

The Holy Grail

This article examines the background to the changes now being proposed for the status of the artisanal fishing zone in Peru

In several Latin American countries, the complementary objectives of securing artisanal fishing rights and conserving marine resources are enshrined in law. Thus 'artisanal fishing zones' have come to be recognized as special kinds of marine reserves, where small-scale fishing is allowed to take place without interference from larger-scale activities. Intensive, non-selective and destructive fishing activities (often referred to as 'industrial fishing', and geared to the production of fishmeal) are banned from these close-to-shore zones. The recognition of reserved artisanal fishing zones has, in many cases, come after long and hard-won (and ongoing) struggles, particularly in the two neighbouring Southern Cone countries of Chile and Peru. Here 'exclusive artisanal zones' have been established within a boundary of five nautical miles from the shoreline.

Despite these advances, artisanal fishing zones are subject to continuing incursions, both legal and illegal, by industrial and large-scale fishing operations. Clashes are also increasingly prevalent between artisanal fishing communities and aquaculture enterprises. Again, aquaculture enterprises may operate both legally (through being granted concessions) or illegally. In some Latin American countries, aquaculture enterprises have been set up illegally following violent (often armed) seizure of land and the intimidation of local communities through killings and torture.

In addition, it is an unfortunate fact of life that some government functionaries are not impartial actors in the decision- and law-making processes. In many countries, the investment sector (for intensive aquaculture and industrial fisheries) often

carries more political clout than small-scale fisheries. Worse still, high-ranking government officials may also be the captains of those very industries seeking to gain access to conservation areas reserved for artisanal fishing.

In Chile, Ecoceanos News of 15 October 2004 reports that allegations of 'illegal enrichment' have resulted in a Special Parliamentary Commission being set up to investigate the 'black market' in aquaculture concessions. Aquaculture concessions are allocated free of charge, and with no time limit set. The only requirement is the payment of a nominal annual charge of between 60,000 and 120,000 pesos (approximately US\$100-200). The owner is then free to lease or sell these freely acquired concessions. Ecoceanos reports that in some regions such concessions may sell for as much as US\$1 mn.

In August 2001, the Chilean Fisheries Subsecretary, Daniel Albaran, resigned amid allegations of corruption and professional misconduct. Albarán was, at the same time, the chairman of several aquaculture enterprises and Fisheries Subsecretary. In his public function, he was responsible for approving large numbers of aquaculture concessions. In business, he had an interest in how concessions were allocated. He may well come under the scrutiny of the Parliamentary Commission.

Aquaculture concessions

Likewise, in Peru, the handing out of aquaculture concessions in traditional fishing areas, in both the coastal areas and inland waters, has been strongly criticized. There have been fierce conflicts between artisanal fishermen and aquaculture enterprises over issues of

access rights in several fishing communities along the coast—Chimbote, Samanco, Casma, Callao, Pisco and Ilo.

Given a situation of increasing insecurity, and faced with growing threats to their livelihood rights from competing interests, artisanal fishworkers from Chile and Peru have recently committed themselves to establishing an International Commission in Defence of the Five-Mile Zone. The commission was established earlier this year during the Second Bi-National Peru-Chile Artisanal Fishermen's Meeting that took place in the northern Chilean city of Arica, from 1-2 July 2004. Then, in September 2004, in the Port of Ilo, Peru, the commission organized an International Forum on Artisanal Fishing to widen the network and to articulate more clearly the demands of artisanal fishworkers. In parallel, non-governmental organizations in the Southern Cone region, from Chile, Argentina and Uruguay, met in July 2004 to set up a Southern Cone Coalition to promote sustainable fisheries and social equity in the region.

In 1992, an area was legally reserved for artisanal fishing in the near-shore waters of Peru through Supreme Decree D.S. 017-92. This established the zone adjacent to the coast: "comprising the area between zero and five nautical miles, as a

conservation zone for the flora and fauna that exist there". "Carrying out fishing activities for direct or indirect human consumption with purse seines, and with other methods, gear and fishing devices that modify the biological conditions of the marine environment" is banned. The decree was passed due to "the serious interference of industrial fishing fleets and fleets fishing for direct human consumption in zones declared as the exclusive reserve for the operation of artisanal fishing vessels." It recognizes the importance of this zone for "upwelling and the breeding of the principal fishery resources that sustain the fishery for direct human consumption", and the need to "establish measures conducive for its protection".

In 1995, another Supreme Decree modified some of these conditions, and clarified that the ban on purse-seining refers only to industrial fishing, and not to artisanal fishing. It also clarified that the 0-5 nautical mile zone is reserved for artisanal fishing and, as such, that artisanal purse-seines may be used in the zone, so long as they comply with the criteria set by the Ministry of Fisheries.

Fierce conflicts

But the permission granted to artisanal purse-seining activities in the five-mile zone has led to fierce conflicts in the northern region of Tumbes. Thus, in August 2004, the Peruvian Ministry of

Production was forced to call in the navy to establish control measures on the activities of the so-called *vikingos chicos* (little vikings) and *bolichitos* (mini-purse-seines) in the sea around Tumbes.

The 1995 modification also makes the ban conditional on the technical opinion of Peru's Marine Institute (IMARPE). And here lies the bone of contention for artisanal fishermen in the south of the country, notably those from the port town of Ilo. In February 2001, IMARPE published a technical report, titled *The Problematic of the Five Miles in the South of Peru and Technical Alternatives for its Management*. The report observes that, in the south of the country, the distribution and concentration of the main fishery resources are localized in the zone 10 miles from the coast. This is due to climatic and oceanographic factors, and the presence of a very narrow continental shelf. In this southern region, the shelf width averages five nautical miles, but ranges from a maximum of 13 nautical miles to less than two (compared to 70 nautical miles in the northern region around Chimbote).

IMARPE notes that the concentration of fishery resources becomes more pronounced in summer (between December and March), especially in the five-mile zone. Its report provides an overview of oceanographic conditions in the southern region, and describes the spawning behaviour of the Peruvian anchovy. Known locally as *anchoveta* (*Engraulis ringens*), it is the main species targeted by industrial fishing activities supplying the fishmeal processors. The report then goes on to describe the activities of both the industrial and artisanal fishery in the south of the country.

In Peru, some 700 marine species are legally classified according to whether they are destined for direct human consumption (some 150 species) or for industrial purposes (2-3 main species, including anchovy/ anchoveta—*Engraulis ringens* and *Anchoa nasus*—and sardine). In fact, it has recently become national government policy to mobilize supplies of fish (scad, locally called *jurel*, and mackerel, *caballa*) to address the problems of widespread malnutrition

amongst the low-income segments of the Peruvian population. This has been enshrined in law through Supreme Decree D.S. 021-2004, which establishes special conditions for the catch of industrial fishmeal vessels to be used for human consumption. But FIUPAP is highly critical of this, pointing out that the industrial sector targeting these resources is already overcapacity. Rather, priority should be given to developing the artisanal sector and providing market support to ensure that fishermen obtain a fair price and low-income consumers an affordable food.

IMARPE's 2001 report documents the significant increase in fishmeal processing capacity since 1997 in the south of the country, and the resulting increase in fishing effort for anchovy, particularly in the summer. In the period 1990-95, the industrial fleet operating out of the port of Ilo remained more or less constant, reaching a maximum of 85 vessels in 1992. By 2000, vessel numbers had increased to 165, with a peak of activity in the summer months.

In the period 1991-92, more than 60 per cent of the southern industrial fish catch (for fishmeal) was taken within five miles of the coast. During the summer months between 1993 and 1997, this rose to 80 per cent. The report also notes that, in most years, anchovy represents more than 80 per cent of the industrial catch. It refers to an additional 10 species caught by the industrial fleet classified as species for human consumption, but claims that industrial fishing activities have had little impact on the mainstay species of the artisanal sector.

In a subsequent report on artisanal fishing in the zone 16°S - 18°20'S, IMARPE states that over the period 1996-2002, 65 per cent of the artisanal fishing fleet's activities were carried out in the 0-1.5 mile zone, and 99.5 per cent within the 2.5 mile zone. These observations have been hotly contested by the artisanal sector. They claim that part of the sector has been forced to retreat inshore to avoid interference from the industrial sector.

New sector

Also, in the last few years, a new deep-sea sector has developed, and artisanal

fishing boats range as far out as 150 miles to catch *perico* (*Coryphaena spp*) and sharks (*Tiburón diamante* and *Tiburón azul*).

The IMARPE study only looked at activities in the five-mile zone, and not outside it. As such, it provides an incomplete picture. Also, it only looks at interference between sectors, and not into sustainability issues. The Ilo fishermen, therefore, contest the validity of the report and its use for policy decision making.

The IMARPE report states that “due to the greater concentration of fishery resources in the coastal zone in the summer months, the application of a seasonal exception is justified in this period, that would allow for less interference with artisanal fishing.

As there is a much smaller artisanal fleet South of 18°S (that is, up to the Chilean border), free fishing should be allowed in this area during this period.” The report goes on: “One measure that could be applied is that when industrial fishing vessels fish inside the five-mile zone and catch fish classified as being for human consumption, these could be given to the artisanal fishermen,” with the caveat that “so long as catch controls are improved for the by-catch of fish for direct human consumption. This would also require improving the port infrastructure (the artisanal fishing quays) and establishing marketing channels.”

For the artisanal fishermen, the conclusions and recommendations provide stark prospects. According to IMARPE, the applicability of the five-mile zone law in the south of the country is not in line with the seasonal oceanographic variations and changes in species abundance.

They, therefore, recommend that “during the summer, there should be a seasonal exception to the five-mile law”. This would involve allowing the industrial fleet to fish to within three miles of the coast in a belt of about 120 miles (16°S to 17°59'S). From 18°S to the Chilean border, industrial vessels would be allowed to fish freely right up to the coast. “In all cases, by-catch of species for human consumption should be handed over to the artisanal fishing community.”

In December 2003, these recommendations found their way into Peruvian fisheries law. Supreme Decree No 037-2003 calls for a special fisheries regime to be established for anchovy in the southern region, from 16°S to Peru's border with Chile. It proposes that access be allowed to larger-scale purse-seiners to specified areas (so-called ‘penetration windows’) within the artisanal five-mile zone.

The law also establishes that a special, non-Statal, financing mechanism (FONDEMPASUR) be set up for the development and modernization of the artisanal fishing sector in the southern region. This is to be financed by a levy placed on each metric tonne of fish landed by licensed industrial fishing operations.

The law also specifies that all fish caught other than anchovy should be handed over to the authorities at the nearest artisanal fish landing quay, or to the most representative organization of artisanal fishermen. Permission is also given to the owners of artisanal fishing vessels to catch anchovy, and, under exceptional circumstances, sell it for human consumption.

In effect, the industrial sector is required to set up a compensation fund in exchange for being given these ‘windows of penetration’, and is being ordered to do the artisanal fishermen's work of catching fish for human consumption.

This decree is more or less exactly what the industrial fishing sector had been lobbying for. It is strongly backed by the southern fishmeal producers organization, APROSUR, which claims that in 2003, due to the lack of nationwide access to the five-mile zone, some US\$ 95 mn worth of foreign exchange from potential fishmeal exports was lost to the nation, and further, that in the southern region, potential US\$ 17.33 mn and 4,000 jobs were lost due to fishmeal plant closures. They say that the IMARPE report completely vindicates their claims.

Coastal fishing

“The (artisanal zone) decree applies to the whole coast without taking into account the difference in the nature of the coastline in the South and the North. While in

Chimbote, the shelf extends to 70 miles, in Ilo, it hardly reaches 3.5 miles. This means that the (southern) industrial fishing has to be predominantly coastal," they say.

They claim that reserving the five-mile zone for artisanal fishing makes their industry less competitive than Chile's. "The anchovy that is not caught by the Peruvian fleet is caught by the Chilean industrial vessels," they say. APROSUR and the National Society of Fishing Vessel Owners (SONAPE) have been actively organizing demonstrations and other lobbying efforts to raise public awareness and influence the political processes in their favour. The artisanal fishermen of Ilo have strongly challenged both the IMARPE findings and the claims of the industrial fishing sector. They accuse the Minister of Production, Javier Reátegui Roselló, of being both judge and jury, given his personal interests in the fishmeal industry. In their view, allowing 'windows of penetration' for the industrial fishery in the south is tantamount to ruining the fishery.

According to them, the anchovy and other fishery resources of the south represent a natural resource bank. It is of major importance as a feeding and spawning area, which is disrupted and harmfully transformed by industrial fishing activities. They claim that "measures like making exceptions to closed seasons in the south or making penetration windows in

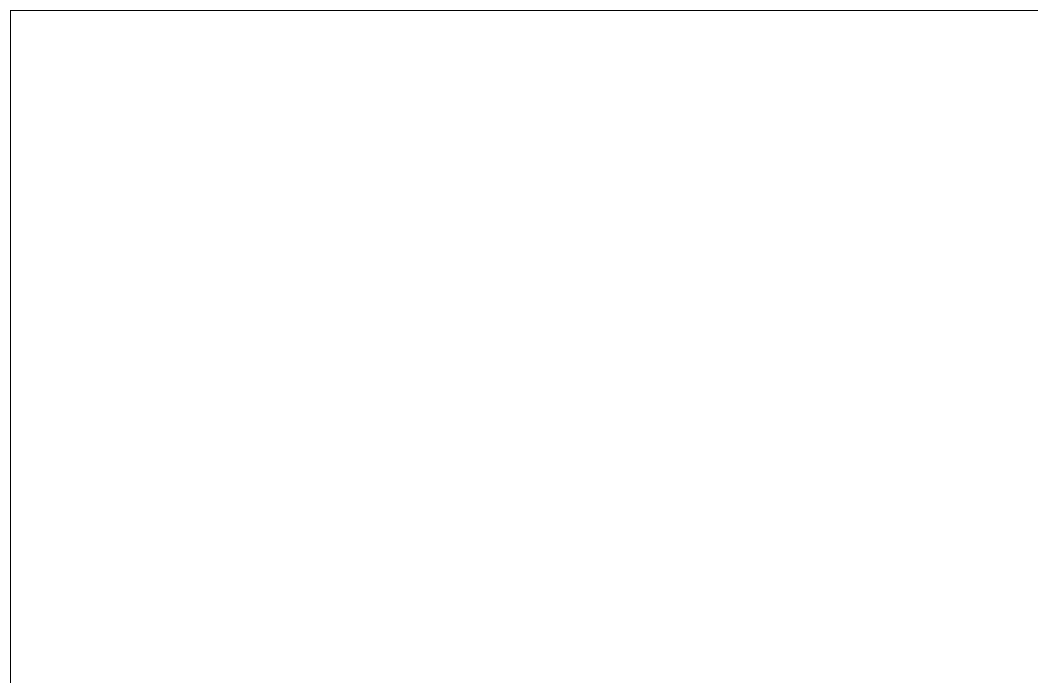
the border area for the industrial fishery are irrational, and undermine the sustainability of the fishery by not guaranteeing any resource or income for tomorrow."

They report that there are around 1,500 organized artisanal fishermen based around the port of Ilo. The main organization is the Sindicato nico de Pescadores Civiles del Puerto de Ilo Artesanales-Buzos (SUPABCP), which is a member of the national artisanal fishermen's federation, FIUPAP. They claim that there are a similar number of unorganized fishermen in the region as well.

Artisanal fishing activities around Ilo, which are all aimed at producing food for human consumption, are diverse: mini-purse-seines (*bolichito*), gill-nets, high-seas fishing, launch (*pintero*) fishing, line fishing, shellfish gathering, and diving using both compressors and aqualung. Over the last 10 years, these activities have undergone considerable change. For example, there are very few launches (*pintero*) and gill-nets (*cortineros*) today. The artisanal fishers claim that the root cause of these changes is the impact of industrial fishing.

Localized overfishing

On the one hand, the inshore sector has been increasingly pushed toward the shore to find areas inaccessible to



Final Statement of the Ilo Forum

The first International Forum on Artisanal Fishing convened by the International Defence Committee of the Five-Mile Zone, meeting from 29 to 30 September 2004 in Ilo, Peru, declares that:

The conservation of marine biodiversity and the protection of fishery resources are fundamental in assuring a supply of indispensable food for humanity, as well as in assuring the livelihoods of the communities that depend on fishing.

The coastal zone within five nautical miles is pre-requisite to the conservation of resources, providing an area for spawning, growing and nutrient upwelling, and, for these reasons, it should neither be subject to intensive fishing activities nor used as a dump for the industrial wastes that destroy it.

For these reasons, industrial fishing activities should be excluded from this zone, which should be used exclusively for artisanal fishing with selective and non-destructive fishing gear.

Under no circumstances should industrial fishing be allowed in this zone through 'windows of penetration'.

In order to ensure its own sustainability, the industrial fishing sector should try to overcome its dependence on fishing for fishmeal, and target a greater variety of species for producing value-added products, following the principles of responsible fisheries and with greater benefits for the fishing communities.

In order to ensure the sustainable management of fishery resources and the marine

environment, as well as the full participation of fishermen in decisions that affect them, we demand that the FAO Code of Conduct for Responsible Fisheries be turned into an International Treaty with the force of law.

The application of individual transferable quota systems fragments and divides artisanal fishing communities, depriving them of their rights and transforming them into a low-cost workforce for the industrial sector, due to which we reject their implementation.

In the case of Peru, we demand the lifting of Decree 037 that establishes 'windows of penetration' and the aspects of the fisheries law that allow these kinds of rules; in the case of Chile, we demand the lifting of the regime of 'windows of penetration' in the north of the country and an end to the quota system; in Mexico, we demand that Rule 002 that prohibits trawling in the five-mile zone be respected; and with regard to Argentina, Uruguay and Brazil, we express our concerns and reject the development of an anchovy fishery for fishmeal, which threatens the ecosystems of the region.

We call for the Second Forum of the International Commission for the Defence of the Five-Mile Zone to be implemented on the 29 and 30 September 2005 in Sinaloa, Mexico.

Also, and on the invitation of the Chilean delegation, we have decided to meet again during 20-22 November in Valparaiso, Chile, where the Congress of the National Confederation of Artisanal Fishermen will be held.

industrial fishing vessels. This has resulted in localized overfishing and a particular demise of the shellfish resources.

In response, closed seasons have been established, although no seasonal bans on the sale of closed-season species have been applied. This has tended to encourage illegal fishing. Traditional fishing areas have also been designated as areas for aquaculture concessions, putting further pressure on fishermen and resources in the increasingly restricted areas where they can fish.

On the other hand, an offshore artisanal fishing sector has developed in the last few years. Due to interference from the industrial sector, artisanal fishermen have been extending their range of operations to as far out as 150 miles, according to Ilo fishermen. But conditions are very harsh, with fishermen spending more than two weeks away from their families, and working in extremely dangerous and exposed conditions. Not only are there significant investment costs to be made in navigation equipment and fishing gear, but, with dramatically increasing fuel prices, this fishery is also becoming an

economic struggle, particularly as fishing trips may clock up distances of 700 miles.

Since its introduction, the December 2003 Supreme Decree has been hamstrung by the extreme polarization of the situation. In January 2004, the Ilo fishermen initiated a 'Peruvian Five-Mile Zone Defence Committee', supported by fishermen from Arequipa, Ilo and Tacna. This was followed up by a number of strikes in the south, aimed at disrupting fishing and related activities.

These local activities took on national significance when, at the end of March 2004, FIUPAP called for an indefinite national artisanal fishermen's strike starting on 5 April. This was scheduled to coincide with the start of the Holy Week, a time when many Peruvian families traditionally eat fish. Subsequently, FIUPAP asked the Food and Agriculture Organization of the United Nations (FAO) to intervene formally in the process, claiming that article 6.18 of the FAO Code of Conduct for Responsible Fisheries supported their claims for a five-mile zone, and was a just cause for complaint.

On 1 April 2004, the Ministry of Production suspended the implementation of the new access regime for three months. At the same time, an Enquiry Commission was established to evaluate the proposed new fisheries regime, and to report within 75 days. This 'temporary suspension' has since been renewed twice—on 1 July for 90 days, and then, most recently, on 4 October 2004 for a further 90 days, up to January 2005. The most recent suspension came four days after the first International Forum on Artisanal Fishing, and was considered a victory.

But although a battle may have been won, the 'windows of penetration' law still poses a very clear and present danger. It is only a matter of time—three short months before the current suspension expires. In the meantime, the government and industrial sectors are gathering information to support their case to lift the five-mile zone restrictions in the south. Nevertheless, the artisanal fishermen of Peru continue to protest, to organize themselves in readiness for the next

onslaught, and to widen their support base in defence of their sacrosanct five-mile zone—a zone that is fast becoming the Holy Grail of artisanal fishermen throughout Latin America, and a banner under which they are uniting to defend their rights. They will need all the strength and support they can muster if they are to prevail in the unequal power struggle with the mighty industrial fisheries lobby, who have influential friends in high places.

This article has been compiled by Brian O'Riordan (briano@tiscali.be), based on correspondence with various organizations, and using news items and official documents available on the Internet