<Amended by Act No. 11693, Mar. 23, 2013>*

#### **Article 8 (Acquisition, etc. of Fishery Biotic Resources by Foreigners, etc.)**

- (1) Where a foreigner (referring to a person of foreign nationality, a corporation established under a foreign Act, or a foreign government; hereinafter the same shall apply) or an international organization (hereinafter referred to as "foreigner, etc.") intends to acquire any fishery biotic resource in the jurisdictional waters for the purposes of research, development, production, commercial use, etc., he/she or it shall obtain permission in advance from the Minister of Oceans and Fisheries upon being equipped with necessary vessel, instruments, etc.: Provided, That this shall not apply where he/she or it has obtained permission, a license or consent (hereinafter referred to as "permission, etc.") from the Minister of Oceans and Fisheries under any other Act or treaty with the Government of the Republic of Korea. *<Amended by Act No. 11693, Mar. 23, 2013>*
- (2) A foreigner, etc. who intends to obtain permission pursuant to the main sentence of paragraph (1) shall submit a survey plan which includes matters prescribed by Presidential Decree to the Minister of Oceans and Fisheries six months prior to the date scheduled for acquiring the relevant fishery biotic resource, and a foreigner, etc. who has obtained permission, etc. pursuant to the proviso to paragraph (1) shall submit the

same to the same Minister one month prior to the date scheduled for acquiring the relevant fishery biotic resource. *<Amended by Act No. 11693, Mar. 23, 2013>*

(3) When the Minister of Oceans and Fisheries has granted permission pursuant to paragraph (1), he/she shall issue a certificate of permission prescribed by Presidential Decree to the relevant foreigner, etc.

*<Amended by Act No. 11693, Mar. 23, 2013>*

(4) Upon obtaining permission pursuant to paragraph (1), the relevant foreigner, etc. shall mark or keep the certificate of permission prescribed in paragraph (2) on the permitted vessel to make permitted matters ascertainable.

(5) Matters necessary for procedures for permission, matters that require permission, issuance of a certificate of permission, method of marking permitted matters, submission of a survey plan, etc. under paragraphs (1) through (4) shall be prescribed by Presidential Decree.

#### **Article 9 (Permission, etc. for Joint Acquisition by Foreigners, etc.)**

(1) Where a foreigner, etc. acquires any fishery biotic resource jointly with a Korean national or State agency (hereinafter referred to as "national, etc.") pursuant to Article 8 (1) through delegation or entrustment by or a contract with such national or State agency, the foreigner, etc. or the national, etc. who participates in such joint acquisition shall obtain permission pursuant to Article 8 (1): Provided, That this shall not apply where he/she has obtained permission, etc. from the Minister of Oceans and Fisheries under any other Act or treaty with the Government of the Republic of Korea. *<Amended by Act No. 11693, Mar. 23, 2013>*

(2) Article 8 (2) through (5) shall apply mutatis mutandis to permission for joint acquisition under paragraph (1).

#### **Article 10 (Rights, Obligations, etc. of Foreigners, etc.)**

(1) No foreigner, etc. shall claim a right to explore or exploit any environment or natural resources in the jurisdictional waters, on the grounds of the scientific survey data of fishery bioresources acquired under Article 8 or 9.

(2) Any foreigner, etc. who has obtained permission, etc. under Article 8 or 9 shall fulfill each of the following obligations, as prescribed by Presidential Decree:

1. Submission of a report on results on the fishery bioresources acquired, survey data, specimens, genetic substances and similar that can be divided without diminishing any scientific value;
2. Provision of the survey results and data analysis records;
3. Support for the analysis of survey results and data;
4. Removal of facilities, equipment, etc. installed or used, when the research, development, production, or commercial use of fishery bioresources under Article 8 (1) or 9 (1) is finished or the permission, etc. is revoked or suspended under Article 11 (1).

(3) When a foreigner, etc. fails to fulfill his/her obligations prescribed in paragraph (2), the Minister of Oceans and Fisheries may demand the head of the State or the international organization to which such foreigner, etc. belongs to fulfill such obligations. *<Amended by Act No. 11693, Mar. 23, 2013>*

(4) When a foreigner, etc. causes personal or property damage to a national of the Republic of Korea or a State agency in acquiring a fishery bioresource under this Act, he/she shall make compensation therefor in accordance with the relevant treaty and the Acts of the Republic of Korea.

#### **Article 11 (Revocation or Suspension of Permission, etc.)**

(1) Where a person who has obtained permission, etc. under Article 8 (1) or 9 (1) falls under any of the following cases, the Minister of Oceans and Fisheries may revoke the permission, etc. for acquisition or order suspension of acquisition for a fixed period not exceeding one year: Provided, That in cases falling under any of subparagraphs 1 through 3, the relevant permission, etc. shall be revoked: *<Amended by Act No. 11693, Mar. 23, 2013>*

1. Where he/she has obtained permission, etc. by fraud or other wrongful means;
2. Where he/she has been subject to dispositions for suspension of acquisition at least two occasions in one year;
3. Where he/she has made acquisition during the period of suspension;
4. Where the head of a relevant central administrative agency requests to suspend the acquisition of fishery biotic resources for reasons of conducting a military operation or keeping peace, public order and security of the Republic of Korea;
5. Where the diversity of fishery bioresources is fear to be seriously depleted or damaged;
6. Where the acquisition is made not in conformity with a survey plan prepared under Article 8 (2) (including cases where article 9 (2) applies mutatis mutandis);
7. Where the obligations prescribed in Article 10 (2) are not fulfilled;
8. Where he/she fails to comply with any order, restriction or condition issued or imposed under this Act.

(2) No person against whom permission, etc. is revoked under paragraph (1) may apply for acquisition until one year passes after the date of revocation of such permission, etc. for acquisition.

(3) Detailed standards for administrative dispositions under paragraph (1) and other necessary matters shall be prescribed by Ordinance of the Ministry of Oceans and Fisheries. *<Amended by Act No. 11693, Mar. 23, 2013>*

#### **Article 12 (Conditional Permission, etc.)**

In granting permission, etc. under Article 8 or 9, the Minister of Oceans and Fisheries may impose a condition, etc. prescribed by Presidential Decree. *<Amended by Act No. 11693, Mar. 23, 2013>*

#### **Article 13 (Countermeasures, etc. against Hazards)**

(1) When the diversity of agro-fishery bioresources has been seriously depleted or even in danger of extinction, the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall not delay taking measures necessary to avoid or mitigate such danger on the ground of a lack of definite scientific evidence. *<Amended by Act No. 11693, Mar. 23, 2013>*

(2) If any event seriously affecting the safe preservation of any agro-fishery bioresource, such as a natural disaster, civil war, or war, occurs, the Minister of Agriculture, Food and Rural Affairs or the Minister of

Oceans and Fisheries may take appropriate measures to minimize damage therefrom, such as establishing a cooperative system for the notification of, and response to, such danger between State agencies, legal entities, and natural persons who preserve agro-fishery bioresources. <Amended by Act No. 11693, Mar. 23, 2013>

#### **Article 14 (Designation, Operation, etc. of Agencies Responsible for Agro-Fishery Bioresources)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may designate and operate an agency prescribed by Presidential Decree as an agency responsible for agro-fishery bioresources (hereinafter referred to as "responsible agency") to carry out the affairs pertaining to securing diverse agro-fishery bioresources and the safe preservation and management, and the efficient use, of agro-fishery bioresources in a professional manner. <Amended by Act No. 11693, Mar. 23, 2013>

(2) The head of each responsible agency shall engage in the following activities:

1. Matters concerning securing, preservation, management, and use of agro-fishery bioresources;
2. Establishment of an integrated information system for agro-fishery bioresources;
3. Matters concerning medium and long-term preservation of, and research on, agro-fishery bioresources;
4. Matters concerning international cooperation for agro-fishery bioresources and other relevant matters.

(3) Matters necessary for the designation and operation of responsible agencies shall be prescribed by Presidential Decree.

#### **Article 15 (Designation, Operation, etc. of Management Agency of Agro-Fishery Bioresources)**

(1) The head of any responsible agency may designate a person equipped with facilities and human resources necessary for preserving and managing agro-fishery bioresources in each separate area as an agency for managing agro-fishery bioresources (hereinafter referred to as "management agency") to ensure the efficient management of agro-fishery bioresources.

(2) The head of each management agency shall engage in the following activities:

1. Matters concerning the collection, short-term preservation, and analysis and evaluation, of agro-fishery bioresources;
2. Matters concerning securing the diversity of agro-fishery bioresources, use and research thereof;
3. Matters concerning the informatization of agro-fishery bioresources and other relevant matters.

(3) Any of the following entities that intend to be designated as a management agency shall be equipped with facilities and human resources necessary for preserving and managing agro-fishery bioresources and file an application with the head of a responsible agency, as prescribed by Presidential Decree:

1. A State agency or an agency affiliated thereto;
2. A national or public educational or research institute;
3. A public institution under Article 4 of the Act on the Management of Public Institutions;
4. A private educational or research institute, a legal entity, an organization, or an individual.

(4) The term of validity of designation as a management agency shall be three years from the date of designation, and such designation shall be renewed before the term of validity expires in order to continue

engaging in the activities of the management agency.

(5) If a management agency falls under any of the following subparagraphs, the head of the relevant responsible agency may revoke the designation or order it to correct such matter: Provided, That if a management agency falls under subparagraph 1 or fails to comply with a corrective order without any justifiable ground within 60 days from the day on which it was ordered to correct such matter as it fell under subparagraph 2 or 3, the designation must be revoked without exception:

1. If a management agency has obtained the designation by deceit or other wrongful means;
2. If a management agency fails to engage in the activities prescribed in the subparagraphs of paragraph (2) without any justifiable ground;
3. If a management agency no longer meets criteria for designation of management agencies under paragraph (3).

(6) Matters necessary for criteria and procedures for designation of management agencies and criteria and procedures for, and method, etc. of renewal under paragraph (4) shall be prescribed by Presidential Decree.

#### **Article 16 (Approval for and Limitations on Distribution)**

(1) Any person who intends to receive agro-fishery bioresources preserved and distributed by a responsible agency of agro-fishery bioresources designated under Article 14 (1) or a management agency of agro-fishery bioresources designated under Article 15 (1) shall obtain approval from the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries: Provided, That the distribution of agro-fishery bioresources collected from any foreign country under an international agreement, treaty, etc. shall be governed by such agreement, treaty, etc. <Amended by Act No. 11693, Mar. 23, 2013>

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may impose limitations in any of the following cases, notwithstanding the main sentence of paragraph (1): <Amended by Act No. 11693, Mar. 23, 2013>

1. If any agro-fishery bioresource is to be used for any purpose other than testing and research purposes: Provided, That breeding stocks shall be excluded herefrom;
2. If the quantity of preserved agro-fishery bioresources in stock is insufficient;
3. If any other Act or subordinate statute prohibits distribution to a foreign country;
4. If distribution to a foreign country is deemed likely to cause damage to the national interest.

(3) Matters necessary for the criteria, procedures, etc. for approval for distribution under the main sentence of paragraph (1) shall be prescribed by Presidential Decree.

#### **Article 17 (Revocation, etc. of Approval for Distribution)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may revoke approval for distribution granted under the main sentence of Article 16 (1) and require the return of the agro-fishery bioresources approved for distribution in any of the following cases: Provided, That in cases falling under subparagraph 1, he/she shall revoke such approval and require the return of the agro-



fishery bioresources approved for distribution: *<Amended by Act No. 11693, Mar. 23, 2013>*

1. Where approval for distribution is obtained by deceit or other wrongful means;
  2. Where an agro-fishery bioresource is used for any purpose, other than the purpose for which distribution has been approved.
- (2) Matters necessary for procedures for the revocation of approval for distribution under paragraph (1) shall be prescribed by Presidential Decree.

#### **Article 18 (Approval, etc. for Removal from the Republic of Korea)**

(1) Any person who intends to remove from the Republic of Korea any agro-fishery bioresource included in the list of objects subject to approval for removal from the Republic of Korea prepared by the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries among the following agro-fishery bioresources shall obtain approval therefor from the same Minister: Provided, That the foregoing shall not apply where distribution to a foreign country has been approved pursuant to the main sentence of Article 16 (1): *<Amended by Act No. 11693, Mar. 23, 2013>*

1. Wild species and endemic species within the Republic of Korea, including plants, animals, microorganisms, and mushrooms, which are necessary for maintaining and preserving the agro-fishery biodiversity within the Republic of Korea;
  2. Cultivated species, including plants (excluding seeds of F1 hybrid plants), animals, microorganisms, and mushrooms, which are developed by a State agency;
  3. Other agro-fishery bioresources recognized by the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries as necessary for maintaining and preserving the agro-fishery biodiversity within the Republic of Korea. *<Amended by Act No. 11693, Mar. 23, 2013>*
- (2) Where the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries prepares a list of objects subject to approval to take out of the Republic of Korea shall designate such objects after having prior consultation with the heads of the relevant central administrative agencies and shall make a public notification thereof. *<Amended by Act No. 11693, Mar. 23, 2013>*
- (3) Matters necessary for the criteria and procedures for approval for removal from the Republic of Korea under paragraph (1), preparation of a list of objects subject to approval for removal from the Republic of Korea under paragraph (2) and other relevant matters shall be prescribed by Ordinance of the Ministry of Agriculture, Food and Rural Affairs or Ordinance of the Ministry of Oceans and Fisheries. *<Amended by Act No. 11693, Mar. 23, 2013>*

#### **Article 19 (Revocation, etc. of Approval for Removal from the Republic of Korea)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may revoke approval for removal from the Republic of Korea under the main sentence of Article 18 (1) and require the return of agro-fishery bioresources approved to remove from the Republic of Korea in any of the following cases: *<Amended by Act No. 11693, Mar. 23, 2013>*

1. Where approval for removal from the Republic of Korea is obtained by deceit or other wrongful means;

2. Where an agro-fishery bioresource is used for any purpose, other than the purpose for which it has been approved to remove from the Republic of Korea.

(2) Matters necessary for procedures for the revocation of approval to remove from the Republic of Korea under paragraph (1) shall be prescribed by Presidential Decree.

#### **Article 20 (Increasing Diversity of Agro-Fishery Bioresources, Facilitating Use thereof, etc.)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall formulate policies on surveys, collection, and listing of agro-fishery bioresources to increase the diversity thereof. *<Amended by Act No. 11693, Mar. 23, 2013>*

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall formulate policies necessary for giving assistance to farming or fishing households to ensure that they can cultivate, raise or farm endemic bioresources for the preservation and management thereof. *<Amended by Act No. 11693, Mar. 23, 2013>*

(3) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall formulate policies on the evaluation of characteristics of endemic bioresources and the informatization thereof as necessary for facilitating the use of endemic bioresources. *<Amended by Act No. 11693, Mar. 23, 2013>*

(4) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may nurture and support national or public research institutes, legal entities, organizations, etc. which engage in such activities as the development of technology for use of agro-fishery bioresources, increase of diversity, facilitation of use of endemic bioresources, etc. referred to in paragraphs (1) through (3). *<Amended by Act No. 11693, Mar. 23, 2013>*

(5) The Government shall endeavor to secure continuously and steadily financial resources for investment necessary for implementing policies for the preservation, management and use of agro-fishery bioresources.

#### **Article 21 (Informatization and Nurturing of Human Resources, etc.)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall implement projects for informatization, such as establishing a comprehensive information system for agro-fishery bioresources, to enable the safe preservation and management, and efficient use, of agro-fishery bioresources. *<Amended by Act No. 11693, Mar. 23, 2013>*

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may provide educational and training programs for the preservation, management, and use of agro-fishery bioresources and for nurturing professional human resources for such purposes. *<Amended by Act No. 11693, Mar. 23, 2013>*

(3) Matters necessary for informatization projects referred to in paragraph (1) and the educational and training programs referred to in paragraph (2) shall be prescribed by Presidential Decree.

#### **Article 22 (Facilitation, etc. of Research and Exploitation of Overseas Agro-Fishery Bioresources and International Cooperation)**

(1) If necessary for facilitating research and exploitation of overseas agro-fishery bioresources and international cooperation therefor, the Government shall formulate policies on each of the following:

1. Matters concerning research and surveys to exploit overseas agro-fishery bioresources;
2. Matters concerning the development of technology for exploiting overseas agro-fishery bioresources and nurturing of professional human resources related thereto;
3. Matters concerning the exchanges of information, joint surveys and research, exchanges of technology with foreign countries, international organizations, etc. involved in exploitation of overseas agro-fishery bioresources;
4. Other matters prescribed by Presidential Decree as necessary for exploiting overseas agro-fishery bioresources, promotion of international cooperation therefor, etc.

(2) The Government may provide necessary support to academic circles, research institutes, enterprises, etc. which participate in projects relating to the policies prescribed in paragraph (1) within budgetary limits, as prescribed by Presidential Decree.

(3) Where deemed necessary for efficiently promoting the exploitation of overseas agro-fishery bioresources and international cooperation therefor, the Government may have an agency prescribed by Presidential Decree engage in the activities of collection, analysis and provision of information on exploitation of overseas resources and subsidize the expenses incurred therein.

#### **Article 23 (Issuance, etc. of Statistics and Publications)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries shall issue and distribute statistics and publications each year following consultation with the heads of the relevant central administrative agencies and the Commissioner of the Korea National Statistical Office so that the present condition of agro-fishery bioresources, including the kinds thereof and agencies which hold them can be ascertained. *<Amended by Act No. 11693, Mar. 23, 2013>*

(2) To issue statistics and publications under paragraph (1), the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may request necessary data from the heads of the relevant central administrative agencies. *<Amended by Act No. 11693, Mar. 23, 2013>*

(3) Matters necessary for the details of statistics and publications related to agro-fishery bioresources referred to in paragraph (1), submission of data, method of preparation thereof and other relevant matters shall be prescribed by Presidential Decree.

#### **Article 24 (Establishment of and Deliberation by Committee for Deliberation on Agricultural Bioresources)**

(1) There is hereby established a Committee for Deliberation on Agricultural Bioresources under the jurisdiction of the Minister of Agriculture, Food and Rural Affairs to deliberate on matters concerning the establishment and adjustment of major policies, such as a master plan for agricultural bioresources.

(2) The Committee for Deliberation on Agricultural Bioresources shall deliberate on the followings:

1. The formulation of a master plan for the preservation, management, and use of agricultural bioresources;

2. Major policies on research and technology, and development of human resources, in the field of agricultural bioresources;
3. Important matters concerning acquisition and distribution of agricultural bioresources;
4. Other matters determined by the Minister of Agriculture, Food and Rural Affairs as necessary for the preservation, management, and use of agricultural bioresources.

**Article 24-2 (Organization and Operation of Committee for Deliberation on Agricultural Bioresources)**

- (1) The Committee for Deliberation on Agricultural Bioresources shall be comprised of no more than 21 members, including one chairperson.
- (2) The Vice Minister of Agriculture, Food and Rural Affairs shall take the chair of the Committee for Deliberation on Agricultural Bioresources, and other Committee members shall be either appointed or commissioned by the chairperson from among the following persons:
  1. Public officials belonging to the Senior Civil Service of relevant administrative agencies;
  2. Experts in agricultural bioresources who are in academic circles, research institutes, or industrial circles;
  3. Persons recommended by producers' organizations prescribed in subparagraph 4 of Article 3 of the Framework Act on Agriculture and Fisheries, Rural Community and Food Industry.
- (3) The Committee for Deliberation on Agricultural Bioresources may establish a working subcommittee to efficiently operate the Committee for Deliberation on Agricultural Bioresources and to conduct specialized research and examination and preliminary coordination of matters brought before the Committee for deliberation.
- (4) Except as otherwise prescribed in paragraphs (1) through (3), matters necessary for the organization and operation of the Committee for Deliberation on Agricultural Bioresources and the working subcommittees shall be prescribed by Presidential Decree.

**Article 25 (Establishment of and Deliberation by Committee for Deliberation on Fishery Bioresources)**

- (1) There is hereby established a Committee for Deliberation on Fishery Bioresources under the jurisdiction of the Minister of Oceans and Fisheries to deliberate on matters concerning the establishment and adjustment of major policies, such as a master plan for fishery bioresources.
- (2) The Committee for Deliberation on Fishery Bioresources shall deliberate on the followings:
  1. The establishment of a master plan for the preservation, management, and use of fishery bioresources;
  2. Major policies on research, and development of technology and human resources, in the field of fishery bioresources;
  3. Important matters concerning acquisition and distribution of fishery bioresources;
  4. Other matters determined by the Minister of Oceans and Fisheries as necessary for the preservation, management, and use of fishery bioresources.

## **Article 25-2 (Organization and Operation of Committee for Deliberation on Fishery Bioresources)**

(1) The Committee for Deliberation on Fishery Bioresources shall be comprised of no more than 21 members, including one chairperson.

(2) The Vice Minister of Oceans and Fisheries shall take the chair of the Committee for Deliberation on Fishery Bioresources, and other Committee members shall be either appointed or commissioned by the chairperson from among the following persons:

1. Public officials belonging to the Senior Civil Service of relevant administrative agencies;
2. Experts in fishery bioresources, who are in academic circles, research institutes, or industrial circles;
3. Persons recommended by producers' organizations prescribed in subparagraph 4 of Article 3 of the Framework Act on Agriculture and Fisheries, Rural Community and Food Industry.

(3) The Committee for Deliberation on Fishery Bioresources may establish a working subcommittee to efficiently operate the Committee for Deliberation on Fishery Bioresources and to conduct specialized research and examination and preliminary coordination of matters brought before the Committee for deliberation.

(4) Except as otherwise prescribed in paragraphs (1) through (3), matters necessary for the organization and operation of the Committee for Deliberation on Fishery Bioresources and the working subcommittees shall be prescribed by Presidential Decree.

## **Article 26 (Delegation and Entrustment of Authority)**

(1) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may delegate part of his/her authority under this Act to the heads of agencies under his/her jurisdiction, the Administrator of the Rural Development Administration and the heads of agencies under his/her jurisdiction, the Minister of the Korea Forest Service and the heads of agencies under his/her jurisdiction, the Special Metropolitan City Mayor, Metropolitan City Mayors, Do Governors, the Governor of a Special Self-Governing Province and the Mayor of a Special Self-Governing City (hereinafter referred to as "Mayors/Do Governors"), heads of Sis/Guns/Gus (referring to an autonomous Gu), and heads of agencies responsible for agro-fishery bioresources, as prescribed by Presidential Decree. *<Amended by Act No. 11693, Mar. 23, 2013>*

(2) The Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries may entrust a legal entity or organization specializing in agro-fishery bioresources with part of his/her authority vested under this Act, as prescribed by Presidential Decree. *<Amended by Act No. 11693, Mar. 23, 2013>*

## **Article 27 (Obligation to Maintain Confidentiality)**

No person who is or has been engaged in the affairs of preservation, management, etc. of agro-fishery bioresources in a responsible agency prescribed in Article 14 or management agency prescribed in Article 15 shall divulge any confidential information learned in the course of performing his/her duties to any third person, or misappropriate it.

## **Article 28 (Legal Fiction as Public Officials in Application of Penal Provisions)**

The executives and employees of any management agency, who engage in the preservation and management of agro-fishery bioresources, but who are not public officials, shall be deemed public officials for the purposes of penal provisions pursuant to Articles 129 through 132 of the Criminal Act.

#### **Article 29 (Subsidies, etc. from National Treasury)**

The State may subsidize all or some expenses incurred in engaging in the following activities by local governments or organizations related to the agro-fishery bioresources within budget limits:

1. Analysis and evaluation conducted under Article 7;
2. Preservation and management, and technological development and the promotion of use thereof under Article 20;
3. Establishment and operation of a comprehensive information system, and nurturing of professional human resources under Article 21;
4. Affairs entrusted under Article 26.

#### **Article 30 (Hearings)**

If the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries intends to issue any of the following dispositions, he/she shall hold a hearing, as prescribed by the Administrative Procedures Act: <Amended by Act No. 11693, Mar. 23, 2013>

1. Revocation of permission, etc. pursuant to Article 11;
2. Revocation of designation pursuant to Article 15 (5);
3. Revocation of approval for distribution pursuant to Article 17 (1);
4. Revocation of approval for removal from the Republic of Korea pursuant to Article 19 (1).

#### **Article 31 (Penal Provisions)**

(1) Any person who acquires a fishery biotic resource in the jurisdictional waters other than the exclusive economic zone, without permission, in violation of Article 8 (1) or 9 (1) shall be punished by imprisonment for not more than five years or by a fine not exceeding 100 million won, and the fishery biotic resource acquired shall be confiscated. If it is impossible to confiscate such resource, the equivalent value shall be collected.

(2) Any person who acquires a fishery biotic resource in the exclusive economic zone within the jurisdictional waters, without permission, in violation of Article 8 (1) or 9 (1) shall be punished by a fine not exceeding 100 million won, and the fishery biotic resource acquired shall be confiscated. If it is impossible to confiscate such resource, the equivalent value shall be collected.

(3) Any person who ships a domestic agro-fishery bioresource out of the Republic of Korea in violation of Article 18 (1) shall be punished by imprisonment for not more than five years or by a fine not exceeding 30 million won, and the agro-fishery bioresource shipped out shall be confiscated. If it is impossible to confiscate such resource, the equivalent value shall be collected in.

(4) A person who divulges or misappropriate confidential information learned in the course of performing his/her duties, in violation of Article 27, shall be punished by imprisonment for not more than two years or by a fine not exceeding ten million won.

## **Article 32 (Joint Penal Provision)**

If the representative of a corporation, or an agent, employee or other servant of the corporation or an individual commits an offence under Article 31 in connection with the business of the corporation or the individual, not only shall such offender be punished, but the corporation or the individual shall be punished by a fine prescribed in the relevant provisions: Provided, That the same shall not apply to where such corporation or individual has not been negligent in giving due attention and supervision concerning the relevant duties to prevent such offence.

## **Article 33 (Fines for Negligence)**

(1) Any of the following persons shall be punished by a fine for negligence not exceeding five million won: *<Amended by Act No. 11693, Mar. 23, 2013>*

1. A person who fails to submit a report on results, survey data, specimens, results of surveys on genetic substances or to remove facilities, equipment, etc. installed or used, in violation of Article 10 (2);
2. A person who receives agro-fishery bioresources distributed without obtaining approval from the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries, in violation of Article 16 (1).

(2) Fines for negligence under paragraph (1) shall be imposed and collected by the Minister of Agriculture, Food and Rural Affairs or the Minister of Oceans and Fisheries, as prescribed by Presidential Decree. *<Amended by Act No. 11693, Mar. 23, 2013>*

## **ADDENDA**

### **Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

### **Articles 2 (General Transitional Measures)**

Any disposition, procedures and other acts, issued, taken or done under the former Act on the Preservation, Management and Utilization of Agricultural Genetic Resources as at the time this Act enters into force shall be deemed issued, taken or done under this Act, if provisions corresponding thereto exist herein.

### **Article 3 (Transitional Measures concerning Designation, Operation, etc. of Agency Responsible for Agro-Fishery Bioresources)**

Any agency responsible for agricultural genetics resources designated under the former Act on the Preservation, Management and Utilization of Agricultural Genetic Resources as at the time this Act enters into force shall be deemed designated as a responsible agency of agro-fishery bioresources referred to in Article 14 (1).

### **Article 4 (Transitional Measures concerning Designation, Operation, etc. of Management Agency of Agro-Fishery Bioresources)**

Any agency managing agricultural genetics resources designated under the former Act on the Preservation, Management and Utilization of Agricultural Genetic Resources as at the time this Act

enters into force shall be deemed designated as a management agency of agro-fishery bioresources referred to in Article 15 (1).

**Article 5 (Transitional Measures concerning Approval for, or Limitations on, Distribution of Agro-Fishery Bioresources)**

Any matter, the distribution of which has been approved under the former Act on the Preservation, Management and Utilization of Agricultural Genetic Resources as at the time this Act enters into force shall be deemed a matter, the distribution of which is approved under Article 16 (1).

**Article 6 (Transitional Measures concerning Approval, etc. for Removing Agro-Fishery Bioresources out of the Republic of Korea)**

Any matter which has been approved for removal out of the Republic of Korea under the former Act on the Preservation, Management and Utilization of Agricultural Genetic Resources as at the time this Act enters into force shall be deemed a matter approved for removal out of the Republic of Korea under Article 18 (1).

**Article 7 (Transitional Measures concerning Penal Provisions and Fines for Negligence)**

Penal provisions or fines for negligence against an act done before this Act enters into force shall be governed by the former Act on the Preservation, Management and Utilization of Agricultural Genetic Resources.

**Article 8 Omitted.**

**Article 9 (Relationship with other Acts and Subordinate Statutes)**

Where other Acts or subordinate statutes cite the former Act on the Preservation, Management and Utilization of Agricultural Genetic Resources or the provisions thereof as at the time this Act enters into force, this Act or the provisions thereof shall be deemed cited in lieu of the former provisions, if provisions corresponding thereto exist herein.

ADDENDA <Act No. 11693, Mar. 23, 2013>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Articles 2 (Transitional Measures concerning Public Notification, Disposal and Continuous Act under Previous Acts)**

Offering grades, public notification or administrative disposition which have been performed by the Minister of Agricultural, Food and Rural Affairs, or an application to the Minister of Agricultural, Food and Rural Affairs pursuant to the previous provisions as at the time this Act enters into force shall be deemed performed by or toward the Minister of Agricultural, Food and Rural Affairs or the Minister of Oceans and Fisheries pursuant to the amended provisions of this Act.

**Article 3 (Transitional Measures concerning Master Plans, etc.)**

A master plan and an enforcement plan established by the Minister of Agricultural, Food and Rural Affairs pursuant to the previous provisions as at the time this Act enters into force shall be deemed as a



master plan and an enforcement plan established by the Minister of Agricultural, Food and Rural Affairs or the Minister of Oceans and Fisheries pursuant to the amended provisions of the same Article until they have been established according to the amended provisions of Article 5.

**Article 4 (Transitional Measures concerning Committee for Deliberation on Agro-Fishery Bioresources)**

A Committee for Deliberation on Agro-fishery Bioresources established pursuant to the previous provisions as at the time this Act enters into force shall be deemed as a Committee for Deliberation on Agricultural bioresources and a Committee for Deliberation on Fishery Bioresources established under the amended provisions referred to Articles 24 and 24-2 before a Committee for Deliberation on Agricultural Bioresources and a Committee for Deliberation on Fishery Bioresources are newly established under the amended provisions referred to Articles 24 and 24-2.

