



REPRESENTATION TO THE STANDING COMMITTEE ON THE
AQUACULTURE AUTHORITY BILL

I. The terms of reference as per the Supreme Court Judgment (dated 11th Dec 1996) is to set up an authority to protect the ecologically fragile coastal areas, seashore, water front, and other coastal area specifically to deal with the situation created by the shrimp culture industry in the coastal states and union territories.

- The central government shall constitute an authority under section 3(3) of the Environmental Protection Act (1986)
- The authority so constituted by the Central Government shall implement the precautionary procedure and the "polluter pay" principals.
- The shrimp culture industries/ shrimp ponds are covered by the prohibition contained in Part 2(1) of the CRZ Notification. No shrimp culture pond can be constructed or set up within the coastal regulation zone as defined in the CRZ Notification. This shall be applicable to all seas, bays, estuaries creeks, rivers and backwaters.
- All aquaculture industries / shrimp culture industries / shrimp culture ponds operating/ set up in the coastal regulation zone as defined under the CRZ notification shall be demolished and removed from the said area before March 31st 1997.
- The farmers who are operating traditional and improved traditional systems of aquaculture may adopt improved technology for increased

production, productivity and return with prior approval of the 'authority' constituted by this order.

- The agriculture lands, salt pan lands, mangroves, wet lands, forest lands, land for village common purposes and the land meant for public purposes shall not be used/ converted for construction of shrimp culture ponds.
- No aqua culture industries / shrimp culture industries / shrimp culture ponds shall be constructed / set up with in 100 mts of Chilika Lake and Pulicat lake including bird sanctuaries namely Yadurapattu and Nelapattu.
- Aquaculture industry / shrimp culture ponds already operating and functioning in the said area of 1000 meters shall be closed and demolished before March 31,1997
- Aquaculture industry / shrimp culture industry / shrimp ponds other than traditional and improved traditional may be ser up/ constructed outside the coastal regulation zone as defined by the CRZ Notification and outside 1000 meters of Chilika and Pulicat Lakes with the prior approval of the authority as constituted by this court. Such industries which are already operating in the said area shall obtain authorization form the 'authority' before April 30, 1997 failing which the industry concerned shall stop functioning with effect from the said date.
- We further direct that any aquaculture activity including intensive and semi – intensive activity which has the effect of causing salinity of soil or the drinking water or wells and / or by the use of chemical feeds increases shrimp or prawn production with consequent increase in sedimentation

which on putrefaction is a potential health hazard apart from causing siltation, turbidity of water courses and estuaries with detrimental implication on local fauna and flora shall not be allowed by the aforesaid authority.

- Aquaculture industry/shrimp culture industry / shrimp culture ponds which have been functioning operating with in the coastal regulation zone as defined by CRZ Notification and within 1000 meters from Chilika and Pulicat lakes shall be liable to compensate the affected persons on the basis of the polluter pay principle.
- The authority shall with the help of expert opinion and after giving opportunity to the concerned polluters assess the loss to the ecology and environment of the affected areas and shall be liable to compensate individuals/ families. The authority shall further determine the compensation to be recovered from the polluters as cost of reversing the damaged environment. The authority shall lay down just and fair procedure for completing the exercise.

It is to be noted that the envisaged Aquaculture Authority Bill (1997) does not in any way provide for any of the measures set in the judgment for protecting the ecologically fragile coastal environment and the traditional livelihood of the coastal people from the onslaught of the aquaculture industry / shrimp culture ponds already operating and functioning. Instead it proposes to give amnesty to all aquaculture industry set up right from 1991 which have

devastated the coastal environment and its people through section 24 of the proposed bill.

II. WHY THE AQUACULTURE AUTHORITY BILL 1997 MUST BE WITHDRAWN

- 1) It is an act of the parliament and union cabinet to circumvent and subvert the historical Supreme Court Judgment by Justice Kuldeep Singh and Justice Saghir Ahmad of 11th December 1996
- 2) It is an action that is biased, based on the needs and demands of the Aqua farms owners, Union government, 4 coastal governments Gujarat, Orissa, Andra pradesh and Kerala . All those scientists, academics, social activists, political parties, farmers and fishing community who were opposing it for the last 5 years were not consulted before drafting of this bill. It is not sufficient to merely call for an all party meeting on this matter as several senior leaders of political parties own shrimp Industries often in Benami names.
- 3) Till date the Bill has only been passed in the Rajya Sabha by voice vote. The Lok Sabha is yet to take up the Bill for consideration. It is now before the Standing Committee of Agriculture.
- 4) This bill fails to place before the elected representatives or the society at large a white paper on the negative impact of Aquaculture world wide especially in countries like Thailand, Taiwan, Philippines, Bangladesh

etc.. In Bangladesh above 30,000 families had to be evacuated and rendered homeless because there was no drinking water in their original settlements after the onslaught of these industries.

- 5) The process of centralized licensing designed by the Authority in order to guarantee protection of coastal environment naturally lends itself to the elimination of all small farms or individual persons attempting to do smaller farms. It is supportive of only large business and Trans national corporations.
- 6) The draft bill only attempts to deal with regulating Aqua farms in relation to its impact on environment. Neither the movement against aquaculture nor the supreme court judgment limits to environmental aspects. Categorically the negative impact of shrimp industries is dramatically felt on peoples livelihood systems, on health care, on housing and drinking water etc.
- 7) National Fishworkers' Forum and other movements in other states opposed the shrimp industries on the grounds that
 - It radically alters traditional ecology and livelihood systems that are mutually sustainable
 - It leads to salinity of lands surrounding the 'ponds' causing bareness
 - Millions of prawn seedlings that come into creeks, streams, backwaters etc.. for breeding are caught and given to the industrial farms

- Thousands of acres of rich agriculture lands were converted into shrimp industries or kept for land reclamation.
- Aquaculture farms provide employment only for a few. The loss of employment due to agriculture lands being taken has resulted in severe unemployment.
- Extensive tapping of sub-soil water leads to reduction of ground water level. This has resulted in the damage to coastal aquifers which are fragile and important in maintaining the equilibrium between two mutually sustainable ecosystem.
- The aquaculture ponds itself cannot be used or reclaimed due to the extensive use of fertilizers and chemicals. The damage done to the land is permanent.
- Salt pan lands, mangroves wetlands, forest lands, land for village common purposes and land meant for public purposes were converted for construction of shrimp culture industries causing irreparable/ permanent damage to the fragile coastal environment which has been sustaining millions of peoples livelihood for centuries.
- Due to large aquaculture industries being permitted to set up their plants very much within the high tide line by constructing huge boundary walls it has resulted in the 'sandwiching' of traditional fishing villages between these large farms. This has resulted in extreme levels of salinity in the ground water and also affecting

existing houses of the fishing people. Further, during the monsoon since these large farms have destroyed all coastal vegetation and their boundaries preventing the natural flow and ebb of water which results in the complete flooding of the fishing villages.

- Fertilizer and chemicals used for growth of shrimps are pumped out as toxic water into the streams, creeks, backwaters, and into the sea adversely affecting the breeding of young shrimp and fish thereby creating a drastic production depletion and crores of survival income for the fishing community and agriculture labour and small farms is lost.

8) Section 24 of the aquaculture authority bill is a wolf in sheep's clothing and is a violation of the CRZ Notification. It attempts to permit aquaculture industry to establish farms within the Coastal Regulation Zone which is now prohibited from doing as per the 1991 notification and the Supreme Court order of 11th Dec 1996. It does this through a 'simple' but dangerous inclusion as given hereunder.

"Sec 24.(1) Notwithstanding anything contained in clause(v) sub- section (2) of section 3 of the Environment Protection Act, 1986 of clause (d) of sub- rule(3) of the rule 5 of the Environment Protection Rules 1986. In the notification of the Government of India in the Ministry of Environment and Forest No S.O 114(E), dated the 19th February 1991 (herein after

referred to in this section as the said notification), in paragraph 2, after sub- paragraph (xiii) the following sub-paragraph shall always be deemed to have been inserted with effect from the 19th day of February, 1991, namely:-

“(xiv) nothing contained in this paragraph shall apply to aquaculture”

(2) The said notification shall have and shall be deemed always to have effect for the purpose as if the foregoing provisions of this section had been in force at all material times and according not withstanding anything contained in any judgment, degree or order of any court, tribunal or other authority, no aquaculture farming carried on or undertaken or purporting to have been carried on or undertaken shall be deemed to be in contravention of the said notification and shall be deemed to be and to have always been for all purposes in accordance with law, as if the foregoing provisions of this section had been in force at all material times and not withstanding anything as aforesaid and without prejudice to the generally of the foregoing no suit or other proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court of any order directing the removal or closure of any aquaculture farms activity or demolition of any structures connected thereunder which would not have been so required to be

removed, closed or demolished if the foregoing provisions of this section had been in force at all material times."

Similarly astounding is that Sec 24(2) validates all the shrimp industries, that have been set up from the date of the CRZ notification which is Feb 1991. With retrospective effect it brings in the said notification sub paragraph (XIV). This means that all the shrimp aquafarms get a blanket reprieve and amnesty to continue despite all the damage they have caused in the last 6 years. It condones all the violations committed by shrimp industries and stands the noble Supreme court order on its head further to permitting aquaculture with retrospective effect since 1991 CRZ Coastal Notification this sec. also nullifies all decisions of courts prohibiting shrimp farming in CRZ

9) What happened to the Aquaculture Authority set up on February 6, 1997?

On February 6th by a Notification the Central Government had set up an Authority as ordered by the Supreme Court in its December 11th 1996 Judgment: then why this hurry to set up another Authority and not as per Supreme Court's term of reference. It is very clear the Government wants to circumvent the Supreme Court order and bail itself out of the mess it had nurtured, save the polluting and destructive Shrimp Aquaculture Industry and the accused No 1, viz MPEDA, World Bank, the Nationalised banks and specialized Financial Institutions and Insurance companies whose nexus is fundamentally responsible for this scam and

destruction. The status of the Authority set up on March 7th headed by Mr. Justice Ramanujam, Ret. High Court Judge and 6 other members is ambivalent.

10) Because the Supreme Court entertaining the second batch of review petition and granting a stay on its December 11th order the government decided to introduce this aquaculture authority bill to achieve the following.

- Constitute a centralized, single authority made up like any other bureaucratic arms of the government. No scope for representation for independent experts, social activists, and representatives of NGO's who have been challenging the damage caused. An authority to function independently needs to constitute itself in such a manner. Sec 3 of the bill proves this point.
- Sec 10,11 and 12 describe the powers and functions of the authority. It is clear from these sections that it is not intended to implement the December 11 Supreme Court order. Instead it says nothing in these section about how they would deal with all the violations caused by the aqua farms since the CRZ Notification of 1991. It grants amnesty to all the civil and criminal wrongs committed by the Aqua culture industries – not just small prawn farms owners but the real big business- industrial interests and the huge farms owned by prominent politicians in the ruling government itself.

- If Sec 10,11 and 12 are attempted to be worked it means that only big industries and TNC's could get a license. The authority has the power to prescribe all the regulations regarding regulation. Given the nature of the non- independent authority that is to be constituted we can be sure that this authority will neither entertain petitions against a particular firm (interestingly it has no mechanism to deal with public petitions/ grievances) nor does it have the mechanism to act on a petition to the authority by a citizen or citizen group. How is this authority sitting supposedly in Delhi obviously with a limited staff going to regulate the activities of nearly 1000 prawn farms in Tamilnadu? This only the big industrial houses who claim they have an international design for the plant to be pollution free, who will claim it will carry on community development program in the nearby villages, who can fudge figures of employment, who can claim to set up recycling plants, effluent treatment plants etc and who can look after the representatives of the authority when they come for inspection can afford to get a license from this aquaculture authority
- Let us take sec 10 (1).9(a) it prescribes regulations for construction and operation of aquaculture farms within coastal area.

How is coastal area defined? Sec 2(d) defines Coastal Area as

“Coastal area” means the area as the Coastal Regulation Zone for the time being in the Notification of the government of India in the Ministry of Environment and Forest No S.O 114(E) dated the 19th February, 1991 and includes such other area as the Central Government may by notification in the Official Gazette, specify:

Sec 24 attempts to exempt aquaculture activity in this CRZ is equal to Coastal area then it is clear that this authority will regulate only in the Sec 10 (1) (a). All other shrimp aquaculture industry outside the CRZ coastal area will have no regulation whatsoever as per the regulatory plan of this authority.

- **The other powers / functions are**
 - To inspect aquaculture farms with a view to ascertaining the environmental aspect.
 - To grant licenses to aquaculture farms
 - To order removal or demolition if causing pollution

But the proviso to Sec 11 is a gem of a fraud on the people. It reads

“ provided that no such person shall enter on any aquaculture land, pond, pen or enclosure without giving such occupier at least twenty four hours notice in writing of his intention to do so.”

Why 24 hour notice. If a person generally or specifically authorized by the authority has to give atleast 24 hours notice in writing of his intention before entering any aquaculture land/ pond/ pen/ enclosure, this is the easiest way to defeat any law or authority empowered with inspection. Even pollution control board personnel or factory inspectors don't have to go through the humiliating experience. It is very easy to claim that your 24 hour notice in writing was never served and even in the twenty four hours the entire atmosphere can be stage managed and fabricated.

Sec 12(6) seems radically as it says that

“ no license shall be granted for aquaculture farming proposed to be carried out within 200 metres of high tide line as per CRZ. However this has to be read together with the proviso ”

“Provided that in case of creeks, rivers and backwaters, no such licenses shall be granted within the Coastal Regulation Zone declared for the time being under the environment protection act of 1986.”

“Provided further that nothing, in this sub section shall apply in the case of an aquaculture farm which is in existence on the appointed day.”

Thus the second proviso make it clear that all farms already in existence and even though in violation of 200 meters CRZ will be exempted. Why have this aquaculture authority at all ?

"... not withstanding anything as aforesaid and without prejudice to the generality of the foregoing no suit or other proceeding shall be maintained or continued in any court for the enforcement of any direction given by any court of any decree or order directing the removal or closure of any aquaculture farms activity or demolition of any structures connected thereunder which would not have been so required to be removed, closed or demolished if the foregoing provisions of this section had been in force at all material times"

This annuls completely all the numerous cases in the courts over the last 5 years or more. It makes a mockery of the justice system. If you can stand justice on its head in 8 lines drafted by bureaucrats and passed by voice vote without a debate by our elected representatives, piloted by government that swears by the COMMON GOOD OF ALL..THEREFORE MAY I REQUEST YOU PLEASE RECOMMEND FOR THE REJECTION OF THE BILL. THE BILL SHOULD NOT BE BRAUGHT BEFORE LOKSABHA AS THIS BILL IS ANTI FISHER PEOPLE AND POOR COASTAL PEOPLE.

To,
Ms. Nita Chowdhury,
Joint Secretary (Fisheries),
240, Krishi Bhawan,
New Delhi-110001

Sub: SUBMISSION AS PER THE COMBINED DECISION BY THE MINISTER OF AGRICULTURE AND THE NFF ON 13-1-2001

Dear Ms. Nita Chowdhury,

I hope you remember our meeting with the Honourable Ministers Shri Nitish Kumar, Shri Ram Naik, Secretaries of Agriculture Ministry, Shipping Ministry and Commerce Ministry. The first decision was as follows:

a). "It was decided that the NFF would, through Fr. Kocherry, submit views on the Aquaculture Bill to ensure that the Supreme Court judgement on the subject is adhered to."

In the light of this I am making the following points so that the Supreme Court Judgement on the subject is adhered to:

The Supreme Court judgment permits **only traditional and improved traditional** as the methods that are eco-friendly and can protect marine eco-system. For arriving at this conclusion various reports and documents have been relied upon. The definition of traditional and improved traditional as per Alagarswami has been accepted. In giving directions, the Supreme Court has permitted "improved technology" in areas where traditional and improved traditional aquaculture is done with prior approval of the Authority. The Supreme Court has also banned conversion of agricultural land for aquaculture to prevent increase in salinity, which ultimately affects drinking water and agriculture, besides ecology in general. It is in this light the bill has to be examined:

- (1) At the outset it is stated that traditional and improved traditional aquaculture alone is eco-friendly. It has the in-built mechanism of restoring natural balance, which is important for long-term sustainability.
- (2) Traditional and improved traditional aquaculture should therefore be practiced in saline areas with such improvements after prior permission of the Authority. The improvements have to be Eco-friendly and in consonance with traditional and improved traditional aquaculture.
- (3) Practice of traditional and improved traditional aquaculture will give many times more employment in comparison with other methods.
- (4) Even beyond 500 meters only saline areas be cultivated for aquaculture and not the agricultural land.
- (5) For having export potential, protection of ecology, benefit of fishermen, farmers etc. a long-term eco-friendly method has to be followed and not indiscriminate exploitation of the nature for short-term gains.

The proposed Aquaculture Authority Bill or the recommendations of STCNFF have to be seen in the light of the judgment of the Supreme Court:

2.(1)(a)"aquaculture" means culture through traditional and improved traditional methods. Delete from ' under.... otherwise'. SC judgement allows only traditional and improved traditional.

2(2)'and those.....Central Government'. This power should be defined in AAB or EPA. Central Government cannot be given this arbitrary power.

4(3) Two members from Aqua farmers to the AA are proposed: One from small farmers **and one from the traditional fishing community**. It is the traditional fishing community, which has the stake as per SC, and they should have their say.

11(2) Industrial Dispute Act has to follow only in the cases of demolition of Intensive or Semi intensive farms. It does not apply on traditional and improved traditional. Please refer SC J 16.

13(6) Only those that are traditional and improved traditional be permitted. All those that are not traditional and improved traditional should be demolished as per SC.

25 permits over-riding of the SC judgment. It should be deleted.

The NFF would like to make the following comments on the STC reports and explanations given by the Secretary of Ministry of Agriculture:

1. Page 3 of STC R No.7. (ii) Outside CRZ, agriculture land cannot be converted for Aquaculture. Please refer SCJ nos. 6 and 9.
2. Page 3, of STC R No. 8, 2. This is going against SCJ.
3. Page. 5. No.17. "The two major aspects..... 200 meter line is going against SCJ.
4. Page 6. STC R No.18. This is going against SCJ. It is under the category of Semi Intensive. We have to follow Alagarswamy's interpretation.
5. Page 9 of STC R No.28 (c) is going against the SCJ.

We will be making such other suggestions as may be required during our meeting as may be necessary to protect the environment, fisher community and the national interest. Please do the needful immediately,

Thanking you,

Yours Sincerely,

Thomas Kocherry

18/01/2001

NATIONAL FISH WORKERS FORUM

(NFF)

(A Federation of State Level Trade Union)

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To,

Sri. Ram Naik

Hon. Minister for Petroleum
9, Teen Murti Marg,
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To,

Sri. Nitish Kumar

Hon. Minister for Agriculture,
Krishi Bhawan,
New Delhi-110001

SUB: Adequate supply of Diesel and Kerosene to all fishermen at subsidised rate.

Dear Sri. Ram Naik and Sri. Nitish Kumar,

During our last meeting on 13-1-2001 one of the decisions was the following: "b) The Agriculture Minister has decided that the present diesel subsidy would be maintained. The petroleum Minister has asked NFF to give detailed proposals, to ensure effective distribution of Kerosene to fishermen and to ensure that their requirements are met."

I also place before you the recommendation of Murari Committee No. 12:

"Traditional and small mechanised sector should be assisted by adequate regular supply of fuel and providing HSD and Kerosene and providing subsidy taking into account the benefits given to deep sea fishing vessels."

In the light of these two decisions I place before you the following submissions:

1. The fisher people of India are going through an extremely difficult period due to the steep hikes in fuel prices at a time when the fish catch per vessel is going down in an alarming manner. Unless the fisher people are guaranteed adequate supply of kerosene and Diesel at subsidized rates proportionate to the price hike, they will not be able to continue fishing.
2. The fisher people have been requesting the government again and again to protect all the fisher people who are living on subsistent economy, by raising the present quantum of exemption limit of excise duty on supply of diesel to all fishermen through co-operatives, Fisheries Departments and other welfare bodies, in proportion to the increases in its prices effected from time to time.
3. The NFF has also demanded that the subsidy should also be given in the case of kerosene required by fishermen for their out-board engines and in-board engines in all the coastal states. This is guaranteed in some states by issuing permits. We therefore request you to issue Kerosene permits in every engine both in-board and out-board engine as per the make number. Fishermen not only for their outboard and inboard engines but also for the land based pre-harvest and post-harvest activities and during actual fishing trips require kerosene. In many coastal states particularly in West Bengal, Orissa, Kerala, Tamilnadu, and Andhra, Kerosene is needed basically for the traditional, small fishing sector where very few boats are motorised. Kerosene is used for (a) signal lamps for each gill nets, on the boat, cooking for the crews on board, (b) each stake net fishing unit with an average of 5 fixed nets need at least one signal

lamp for each net, one lamp on board and cooking for the crews. These units stay in the fishing grounds 10 days at stretch in each moon (fortnight), particularly in West Bengal and Orissa. Their catches are transported to shore once/twice daily by a mother boat. This stake out fishing sustains the whole fish industry in West Bengal and Eastern Orissa. (c) in the traditional processing sector (drying, salting etc) the fish brought to the shore are sorted out species wise throughout nights by women at least 10 days in each fortnight. This is an area where Kerosene is the only fuel, since there is no electricity close by anywhere. There are about 53 such centers in West Bengal alone. This area has become a money making racket for the Black Marketers and hoarders. A conservative estimate shows that West Bengal needs One-lakh litres of Kerosene per week for 25 weeks during the fishing season September to February and Sixty Thousand Litres per week for the rest 27 weeks. This means total annual requirement in West Bengal alone is about 41 lakh litres of Kerosene per year for the marine sector alone. This can be chanelised through 'BENFISH'- state level apex body of the fishermen's co-operatives or through petrol pumps or specially designated dealers in the fishing villages. State Fisheries Departments may introduce FISHING KEROSENE/ DIESEL CARDS like ration card or permits like Kerala ones. This quota given to each engine should be increased as per the requirement. This should be supplied at the rate of Rs.7.80/litre, whereas black market rate is Rs. 15-20. We request you to supply Kerosene at the rate of Rs.7.80/litre from the Petrol Pumps, Supply office, Fisheries Departments as much as the fishermen need, like people get Petrol and Diesel.

4. The existing quota of Kerosene supply for the small scale fishing units has to be increased from 300 litres to 600 litres for 9.9 HP units and from 400 to 800 litres to 11-25 HP fishing units and subsidy provided for these must be continued.

5. Establish Kerosene pumps, in Co-operatives, Malsyafed, Welfare Societies, Fisheries offices, Ration Shops. Issue Kerosene/Diesel cards to the fishermen as per requirements.

6. The Outboard and Inboard engines, which are considered as fishing for livelihood, be exempted from sales tax.

7. The diesel requirement per boat particularly in WB and Gujarat is larger than other states because of the bigger size of boats. There are about 10000 of such boats in India. The adequate supply of Diesel to these boats should be guaranteed particularly for deep-sea fishing. This diesel should be distributed through Co-operatives, "BENFISH", 'MALSYAFED', by creating new pumps in the fishing harbors.

8. The present fisheries scenario as you are aware, presents a very dismal & gloomy picture. A number of boats are kept idle, because they cannot afford to buy fuel. In this context, the Fisher people need a helping hand from both of you. Both of you are placed in such a position to help us. Please do not miss this opportunity.

With great optimism we place this before you. I am really waiting for Ram Naikji's return from the foreign tour. I cannot go back unless I get a positive answer from you. The fishing communities across states will never forget this help you are extending.

Thanking you.

Yours Sincerely,

Thomas Kocherry

22-1-2001

On 18-1-2001 we discussed the above text and finally we were asked by you to submit the definition of 'TRADITIONAL AND IMPROVED TADITIONAL AQUACULTURE' AS PER THE SUPREME COURT JUDGEMENT.

IN THE LIGHT OF THIS, NFF SUBMITS THE FOLLOWING NOTE

In the meeting Father Thomas Kocherry had with the Hon'ble Ministers, the first decision taken was as follows:-

"(a) It was decided that the National Fish Workers Forum (NFF) would, through Fr.Kocherry, submit views on the Aquaculture Bill to ensure that the Supreme Court judgement on the subject is adhered to"

This decision was taken because argument on the Government side was that in drafting the Aquaculture Bill, directions given in the Supreme Court have been followed which Fr. Kocherry disputed.

What the Supreme Court judgement says:

The Supreme Court judgement permits only traditional and improved traditional as the methods that are eco-friendly and can protect marine eco-system. For arriving at this conclusion various reports and documents have been relied upon. The definition of traditional and improved traditional as per Alagarswami has been accepted. In giving directions, the Supreme Court has permitted "improved technology" in areas where traditional and improved traditional aquaculture is done with prior approval of the Authority. The Supreme Court has also banned conversion of agricultural land for aquaculture to prevent increase in salinity, which ultimately affects drinking water and agriculture, besides ecology in general. It is in this light the Bill has to be examined:

- (1) At the outset, it is stated that traditional and improved traditional aquaculture alone is eco-friendly. It has the in-built mechanism of restoring natural balance, which is important for long term sustainability.
- (2) Traditional and improved traditional aquaculture should therefore be practiced in saline areas with such improvements after prior permission of the Authority. The improvements have to be eco-friendly and in consonance with traditional and improved traditional aquaculture.
- (3) Practice of traditional and improved traditional aquaculture will give many times more employment in comparison with other methods.
- (4) Even beyond 500 meters only saline areas be cultivated for aquaculture and not the agricultural land.
- (5) For having export potential, protection of ecology, benefit of fishermen, farmers etc., a long term eco-friendly method has to be followed and not indiscriminate exploitation of the nature for short term gains.

The salient features of Aquaculture Bill along with suggestions by NFF:

It is wrong to say that the Aquaculture Bill is in consonance with the Supreme Court judgement. If one looks at Section 25 along with Statements of Objects and Reasons, it will be seen that the very purpose of the Bill is to bypass the Supreme Court judgement broadly on two aspects, namely-

- (a) Aquaculture activity has been permitted under the Bill retrospectively with effect from 19.2.1991. The Supreme Court has declared that intensive and semi-intensive aquaculture falls within the purview of prohibited activities under CRZ. Traditional and improved traditional have not been categorised as prohibited activities. If that is so, why is aquaculture included as permissible activity retrospectively? Obviously, it is to benefit the intensive and semi-intensive aquaculture.
- (b) It has been permitted that the Aquaculture Authority will review the existing aquaculture farms and then only the demolition/closure as directed by the Supreme Court will take place. The Supreme Court has directed closure/demolition of only intensive and semi-intensive aqua farms. Therefore, by review, the effort is to somehow bring them within the definition of aquaculture and that is why the definition of aquaculture has been left vague.
- (c) The definition of aquaculture as interpreted in the Bill does not at all fall within the suggestions by the Forum and directions given by the Supreme Court. It does not define what are "controlled conditions". Even an intensive/semi-intensive aqua farm may come forward and claim that it is operating under controlled conditions. Along with the documents enclosed with the Bill, the Secretary has suggested that the stocking density in Extensive aquaculture, which is not in excess of about 10 larvae per sq.meter, (which means going a step further from traditional and improved traditional farms) be accepted as operating under controlled conditions. But even this is not a part of the proposed legislation. It is felt that the definition of aquaculture has been purposely left vague. (On the other hand STANDING COMMITTEE's proposal of Extensive aquaculture is unacceptable because, "PRAWN FARMING MANUAL" of The Waterbase Ltd defines Extensive as Stocking density (no/Sq.m/crop) 1-2.5, only).

What is required

The definition of aquaculture should only have the traditional and improved traditional, as that alone will protect the environment and the interest of the fishing community.

"Aquaculture means cultivation according to traditional and improved traditional methods, shrimp, prawn, fish or any other aquatic life in saline water but does not include fresh water aquaculture."

Traditional Aquaculture:

1. Traditional Aquaculture is practiced in low lying coastal areas with tidal effects along estuaries, creeks and corals.
2. Impoundment of vast areas ranging from 2 – 200 ha in size.
3. Characteristics are fully tidally-fed, salinity variations according to monsoon regime, seed resources of mixed species from the adjoining creeks and corals by auto stocking; dependent on natural food; water intake and draining managed through sluice gates depending on local tidal effect, no feeding, periodic harvesting during full

and and new moon periods; collection at sluice gates by traps and by bag nets; seasonal fields alternating paddy (monsoon) crop with shrimp/fish crop (inter monsoon); fields called locally as bheries, pokkali fields and khazan lands.

This definition is based on the following sources as well as charecteristics:

1. The Food and Agriculture Organization's (FAO) published Report in April 1995.
2. Dr. K. Alagarswami, Director, Central Institute of Brackish water Aquaculture, Madras.
3. Supreme Court judgement on Aquaculture dated 11.12.1996.
4. "States should ensure that the livelihoods of local communities and their access to fishery grounds are not negatively affected by aquaculture developments." (9.1.5 Code of Conduct for responsible fishing – FAO)
5. There is no pollution. It is naturally, environmentally sound, sustainable. No paddy field conversion.
- 6.** Diversification of species among shrimps and integrate fish wherever possible to suit the different agro-climatic and aquatic zones of the country.
- 7.** More employment
- 8.** No need of chemicals, pesticides which are polluting.

Improved Traditional:

All what is said above is with regard to the Traditional Aquaculture. Supplementary stocking with desired species of shrimp seed (P. Monodon or P. indicus); practised in ponds of smaller area 2-5 ha.

Stocking rate – It should be less than extensive, which is 1 – 2.5 as per Prawn Farming Manual by Waterbase Ltd.

This definition is based on the following sources as well as charecteristics:

1. The Food and Agriculture Organization (FAO) published Report in April 1995.
2. Dr. K. Alagarswami, Director, Central Institute of Brackish water Aquaculture, Madras.
3. Supreme Court judgement on Aquaculture 11-12-1996.
4. The Supreme Court has permitted "improved technology" in areas where traditional and improved traditional aquaculture is done with prior approval of the Authority.
5. Traditional aquaculture takes place in natural settings and the cultured species are reared wholly dependent upon the natural supply of food in the waters where they are grown. The cultured organisms generally live in fairly low densities determined by

the availability of food. The extent of human intervention is to supply some or all of the seed stock and to harvest the crop at the end.

6. Already saline areas only we try improved traditional aquaculture.
7. No pollution, sustainable.
8. "States should ensure that the livelihoods of local communities and their access to fishery grounds are not negatively affected by aquaculture developments." (9.1.5 Code of Conduct for responsible fishing – FAO & U.N.)

FAO Technical Guidelines for Responsible Fisheries. No. 5. Rome. FAO. 1997. 40(p)

"States should ensure that the livelihood of local communities, and their access to fishing grounds, are not negatively affected by aquaculture developments."
(CCRF Article 9.1.4)

"Ensuring livelihood of local communities . Expanding food production in developing countries, particularly in low-income food deficit countries, can be one of the primary means to increase availability of food and income for those living in poverty. The livelihood of rural communities in inland and coastal areas of many countries depends on the capacity by the rural poor to produce food through a wide range of activities, which often include very diverse practices of terrestrial and aquatic farming, fishing and utilization of forest products. Aquaculture practices in most rural areas, and, increasingly also in peri-urban locations have proven to contribute to enhanced and diversified food supply and income generation in most local communities. However, due consideration should be given to the need for all practices of food production to expand, intensify, specialise or diversify, in such a way that existing traditional practices are well integrated in such innovations. (Ref. 48)

Aquaculture for Local Communities. For aquaculture practices to develop sustainably, and for the general benefit of the local communities, it is important for government authorities to facilitate collaborations and constructing dialogues between aqua farmers or aquaculture developers or other stakeholders in local communities. (Ref. 49) Access to the fishing grounds should be guaranteed and, were necessary, regulated for the mutual benefit of fisheries, culture-based fisheries and aquaculture. Agreement should be fostered between aqua farmers and fisherfolk, to avoid conflicts over access to shared resources such as water, space and living aquatic resources."

Thanking you,

Yours Sincerely,

Thomas Kocherry

22-1-2001

COPY TO: Mr. Nitish Kumar

The Aquaculture Authority Bill

In 1993, the Supreme Court said that, 'production alone cannot be the basis for determining the public interest'. It also agreed to the Kerala Government justifying that it is under an obligation to protect the economic interest of the traditional fishermen and to ensure that they are not deprived of their slender means of livelihood.' The judgement also emphasised that public interest cannot be determined only by looking at the quantum of fish caught in a year.

Thereafter the Supreme Court in its landmark judgement of 11 December, 1996, ordered to demolish all the aquaculture farms because it was a violation of CRZ Notification of 1991.

Some salient features of the judgement were:

- Government of India shall constitute an Authority under the Environment protection Act, 1986. The Authority should be constituted before January 15, 1997 and have powers necessary to protect the ecologically fragile coastal areas, seashore, water front etc.
- No shrimp culture farm can be set up within the Coastal Regulation Zone (CRZ) as per the CRZ Notification dated February 19, 1991 issued by the Ministry of Environment and Forests.
- Aquaculture farms which do not meet the criteria of traditional and improved traditional shall be closed and demolished before March 31, 1997.
- Workers employed in the aquaculture farms that are to be shut down or demolished shall be deemed to have been retrenched with effect from April 30, 1997 and shall be paid six years wages as compensation.
- Outside the CRZ zone, no shrimp culture is to be allowed in mangroves, wet lands, forest lands, agricultural lands, salt pans, village common lands etc.
- No shrimp culture is permitted within 1000 m of the Chilka Lake and Pulikat Lake including bird sanctuary namely Yadurappattu and Nellapattu.

Instead of carrying out these directions of the Supreme Court, the Agriculture Ministry drafted an Aquaculture Authority Bill. This Bill was tabled in the Rajya Sabha on March 19, 1997, and passed it on March 20, 1997. Members did not get an opportunity to even read the Bill. This Bill instead, was a 'shrimp aquaculture industry promotion bill' and it in effect undermined the judgement of the of the Supreme Court.

Some of the salient features of the Aquaculture Authority Bill :-

- The Bill legislates that after it is passed all decisions of courts, tribunals etc. in relation to the aquaculture farms are deemed to be nullified.
- It seeks to amend and relax the CRZ Notification dated February 19, 1991. The objective of issuing the 1991 CRZ Notification was to protect the coastal areas. Sec. 24, of the AAB seeks to undo the 1991 Notification thereby destroying the coastal ecology.
- All shrimp culture industries would continue, provided they apply for a license within six months of the enactment of the law to the authority created by it. As per the Bill they will continue the activities so long as the license which they have sought for has not been refused. The license can be renewed every five years.
- The protection given by the Supreme Court judgement to the Chilka and Pulikat lakes has been removed.

The Aquaculture Authority Bill is contrary to the Environment protection Act and to the Environment Policy of the Central Government, reflected in the CRZ notification. It is also contrary to the welfare of the rural population living in the coastal areas.

The livelihood of more than 100 million people, living in the coastal areas and who were given protection by the Supreme Court judgement will be adversely affected by the enactment of the Aquaculture Authority Bill.

The reference components consists of :-

[The Coastal Regulation Zone \(CRZ\) Notification of 1991](#) and the following amendments in it.

Then is a copy of the judgement of the Supreme Court in the case related to aquaculture., Ref : Writ Petition (Civil) No. 561/1994.

The Aquaculture Authority Bill, 1997

- [19th February, 1997](#)

- [20 March 1997 Amendments](#)
- [20n May 1997 Amendments](#)
- [20n July 1997 Amendments](#)
- [20n November 1997 Amendments](#)
- [20n February 1998 Amendments](#)
- [20n February 1999 Amendments](#)
- [20 August 1999 Amendments](#)

Articles by [Gary Cohen](#), a campaigner with Health Care Without Harm, talks of the adverse impacts of 'Blue Revolution' and another by Kadambari Murali, says that, the Aquaculture Bill, if passed, could have devastating effects on fisherfolk and small farmers in coastal areas. Followed by this is the data on the [2004-2005 Aquaculture Production](#) and the summary of the CRZ rules.