

CHAPTER 3

Institutional framework

Chile has a well established governance system in place for fisheries and aquaculture activities, both in the public and private sectors. In broad terms, the public sector sets the basic rules for these activities as they are undertaken either in public waters or refer to common property renewable resources, while the State represents public interests and views. In turn, the private industry has well organized institutions representing their own interests, while fishers also have strong representative associations that operate on their behalf. These parties, working separately and together, focus on local and international issues, and are responsible for the sustainability of the available natural resources and the environment, social development and maximization of wealth accrued by all parties directly involved, as well as that of society as a whole.

Chilean fisheries and aquaculture are primarily governed by the Fisheries and Aquaculture Law (Law 18.892) of 1989 and its amendments, and several other legal bodies and administrative procedures. This chapter provides an overview of these laws and the institutional structure they govern.

Governance structure

Chilean fishing and aquaculture activities are governed by an executive policy-making body, the Under-Secretariat of Fisheries (SSP), which has a control and enforcement branch, the National Fisheries Service (SERNAPESCA). It is assisted by the Institute of Fisheries Development (IFOP) which supplies the basic information and analysis required to develop management proposals and recommendations.

The Undersecretariat of Fisheries (SSP)

The Undersecretariat for Fisheries (‘Subsecretaría de Pesca’, or SSP) is the principal executive authority responsible for fisheries and aquaculture. It is one of the two Sub-Secretariats of the Ministry of Economy, Development and Reconstruction, and was formally created in 1976 (Decree-Law 1.626) (Figures 3.1 and 3.2). It is headed by the Undersecretary of Fisheries, who reports directly to the Minister of Economy, and is named by the President. The SSP’s functions and budget were defined and regulated under Decree-Law 2.442 in 1978. Prior to the formation of the SSP, fishing activities were regulated by the Ministry of Agriculture.

Figure 3.1. Structure of the Ministry of Economy, Development and Reconstruction

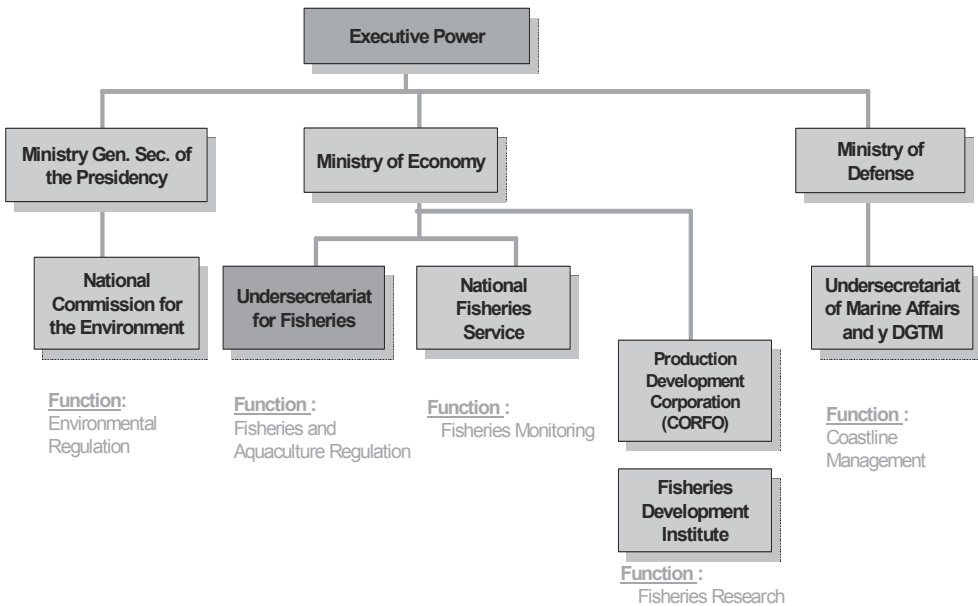
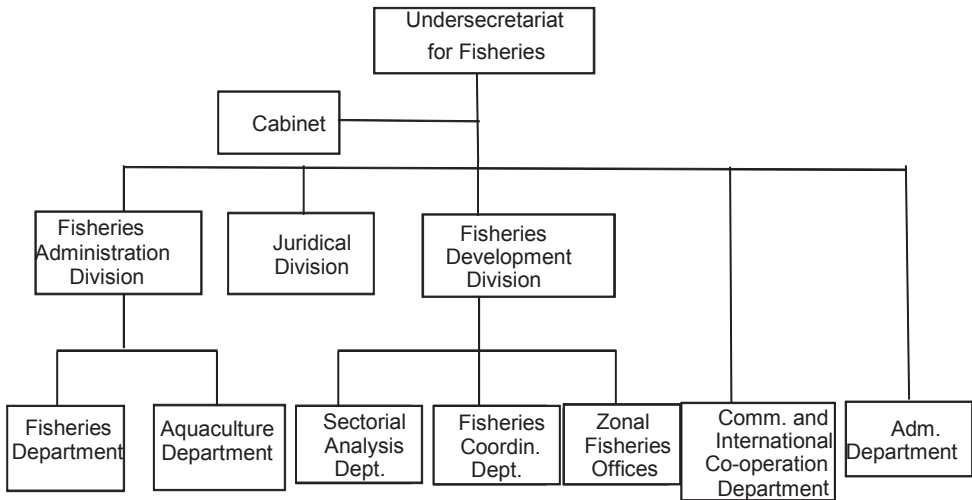


Figure 3.2. Structure of the Undersecretariat of Fisheries

The mission of the Undersecretariat is “promoting the sustainable development of the fisheries and aquaculture activity, defining policies and applying regulations that increase the social and economic benefits of the sector, in order to ensure the wellbeing of the present and future generations of the country”. Following from the mission statement, the Ministry has the following strategic objectives:

- proposing, implementing and spreading sectoral regulations in a timely, transparent and participative way;
- maintaining institutional coordination bodies, especially those related to the sector, in order to adequately implement the sectoral regulation in a timely fashion; and
- monitoring the training of people, leading to an improvement of the technical and administrative processes.

To fulfill these objectives, the Ministry has the following functions and powers:

- to plan and coordinate the national fisheries policy, and to dictate the general compulsory norms which may be required to enforce it;
- adopt measures to avoid the introduction and further spreading of diseases that may affect natural marine and fresh water fisheries resources, and to combat existing ones;

- implement laws and regulations on fisheries and marine hunting; and
- manage the distribution of financial resources for research and development.

The SSP is based in Valparaíso, Vth Region, and had a staff of 63 individuals in 2007. It is not regionalized, meaning that the SSP has no direct representatives located in the various administrative Regions of Chile. However, the SSP has five zonal representatives, in each one of the geographic macro-zones designated for fisheries management purposes (described below with regard to the National Fisheries Council). While aquaculture has become more prominent over the last 20-25 years, the SSP's main activities are centered on fisheries, and particularly addressing regulatory and administrative problems regarding artisanal fisheries, as well as the way in which artisanal and industrial fishers interact.

Looking back at recent history, it is evident that the SSP has been instrumental in modernizing management systems for wild fisheries, a fact that has stabilized activities and led to sustainable investments and employment. With respect to aquaculture, however, it has had more of a 'reactive' rather than 'pro-active' focus due to the rapidly changing demands of a sector that has been dynamic in its development.

In relation to artisanal fisheries, a range of administrative schemes have been undertaken to exert control over the open access to fisheries. These include the National Registry for Artisanal Fishermen (NRAF) and the MAEBR scheme. While these have largely been effective in meeting their objectives, the SSP still faces a number of challenges in reducing the exploitation levels of coastal fisheries and ensuring the social sustainability of the artisanal sector. These issues include, the low prices received by artisanal fishers, the incentives for technological improvements in the sector, the quality of fish supplied, and the lack of social security coverage for many artisanal fishers.

The National Fisheries Service (SERNAPESCA)

Created by Decree-Law 2.442 of 1978, and with its structure modified by Decree Law (DFL) 1 of 1992, the National Fisheries Service (or SERNAPESCA) is headed by a National Director and falls under the direction of the Minister of Economy; it is therefore detached from the SSP's direct supervision. Unlike the SSP, this is a regionalized service, with direct representatives, personnel and offices in all Chilean Regions. Its head office is in Valparaíso and it has 44 offices spread along the coastline of Chile. In 2007, it had a staff of 348 individuals.

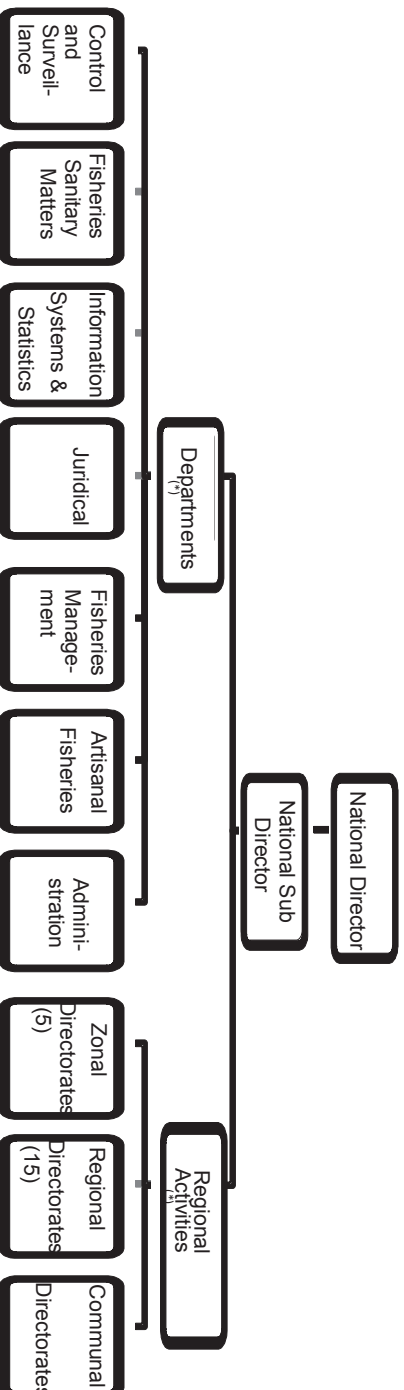
SERNAPESCA's mission is to “contribute to the sustainable development and the competitiveness of the domestic fisheries and aquaculture sectors by enforcing the compliance of fisheries, aquaculture, health and environmental regulations that govern the activity and officially ensure the safety of exported fisheries products.” Its goals are to:

- protect the status of fisheries resources through the enforcement of regulations that govern the activity to ensure its sustainability;
- collaborate with the export efforts of the country by providing the official support required by the destination markets through the certification of the safety of fisheries products for export;
- contribute to the productive development and the competitiveness of domestic aquaculture, maintaining the condition of the aquatic environment and the health status of farmed species through the application of best practices, as well as enforcing environmental and health regulations that govern the activity;
- gather and process the information of the sectoral activity and manage the fisheries registries in order to facilitate decision making, enforce the compliance of fisheries regulations and issue the official fisheries statistics of the country; and
- contribute to the development of the artisanal fisheries sector through the dissemination of related rules and policies, sectoral technical support and the implementation and articulation of the production development program.

Until August 2008, SERNAPESCA also presided over the Zonal Fisheries Councils and the Regional Fisheries Councils created by the Fisheries and Aquaculture Law. However, this function is now performed by the Undersecretary for Fisheries. SERNAPESCA acts as the head and executive secretariat for the Fund for the Promotion of Artisanal Fisheries

The organizational structure of SERNAPESCA is shown in Figure 3.3. The dual institutional structure of SSP and SERNAPESCA requires strong coordination between the two bodies.

Figure 3.3. SERNAPESCA organizational chart



The Fisheries Development Institute (IFOP)

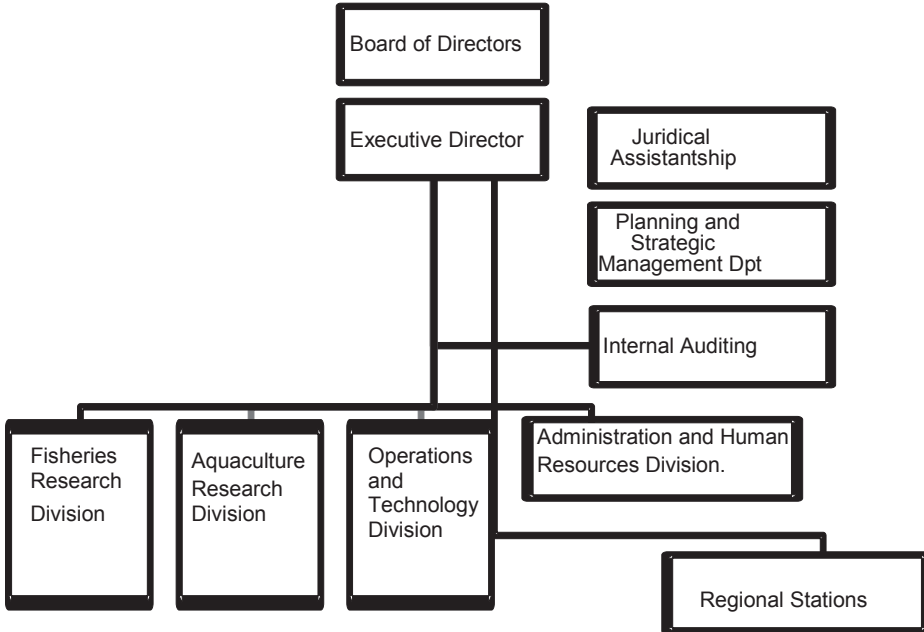
The Fisheries Development Institute (*Instituto de Fomento Pesquero*, IFOP) is a non-profit Corporation and was created in 1964 by CORFO (Corporation for the Promotion of Production from the Ministry of Economy) and the National Fisheries Association, SONAPESCA (a corporation representing the private sector's interests in fisheries and aquaculture) through a technical assistance agreement between the Chilean Government, the FAO and UNDP of the United Nations. Originally aimed at promoting fisheries development, IFOP is now the main government agency in charge of providing background information, analysis, and proposals to support the regulation of fisheries and aquaculture activities, and to undertake research to preserve wild fisheries resources and the environment. Its contributions are essential to the SSP, which relies on IFOP's advice to develop management strategies for local fisheries and aquaculture. IFOP is based in Valparaíso and had a staff of 498 in 2007.

The mission of IFOP is to be the provider of scientific and technical advice for the regulation of fisheries and aquaculture, as well as the conservation of hydrobiological resources and their ecosystems. This is achieved through the following strategic objectives:

- Evaluate, diagnose and recommend sustainable total allowable catches for the main hydrobiological resources, subject to industrial and small scale activities, through monitoring, direct evaluations and the study of the fishing oceanographic conditions.
- Evaluate, diagnose and recommend actions directed to the preservation and sustainability of aquaculture, from the environmental and sanitary points of view, through the monitoring of the activity and oceanographic behavior.
- Promote and develop the scientific and technical excellence needed to advice the fisheries and aquaculture management, together with the capacity building of the research and technical staff.
- Inform society of the concepts of responsible fishing and aquaculture and the sustainable development of fisheries.

IFOP's headquarters are located in Valparaíso, and it also has several regional stations. It is headed by an Executive Director, and employs 451 scientists and administrative personnel, based in 17 regional offices, and stationed in 37 different locations (Figure 3.4). It is directed by a Directive Council, which is normally led by the Undersecretary of Fisheries.

Figure 3.4. IFOP organizational chart



In strict legal terms, IFOP depends on CORFO for its funding and CORFO also nominates the Board of Directors and the Executive Director. However, its budget allocation is largely influenced by the SSP and also depends on funds either directly assigned by official bodies or obtained through open contests that assign public funding to projects of interest to society.

IFOP has been one of the pillars upon which the initial development of the Chilean fisheries and aquaculture industry during the 1970s has been based. Since then, this institution has been the subject of major organizational restructuring over the years following the completion of the FAO's initial mission to set up the institution. These restructures have tended to swing between regionalizing and centralizing activities, to shift the focus of development actions, and shrink or expand the number of people

involved (e.g. through the hiring of permanent or occasional staff). One of the major challenges facing IFOP at the moment is the ability to attract and retain high qualified staff.

The National, Zonal and Regional Fisheries Councils and the Aquaculture Commission

The National Fisheries Council was created by the Fisheries and Aquaculture Law 18.892. It aims at organizing the participation of all stakeholders involved in the fisheries and aquaculture sector, on matters related to production issues. As stated in its by-laws, it is a ruling, advisory and consultative body for matters such as establishing fishing quotas for industry and small-scale fishers; for dealing with the National Fisheries Development Plan; International Fisheries Policy; the National Fisheries Research Plan; modifications to the Fisheries and Aquaculture Law; development proposals for small-scale fishing; and similar high level policy actions.

It is headed by the Undersecretary of Fisheries, backed by the Directors of SERNAPESCA, IFOP and the Directorate General of the Maritime Territory and Merchant Marine (DIRECTEMAR). It also includes an additional seven members nominated by the President of Chile and approved by the Senate and by elected representatives from industry, worker organization and small-scale fishers. In total, the national Fisheries Council has 27 members. They meet at least once per quarter, and work *ad honorem* as established by law. Their role has been instrumental in facilitating consensus and social acceptance of management measures proposed by the SSP, which would otherwise be subject to open discussions in many other fora, thus complicating the decision making process. A high proportion of their activities are related to the approval of fishing quotas, limits or management systems.

Because of its extended membership, and their affiliation, decision making is not necessarily an easy task within the Council. However, the Council is a good mechanism to promote wider and quicker acceptance, and therefore better governance of fishery management policy.

There are also five Zonal Fisheries Councils aimed at contributing to the decentralization of management measures to be taken by authorities, and to enhance regional participation of fisheries and aquaculture stakeholders. Each Council represents a group of regions that are geographically close to one another. They are composed of 19 members that work on an *ad honorem* basis. They also have a consultative and leadership role, in order to

deal with matters of their concern (particularly those that have regional impact) as established by law.

The law also sets up Regional Fisheries Councils, which are aimed at studying fisheries and aquaculture problems affecting their zones, and to propose solutions and management measure to the corresponding authorities (SSP). Members of the Regional Councils also work *ad honorem*.

In addition to the above mentioned Councils, Chile has formed a National Commission for Aquaculture through Supreme Decree D.S 125 of 2003. This body advises the Chilean President on the formulation and evaluation of actions and programs that are necessary to implement the National Aquaculture Policy. It is presided over by the Minister of Economy, and has 17 members from different public services, private industry and organized labor. The representatives from industry and organized labor are nominated by the President, and represent associations and confederations that are specifically named in the statutes of the Commission. It convenes three times a year and has executive responsibilities in terms of adopting measures suggested by several sub-commissions that work in meetings organized in the intervening periods. Members work on *ad honorem* basis, and to date have dealt with a number of important issues such as authorized areas for aquaculture (AAA); statutes applicable to small-scale farmers; simplifying bureaucratic processes and regionalization; sanitary and environmental control, etc. Its executive secretariat is assigned to the Aquaculture Department at the SSP.

Parliament: Fisheries and Aquaculture Commissions

The lower house of the Chilean parliament, the Chamber of Deputies, has an *ad hoc* Commission of Fisheries, Aquaculture and Maritime Interest, with 13 members (including its President) and is responsible for the detailed analysis of all legal proposals submitted by the Executive power. The upper house, the Senate, has its own Maritime Interests, Fisheries and Aquaculture Commission, which is composed of five members, including a President.

Both chambers are the entities responsible for the creation of laws and the approval of international treaties. The Chamber of Deputies has the particular attribution of controlling Government's actions.

Other agencies involved in fisheries and aquaculture management and support¹

Clearly, the main bodies responsible for managing wild fisheries and aquaculture in Chile are the SSP, with its regulatory powers, and SERNAPESCA, with its control obligations. The latter corporation is

supported by the Directorate General of the Maritime Territory and Merchant Marine, DIRECTEMAR, in several instances. Other institutions also contribute to the management of international affairs, such as the Directorate of Maritime Interests, of the Navy, and the Ministry of Foreign Affairs. On another dimension, the General Comptroller Office supervises the legality of public actions, and helps interpreting legal agreements, among other attributions.

When dealing with aquaculture, the SSP works closely with SERNAPESCA, the Undersecretariat of Marine Affairs, Ministry of Defense, and DIRECTEMAR. Other institutions also participate, such as the National Commission for the Environment (CONAMA), the Directorate of Frontiers and Boundaries (DIFROL), of the Ministry of Foreign Affairs, the General Comptroller Office and the Agriculture and Livestock Service (SAG) of the Ministry of Agriculture.

SERNAPESCA, SAG, CONAMA, the Ministry of Health and the National Customs Service (ADUANA) is responsible for monitoring processing control and certifying sanitary certification of fishery and aquaculture products intended for human consumption; dealing with liquid or solid residuals; environmental restrictions for processing plants, and certification of exports.

The SSP authorizes processing plants, with clear restrictions and limitations; the enforcement, verification and eventual sanctioning lie with other authorities, depending on the circumstances.

When dealing with research and development activities related to fisheries and aquaculture, there are several financial sources that help develop projects and research on management and control matters. For these specific purposes, the funds directly involved are the Integrated Project Bank, IPB; the Fund for Fisheries Management (FFM), the Fund for Fisheries Research (FFR) and the Fund for the Promotion of Artisanal Fisheries (FPAF). Other sources that generate knowledge used for management and control of fisheries and aquaculture are the National Fund for Regional Development (NFRD), and several funds from CORFO, and through different instances such as INNOVA, SERCOTEC, etc. In addition, the National System for Public Investment (NSPI) coordinates, evaluates and recommends the execution of studies and public investment projects of a different nature.

The private sector

Private entrepreneurs in the fisheries and aquaculture sector have been very well organized for many years now, and through their different

associations, they affiliate a substantial part of stakeholders involved in primary production and processing. There is a range of different associations and organizations covering the gamut of stakeholders. The two major ones are:

- The National Fisheries Association, SONAPESCA, representing most industrial producers working in wild fisheries and owning processing lines in land.
- The Association of the Chilean Salmon Industry, SalmonChile, where the most relevant salmon producers, processors and services are gathered.

SONAPESCA, the oldest and ‘original’ association of the Chilean fishing industry dates from 1949, and unlike other associations, is the only one that is composed of members from all parts of the country. Nowadays, it also represents seven smaller associations, four of which related to fishing, while the remaining three are focused on aquaculture in addition to its individual members. Its membership covers producers of different fishery products for human consumption, fish meal and oil and algae, as well as shipyards, manufacturers of fish diets, and several salmon producers.

In 1963 it contributed to the creation of IFOP and the Santiago Wholesale Fish Market, the latter of which was in operation until the early 1990s. Moreover, it has actively contributed to the formation of laws and management schemes applicable to this sector from its very beginnings, and has participated in countless international meetings representing the local industry’s interests and point of view.

Through its members and directors, SONAPESCA is an active player in the National and Zonal Fisheries Councils, IFOP’s Board of Directors, the Fisheries Research Council, the Permanent Commission of the South Pacific (CPPS), the Carlos Condell Educational Foundation, etc.

SalmonChile in turn, is a much younger institution, which was founded in 1986 when salmon farming was still being organized. Its principles and functioning have broken many innovative barriers in Chilean industry. It has been responsible for establishing voluntary quality control for salmon exports, a fact that accelerated the expansion of salmon sales abroad, and created an excellent image of the country. Originally, its membership extended only to salmon farmers, but currently it includes a wide variety of members, including providers of products and services.

With funding from CORFO, SalmonChile founded INTESAL, the Salmon Technical Institute. This is a very unique and innovative organization, dedicated to promoting and developing R&D that serves the

industry's needs, while also involving itself in extremely important activities, such as the elaboration of the farming Codes of Practices; rules for proper discarding of residuals; for handling of fish after slaughtering and during processing, etc. It is also responsible for a unique integrated geographic information system, SIGES, which covers a number of environmental issues of concern to its members and society as a whole.

A list of the main fisheries and aquaculture associations currently representing industrial activities and professionals in Chile is provided in Table 3.1.

Table 3.1. Private sector representative organisations

1	SONAPESCA Members
	<p><u>Fisheries Associations</u> Federación Gremial de Industrias Pesqueras de la Macro Zona X, XI y XII región "FIPES" Asociación de Industriales Pesqueros de la Región del Bío Bío A.G. (ASIPES) Asociación Gremial Industrial de Pesqueros de X y XI Regiones Asociación de Armadores e Industriales Pesqueros del Norte Grande, I y II Regiones A.G. (ASIPNOR).</p> <p><u>Aquaculture Associations</u> Asociación de Productores de Abalón A.G. Asociación de Miticultores de Chile A.G. Asociación de Productores de Ostras y Ostiones de Chile A.G.</p>
2	Non Members of SONAPESCA
	<p><u>Professionals</u> Asociación de Profesionales Pesqueros y Acuicultores de Chile Colegio de Acuicultores de Chile A.G.</p> <p><u>Fisheries Associations</u> Asociación Industriales y Armadores Pesqueros IV Región A.G.</p> <p><u>Aquaculture Associations</u> Asociación de Cultivadores de Moluscos de Calbuco, X Región SalmonChile- Asociación de la Industria del Salmón de Chile A.G.</p> <p><u>Other Associations</u> Asociación Gremial de Empresas de Buceo para la Acuicultura Asociación de Industriales Pesqueros y Cultivadores Marinos, III Región</p>

Employees of the industrial sector are very well organized across three unions, that cover the following interest groups: i) Industrial fishers, ii) Officers of industrial vessels, and iii) processing plants workers. These three organizations are very influential, and not only discuss employment and economic matters with their counterparts within the industry (plant and boat owners), but also represent their membership in Fisheries Councils and

many other instances where management systems, fishing quotas, social matters etc, are analyzed and determined.

In essence, all these associations and unions represent their members both in Chile and abroad, as well with local authorities, NGOs, worker's organizations, small-scale fishers, and the public at large. They are an essential part of the governance system in the Chilean fishing and aquaculture sector, and in collaboration with the Government, the most important management schemes applied in this sector of the economy are studied and negotiated.

Small-scale or artisanal producers

Artisanal fishers are distributed all along the Chilean coastline and on the interior of the country, and are usually organized into one of three basic legal structures: guild associations, unions or cooperatives. The number of each type of association has varied over the years, but in general terms, they are founded with approximately the same goal; which is to assist individual members on social and employment matters, and to become a valid representative of organized labor (in this case, individual small-scale producers) with respect to local authorities and in international fora. This attribute has been very relevant in Chile, as local authorities tend to favor those communities which demonstrate an adequate level of organization and good leadership.

Information from 2007 shows that there were 569 artisanal associations at the end of that year, 79% of which were unions; 4% cooperatives; 12%, guild associations, and the rest were various types of less formal associative schemes. About 40% of these organizations were located in the Xth Region, and an extra 16% in the VIIIth Region (Table3.2).²

The two largest federations of artisanal fishers are:

- CONAPACH, or National Confederation for Chilean Artisanal Fishermen,
- CONFEPACH, or National Confederation of Chilean Artisanal Fishermen's Federations

CONAPACH was founded in 1990, and its members are composed of artisanal organizations from all over the country. It is well organized and supported by technical staff, and its directors participate in the National Fisheries Council, Zonal Councils and other consultative bodies. It aims at representing its membership before the authorities; in the formation of laws; in discussion on quotas and other management schemes, etc. It is also

dedicated at perfecting the organizational levels and working conditions of individual members, as required.

CONFEPACH was founded more recently in 1998, and was born after several members of CONAPACH disagreed with their leadership on several issues being discussed at that time, who then decided to form a new institution. Its base is somehow narrower than that of CONAPACH, and its organizational level is generally less sophisticated.

Today, CONFEPACH represents 14 organizations, and claims to be the voice for about 17 000 members. Their aims are equivalent to those of the other Confederation.

Table 3.2. Artisanal organizations at the end of 2007

Region	Type of Organization				Total	% of Totals
	Union	Cooperative	Guild association	Other (1)		
I	16		1		17	3,0
II	22			1	23	4,0
III	19	1	1		21	3,7
IV	21	2	28	6	57	10,0
V	28	4	2		34	6,0
VI	14			1	15	2,6
VII	17			2	19	3,3
VIII	67	1	12	8	88	15,5
IX	1		1		2	0,4
X	187	6	20	14	227	39,9
XI	53	6	3		62	10,9
XII	3	1			4	0,7
Country	448	21	68	32	569	100,0
% of Totals	78.7	3.7	12.0	5.6	100.0	

(1) Less formal associative schemes

Source: Figures calculated by the study, on raw data provided by SSP, October 2008

Non-governmental organizations (NGOs)

With an unquestionably growing influence, and an increasingly stronger voice on several discussion panels, NGOs are a relatively new participant in fisheries governance in Chile. Until recently, NGOs have concentrated their efforts on discussing bans for whale and marine mammal exploitation;

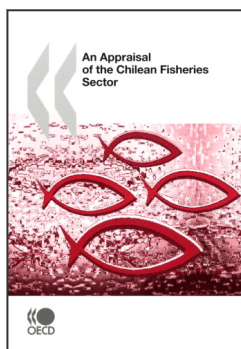
handling environmental issues, for matters related to fisheries discards, trawling, etc. They have been particularly active in aquaculture related matters, where they have questioned a number of the industry's environmental practices such as fish escapes, the use of antibiotics, labor practices, salaries, etc. On several occasions they have acted with or through small-scale producer organizations, and they normally oppose large scale aquaculture.

Among others, the following institutions are known to be developing activities and lobbying on different issues related to fisheries, aquaculture and environmental matters:

- Ballena azul
- CCC-Center for the Conservation of Cetaceans
- Ecoceanos
- Greenpeace
- Foundation Terram
- Ecolyma
- FIMA

Notes

1. Most parts of this paragraph are extracted from an internal document provided by the SSP, 2008.
2. Figures do not include small-scale aquaculture, for which it has been reported that about 71% of small-scale farmers were affiliated to producer's organization of some sort in 2004 (GESAM, 2005, op.cit).



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