

SOMALI DEMOCRATIC REPUBLIC
MINISTRY OF FISHERIES & MARINE RESOURCES

GUIDELINES FOR FISHERIES JOINT VENTURE WITH FOREIGN PARTNERS

PART I. PRELIMINARY

Short Title: 1. This Guidelines may be cited as the Fisheries Joint Venture Guidelines, 1985.

Interpretation:

2. "Joint Venture" means a cooperation exercise between Somali and Foreign investors set up for a specific fisheries business a limited time, temporarily pooling resources and skills, with risk bearing and risks taking by both parties;

"Fish" means any aquatic animal, whether piscine or not and including mollusc, crustacean, shellfish, sponge coral and the young and eggs thereof;

"Fishing" means fishing for catching, taking or killing fish by any method, includes attempting to catch, take or kill fish by any method;

"Fishing Vessel" means a vessel used for fishing and operated for financial reward to other material gain, scientific research or processing, storage or carriage of fish, and includes any vessel used in support of or ancillary to fishing operations but does not include a vessel transporting fish or fish products as part of its general cargo;

"Foreign fishing vessel" means a fishing vessel other than a local fishing vessel;

"Fishing Licence" means a licence granted under this guidelines;

"Letter of Intent" means a letter issued by the authorized Government agency to agree in issuing licence when the provisional conditions in the letter are fulfilled;

"Deputy" means a fisheries officer appointed or delegated the power to give licence for the Minister;

"Local fishing vessel" means any fishing vessel:

(a) Wholly owned by any company, society or other association of persons established under the law of Somali Democratic Republic (SDR) or registered in Somalia under the Law of SDR;

(b) Wholly owned by one or more persons who are citizens of Somalia;

(c) Wholly owned by a statutory corporation established under the Laws of SDR or by the Government of SDR.

"Mile" means a nautical mile being a distance of one thousand eight hundred and fifty two metres;

"Minister" means the member of the Cabinet to whom responsibility for the subject of fisheries is assigned;

"Observer" means a person appointed by the Minister or his deputy for the purpose of monitoring the operation of foreign fishing vessels licenced under this Guidelines;

"the Somali Waters" means the area of water proclaimed from time to time to be the exclusive economic zone of SDR (200 miles from the coastal line at present - 1985);

"Vessel" includes a ship, boat, raft, barge, float, lighter or hovercraft;

"Optimum utilization" means, with respect to the field from any fishery, the amounts of fish that will be produced from the fishery the maximum sustainable yield as qualified by any relevant biological, economic, environmental or social factors, and taking into account fishing patterns, the interdependence of stocks of fish, the need to avoid over-fishing and any generally accepted sub-regional, regional or global fishing standard.

PART II. GENERAL LICENCING PERMISIONS

Type of
Joint Ven-
ture

3. Joint Venture shall be classified as:

- (1) A company, society or other association of persons established with Somali partner investing more than fifty per cent of the whole joint venture capitals included working capital for the operations and the fixed capitals for all physical asset whether or not it is loan capital, and all the properties registered in Somalia under the Laws of SDR.
- (2) A company, society or other association of persons established for the purpose of installing fish processing facilities and/or chartering of vessels for the purpose of exporting their products and importation of fishing equipment and supplies required including fishing gear.

Application for
Establishment
of Joint Ven-
ture

4. An application for joint venture agreement is to be made in the prescribed form with the following documents addressed to the Minister:

- (1) Capital investment and equity share plan by both parties for fixed asset with inventories and for working capitals.
- (2) Draft articles of Joint Venture Company, society or other association of persons - Head Office, Joint Venture period, purpose and activities, staff organization by nationality, responsibility of management staff, account year, auditing system, production of joint venture financial statements including balance sheets and profit and loss accounts, plan

of profit distribution and reserves, a mean of settling any dispute, etc.

(3) Joint Venture Operation plan;

(a) For fishing operation,

- kind and size of boats to be used,
- Composition of crew by title, nationality and qualification,
- Type and size of fishing gear and methods to be used,
- Fishing base and fishing grounds/area,
- Fishing period and fishing days,
- Kind of fish to be caught,
- Operations unit (Fleet's composition, facilities, infrastructure),
- Estimated catch,
- Processing and marketing of catch,
- Estimation of operational cost and income,
- Vessel's repair, dry-docking, bunkering, crew's provisions, fishing gear supply plan.

(b) For processing and marketing operation,

- Details of plants, facilities and equipment and their estimated costs,
- Staff organization,
- Fish purchasing and collection plan,
- Processing and quality control plan,
- Fish marketing plan - domestic market and export markets by type of process; and expected prices.

(4).Place of training of Somali employees and staff replacement.

Limitation
for optimum
utilization

5. When the estimated catch total by kind of fish by Somali fishermen and joint venture operation reach to the following quantity or a sign of overfishing is observed, or envisaged to reach within the fishing efforts by already operational fleet, any new joint venture application will not be accepted:

- | | |
|---|-------------|
| (a) Small pelagic species (sardine, herring, small mackerel, etc.) | 70,000 tons |
| (b) Large pelagic species (tuna, bonito, skipjack, king mackerels) | 3,000 tons |
| (c) Demersal fish (growper, snapper, sea bream, greatfish, scarenger, etc?) | 30,000 tons |
| (d) Sharks and rays | 30,000 tons |
| (e) Deep sea lobster and shrimp | ,500 tons |
| (f) Shallow water lobster | 500 tons |

Resources

Protection 6. For protection of endangered species, no person is allowed taking, killing, selling or processing female turtle in the sea within any reef or within 1 km of the high water mark of the somali shore, or to take or selling any turtle eggs after they have been laid and buried, or any sea turtle weighting 7 kg unless otherwise authorised by the Ministry for scientific purpose. For resources management of Shallow water spiny lobsters, no person is allowed taking, killing, selling or processing spiny lobster weighting 460 grams (or tail weight of 120 gr), or with the stretched length from eye to tail and measuring 23 cm or less, or female lobster carrying eggs. Closed lobster fishing season will be set from 16th March to 15th August, subject to change by year, starting from 1986 season.

Restriction of Fishing area by size of vessels

7. Vessels of 13m LOA and above cannot carry out any fishing within 5 miles of the high water mark of the Somali shore.

Prohibited Methods of Fishing

8. Whoever,

- (a) using any explosive, poison, or other noxious substance for the purpose of killing, stunning, disabling or catching fish, or in any way rendering fish more easily caught, or
- (b) has in his possession or control any explosive, poison or other noxious substance in circumstances indicating an intention of using such explosive, poison or other noxious substance for any of the purposes referred to in the preceed paragraph, is guilty of an offence.
- (c) catching spiny lobster by using aqua-ling or similar device or trammel net is prohibited.

Restriction landing, marketing & inspection

9. Proceeds from the joint venture shall be landed at a Somali Port, where holding facilities exist. An export licence covering the sale of any of the product abroad shall be obtained by the Company and a letter of credit for such export shall be opened with a Somali bank. In the event that such holding facilities doesn't exist on the operational base and the proceeds has to be exported, an inspection shall be carried out prior to the departure of the carries vessel. An official of the MOFMR shall always be a member of the inspection team. Travel, lodging and other expences of the inspection team shall be borne by the JV Company.

Licence
Subject to
conditions

10. Licences issued under this Guideline shall be subject to such conditions as may be prescribed, or as may be otherwise endorsed upon such licence by the Minister or his deputy, and such conditions may include any or all of the following:
- (a) the area in which operation/fishing is authorized;
 - (b) the period during which operation/fishing is authorized;
 - (c) the species, size, sex and quantities of fish that may be taken;
 - (d) the methods by which fish may be taken;
 - (e) the types, size and amount of fishing gear that may be used by the fishing vessel;
 - (f) statistical and other information required to be given by the master of the fishing vessels or by the operator(s) of the joint venture company, society or other association of persons to the Minister or his deputy, including statistics relating to catch and effort, and reports as to the position of vessels and fishing and sea conditions, or disposal, processing and marketing informations;
 - (g) the marking of the vessels and other means for its identification;
 - (h) such other terms and conditions as the Minister or his deputy may consider necessary or expedient for conservation management and development of fishing resources of Somalia;
 - (i) entry by foreign fishing vessels to Somali ports, whether for inspection of fishing gear or catch, landing of catch, or any other purpose;
 - (j) the reporting of the position, catch by species, weather and sea conditions, etc., of the fishing vessels daily by radio or monthly in pre-arranged form to the Minister or his deputy;
 - (k) the carriage on board of specified communication, safety or navigational equipment, publications or instruments;
 - (l) the training of citizens of Somalia in the methods of fishing or operation employed by the joint venture Company.

Verification
of competence
of foreign
partner

11. The expected foreign partner should submit to the licencing authority a copy of a authenticated registry of the company in their country and an Audited financial statement for the past two years. Similarly documented approval of foreign company's technical capability as well as past experience shall be submitted.

A bank guarantee covering share of foreign partners investment shall be issued and submitted. In case of doubt, the embassy of the foreign partner may be requested to attest.

Letter of Intent

12. When the application for a joint venture licence together with all the necessary documents is received and concluded by the Ministry that the plan is economically sound and practicable, beneficial for the country's economy and its operation is un-harmful to the marine resources protection and will not conflict with the Somali traditional fishermen, a letter of Intent may be given to allow the licence to initiate preparatory work.

Temporary Fishing Licence

13. If it deemed necessary a temporary fishing licence to start survey or experimental fishing may be issued for the operating period of three months or less on submission of the following document to the Minister or his deputy:

- (1) A copy of vessels' registration document to verify ownership, gross tonnage, net tonnage, length, engine horse power, port of registry, fish hold capacity,
- (2) In case if the name of the vessels' ownership is different from either of those of the joint venture partners, a copy of authenticated chartering agreement between the vessels' owner and the Joint Venture party,
- (3) Detailed crew's list.

During this period, the temporary fishing licence fee shall be charged at a fixed rate as prescribed in this guideline.

To observe

- Somali Laws 14. No licence issued under this Guideline shall relieve any joint venture company, society or other association of persons, or any foreign vessel or its master or crew of any obligation or requirement imposed by Somali financial transaction Laws, foreign investment Law, civil Law, labour Law or laws concerning navigation, customs, immigration, health or other matters.

Licensing

15. The Minister or his deputy may, when all the provisions in this guidelines are satisfied, issue a licence in the prescribed form in respect of any joint venture operation, upon payment of the prescribed licence fee.

Cancellation or suspension of licence

16. The Minister or his deputy may cancel or suspend any licence that has been issued in respect of any joint venture operation when he recognise that:

- (a) it is necessary to do so in order to allow for the proper management and development of any particular fishery in accordance with the terms of any fisheries management and development plan, or

- (b) the operation in respect of which the licence has been issued has been used in contravention of these Guidelines or any conditions of the licence.

Terms and non-transferability of licences

- 17. (1) unless earlier cancelled in accordance with Section 11, a licence shall be valid for a period not more than one year, subject to yearly extension on application for the planned period.
- (2) no licence shall be transferable except with the written permission of the Minister or his deputy which is to be endorsed upon such licence.

Licence to be carried on board or in site

- 18. It shall be a condition of the licence that a copy of the licence shall be carried on board any licenced fishing vessel or in operation site, and made available to any authorized officer or observer upon request.

Observers

- 19. The Minister or his deputy may appoint one or more observers for the purpose of monitoring the operations of joint venture/fishing activities under the Guidelines. All the expenses including transportation, subsistence allowance of the observer to carry out the prescribed duties shall be borne by the JV.

Refusal or obstruction of observers or authorized officers

- 20. Any licence under this Guidelines fails or refuses:
 - (a) to permit or assist an observer to come and remain on board or inside to exercise of any power to examine or inspect or observe the operations, records or documents to confirm the fulfilment of the conditions provided in the licence or under this Guidelines,is guilty of an offence and is liable to an immediate cancellation of the licence.

Joint Venture Licence fees

- 21. The fees of licencing joint venture chargeable by type of business organization in Section 3 shall be as follows:
 - Type (1) in Section 3 US\$ 10,000 per year or equivalent Somali Shillings.
 - Type (2) in Section 3 US\$ 12,000 per 6 months or equivalent Somali Shillings.

Fishing
Licence
fees

22. The fees of fishing licence by type of fishing gear per boat shall be additional to the above licence fees as follows:

multi-purpose coastal fishing boat of 10m LOA or less.....	US\$ 100 per month per boat
multi-purpose coastal fishing boat of 13m LOA or less.....	US\$ 160 per month per boat
Tuna fishing boat (single boat operation) ..	US\$ 1600 per month
Bottom/Mid-water trawler of less than 100 G R T.....	US\$ 160 per month
Pair trawlers of less than 400 G R T.....	US\$ 720 per month per pair
Trawlers of more than 100GRT to 250GRT.....	US\$ 240 per month
Trawlers of more than 250GRT to 500GRT or less.....	US\$ 320 per month
Trawlers of more than 500GRT to 1000GRT or less.....	US\$ 720 per month
Trawlers of more than 1000 GRT.....	US\$ 1000 per month

Minister of Fisheries & Resources

1st April 1985

Fisheries Statistics:

The following are summaries of the catch statistics for 1985, provided by the Ministry of Fisheries and Marine Resources. In the case of the offshore production, the weights are estimated from the number of cartons, multiplied by a mean weight per carton. They are not whole weights, as dressed and gutted fish are packaged along with whole fish. The weights of lobster are whole weights, as are the weights of fish and sharks produced by the cooperatives, and purchased by the fishing companies.

Table 1
Production from all Sectors
(tonnes)

	Fish	Deep-sea Lobster	Totals
Offshore Production	9,048	346	9,395
Purchases by Companies *	2,040	52	2,092
Production by Cooperatives	4,067	64	4,131
Totals	15,155	461	15,617

* from small scale and artisanal fishermen

Table 2
Production by Offshore Sector
(tonnes)

	Fish	Deep-sea Lobster	Totals
-Antonieta Madre (licensed Italian demersal trawler)	1,141	172	1,313
-De Giosal (licensed Italian demersal trawler)	603	75	679
-Sekishu Maru (licensed Japanese demersal trawler)	3,120	53	3,173
-Shijuoku Maru (licensed Japanese demersal trawler)	2,526	23	2,549
-Afro Fishing Company (two licensed pair trawlers)	560	--	560
-Chearng Yuam (licensed Singapore demersal trawler)	365	2	367
-Christan 1 (licensed demersal trawler)	23	21	44
-Christan 2 (licensed demersal trawler)	40	--	40
-Christan 3 (licensed demersal trawler)	34	--	34
-Christan 4 (licensed demersal trawler)	56	--	56
-Semenic (licensed Romanian pelagic trawler)	240	--	240
-Sth. Korean tuna longliners (24 vessels)	280	--	280
-NECFISH (two vessel experimental fishing project)	60	--	60
Totals	9,048	346	9,395

Table 3

Production by Cooperatives (and Re-settlements)
(tonnes)

	Fish and Sharks	Shallow -water lobster	Totals
Cooperatives:			
Ras Kiamboni	53	15	67
Kulmis	119	11	130
Kismayo	260	16	276
Sub-Totals	432	42	474
Baraawe	97		97
El Ahmed	19		19
Maka	22		22
Jasiira	27		27
Mogadishu	432	7	438
Adale	51		51
Sub-Totals	648	7	655
Bander Bayla	505	15	520
Hurdiya	110		110
Xaafun	352		352
Baargaal	108		108
Caluula	468		468
Qandala	174		174
L/Qoray	64		64
Boosaaso	133		133
Maydh	4		4
Berbera	62		62
Hobyo	45		45
Sub-Totals	2,026	15	2,041
Re-settlements:			
Dan Cadale	560		560
Dan Baday	235		235
Dan El Ahmed	167		167
Sub-Totals	961		961
Totals	4,067	64	4,131

Table 4

Purchases by Public Companies
(tonnes)

	Fish and Sharks	Shallow -water lobster	Totals
Xaabo (at Boosaaso)	1,434		1,434
Somali Marine Products (at Kismayo)	425	52	477
Fish Retail Market	180		180
Totals	2,040	52	2,092

Joint Venture Licence Fees:

A draft Guidelines for Fisheries Joint Ventures with Foreign Partners has been prepared by the Ministry of Fisheries and Marine Resources. Included is the following basis for assessing licence fees (as of April 1, 1985);

"A company, society or other association of persons established with the Somali partner investing more than fifty percent of the whole joint venture capital, including working capital for the operations, and fixed capital for all physical assets, whether or not it is loan capital, and all the properties registered in Somalia under the laws of Somalia.

fee US\$ 10,000 per year
or equivalent in Somali shillings

A company, society or other association of persons established for the purpose of installing fish processing facilities, and/or chartering of vessels for the purpose of exporting their products, and importation of fishing equipment and supplies required including fishing gear.

fee US\$ 12,000 per 6 months
or equivalent in Somali shillings

The following fishing licence fees are in addition to the above;

- multi-purpose coastal fishing boat
of 10 m LOA or less.....US\$ 100 /month/boat
- multi-purpose coastal fishing boat
of 18 m LOA or less.....US\$ 160 /month/boat
- tuna fishing boat.....US\$ 1,600 /month/boat
- bottom/mid-water trawler
of less than 100 GRT....US\$ 160 /month/boat
- pair trawlers of less than 400 GRT
.....US\$ 720 /month/pair
- trawlers of more than 100 GRT to 250 GRT
.....US\$ 240 /month/boat
- trawlers of more than 250 GRT to 500 GRT
.....US\$ 320 /month/boat
- trawlers of more than 500 GRT to 1,000 GRT
.....US\$ 720 /month/boat
- trawlers of more than 1,000 GRT
.....US\$ 1,000 /month/boat

The Guidelines also refer to the need for an export licence for the sale of any of the product abroad, without specifying the fees. Also unstated is the requirement that all export earnings must be lodged in a Somali Bank, with the government exercising the right of 35 percent hard currency retention.

Offshore Foreign Fishing Licence Fees:

A Ministerial decree, dated 24/9/86, describes the following conditions as applying to licensed foreign fishing;

- 30 percent of the crew to be Somali
- provision to accomodate Somali scientists
- prohibition on marketing the catch in Arabia and East Africa
- payment of fees on the basis of

US\$ 80 /horsepower unit/boat, plus a royalty of 7 percent of the catch value, using the following prices

- US\$ 700 /tonne for fish
- US\$ 6,000 /tonne for deep-sea lobster
- US\$ 1,100 /tonne for cuttlefish and squid
- US\$ 4,500 /tonne for large shrimp
- US\$ 2,000 /tonne for small shrimp

(applying these fees to the De Giosa and Sekishu Maru during 1985, would have generated income to the Somali government of US\$ 288,301 and US\$ 351,067 respectively)

Hard Currency Availability:

A hard currency fund of US\$ 140 million has been established (US\$ 70 million from the World Bank, US\$ 25 million from the Italian Government, etc), from which US\$ 2.5 million is auctioned every 15 days. Two auctions have been held so far. At the first there were 32 successful bidders, and the buying price was determined as So. Sh. 140 per US\$ 1. This compares with the official exchange rate for selling dollars of So. Sh. 80 per US\$ 1. The second auction had 65 successful bidders, and the buying price was So. Sh. 100 per US\$ 1.

The system involves receiving sealed bids, in which the amount of money required and a bidding price are specified. These are ranked in order of bidding price, from highest to lowest. The successful bids are those with the highest bidding price, with the number limited to that which just commits the US\$ 2.5 million. The buying price applied to all the successful bidders is then determined as the lowest bidding price from amongst the successful bids.

Somali Italian Fishing Company (SOMITFISH):

SOMITFISH is the remnant of a joint venture between the Somali government and the Italian company Societa Esercizio Cantieri (SEC). The original working capital was US\$ 1 million, of which 65 percent was contributed from the Somali side, and 35 percent from the Italian side. The company managed three 68 metre stern trawlers, purchased from the SEC during 1981, utilising a US\$ 21.5 million credit facility provided by the Italian government. The terms were repayment over seven years at eight percent interest per annum. Subsequently much of the loan was converted into a grant.

The three trawlers have not operated since August 1983. In that year the catches totalled 2,050 tonnes of demersal species, including deep sea lobster. All of this was transhipped to Italy. It appears that SOMITFISH was not profitable, and now it is wholly owned by the Somali government. The vessels are presently undergoing modifications at a shipyard in Mombasa, arranged by the SEC, and two are expected to be returned in October 1986. The cost of the modifications are being met by the Italian government.

The Somali government intends to maintain ownership of the vessels. This is despite the recommendation from a task force (assisted by the UK Overseas Development Agency) that they be sold or made available for charter. The government is presently seeking to re-establish a joint venture between SOMITFISH and the SEC, in which the latter also contributes some vessels. Negotiations with the Italians are scheduled for October 1986.

It is rumoured that the SEC will not wish to contribute vessels, but rather will seek to negotiate a management contract, in order to minimise its financial exposure. Such a contract might limit the SEC involvement to providing the senior crew members, plus a small number of on-shore staff; all remunerated directly from the gross revenues.

Sea Fish International Co. Ltd.:

This is a private sector company registered in Somalia. It has participated in offshore fisheries development since 1975. This has included some early experience with the export of tuna to Italy. Subsequently the company was agent to the establishment of the SOMITFISH joint venture, established to exploit the offshore demersal trawl resources. Since 1979 it has acted as agent in respect to 11 stern trawlers of the Atlantic Class. During 1985, it represented two trawlers from Japan, owned by Nichiro, and operated as licensed foreign vessels.

In a paper presented at the First National Fisheries Development Workshop, held in Mogadishu during August 1986, the ideal offshore demersal trawler was described as 67- 70 metres in length, with 2,000-2,500 horsepower, refrigeration capacity of 400-500 tonnes, fuel tank capacity of 300-350 tonnes, and having a crew size of 28-34 persons.

The SEKISHU MARU (2,200 horsepower) was cited as having a satisfactory catching performance. During the period July 1984 to May 1985 the catch was 2,835 tonnes , from 230 fishing days, 1960 trawl shots, for catch rates of 12.3 tonnes per day and 1.4 tonnes per shot. All the catch was exported to Italy, after unloading at Djibouti or Berbera.

It is unclear whether the two Japanese vessels will be returned to Somalia. The profitability of the venture was apparently marginal. The principal constraint is suggested as being the modest prices received for the fish, as a consequence of including the lower grades in the consignments, and some apprehension in the importing countries to buying fish caught in Somalia.

A possible remedy, suggested in the paper, is to attempt to market the lower grades in the Arab countries, while continuing to market the higher grades in Italy. Another possibility is to process (skin and fillet) the lower grades onshore at Berbera, and then to export to the 'fast food' chains in Europe.

Romanian Prospection Cruise in 1983/84 *:

Prospecting and commercial pelagic trawling were undertaken during seven months between November 1983 and October 1984. The two factory ships, GLABUCET (88.3 metres) and BAHLUI (102 metres), caught 6,112 tonnes from 641 trawl shots or 997 trawling hours. The catch composition was 48 percent of Sardinella longiceps, 21 percent of Scomber japonicus, 20 percent of Etrumeus teres, and 7 percent of Decapterus spp. Fifty five percent of the catch was frozen, 45 percent was converted to fishmeal, and 21 tonnes of oil was produced.

The mean catch rates were 42.4 tonnes per day (6.1 tonnes per trawling hour), with monthly variations between 11.1 and 56.9 tonnes per day (1.1 to 12 tonnes per trawling hour). These were achieved using trawls having horizontal openings of 80 to 100 metres, and vertical openings of about 35 metres, when towed at about 5 knots.

During the last cruise it was determined that surface trawling at night-time was most productive, enabling almost clean catches of Sardinella longiceps. During the day-time the best catches were taken with the footrope 4 to 5 metres from the bottom, associated with a false footrope in contact with the bottom.

The fishing location was between Cape Guardafui and Cape Hafun, from 10° 48' to 11° 55' N, in depths of 20 to 200 metres (an area of about 750 sq.n.miles). Using the catch rates and estimates of the volume of sea swept by the gear, the volume occupied by the fish, and an assumed catching efficiency of 0.5326, the biomass of the stock was determined as 131,000 tonnes. The potential annual yield was assumed to be a third of the biomass, or 43,700 tonnes per year. This could be taken by three to four factory trawlers of the type used during the prospecting.

Subsequent to the cruises the Romanian Government submitted a joint venture proposal, which envisaged five Romanian factory ships operating in the previously surveyed area. The proposal was judged as not providing sufficient benefit to the Somali side, and a new proposal is being sought.

* Information Source: Report from the Romanian Institute for Marine Research at Constanza, titled: The results of the Romanian research following the fishing prospecting cruises in the waters of the Somali Democratic Republic from November 1983 to October 1984.