

## **Legal Instruments and Policy Measures in the San Andres Archipelago**

This document provides a summary of international, national and local legislation pertinent to marine resource management in the San Andres archipelago.

### **1 INTERNATIONAL CONVENTIONS**

#### **Convention on Fishing and Conservation of the Living Resources of the High Seas 1958 (superceded by the United Nations Convention on the Law of the Sea 1982)**

This convention seeks through international co-operation to address conservation of the living resources of the high seas, considering that because of the development of modern technologies some of these resources are in danger of being over-exploited. Signatory nations agree to adopt and co-operate in adopting measures to conserve living resources of the high seas while taking into account the need to securing a supply of food for human consumption. This convention also says that coastal states with special interests in the high seas adjacent to their territorial seas may unilaterally adopt conservation measures if there is an urgent need, if the measures are based on scientific findings, and if they do not discriminate against foreign fishers. Colombia ratified this Convention in 1965.

#### **Convention on Wetlands of International Importance Especially as Waterfowl Habitat (RAMSAR Convention) 1971**

The RAMSAR Convention aims to curtail the loss of wetlands, focussing on those important for waterfowl. Parties must designate at least one national wetland of international importance. Wetland nature reserves must also be established. Impacts of any changes in use of the wetlands must be identified, the Parties also taking responsibility for the conservation and management of migratory stocks of wildfowl.

Colombia joined in 1999. At this time, the Colombian Ministry of the Environment requested an evaluation and recommendation of possible sites within the San Andres archipelago. Four sites were recommended: Old Providence and Santa Catalina barrier reef, Old Providence McBean Lagoon National Park, the Quitasueno Bank and Hooker Bight Regional Mangrove Park on San Andres Island.

#### **Convention Concerning the Protection of the World Cultural and Natural Heritage 1972**

This Convention links the concepts of nature conservation with the preservation of cultural sites. It defines the types of sites that may be considered for inscription on the World Heritage List, establishing the duties of States in identifying potential sites and protecting and preserving them. Sites must satisfy a set of selection criteria in order to appear on the list. Colombia accepted the Convention in 1983.

#### **Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention) 1972**

The London Convention governs the disposal of wastes at sea in all marine waters except the internal waters of a state, requiring states to limit disposal of such wastes as radioactive material, persistent plastics etc. The Convention prohibits the dumping at sea of substances listed in its Annex I, while a special permit is required for those listed in its Annex II. It also calls for the formation of regional agreements to supplement the Convention. Colombia is a signatory to this Convention.

## **International Convention for the Prevention of Pollution from Ships (MARPOL) 1973-78**

The 1973 Convention and its 1978 Protocol are concerned with the elimination of intentional discharges of oil and other harmful substance and minimising accidental discharges by vessels sailing under flags of parties to the convention. Parties can abide by one or more of five annexes related to oil (I), noxious liquids carried in bulk (II), packaged substances (III), sewage (IV) and garbage and plastics (V).

The Convention also provides for the designation of “special areas” of enclosed or semi-enclosed seas in which discharges are particularly restricted. Colombia has ratified the Convention and all 5 annexes.

## **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) 1973**

CITES aims to ensure the sustainable international trade of animal and plant species whether living or dead and to prevent the over-exploitation of certain endangered species by means of a system of import/export permits. Those species threatened by trade are listed in Appendix I to the text. Permits for trade are required from countries of export and import, with no commercial trade allowed. Those species that may become threatened unless trade is regulated are provided in Appendix II to the text. Here trade is strictly regulated and parties must monitor trade impacts, adjusting regulations as needed. Colombia ratified this Convention in 1981.

## **Convention for the Protection of the Marine Environment and Coastal Area of the South-east Pacific 1981**

This Convention aims to protect the marine environment and coastal zones of the South-East Pacific within the 200-mile area of maritime sovereignty and jurisdiction of the Parties, and beyond that area, the high seas up to a distance within which pollution of the high seas may affect that area. The Convention entered into force in Colombia in 1986.

## **Rio Conference 1992 (Earth Summit)**

The Rio Conference of 1992 led to the production of 5 documents:

- Rio Declaration on Environment and Development;
- Agenda 21;
- Statement of Principles to Guide the Management, Conservation and Sustainable Development of All Types of Forests;
- United Nations Framework Convention on Climate Change; and
- Convention on Biological Diversity.

Chapter 17 within Section 2 (Conservation and Management of Resources) of Agenda 21 is of particular note in that it embraces protection and management of the oceans. It stresses the commitment of nations to control and reduce degradation of the marine environment (through pollution and industrial discharge) to maintain and improve its life support and productive capacities. It further stresses the need for nations to protect such ecosystems as coral reefs, mangroves and estuaries by such methods as controlling and preventing coastal erosion and silting from land use. Nations further commit themselves to the conservation and sustainable use of marine life, including fish and mammals. Nations, for example, should set policies for sustainable use of the seas, accounting for the needs of local communities and indigenous people. The threats posed by sea level rise are also noted, as is the need for countries and

international organisations to assist small, island developing nations to plan and implement sustainable development.

### **Convention on Biological Diversity 1992**

The Convention on Biological Diversity has among its objectives the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources. This includes (Article 8) the establishment of protected areas or areas where special measures need to be taken to conserve biological diversity. This Convention was ratified by Colombia in 1995.

The Jakarta Mandate on Marine and Coastal Biological Diversity forms part of the Ministerial Statement on the implementation of the Convention on Biological Diversity and was adopted by the Conference of the Parties (COP) in 1995. The Mandate notes that Integrated Marine and Coastal Area Management (ICAM) is the most suitable framework for addressing impacts on marine and coastal biodiversity and for promotion of conservation and sustainable use. It also emphasises the value of marine and coastal protected areas, sustainable use of coastal and marine living resources, implementing environmentally friendly sustainable mariculture practice and the control of alien species within ICAM.

## **2 REGIONAL CONVENTIONS**

### **The Caribbean Environment Programme (CEP) Action Plan 1981**

This plan followed on from collaboration between the United Nations Environment Programme (UNEP) and the Economic Commission for Latin America, working towards sustainable management of the Caribbean environment. The Cartagena Convention and Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region 1983 were two of the primary legal instruments to result from the early stages of the Action Plan.

The CEP has been involved in baseline studies, e.g. an investigation by the Caribbean Health Institute into land based sources of pollution of the marine and coastal environments of island states, and in the establishment of institutional mechanisms for regional co-operation.

### **Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention) 1983**

Ratified in Colombian National Law 56 of 1986, this convention seeks special management and protection for the marine areas of the Caribbean. It lists pollution sources requiring control and identifies environmental management issues such as the development of environmental impact assessment and marine protected areas that require co-operative efforts. A Protocol also exists concerning co-operation in combating oil spills in the region.

The Protocol on Specially Protected Areas and Wildlife in the Wider Caribbean Region (SPAW Protocol) followed in 1990, establishing regional co-operation to protect and improve the state of ecosystems, as well as threatened and endangered species and their habitats. Among others, the protocol provides for protected areas, buffer zones, introduction of alien species, environmental impact assessment and national/co-operative measures for the protection of wild flora and fauna.

The Association of Caribbean States was also established in 1994 for the preservation of the environment at a regional level and the preservation of ecological integrity, associated with sustainable use of the natural resources of the region. Special committees exist including those for “natural resources” and “conservation and environmental protection”.

### **Protocol Concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region 1983**

The objective of this Convention is to provide a framework for regional co-operation and assistance in the event of an oil spill in the wider Caribbean. Participating parties agree to combine efforts in taking necessary measures to protect the marine environment from oil spills and co-operate in maintaining and promoting contingency plans and means of combating pollution. In the event of a marine oil spill emergency, any contracting party may call on the others for assistance.

### **Sub-commission of the Intergovernmental Oceanographic Commission for the Caribbean and Adjacent Regions (IOCARIBE) 1984**

The Intergovernmental Oceanographic Commission (IOC), under the auspices of the United Nations Educational, Scientific and Cultural Organisation (UNESCO), has the general purpose of furthering scientific research on the oceans, through studies of its natural processes and living organisms in order to gain deeper understanding. IOCARIBE promotes and develops regional co-operation for marine sciences, involving member states from the Caribbean, Gulf of Mexico, Bahamas and the mid western region of the Atlantic Ocean. Its objectives are to:

- Define regional problems and through international co-operation, present solutions;
- Facilitate the exchange of scientific data and information and the transfer of technological innovations;
- Determine the needs for training, education and public assistance; and
- Present recommendations to the IOC and co-operate with the United Nations Subsidiary Organisations.

## **3 NATIONAL AND LOCAL LEGISLATION (Colombia)**

### **Constitution of Colombia 1991**

Article 310 of the Colombian Constitution establishes the archipelago of San Andres, Old Providence and Santa Catalina as a Department, which in addition to provision in the Constitution and through laws for other departments, will be regulated by special provisions concerned with administrative, immigration, fiscal, foreign trade, exchange, financial and economic development matters. Article 310 also caters for the protection of the cultural identity of the native islander (raizal) community and the preservation of the Archipelago’s environment and natural resources.

Articles relating to the environment include the obligation of the state and of individuals to protect the cultural and natural assets of the nation (8); the right of everyone to enjoy a healthy environment with the participation of the community in decisions that affect them and the duty of the state to protect the diversity and integrity of the environment, to conserve areas of special ecological importance and to foster education for the achievement of these ends (79); the duty of each person and each citizen to protect the country’s cultural and natural resources and watch over the conservation of a healthy environment (95); and the

responsibility of the State to plan the handling and use of natural resources in order to guarantee their sustainable development, conservation, restoration, or replacement as well as co-operating with other nations in the protection of ecosystems located in border areas (80). This final article also gives the State the right to impose legal sanctions and demand the repair of any damage caused to the nation's environment. Article 67 also states that Colombian citizens will be educated in the use of work and recreation for cultural, scientific and technological improvement and for the protection of the environment.

#### **Executive Resolution 23 of 1971**

This Resolution approves the declaration of San Andres Bay from Johnny Cay to Haines Cay including the barrier reef (NNE of the island) as a National Reserve Zone as called for in Accord 028 of 1970 from the INDERENA. This reserve is included in the IUCN/OAS/NPS international listing of reserves that require management support. Although a draft management plan has been completed, the boundaries and regulations pertaining to this reserve zone could be completely revised during the development of zoning and policies for the San Andres coastal waters called for in the Marine Protected Area project (2000-2004).

#### **Executive Decree 1681 of 1978**

This Decree declares, among others, mangroves and other wetland habitats worthy of protection.

#### **Executive Decree 1594 of 1984 (and Law 9 of 1979, Law 2811 of 1974)**

This decree relates to water use and wastewater production. In general terms these regulations establish quality criteria and rules for the preservation of water bodies.

#### **Law 2811 of 1974 (and Executive Decree 1681 of 1978)**

These norms established INDERENA as the regulatory body for fisheries. However, Article 98 of the Law 99 liquidated INDERENA throughout the nation; and the functions, powers, and goods and property previously assigned to this entity within the archipelago were transferred in their entirety to CORALINA.

#### **Law 13 of 1990 (and Presidential Decree 2256 of 1991)**

Law 13, the General Fisheries Law, and Decree 2256, the General Fisheries Statute, established the National Fisheries Institute (INPA) as the regulatory agency to regulate commercial, artisanal and foreign fisheries in Colombian waters. Decree 2256 authorises INPA to permit, licence, tax and sanction fisheries activities in Colombia. Enforcement measures, however, are unclear. Articles 165 and 172 generally provide that DIMAR have the authority to impose fines. Article 64 grants INPA the authority to create reserves for the exclusive use of artisanal fishers.

These regulations allows INPA to set minimum size limits and quotas for fin- and shellfish species (e.g. 14cm tail length for spiny lobster, 100g for cleaned conch, 225g for uncleaned conch, lobster quota limit for 1999 of 200t). Accord 17 prohibits fishing with SCUBA.

This Decree is still under disagreement. If a Departmental Fishing and Aquaculture Board is set up as required by Law 47 then INPA will relinquish some or all of its functions in the Archipelago (which functions the Law 47 requires INPA to turn over to the Departmental Government, other than the right to issue licences and permits, are also under dispute).

## **Law 99 of 1993**

This law is the framework environmental law for Colombia, amending or abrogating some of the National resource Code that previously provided the regulatory framework for renewable resource management and protection of the environment (Decree 2811 of 1974 – Código de Recursos Naturales Renovables y Protección al Medio Ambiente). The ground breaking law that for the first time decentralises government authority in Colombia, the Law 99 establishes the National Environmental System (SINA), setting up the Ministry of the Environment and the regional autonomous corporations that are the government agencies responsible for the management and regulation of natural resources in the areas of their respective jurisdictions. Their functions are defined in Article 31. Article 33 establishes special management regimes in 7 regions of Colombia because of the fragility of the ecosystems in these areas; the regional autonomous corporations in these jurisdictions have broader mandates concerned with sustainable development. As one of these sustainable development corporations, CORALINA is charged with conservation, planning, management and education, and is the only regional autonomous corporation whose jurisdiction includes the marine area.

Article 37 states that:

“The Corporation for the Sustainable Development of the Archipelago of San Andres, Old Providence and Santa Catalina, CORALINA, besides its administrative functions in relation to the natural resources and environment will promote scientific research and the sharing of technology; direct the regional planning process on the use of land and sea resources; encourage the integration of the native (raizal) community and their ancestral methods into the process of conservation, protection and sustainable use of renewable natural resources and the environment; and further the development of appropriate technologies for the use and conservation of the resources in the archipelago.”

Paragraph 1 suspends the issuance of licences and permits authorising the construction of new commercial, hotel and industrial installations in Old Providence and Santa Catalina, until the Municipality of Old Providence, the Directive Council of CORALINA and the Ministry of the Environment approve an ordering plan of land-use and a development plan for the islands. Paragraph 2 declares the archipelago as a Biosphere reserve with CORALINA co-ordinating the national and international (UNESCO) level actions necessary to finalise this status.

The extensive authority that is granted to CORALINA to manage natural resources includes the territorial sea (300,000 square kilometres). CORALINA is authorised to “direct the regional planning process for land use and marine resources for mitigating and alleviating the improper exploitation of natural resources”.

Article 5, Section 18 grants the Ministry of Environment the power to designate National Parks, the system managed by the Special Administrative Unit for the National Natural Parks System (Section 19), which is a branch of the Ministry of Environment rather than reporting to the regional autonomous corporation for the area (e.g. McBean National Park, Old Providence). Section 45 of this article requires the Minister of Environment, along with the Ministry of Agriculture, to make a science-based assessment of fisheries resources, of which INPA will issue the corresponding use permits.

Article 6 gives the Ministry of the Environment authority over all matters related to the environment and renewable natural resources that are not directly assigned by law to another authority.

Articles 7 and 8 charges SINA with the regulation and design of the process to determine plans for proper exploitation, sustainable development and land use of the national and regional territory, including plans defining zoning, territorial ordering, etc.

Article 18 redefines the Instituto Nacional de Investigaciones Marinas (INVEMAR) which was first created by Decree 1444 of 1974 as having as its principle duty the undertaking of research on coastal and ocean ecosystems and resources.

Article 30 states that the general purpose of the regional autonomous corporations (e.g. CORALINA within the Archipelago) is to design and execute policies, plans, programmes and projects related to the environment and natural resources.

Article 31 assigns their functions within SINA, giving them 30 broad functions plus all others that were previously assigned to other entities within their jurisdictions as long as they are not in opposition to the powers accorded the Ministry of the Environment. Besides being the highest environmental authority in their territories, some of these functions are to grant concessions and environmental permits for the use and exploitation of natural resources including surface and subterranean water; to establish seasons for sport fishing and hunting; to co-ordinate the environmental planning and zoning process required by SINA within the departments, districts, and municipalities of their territorial jurisdictions; to set permissible limits for emissions, discharges, deposits of any materials or products that can affect the environment into the waters, air, or land; to prohibit or regulate the manufacture, distribution, use, disposal, or discharge of any substances that can cause environmental degradation; to promote and development community participation in activities and programs of environmental protection, sustainable development, and resource management; and to enact and enforce norms to protect and guarantee sustainable use of the natural resources. In response, CORALINA has issued a number of resolutions including several related to subterranean waters (198 of 1995 and 603 of 1998), water quality (1594 of 1984) and effluent discharge (561 of 1998), among others.

Article 32 provides the regional autonomous corporations with the ability to delegate administrative functions to other government or non-profit organisations, with the exception of enforcement.

#### **Law 47 of 1993**

Article 25 provides the local environmental authority (given that this law predated the creation of SINA, the Law 99 assigned these functions to CORALINA in Article 37) with the broad authority to “promote and execute the necessary measures for the direct preservation of all natural resources and of the environment of the department”.

**Article 26 declares marine resources, specifically including territorial waters and mangroves as “objects of special protection”.**

Article 28 prohibits the extraction, transportation, storage, sale or use of sand and natural resources from the beaches, reefs or sea bottom within the San Andres archipelago.

Regarding fisheries, Article 33 states that a Departmental Fishing and Aquaculture Board will be established to assume functions previously delegated to the INPA in the department (National Institute of Fishing and Aquaculture). The board would consist of the Governor of the archipelago, the Secretary of Agriculture and Fisheries, the Director of the local environmental authority, a fishers’ representative and an INPA delegate. This Article more precisely requires that INPA delegate its functions in the archipelago to the Department who must then establish the new Board (i.e. INPA is directly instructed to carry out this delegation of power, the law does not itself transfer the functions of INPA to a new Board). The functions of the board are set out in Article 34, including the granting of licences, permits, concessions and safe conducts for aquaculture activities and research, extraction, and commercialisation of the renewable natural resources of the waters of the archipelago. Extraction of natural resources will, however, be subject to the requirements presented by

INPA and those regulations established by law. Article 35 requires authorisation by the Departmental Board of fishing or aquaculture activities, exemptions being artisanal fishers and resident subsistence fishers. Foreign fishing is also regulated by Article 36, permits being issued by the Board through competent international and national entities in accord with international treaties. Artisanal and subsistence fishers are exempted from the payment of rates and tariffs to be charged for fishing activities by the Departmental Assembly. Fishing methods are regulated by Article 38, for example, the use of set nets, gill nets, seines or trawls, circle nets and dynamite are prohibited throughout the Department territory. Long lines are also prohibited in areas reserved for artisanal fishing. Article 39 states that a minimum of 10% is the quota of fisheries resources that is required to be unloaded in the Department Archipelago for internal consumption or commercialisation. Article 40 calls for the establishment, in agreement with the Departmental Fishing Board, of artisanal fishing zones.

As noted by legal experts in San Andres, there is an apparent contradiction in law 47, in that what appears to be an intent to transfer INPA's regulatory functions to a new Board is clouded by the requirement that the Board's activities are subject to INPA regulations. In 1993 the San Andres Department Assembly passed an order to establish the Departmental Fishing Board (Ordinance Number 4 of 1993) but the INPA did not execute the transfer of authority.

Consequently in April 1999 the co-operative and independent artisanal fishers of the San Andres Archipelago composed a consultation letter to the President of Colombia requesting that the Departmental Fishing and Aquaculture Board be established as required by Law 47. Several points of restructuring are requested including the presence of 2 fishing representatives on the Board, one from San Andres and the other from Old Providence and Santa Catalina. Legal instruments are requested to be designed to restore and protect the collective rights and interests of native artisanal fishers to their traditional fishing grounds. Protection from over exploitation by national and international commercial vessels is also requested. This popular consultation letter was signed by 333 artisanal fishers and submitted to the President with copies sent to the INPA, DIMAR, Minister of Agriculture, Minister of the Environment, Governor, General Director of CORALINA and others in June 1999.

In November 1999, the artisanal fishers and native community leaders put a legal demand (*acción de cumplimiento*) on the INPA requiring that they comply with Law 47 within 15 working days. In response the INPA issued Resolution 568 of 29 November 1999 stating that they would officially delegate their authority to the Department Archipelago in February 2000. The departmental government then has the responsibility of establishing the Departmental Fishing Board and any other institutional mechanisms needed to comply with Law 47. In January 2000 INPA postponed the transfer of authority until May 2000 at which time the official delegation of their authority to the department was legalized in an agreement signed by the Director of the INPA and the Governor of the Department. In September 2000, the Departmental Fishing and Aquaculture Board was officially constituted following the election by the Archipelago's artisanal fishers of their representative who will serve a term of one year.

#### **Congressional Law 136 of 1994**

Article 12 protects mangroves within the archipelago by declaring them as deserving of special protection equivalent to national parklands.

#### **Law 300 of 1996**

This is the general framework law for tourism in Colombia.

### **Ministry of Environment Resolution 1021 of 1995**

This resolution establishes and delineates the Old Providence McBean Lagoon Natural National Park (refer to Article 5 of Law 99). Located on the northeast coast of Old Providence between Maracaibo and Ironwood Hills, this is the only national park in the archipelago. The park covers 995 hectares, 905 of which are marine, and includes the McBean or Oyster Creek mangrove swamp, a section of the barrier reef with associated lagoon and seagrass beds, 4 small cays (Crab Cay and the Three Brothers), and the land area known as Ironwood Hill, rising from sea level to a height of 150 metres. This legally established park is administered by the Office of National Natural Parks, which is a branch of the Ministry of the Environment and is the only section of the archipelago not under the jurisdiction of CORALINA.

### **Ministry of Environment Resolution 1602 of 1995 (and 20 of 1996)**

These relate to the conservation of mangroves. It pronounces measures for the sustainability of Colombian mangrove systems.

### **Ministry of Environment Resolution 1426 of 1996**

This resolution declares the entire Archipelago of San Andres, Old Providence and Santa Catalina including all the cays, banks, reefs and marine area as a special management area, titled the “Coral Reef Special Management Area” although the category in which this “Area” should be is not identified (see Law 99 of 1993). This area is to be overseen by an Advisory Council. The Resolution, through Article 2, provides for regulation of activities in the area, recovery of degraded zones, regulation of the fishing activity in the zone and the development of integrated management models. Article 3 authorises the Ministry of Environment to manage designated areas that fall within the National Park system, the rest managed by CORALINA. Articles 7 and 8 encharge the Ministry of the Environment jointly with CORALINA to define the internal zoning of the Special Management Area and to elaborate a strategic action plan for the area defining management plans, programmes, projects and activities.

### **Ministry of Environment Decree 901 of 1997**

The Decree provides Regional Corporations such as CORALINA with the authority to assess effluent discharge fees. This is enacted locally through CORALINA Resolution 561 of 1998.

### **CORALINA Resolution 151 of 1998**

This establishes the beaches of the Archipelago as special protection zones, establishing measures for their environmental protection. Permissible uses are listed including co-operatives and associated unions whose activities are directly related to maritime or marine activity, lifeguard towers and temporary facilities for beach sports. Activities listed as prohibited include but are not limited to the construction of new commercial establishments, parking of a transit vehicle, the sale of alcohol and waste disposal (except for in temporary trash receptacles).

### **CORALINA Resolution 170 of 1998**

This Resolution presents measures for the regulation of spear gun fishing in the San Andres archipelago. It prohibits using a spear gun or similar instrument, except for artisanal fishers who have traditionally practiced spear fishing by means of free diving (without tanks). Such artisanal fishers, however, are prohibited from defined areas such as the San Andres Bay National Reserve Zone and must be issued a card that authorises them to practice spear fishing.

### **Congressional Law 19 of 1983**

This law gives certain maritime responsibilities to the Maritime and Port Authority (DIMAR) which has authority in the areas of shipping management, shipboard pollution and land use for ports, among others. As a part of the Colombian armed forces, DIMAR includes the Coast Guard and Port Captains along with an oceanographic research institute. Articles 5 and 166-180 provide DIMAR with the authority to permit dredging and construction of ports and docks, enforce national laws regarding protection of the marine environment, regulate uses of beaches, and regulate foreign ship traffic. These articles also give DIMAR the primary role in enforcement of fisheries regulations.

### **Executive Resolution 023 of 1970**

This established a National Reserve Zone in San Andres Bay from Johnny Cay to Haines Cay.

### **Executive Decree 2324 of 1984**

This Presidential Decree defines the jurisdiction and specific powers of DIMAR. The jurisdiction of DIMAR extends to the outer boundary of the EEZ in the following areas: interior maritime waters and all other marine systems, the territorial sea and contiguous zones, river beds, sea bottoms, and coasts including beaches, tidelands, ports, islets and cays. The primary objective of DIMAR is to direct, co-ordinate, and control maritime activities while promoting and stimulating maritime development in the national waters. Some of the responsibilities of DIMAR are:

- Advise on maritime activities,
- Carry out research about marine resources,
- Control maritime traffic,
- Produce nautical charts,
- Regulate and control marine artefacts,
- Regulate dockyards,
- Protect the marine environment,
- Issue regulations and permits for use of beaches and tidelands
- Regulate and control dredging
- Regulate docks
- Aid and advise on international agreements
- Be in charge of investigations and sentences related to marine pollution resulting from construction, unauthorised use of public space or territory within DIMAR jurisdiction, and violation of maritime regulations among others.

### **DIMAR Regulation 001 of 1992**

This regulation governs crews, both national and foreign, who fish in Colombian waters for safety purposes. Defined are the maximum numbers of persons allowed on board, the type of fishing allowed, and navigation equipment required.

### **DIMAR Circulars for the San Andres Archipelago**

In order to control fishing by national and international vessels within the archipelago, DIMAR has issued a series of special regulations defining procedures for fishing in archipelago waters to be enforced by the Port Captains of San Andres and Old Providence within their respective jurisdictions. These include:

#### Circular 128-DIMAR-DIGEN-813 of 1992 and 041-DIMAR-DIGEN-803 of 1992

These explicate the requirements that must be met for foreign fishing vessels to comply with DIMAR regulations and to apply for permits to operate in Archipelago waters. One of these requirements is insurance coverage for any environmental damage from pollution that might be caused by the foreign vessel.

#### Circular 048-DIMAR-DIGEN-803 of 1992 and 134-DIMAR-DIGEN- 221 of 1997

These documents cover requisites governing the contracts of association with companies fishing in Archipelago waters including contractual and solicitation procedures, vessel safety regulations, matters related to the presence of recognised observers, length of fishing trips and Colombian crew percentage.

#### Circular 103-DIMAR-DIGEN-340 of 1995

This circular establishes particular regulations from DIMAR in co-ordination with INPA and delegates of the Industrial Fishing Industry to control fishing within the marine area of the Archipelago of San Andres, Old Providence and Santa Catalina given what this norm calls "the special circumstances related to this activity" and "the operational characteristics of the general area of the Department Archipelago". These special regulations are:

1. Every fishing boat must have a *zarpe* (translates literally as a "paper to weigh anchor") from the Port Captain of San Andres or Old Providence, as applicable. Engine power, boat size, fishing equipment, fuel allowance per trip and geographical limitations are regulated. For example, artisanal fishers require this paper for each trip outside 12 miles and are not permitted to carry over a certain amount of fuel. At the present time, the fuel and engine size limits effectively deny artisanal fishers access to Serrana, Serranilla, Low Cay (Bajo Nuevo) or other of their historical fishing grounds in the northern archipelago.
2. For the purpose of this special control, the area of San Andres and Old Providence falls between 78°26' and 82°00' W longitude, the boundary defining the Jamaican-Colombian common regime (see Sanin-Roberton Treaty) to the north which is approximately 16°4' N latitude, and the maritime border between Colombia, Panama, and Costa Rica to the south.
3. Vessels must have fishing permits from INPA.
4. Fishing vessels from the United States are authorized to fish in the areas agreed upon in the Vazquez-Saccio Treaty (see this treaty).

#### **DIMAR Resolution 0163 of 1996**

This resolution establishes permanent characteristics for commercial artisanal fishing, including engine power, communication equipment and other requirements for undertaking fishing activities. It defines vessels size, categorising according to industrial or artisanal, relating this to size of vessel, engine type and so on. Some of Old Providence's co-operative member vessels, however, fall into the "industrial" category, which will lead to potential conflict, particularly following the definition of special artisanal fishing zones within the regional MPA system, as they consider themselves traditional artisanal fishers.

#### **INPA Resolution 568 of 1999**

In this Resolution the National Institute of Fishing and Aquaculture (INPA) delegates its functions to the Department Archipelago (see Law 47). Among others, these functions include:

- Executing the fisheries policy of the National Government;
- Administrating, stimulating, and controlling activities of fishing and aquaculture;
- Determining the amount and collecting the fees and tariffs to be paid in order to carry out fishing activities;
- Organisation of adequate systems of control and enforcement to assure compliance with the norms that regulate fishing activities and impose associated penalties (in co-ordination with the National Armada);
- Promotion or establishment of partnerships or companies to carry out fishing activities and take part in them as associates;
- Proposing closed seasons, prohibitions, or reserve areas to assure sustainable yield of fisheries resources and delimitation of areas that are exclusively reserved for artisanal fishing;
- Periodically set the number, size and type of fishing vessels in order not to exceed allowable catches; and
- Determination of volumes of capture and minimum allowable sizes.

### **National Coastal Zone Management Policy**

In response to Agenda 21 the Colombian government is currently revising a National Coastal Zone Management Policy, which among others will have a general policy on the development of protected areas and the protection of endangered species. Approved in 1998, policies set forth in *The Environmental Plan for Sustainable Development of the Archipelago (1998-2010)* include protective management strategies for the cays and banks, definition of significant marine areas to protect biodiversity, special measures to protect endangered species, and realignment and demarcation of coastal and marine reserve areas to protect essential fish habitat.

### **UNESCO Man and the Biosphere Programme**

In 2000 the islands of the San Andres archipelago, and the archipelago waters, were declared the “Seaflower” Biosphere Reserve under UNESCO’s Man and the Biosphere (MAB) Programme. Since then, CORALINA has been working with the local community to develop a system of marine protected areas (MPAs) zoned for multiple use and managed to reduce human threats and to protect globally important sites of biodiversity.