FISHERIES LAWS AND REGULATIONS OF NIGERIA AND ROOM FOR FURTHER DEVELOPMENTS

by

V.O. Adebolu
Federal Department of Fisheries, Lagos, Nigeria

ABSTRACT

The Fisheries Laws and Regulations presently operative in Nigeria are on Marine waters. These include:-

- The Sea Fisheries Decree (Act) of 1971,
- The Sea Licencing Regulations of 1971,
- The Sea Fisheries (Fishing) Regulations of 1972, and
- The Exclusive Economic Zone Decree of 1978.

Attempts have also been made to produce the Inland waters Fisheries Regulation.

This paper discusses certain aspects of Nigerian's Fishing Laws and Regulations that require further developments.

1. INTRODUCTION

Nigeria is located in the East Central Atlantic and is bordered on the West by the Republic of Benin, on the East by the Republic of the Cameroons, on the North by Niger and Chad Republics and the South by the Atlantic Ocean. She has a Coastline of 800 kilometers which extends from Ogun State to Cross Rivers State.

Nigeria has Territorial (Marine) waters of thirty (30) nautical miles which came into operation in 1967. The Exclusive Economic Zone (EEZ) Decree (Act) of 1978 vests Nigeria with further extension of the marine waters (Ocean). The EEZ is described as an area extending from the external limits of the territorial waters of Nigeria up to a distance of two hundred (200) nautical miles from the baselines from which the breadth of the territorial waters of Nigeria is measured. In addition Nigeria has territorial (fresh) waters in Lake Chad. Lake Chad is jointly owned by Nigeria, Chad Republic, the Cameroons and the Niger Republic and is jointly administered by the Lake Chad Basin Commission. Moreover the country is blessed with big rivers, streams and huge man made lakes.

The present Fisheries Laws and Regulations of Nigeria mainly deal with the Development, Management, Exploitation, and Conservation of the living resources of Nigerian Marine waters. To a very large extent no effective laws exist to govern the Management and Conservation of the Inland waters.

These Laws and Regulations include:-

(i) The Sea Fisheries Decree (Act) of 1971
(ii) The Sea Licencing Regulations of 1971
(iii) The Sea Fisheries (Fishing) Regulations of 1972, and
(iv) The Exclusive Economic Zone Decree (Act) of 1978.

The Licencing and the Fishing Regulations are supplements to the Sea Fisheries Act.
2. THE SEA FISHERIES LAWS AND REGULATIONS

2.1 The Sea Fisheries Decree (Act) of 1971

The Sea Fisheries Act of 1971 makes provision for the following:-

(a) That no person shall operate or navigate any motor fishing boat within the territorial waters of Nigeria unless a licence in respect of the vessel has been issued to the owner. But this provision does not apply to any motor fishing boat entering the territorial waters of Nigeria solely for refuelling or any foreign boat in distress.

(b) That the owner of the motor fishing boat should apply to a licencing officer using the appropriate forms which should indicate the particulars and descriptions of the motor fishing boat in respect of which application if made; the methods of taking fish that are to be employed; the area within which the motor fishing boat shall operate; the arrangements that are to be made for the preservation and marketing of the catch in Nigeria.

(c) That the licencing officer shall issue licence if :-

(i) The application contains all the information that is required,

(ii) the prescribed fees have been paid,

(iii) the applicant is the lawful owner of the motor fishing boat.

The licence issued could be a yearly licence or quarterly licence as the applicant requires.

(d) that the licencing officer may without assigning any reasons:-

(i) cancel a licence, or

(ii) suspend a licence for such period as he thinks fit.

The Act however provides that any person aggrieved by any refusal by a licencing officer to issue or renew a licence may within fourteen days of receiving notice of the refusal, cancellation, suspension or endorsement, appeal to the minister in charge of Fisheries.

(e) The Act also provides that any 'authorised person' may be within the territorial waters of Nigeria

(i) require the owner or the person in charge of a motor fishing boat to exhibit his licence, fishing apparatus and catch.

(ii) go on board and search and inspect the fishing boat and any fishing apparatus.

An authorised person in this case means:-

(i) the licencing officer

(ii) any commissioned officer in the Nigerian Army, Navy or Air Force

(iii) a police officer not below the rank of Assistant Preventive Superintendent
(iv) a customs officer not below the rank of Assistant Preventive Superintendent

(v) a Surveyor or Examiner under the provisions of the Merchant Shipping Act of 1962

(vi) any other person authorised in writing by the Minister.

(f) There are other provisions in the Sea Fisheries Act which empowers the Federal Minister responsible for Fisheries in 'furthering the interests of Sea Fishing Industry' to

(i) regulate, prohibit, or restrict the taking of fish in any specific area within the territorial waters of Nigeria.

(ii) Prohibit or restrict the use of many fishing boat, apparatus, or method of taking fish that is considered harmful to the Sea Fishing Industry in Nigeria.

(iii) Provide for the inspection of buildings and premises used for the curing, preservation, storage or sale of fresh cured, or preserved fish.

(iv) Provide for the seizure and destruction of any fresh, cured, or preserved fish that is unfit for human or animal consumption.

Penalties

There are appropriate penalties specified in the Act for anybody operating a motor boat without licence or contravention of other provisions specified above, including, fines, imprisonments, seizure of the fishing vessel and catch etc.

2.2 The Sea Fisheries (Licencing) Regulations of 1971

The Licencing Regulations goes into the details of the licencing of motor fishing vessels mentioned in certain portion of the Sea Fisheries Act discussed above.

It specifies that every application whether for a new fishing vessel, or for renewal shall be made in Form A, while every licence shall be in Form B in Schedule I to these regulations. It also states that any application shall be made in writing by the owner of the vessel and shall state:

(i) the name, nationality and address of the applicant if the applicant is an individual.

(ii) the name, nationality and address of each partner if the applicant is a partnership.

(iii) and if the applicant is a company or other body corporate, the name, nationality and address of each director of the applicant and also the address of the place of business of the applicant in Nigeria.

(iv) The tonnage of the fishing boat.

It also requires the company or the body corporate to accompany the application with a certified copy of the memorandum of association and articles of association; as well as pay the required fees at the time when the application for the licence or the renewal is made. However, the amount shall be refunded to the applicant if the application is refused.
There are provisions for penalties for any false information, connivance, or neglect on the part of any director, manager, owner etc. of the fishing vessels.

It is necessary to mention here that fees are charged according to the Gross Registered Tonnage of the fishing vessel.

2.2.2 Other Conditions

There are also other conditions laid down under which (a) a vessel may be granted licence to fish in Nigerian Territorial Waters, and the EEZ. (b) a vessel may be granted to licence as a Distant Water Motor Fishing Boat.

Permission to Fish in Nigerian Territorial Waters

In addition to the provisions stated in par. 2.2 above, the boat in respect of which application is made must be Nigerian flag registered. This means that it must have a clean bill of sales to a Nigerian Corporate body registered according to the prevailing rules and regulations of this country and must be registered with the Federal Ministry of Transport - if the boat is to operate for fishing in our territorial waters, it should not be longer than 33 ft. (25.3 metres) Length over All (LOA) and of gross tonnage not more than 150; And if it is to operate for shrimping it should ideally not be above 76 ft. (LOA) with a gross tonnage not exceeding 100. Vessels of greater gross tonnage are permitted to fish in the EEZ.

The Federal Fisheries Agency which grants licence also expects the prospective owners of fishing vessels to first check with the Federal Department of Fisheries and get a written Assurance that the vessel will be given a fishing licence before arrangements for the purchase of the vessel are concluded.

Permission to Operate as a Distant Water Motor Fishing Boats

The Federal Department of Fisheries recognises any boat fishing in the high seas; any boat on charter and used as carrier of frozen fish as well as any boat carrying frozen fish by straight importation into the country as distant water fishing boats.

Such a distant water fishing boat can be licenced without being flag registered.

If it is a boat under charter of involved in straight importation, the current 'owner' of the vessel must submit photocopy of Form 'M'; and approved Import Order Registration form and a photo copy of the Invoice.

Usually boats licensed as distant water motor fishing boats have a gross tonnage of 1,000 and above.

2.3 The Sea Fisheries Fishing Regulations of 1972

The Sea Fisheries Regulations provide that:-

(i) no fishing vessels (except canoes) shall fish within the first two nautical miles of the waters of the Nigerian Continental Shelf. This is the 'non-trawling zone'.

(ii) trawlers fishing in the inshore waters should use a mesh size of not less than 3 inches (76mm) toward the cod-end and trawlers shrimping shall not use a mesh size less than 1½ inches (44mm) towards the cod-end.
3. THE INLAND WATERS FISHERIES REGULATIONS

While there are standard fisheries laws and Regulations for the Nigerian Marine waters, no such laws exist for the Inland Waters in most parts of Nigeria.

The present Constitution of Nigeria vests the promulgation of Inland Waters fisheries acts or edict in the respective State governments. A few States which have such edicts include: - Fisheries Edict of Lagos State and the Inland Waters Fisheries Edict of Benue State, most States in the Federation have no such Edicts or Acts.

About six (6) years ago, the Federal Department of Fisheries drew up in detail the draft Inland Water Fisheries Decree (Act) of Fisheries Division for comments, and this draft was further presented to the National Fisheries Development Committee (NFDC) Meeting in 1978 for further discussion. The NFDC is the highest Fisheries body in the country and the committee consists of the Director of the Federal Department of Fisheries and the States’ Chief Fisheries Officers. A final draft is available at the Federal Department of Fisheries and this deals broadly and in detail with the registration and licensing of artisanal fishermen operating in different States of the Federation, the type of net to be used for fishing, closing of fishing season, restriction of fishing areas at appropriate times, illegal methods of fishing, appropriate method for marketing of fish, illegal damming or construction of structures on any national waters that pass through one or more States, conduction of fisheries research in the inland waters, size of fish allowed to be caught, methods of preservation of fish caught, fish farming practices etc. and appropriate penalties for contravention of any of the fishing regulations.

4. ROOM FOR FURTHER DEVELOPMENTS

4.1. The Sea Fisheries Act of 1971 provides for further development of the fisheries laws and regulation as indicated in paragraph 2.1 (f) of this paper. Section 2.1 (f ii, iii and iv) is an aspect dealing with Fisheries Inspection and Quality Control. It is strongly recommended that the Federal Minister should provide supplements to
the Sea Fisheries Acts of 1971 titled 'Sea Fisheries Inspection and Quality Control' and this Regulation should spell provisions for Fisheries Inspection and Quality Control including:-

(i) requirements for vessels used for fishing including requirements for fish preservation in the vessel

(ii) requirements for the marketing of fish

(iii) requirements for transport vehicles carrying fresh fish from one part of the country to another

(iv) requirements for cold room operations

(v) requirements for the buildings and premises vessel for preservation, storage or sale of fresh, cured or preserved fish.

In many countries of the world including Japan and Ireland it is the central government Fisheries Agency that performs Fisheries and Inspection and Quality Control.

The NFDC has a subcommittee on Fisheries Inspection and Quality Control whose term of reference include the above.

4.2. The marine fisheries industry is expanding at an alarming rate. The number of vessels licensed for both inshore and distant water fishing in 1980 is 147 as compared with 135 in 1978.

Nominal amount are charged as licence fees according to the gross registered tonnage as indicated below:-

<table>
<thead>
<tr>
<th>Gross Registered Tonnage</th>
<th>Annual</th>
<th>Quarterly</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20</td>
<td>N 40.00</td>
<td>N 12.00</td>
</tr>
<tr>
<td>20 - under 199</td>
<td>N 100.00</td>
<td>N 30.00</td>
</tr>
<tr>
<td>200 - under 999</td>
<td>N 200.00</td>
<td>N 60.00</td>
</tr>
<tr>
<td>1,000 - and above</td>
<td>N 400.00</td>
<td>N 120.00</td>
</tr>
</tbody>
</table>

This tariff has been in operation for 10 years. The rates charged in other countries including Mauritania, America and England are by far higher than the tariff charged here. It is strongly recommended that the tariff should be revised so as to bring in more revenue to the Federal Government.

4.3. The Exclusive Economic Zone Decree (Act) of 1978 gives a general guideline on the exploration and the exploitation of the nautical resources in the EEZ.

It is strongly recommended that there should be a supplement to the EEZ (Act) titled 'The Exclusive Economic Zone Fishing Regulations' and this should spell out:-

(i) the range and sizes of vessels permitted to fish in the EEZ.

(ii) conditions for joint partnership in the EEZ.

(iii) conditions for the exploration and survey of the living resources.

(iv) exploitation and methods of disposal of catch
powers of arrest and penalties for poachers as well as local fishing companies etc.
closed season
restricted fishing zone
mesh size and size of fish to be caught
foreign research etc. etc.

It should be noted however, that until the potential resources of the various species of fish in the EEZ are known, the biological behaviour, reproductive cycles; etc, some aspects of the proposed regulation cannot be drawn.

The Institute for Oceanography and Marine Research in co-operation with the Federal Department of Fisheries has a vital role to play in determining the potentials of the living resources in the EEZ especially the tuna resources, other demersal species as well as crustaceans and cephalopods.

4.4. Inland Waters Fisheries Regulation

The Fish Production in Nigeria is mainly from the Inland Waters including Lake Chad. The amount of fish produced annually from the Marine waters is about 21.25% and yet all the fisheries Laws and Regulations operative in Nigeria are on Marine Waters.

The various States' Fisheries Division owe it as a matter of urgency to draw up Inland Waters Fisheries Regulation which can be passed to the appropriate quarters for approval.

As a first step it is recommended that the NFDC in its next meeting should pass a resolution strongly urging each State to draw up the State's Inland Waters Fisheries Regulation which can be available for comment in the subsequent NFDC meetings. This issue can also be brought up for consensus agreement at the meeting of the National Council for Agriculture which consists of the Federal Minister for Agriculture, and the respective States' Commissioners for Agriculture. In this way the Fisheries Laws and Regulations would attain further developments. Incidentally as mentioned earlier the Federal Department of Fisheries has a draft, Inland Fisheries Act which can be used as a guideline to draw the respective States' Inland Fisheries edicts.

4.5. Lake Chad is an International fresh water body. Recent reports have it that the Nigerian portion of the lake has been diminishing to a very large extent. However, a large quantity of fish is still being produced there to feed the Nigerian population.

It is strongly recommended that the Federal Government should draw up a fishing Regulation known as 'Lake Chad Fishing Regulations' which shall apply to the portion of the Lake owned by Nigeria and these regulations shall specify:-

(i) The method of catching fish
(ii) the season of catching fish
(iii) the type of canoes to be used
(iv) method of preservation of fish caught
(v) mesh size regulation and size of fish caught etc, etc.
5. CONCLUSION

One of the effective methods of managing the living resources in Nigerian Marine and Fresh Waters is the enforcement of Fisheries Regulations and Laws. This would prevent the over-exploitation of the living resources and prevent the polluting of the waters as well as provide high quality fish for consumption by the Nigerian masses.

For any Fisheries Regulations to be effective, there must be appropriate enforcement agencies that would meaningfully realise the goals of such Regulations.

In order to boost the Green Revolution Programme of the Federal Government of Nigeria, thereby leading to more fish production in our waters, it is necessary that any fisheries regulations and laws drawn must have provisions for enforcement agencies who will be fully equipped and provided with adequate infrastructural facilities that would enable them to perform their duties effectively. In this way there would be rational management and conservation of the living resources which would have overall effect of increased fish production.

FOOTNOTE

1. Licensing Officer means the Director of the Federal Department of Fisheries or any person appointed by him to carry out any of the provisions of this Decree (Act)

2. Inshore Waters - is a reference to that part of the continental shelf with depth not more than 50 metres (27 fathoms)

3. See Jensen P.F.; Fish Inspection in Japan FAO (1971) Fishing News

REFERENCES


Recommended International Code of Practice for (1) Shrimps or prawns; and (2) for Molluscar and Shell Fish: - Joint FAO/WHO Food Standards Programme Code Alimentarius Commission, CAC/RCP 17 - 1978 and 18 - 1978.


Sea Fisheries (Fishing) Regulations of the Federal Republic of Nigeria (1972)
