

## **Regulations on the Approval of Investment in or the Operation of Foreign Flag Fishing Vessels**

The full text of ten articles promulgated on 16 October 2009 by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 0981332539.

The full text amended and promulgated on 20 January 2017 by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 1061332120.

Articles 4, 5, 8, and 9 amended and promulgated on 30 January 2018 by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 1071332253.

Article 5 and 8 amended and promulgated on 21 December 2018 by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 1071339343.

Article 2 and 6 amended and promulgated on 11 December 2020 by the Council of Agriculture, Executive Yuan under Order No. Nung-yu-tzu 1091337280.

### **Article 1**

These Regulations are established pursuant to Article 4, paragraph 3 of the Act to Govern Investment in the Operation of Foreign Flag Fishing Vessels (hereinafter referred to as "the Act").

### **Article 2**

Any person with the nationality of the Republic of China applying for the approval to invest in or operate any foreign flag fishing vessel shall not be under any of the following circumstances :

- (1) A person is declared incompetent or limited capacity;
- (2) A person is subject to the order of the commencement of guardianship or assistance, and such order is not yet revoked;
- (3) A person is declared bankrupt and has not yet resume his/her rights;
- (4) A person is sentenced imprisonment for violating the Act, the Act for Distant Water Fisheries, or the Fisheries Act and such sentence is not yet executed or not executed completely; or is on probation whose period is not yet expired; or 2 years have not passed since such sentence is executed completely, on probation which is expired, or pardoned;
- (5) A person is sentenced to a short-term imprisonment or criminal fine for violating the Act, the Act for Distant Water Fisheries, or the Fisheries Act and such sentence is not yet executed, not executed completely or 2 years have not passed since such sentence is executed completely;
- (6) The applicant whose fishing vessel flying the flag of the Republic of China is sentenced to revocation or withdrawal of fishing license pursuant to the Act for

Distant Water Fisheries or the Fisheries Act and 2 years have not passed since such sentence is executed completely;

- (7) The applicant whose fishing vessel flying the flag of the Republic of China is sentenced to a fine pursuant to the Act for Distant Water Fisheries or the Fisheries Act and such fine is not paid completely;
- (8) The applicant whose fishing vessel flying the flag of the Republic of China is sentenced to suspension of its fishing license pursuant to the Act for Distant Water Fisheries or the Fisheries Act and such sentence is not executed completely;
- (9) The applicant has been found guilty of violating Article 2, subparagraph (2) of the Human Trafficking Prevention Act; or the foreign government(s) or the international organization(s) has informed and the competent authority determines that the applicant has engaged in forced labor or human trafficking.

### Article 3

Any person with the nationality of the Republic of China that intends to invest in or operate a foreign flag fishing vessel shall submit in advance an application together with list of investor(s) and proof of their identifications to the competent authority for approval.

In case that the number of investors as referred to in the preceding paragraph is two or above, the application shall be onymous with the signatures of all investors, and one of the investors may be assigned as the representative to file the application.

### Article 4

Any person with the nationality of the Republic of China that has been authorized to invest in or operate a foreign flag fishing vessel shall complete the investment within one year starting from the date of authorization, and submit the following documents together with their Chinese translation within 120 days starting from the date of completing the investment to the competent authority for perusal:

- (1) Copy of the company registration issued by flag State concerned;
- (2) Copy of the certificate of vessel nationality issued by flag State concerned;
- (3) Copy of the fishing permit or catch transportation permit issued by flag State concerned;
- (4) Copies of the relevant documents issued by flag State concerned describing the permitted fishing area(s), fishing gear(s), fishing method(s), species and quotas allocated;
- (5) Relevant document showing the amount and proportion of investment, list of investors and their professions. For an investment made other than capital funding, the method of investment and its details shall be provided;
- (6) He who participates in the business operations shall provide a document showing the

appointment of his/her post;

- (7) Date of signing the investment contract or technical cooperation contract;
- (8) Date of commencing the operation of the business invested;
- (9) He/She who charters a fishing vessel shall enclose the charter contract, and in case for a joint chartering, a list of all persons participating in such a joint chartering shall also be enclosed.

Where there is due cause that the investment will not be able to complete within the timeframe as set forth in the preceding paragraph, application for extension may be made to the competent authority before the timeframe. The maximum period for each extension shall be one year and the times for extension shall be limited to two times.

#### Article 5

In case of any of the following circumstances, the person with the nationality of the Republic of China that has been authorized to invest in or operate foreign flag fishing vessel(s) shall, before the occurrence of the following circumstances, apply to the competent authority in writing for approval with the enclosure relevant proving document(s):

- (1) The flag of the fishing vessel invested or operated has changed.
- (2) Increase in the number of investor(s).
- (3) Any change to the amount or proportion of the investment.
- (4) Any change to the name, number, or fishing method of the fishing vessel invested or operated.

For subparagraph (3) or (4) in the preceding paragraph, the deadline for applying the approval may be extended to three months after the date of such change.

In case that the number of investors as referred to in paragraph 1 is two or above, the application shall be onymous with the signatures of all investors, and one of the investors may be assigned to file the application on behalf of all the investors.

#### Article 6

In case of any of the following circumstances, the competent authority may revoke the authorization to invest in or operate foreign flag fishing vessel(s):

- (1) Failure to complete the investment or to provide the required documents and related information to the competent authority within the timeframe as set forth in Article 4, paragraph 1; to apply for extension in accordance with Article 4, paragraph 2; or to obtain the approval for extension.

- (2) The amount or proportion of investment is less than that as promulgated by the competent authority in accordance with Article 3 paragraph 2 of the Act.
- (3) The person with the nationality of the Republic of China that has been authorized to invest in or operate foreign flag fishing vessel(s) is found guilty of violating Article 2, subparagraph (2) of the Human Trafficking Prevention Act; or the foreign government(s) or the international organization(s) has informed and the competent authority determines that such a person has engaged in forced labor or human trafficking.

#### Article 7

In case of any of the following circumstances, the competent authority shall withdraw the authorization to invest in or operate any foreign flag fishing vessel:

- (1) Matters of the application or information or document provided is forged, faked or false.
- (2) Using means of fraud, threat or other improper means to obtain the authorization.

#### Article 8

In case that any person with the nationality of the Republic of China that conducts the business of fishery in sea areas beyond national jurisdiction by investing in or operating foreign fishing vessel(s) without the approval granted by the competent authority pursuant to Article 3 or 5, the criteria of consecutive punishment in accordance with Article 11, subparagraph (1) of the Act shall be as follows:

- (1) He who violates for the first time within three years shall be subject to a fine of two million New Taiwan Dollars.
- (2) He who violates for two times within three years shall be subject to a fine of five million New Taiwan Dollars.
- (3) He who violates for three times and above within three years shall be subject to a fine of ten million New Taiwan Dollars.

The basis for calculating the time(s) of violation as referred to in the preceding paragraph shall start from the date of last violation dated back to a period of three years.

#### Article 9

These Regulations shall enter into force on January 20, 2017.

Amendment to these Regulations shall enter into force upon promulgation.