

Stronger anti-poaching measures and  
applicable penalties

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# Purpose and Summary

- Over recent years poaching activities have become extremely heinous. Disorderly collecting and capturing is being repeated across wide areas in an organized manner seriously affecting the productive activities of the fishing industry as well as aquatic resources.
- Particularly sea cucumbers are being poached by heinous buyers in an increasingly intense manner as they are exported in substantial quantities via irregular, illegal routes to enjoy high prices offered to meet rising demand in overseas markets.
- In consideration of such a situation giving rise to poaching we have strengthened applicable penalties in an effort to effectively prevent poaching.

We have introduced a new offense of violating the prohibited collection or capturing of the Specified Aquatic Animals or Plants, and the offence of distributing poached items.

Penal servitude of up to 3 years or a fine of up to **30 million yen**

Maximum fine applicable to an individual in Japan

## Increased penalties for unauthorized fishing

### Current

Servitude up to 3 years or a fine up to 2 million yen

### Revised

Servitude up to 3 years or a fine up to **3 million yen**

## Increased penalties for violation of a fishing right

### Current

A fine up to 200,000 yen

### Revised

A fine up to **1 million yen**

# Prohibition of collection or capture of Specified Aquatic Animals or Plants

- We have designated as Specified Aquatic Animals or Plants abalones, sea cucumbers and some other items which are currently being poached in a heinous manner, and have prohibited their collection or capture as a general rule. It is possible, however, to collect or capture them pursuant to an applicable fishing right or permission.
- An individual who violates the above rule shall be subject to a servitude of up to 3 years or a fine of up to 30 million yen. The fine of 30 million yen is the maximum amount applicable to an individual.

## Specified Aquatic Plants or Animals

Aquatic animals or plants which are likely to be collected or captured in pursuit of illicit economic benefit and whose collection or capture for such purposes is likely to seriously affect their growth or the productive activity of the fishing industry, and which are designated as such in the applicable ordinance of the Ministry of Agriculture, Forestry and Fisheries (MAFF) (Art.132, Para 1 of the Fisheries Act).

- ✓ Such animals or plants are being heinously poached
- ✓ It is necessary that in an objectively observable manner poaching is seriously affecting the growth of such aquatic plants or animals or the productive activity of the fishing industry

### MAFF Ordinance

Abalones, sea cucumbers and glass eels\*

\*The Act will apply to glass eels in and after December 2023.

## No collection or capture

The very “act” of collecting or capturing is regulated, given that each heinous poaching of sea cucumbers and some other aquatic animals collects or captures them in a quantity equivalent to a quantity captured in a fishing operation performed by the fishing industry.

## Exceptional cases of collection or capture (collection or capture permitted)

- Collection or capture performed not exceeding the applicable Individual Quota (IQ);
- Fishing which is subject to permission (fishing subject to permission of the MAFF minister or applicable prefectural governor) and which is conducted by the applicable individual pursuant to such permission;
- Fishing which is conducted by an individual pursuant to his/her fishing right or right to exercise his/her union membership right;
- Fishing which is designated in the relevant MAFF ordinance as a case likely to affect to a lesser extent the growth of relevant

Specified Aquatic Animals or Plants or the productive activities of the fishing industry.  
(A case where the collection or capture is conducted for purposes of testing and research or educational training)

# Distribution of Poached Animals or Plants

- One of the reasons why poaching of the Specified Aquatic Animals or Plants occurs is the existence of those who buy them at a high price.
- In view of such a situation we have decided to apply the same penalties that apply to poachers to those who knowingly transport, custody or acquire such poached animals or plants or work as an intermediate for their disposal (servitude of up to 3 years or a fine of up to 30 million yen).

## ✓ Poaching is becoming organized

- Poaching is organized including its distribution channel. Consequently, even if we catch or arrest on the spot those who are actually engaged in the act of poaching they may be abandoned by the relevant poaching organization.
- Poaching is encouraged by the existence of those who buy poached items.



### **Article 189, Paragraph 2 of the Fisheries Act stipulates:**

He/she who knowingly **transports or stores** any of the Specified Aquatic Animals or Plants or any product thereof, or **acquires** it on a chargeable or non-chargeable basis, or **intermediates or works for disposal thereof** shall be subject to a servitude of up to 3 years or to a fine of up to 30 million yen.

# Mooring order and other matters

- For prevention of poaching an important thing other than the application of a penalty is the effective application of an administrative disposition pursuant the Fisheries Act.
- A mooring order is intended to prevent the vessel from leaving the port. An order for landing of fishing gear makes the very use of fishing gear impossible, being therefore effective from the viewpoint of making the act of poaching difficult.
- In view of the above we have stipulated in the applicable law a mooring order, an order for landing of fishing gear and other related matters. A violator of such orders shall be subject to the servitude of up to 3 years or a penalty of up to 3 million yen.

In order to strictly address heinous poaching

## It is important to effectively apply administrative dispositions.

### Mooring order

This order prevents a violator from leaving the port and engaging in fishing and thus maintains orderly fishing ensuring an effective management and control of aquatic resources.

### Order for landing of fishing gear

This order prevents a violator from using his/her fishing gear and thus maintains orderly fishing ensuring an effective management and control of aquatic resources.

### Order for installation of VMS and other electronic equipment

This order causes the relevant vessel to report its position enabling the authority to be informed thereof in real time, maintain orderly fishing business and ensure the effective management of aquatic resources.



## We have clearly stated supporting provisions in applicable laws and stepped up penalties applicable to violators

### Art. 52, Para 2, and Art.131, of the Fisheries Act

- ✓ MAFF minister may order each fishing vessel to have VMS or other electronic devices equipped and working at all times.
- ✓ MAFF minister or a prefectural governor may order his/her vessel to be moored in the event that the minister or the governor finds that the vessel used by its owner is in violation of any fisheries-related law or regulation.
- ✓ MAFF minister may order the fishing gear used for an act of violation to be landed.

### Currently effective regulations: Mooring or landing order pursuant to MAFF ordinance or the Prefectural Fisheries Coordination Rules

A violation of the order shall be subject to:

Servitude of up to 2 years or a fine of up to the sum of 500,000 yen (MAFF.

Ordinance)

Servitude of up to 6 months or a fine of up to the sum of 100,000 yen (PREF Regulation).

### After Revision: Order for mooring or landing pursuant to applicable law

A violation of the order shall be subject to:

Servitude of up to 3 years or a fine of up to 3 million yen

# Revision of the Fisheries Act and the system of penalties

- ✓ Under the revised Act we have created the crime for violation of the prohibited collection or capture of the Specified Aquatic Animals or Plants and the crime for taking over poached items whereby statutory penalties apply to an individual the maximum amount of fine (30 million yen). We have raised also the upper limit of the fine applicable to the crime of non-authorized fisheries or violation of applicable fishing rights, which means that we have increased penalties in general.
- ✓ We have expressly stipulated the mooring order and other items in the applicable law and raised penalties applicable to violators.

Acts of violation	Currently effective		Aft. Revision	
	Serv.	Fine	Serv.	Fine
Collection or capture of the Specified Aquatic Animals or Plants (Art. 189, Item 1)	-	-	3Y	¥30 mln
Transport of illegally collected/captured Specified Aquatic Animals or Plants (Art. 189, Item 2)	-	-	3Y	¥30 mln
Collection or capture by an individual having no quota assigned (Art. 190, Item 1)	3 Y	¥2 mln*1	3Y	¥3 mln
Collection or capture by an ind. in excess of annual quota (Art. 190, Item 1)	3Y	¥2 mln*1	3Y	¥3 mln
Violation of order for stopping of collect/cap or mooring (Art. 190, Item 2)	3Y	¥2 mln*1	3Y	¥3 mln
Violation of order for mooring (Art. 190, Item 2)	2Y	¥0.5 mln*2	3Y	¥3 mln
Collect. or capture without permission, violation of prohibited fishing (Art. 190, Items 3, 4, 8)	3Y	¥2 mln	3Y	¥3 mln
Engagement in fixed net fishery or demarked fishery not pursuant to fishing right or common of piscary (Art.190, Item 7)	3Y	¥2 mln	3Y	¥3 mln
Violation of the terms stipulated in the ministerial permission or fishing right (Art. 190, Item 5)	3Y	¥2 mln	3Y	¥3 mln
Violation of the terms stipulated in the governor's fishery permit (Art. 193, Item 2)	6M	¥0.1 mln*3	6M	¥0.3 mln
Violation of governor's order for obeying instructions of the Sea-area Fisheries Adjustment Commission or other entities (Art.191)	1Y	¥0.5 mln	1Y	¥0.5 mln
Violation of the obligation to report fish catches (Art. 191, Item 1)	6M	¥0.3 mln*1	6M	¥0.3 mln
Rejection, obstruction or avoidance of inspection (Art. 191, Item 4)	6M	¥0.3 mln	6M	¥0.3 mln
Violation of the fishing right or the exercise right of a union member (Art. 195)		¥0.2 mln		¥1 mln

\*1 Act on the Conservation and Management of the Living Marine Resources (TAC Act)

2 MAFF ordinance

3 Prefectural Regulation