

MINISTRY OF ECONOMY, DEVELOPMENT
AND RECONSTRUCTION
NATIONAL FISHERIES SERVICE

(Stamp Legal Department)

EXEMPT

Establishes procedure to authorize the entrance of foreign
flagged fishing vessels to Chilean ports

Valparaiso, December 28, 2004

N° 1659 BEARING IN MIND: The General Law on Fisheries and Aquaculture N° 18.892 and its modifications, the consolidated, coordinated and systematized text established via S.D. N°430 dated 1991, issued by the Ministry of Economy, Development and Reconstruction; Law Decree N° 2.222, the Navigation Law; the UN Convention on the Law of the Sea, enacted through Supreme Decree N° 1393 dated 1997, issued by the Ministry of Foreign Affairs; articles 25, 28 and 32 of Decree with Force of Law N°5 issued by the Ministry of Economy, Development and Tourism; the Agreement to Promote the Compliance of International Conservation and Arrangement Measures by Fishing Vessels that operate in the High Seas of the UN Organization for Food and Agriculture, enacted by means of S.D. N° 78, 2004, by the Ministry of Foreign Affairs; and other relevant instruments to which Chile is a party and official document N°2186, dated November 2, 2004 issued by the Fisheries Under— Secretariat.

CONSIDERING THAT:

The Supreme Decree mentioned above establishes a policy for the use of domestic ports by foreign flagged fishing vessels that operate in the adjacent high seas.

Letter a) of said Decree provides that the flag state of vessels that perform fishing activities, exercises an effective jurisdiction to efficiently control their responsibility with respect to such vessels.

letter d) and e) establishes the obligation on behalf of such fishing vessels to permanently use, within and beyond Chile's Exclusive Economic Zone, a satellite positioning system that is compatible and linked to the Chilean system, where required by domestic rules and regulations applied by the competent national authorities and that such vessels be subject to the same controls and inspections required in the case of domestic vessels, in accordance with international practice and the recommendations made by international fisheries and conservation, maritime security, and aquatic environment conservation organizations, to which Chile is party.

By means of official document N° 2186, dated November 2, 2004, the Fisheries Under— Secretariat requested the National Fisheries Service to develop a procedure to apply S.D. N°123/2004.

The National Fisheries Service is tasked with executing domestic fisheries policies and ensure the compliance of legal rules and regulations concerning this matter.

I HEREBY RESOLVE:

FIRST: foreign flagged vessels that wish to enter domestic ports, in accordance to the provisions set forth in S.D. N° 123 above, must follow the procedure and comply with the requirements established in the following articles to request the relevant port entry permission. The ports of first arrival enabled for this purpose are: Arica, Iquique, Coquimbo, Valparaiso, Talcahuano and Punta Arenas, for any type of vessel.

SECOND: The owner of the support vessel or the representative designated for these purposes, shall submit, with at **least 48 hours** notice, at the relevant Regional National Fisheries Service Office located at the port of arrival, a request to enter the port and use port services, using the appropriate forms. Such forms shall be made available in electronic format (on an Excel sheet) at Sernapesca regional offices in Arica, Iquique, Coquimbo, Valparaiso, Talcahuano, San Vicente (Talcahuano), Punta Arenas and Puerto Williams, at the Enforcement Department and on the Service's web page at: <http://www.sernapesca.cl/english>.

A form for each individual foreign flagged vessel requesting port entry must be submitted.

Copy of fishing authorization that enables the fishing vessel to carry out fishing activities in the operation area and over the resources that the vessel normally catches.

The documents must be submitted in the original language and in the Spanish language, validated by the Consulate, Embassy or other appropriate authority of the fishing vessel's Flag State.

THIRD: The above form has four sections, which must be completed with the following information:

- a) With regards to the vessel, the owner and fishing authorization, the following information must be provided:
 - 1) Name of vessel; the flag that it flies; IMO Registration Number, where appropriate; international code signal (characteristic markings); License Number; number of holds to store catch and bait.
 - 2) Name of shipowner, nationality and identification of representative, in the case of a legal person.

The Service reserves the right to request additional information, such as his/her complete name, in case of a natural person, name, nationality, profession, address, identification number, or document confirming his/her identity, in case of a legal person, company name, date of incorporation, legal representative and his/her contact information, such as name, address, nationality and document confirming his/her identity.

- 3) With regards to the fishing authorization, it must display the authorization code or number, the name of the issuing authority and specify if such authorization is attached to the form.

- b) As to the arrival information, the following information must be indicated:

The name of the ports in which the vessel made its last four arrivals, and the dates of each arrival.

The name of the port in which the vessel intends to arrive, the estimated date and the reason or reasons for requesting port entry. The ports that shall be enabled for the first arrival are: Arica, Iquique, Coquimbo, Valparaiso, Talcahuano and Punta Arenas. In the case of an arrival due to force majeure, the details thereof must be indicated on the back of the form.

The common name and scientific name of the main fisheries resources that the vessel usually captures, including the details related to the fishing gear used.

If the vessel has resources or fisheries products on board, including those used as bait, the name of the species, the storage unit (boxes, bulk, bags or others) the amount expressed in tons (3 decimals), must be detailed. If transshipment is requested, the amount to be transhipped, the vessel or reception location, and the destination country of the transhipped cargo must also be indicated. The acceptance of the port entry permission does not imply transshipment authorization.

In order to assess the compatibility of the satellite positioning system (VMS) fitted on board the vessel, the type of technology used must be identified (INMARSAT, ARGOS, ORBCOMM or others) the trademark and model of the equipment fitted on board, the identification code recognized for any given model, and the coastal station (LES) that it operates with, where appropriate.

- c) As to the applicant or person authorized to complete the form: identification of the representative of the shipowner tasked with processing the permission, whom, for all purposes, is responsible, in representation of the shipowner, for the information provided on the form, and the only valid speaker before the National Fisheries Service, with regards to the procedure dealing with the port entry permission.

The form shall contain a section aimed for the exclusive use of Sernapesca, that shall indicate if the permission is ACCEPTED or REJECTED, duly signed and stamped.

FOURTH: Vessels requesting to enter a Chilean port must operate a satellite positioning system that is compatible with the national VMS system, where required by the regulations or provisions issued by the competent domestic authorities, in such a manner that the geographic positioning data (basic report) is received on a daily basis by the Monitoring and Control Centers of the General Directorate of the Maritime Territory and Merchant Navy.

In cases where the system is not compatible with the national system, or as instructed by the national authorities, the shipowner or his/her agent, shall request the authority of the flag responsible for monitoring and control of the vessel involved, to submit a certificate to Sernapesca containing a graph and position report related to the vessel's last fishing trip. Such certificate must be made available for control purposes prior to arriving at a Chilean port.

Vessels that do not have satellite positioning systems on board, may not enter Chilean ports. With prejudice of the latter, those vessels that express their interest in operating with a satellite positioning system approved in Chile, in order to comply with this requirement, and enter the VMS system via the Monitoring and Control Center of the General Directorate of the Maritime Territory and Merchant Navy, may obtain port entry permission.

FIFTH: Vessels authorized to enter a Chilean port shall be inspected upon arrival, with regards to the information provided in the port entry permission form. The inspectors shall be granted access for control purposes.

If, as a result of an inspection, the authority determines that information provided in the permission for port entry form, or part thereof, is untrue, the national authorities may revoke the permission and require the departure of the vessel from the port.

SIXTH: Once the request is accepted by the National Fisheries Service, the form must be submitted, duly accepted, signed and stamped, to the Maritime Authority in the relevant port of call, in order to request the reception of the foreign flagged fishing vessel.

If the request is rejected, the service shall return the form to the applicant, duly signed and stamped in the "REJECTION" section.

FOR COMMUNICATION AND PUBLICATION

*(seal National Fisheries Service
signature)*

SERGIO MUJICA MONTES
NATIONAL FISHERIES DIRECTOR