

LAWS OF KIRIBATI
REVISED EDITION 1979

CHAPTER 33

FISHERIES

ARRANGEMENT OF SECTIONS

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22 of 1977
9 of 1978

An Ordinance to make provision for the promotion and regulation of fishing and fisheries industries in Kiribati and its fishery limits

L.N. 27/78

Commencement: 3rd March 1978

PART I

GENERAL

- Short title 1. This Ordinance may be cited as the Fisheries Ordinance.
- Interpretation 2. In this Ordinance, unless the context otherwise requires—
- Cap. 22 “authorised officer” means any fisheries officer, licensing officer, police officer or officer as defined in the Customs Ordinance, the master of any Government vessel or vessel owned by the Kiribati Shipping Corporation and any other person appointed by the Minister to be an authorised officer for the purposes of this Ordinance;
- “explosive” means any powder, gelignite, plastic or other substance used or manufactured with a view to producing a practical effect by explosion;
- “fish” means any aquatic animal, whether piscine or not, and includes shell fish, crustaceans, sponges, holothurians (beche-de-mer), sea urchins, and turtles and their eggs;
- “fishing” means fishing for, or catching or taking, or killing, fish by any method;

- “fish processing establishment” means any land, vessel or other place in which fish are processed for sale outside Kiribati, but does not include any vessel on which fish caught off such vessel are gutted, salted, iced, chilled or frozen for the sole purpose of preserving such fish;
- “fish product” means any product of fish processing;
- “fishery limits” means such fishing limits of Kiribati as may be defined from time to time by the Beretitenti acting in accordance with the advice of the Cabinet, by proclamation and, if fishing limits are not so defined, shall be deemed to be the outer limits of the territorial sea;
- “fishing vessel” means any vessel used or adapted for use for fishing commercially, but does not include a sailing boat or paddling canoe of native design or a boat, punt or barge having an overall length of less than 7 metres, whether powered by an engine or not;
- “foreign fishing vessel” means any fishing vessel that is not a local fishing vessel;
- “licensing officer” means a licensing officer appointed under section 3 (2) and includes the Chief Fisheries Officer;
- “local fishing vessel” means any fishing vessel—
- (a) owned by 1 or more persons resident and domiciled in Kiribati; or
 - (b) owned by any company or fisheries cooperative society registered or incorporated under the laws of Kiribati and having its principal place of business in Kiribati;
- “low-tide elevation” means a naturally formed area of land that is surrounded by and above water at mean low-water spring tides but is submerged at mean high-water spring tides;
- “nautical mile” means the international nautical mile of 1,852 metres;
- “operate”, in relation to a vessel, means to be the master or owner or charterer of the vessel and, in relation to a fish processing establishment, means to own or to be in charge of the fish processing establishment and, where the fish processing establishment is a vessel, means to be the master or owner or charterer thereof;
- “processing” in relation to fish, includes preserving or preparing fish or producing any substance or article from fish by any method;
- “territorial sea” means that part of the sea adjacent to the coast of any island of Kiribati which is within 3 geographical miles

measured from the low water mark of the seaward side of the reef fronting such coast, or, when a reef is not present, from the low water mark of the coast itself:

Provided that a low tide elevation that lies wholly or partly within that part of the sea that would be territorial sea if all low-tide elevations were disregarded for the purpose of the measurement of the breadth of the territorial sea shall be treated as an island.

Promotion of fisheries

3. (1) The Minister may take such measures as he shall see fit to promote the development of fishing and fisheries in Kiribati to ensure that the fisheries resources of Kiribati are exploited to the full for the benefit of Kiribati.

(2) Subject to section 99 of the Constitution, the Minister may appoint a Chief Fisheries Officer and such other fisheries officers and licensing officers as he may consider necessary for carrying out the purposes and provisions of this Ordinance.

PART II

LICENSING

Licensing of local fishing vessels

4. (1) Subject to any direction given by the Minister a licensing officer may, upon written application in the prescribed form and upon payment of the prescribed fee, grant a licence in the prescribed form in respect of any local fishing vessel:

Provided that no licence shall be granted to any local fishing vessel which is a vessel to which section 15 (1) of the Shipping Ordinance applies unless there is subsisting a valid and unexpired certificate of seaworthiness issued in respect of that fishing vessel under section 13 of that Ordinance.

Cap. 93

(2) Every licence granted under subsection (1)—

- (a) shall not, except with the prior written approval of the Minister endorsed on the licence, extend beyond 1 year from the date of issue thereof; and
- (b) shall be personal to the holder; and
- (c) shall not be transferable; and
- (d) shall be subject to such conditions as may be prescribed and to such further conditions as the licensing officer shall think fit to endorse thereon; and
- (e) shall not, except with the prior written approval of the Minister endorsed on the licence, confer on the licensee any exclusive right to fish.

(3) It shall be a condition of every licence granted under subsection (1) that there shall be marked and kept marked on the vessel in respect of which the licence is granted such letters and numbers of identification as may be assigned to that vessel by the licensing officer, in such manner as he may specify or as may be prescribed.

(4) Any person who operates or causes or allows to be operated any local fishing vessel within the fishery limits or in the lagoon or inland waters of Kiribati except under a valid licence granted under this section in respect of that vessel and in accordance with the conditions of such licence shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

5. (1) No foreign fishing vessel shall—

- (a) enter within the fishery limits except for a purpose recognised by international law; or
- (b) fish or attempt to fish within the fishery limits; or
- (c) load, unload or tranship any fish within the fishery limits; or
- (d) load or unload any fuel or supplies within the fishery limits,

Entry and fishing by foreign vessels within the fishery limits

unless authorised to do so under a permit granted under this Ordinance.

(2) A foreign fishing vessel entering the fishery limits for a purpose recognised by international law without a permit granted under this Ordinance shall return outside those limits as soon as that purpose for which it entered them has been fulfilled.

(3) The Chief Fisheries Officer may, with the approval of the Minister, grant a permit in the prescribed form in respect of any foreign fishing vessel, authorising such vessel to do such of the things described in subsection (1) as may be provided for in the permit.

(4) A permit under subsection (3) may be granted to a registered or incorporated association of shipowners if—

- (a) the Minister is satisfied at the time when the permit is sought that there exists between the Republic and that association an agreement that is valid and enforceable under the law of the country in which the association is domiciled for the benefit of the Republic in the implementation of the provisions of this Ordinance (hereinafter referred to as a "multiple permit agreement"); and
- (b) the multiple permit agreement specifies, in terms accept-

able to the Minister, the circumstances under which a member of the association of shipowners may be authorised pursuant to this Ordinance in respect of any foreign fishing vessel to do such of the things described in subsection (1) as if that member had been granted a permit under subsection (3); and

- (c) there is a term of the multiple permit agreement under which the maximum number of members of the association is stipulated who may enjoy the rights and benefits conferred by this section and who shall be subject to the provisions of this Ordinance; and
- (d) the association of shipowners covenants with the Minister to provide the master of any foreign fishing vessel authorised pursuant to paragraph (b) with a translation in Japanese of the conditions of a permit granted under subsection (3).

(5) A permit granted under subsection (4) shall be severable at the election of the Minister and if thus severed any breach by any member of an association of shipowners to which such a permit has been granted under subsection (3) shall be subject to cancellation or suspension pursuant to section 7 (1) in respect of that member as if the permit has been granted to that member.

(6) Unless the Minister is satisfied that the management or managing body of the association has not contributed in any way, either before or after the contravention of the permit by the member of the association, to the default of the member leading to the right to cancel or suspend the licence, the licence shall not be severed in respect of the member in default but shall be treated as a single and indivisible licence subject to suspension or cancellation as against the association of shipowners and in respect of each member of that association.

(7) A member of an association to which a permit has been granted under subsection (4) shall be subject to the same penalties, obligations, duties and powers prescribed and exercisable under this Ordinance as if that member had been granted a permit under subsection (3).

(8) An association with which a multiple permit agreement has been made and to which a permit has been granted under subsection (4) shall not be deemed to be a licensing officer.

(9) The payment of fees and royalties due under subsection (11) (b) shall be due and payable by an association to which a permit is granted under subsection (4).

(10) The amount payable under subsection (9) of this section

shall be calculated by reference to the number of members stipulated in the multiple permit agreement.

(11) A permit granted by the Chief Fisheries Officer under this section shall be subject to—

- (a) such conditions as may be prescribed, and to such further conditions as may be endorsed upon the permit by the Chief Fisheries Officer; and
- (b) to the payment of such fees and royalties as may be determined by the Chief Fisheries Officer with the approval of the Minister.

(12) A permit granted by the Chief Fisheries Officer under this section shall not confer any exclusive right to fish unless the permit expressly so provides.

(13) The fishing gear of any foreign fishing vessel which is prohibited by this section from fishing within the fishing limits shall, while the vessel is within those limits, be stowed in such manner as may be prescribed.

(14) Where any foreign fishing vessel contravenes any of the provisions of this section, the master, owner and charterer, if any, of such vessel shall each be liable on conviction—

- (a) in the case of a contravention of subsection (1), to a fine of \$100,000; and
- (b) in the case of a contravention of subsection (2) or subsection (13), to a fine of \$25,000.

(15) Where any foreign fishing vessel contravenes any of the conditions of a permit granted under this section, the master, owner and charterer, if any, of such vessel shall each be liable on conviction to a fine of \$25,000.

6. (1) The Chief Fisheries Officer may, with the approval of the Minister and on payment of the prescribed fee, grant to any person a licence in the prescribed form to operate a fish processing establishment, subject to such conditions as may from time to time be prescribed and to such further conditions as may be endorsed upon the licence by the Chief Fisheries Officer.

(2) Any person who operates, or causes or allows to be operated, any fish processing establishment except under a valid licence granted under this section in respect of that fish processing establishment and in accordance with the conditions of such licence shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

Fish processing establishment

Cancellation
and suspension
of
licences and
permits

7. (1) Where any of the conditions of any licence or permit is contravened the Chief Fisheries Officer may cancel the licence or permit, or suspend such licence or permit for such period as he may think fit.

(2) Any person aggrieved by the refusal of any licensing officer to issue any licence granted under this Ordinance, or by the cancellation or suspension of any licence or permit granted under this Ordinance, may appeal against such refusal, cancellation or suspension to the Minister, whose decision shall be final.

PART III

POWERS OF AUTHORISED OFFICERS

Power to
stop, board,
search ves-
sels, etc.

8. For purposes of ascertaining whether there is, or has been, any contravention of the provisions of this Ordinance any authorised officer may—

- (a) at all reasonable hours enter any fish processing establishment and any premises other than premises used exclusively as a dwelling-house; and
- (b) stop, board and search—
 - (i) any foreign or local fishing vessel within the fishery limits; or
 - (ii) any local fishing vessel, outside the fishery limits; and
- (c) stop and search any vehicle transporting, or reasonably suspected of transporting, fish or fish products; and
- (d) make such examination and inquiry as may appear necessary to him concerning any premises, fish processing establishment, vessel or vehicle in relation to which any of the powers conferred by this section have been, or may be, exercised and take samples of any fish, or fish products, found therein; and
- (e) require any person to produce his licence or his authority if it appears to the authorised officer that such person is doing any act for which a licence or other authority is required under this Ordinance.

Powers of an
authorised
officer where
he reasonably
believes an
offence
committed

9. (1) Where he has reasonable grounds for believing that an offence against the provisions of this Ordinance has been committed, any authorised officer, without a warrant, may—

- (a) following hot pursuit as recognised by international law and commenced within the fishery limits, stop, board and

search outside the fishery limits any foreign fishing vessel which he believes has been used in the commission of that offence within the fishery limits, or in relation to which he believes such offence has been committed, and bring such vessel and all persons and things on board it within the fishery limits; and

(b) within the fishery limits—

(i) arrest any person whom he believes has committed such offence and, if the authorised officer making such arrest is not a police officer, he shall without necessary delay make over such person to a police officer, or in the absence of a police officer shall take such person to the nearest police station; and

(ii) in the case of an offence against section 5 (1), section 13 or section 14 (1), seize any vessel (together with its equipment, stores and cargo) which he believes has been used in the commission of such offence or in respect of which he believes such offence has been committed; and

(iii) seize any fishing gear, instruments or appliances which he believes have been used in the commission of such offence; and

(iv) seize any fish which he believes have been taken or fish products produced in the commission of such offence; and

(v) seize any explosive, poison or other noxious substance which he believes has been used, carried, possessed or controlled in contravention of section 14.

(2) After any vessel has been stopped under the provision of this section any authorised officer may exercise concerning it, or in relation to any fish or fish products therein, any of the powers conferred by section 8 (d).

(3) A written receipt shall be given for any thing seized under subsection (1) by the authorised officer concerned to the person from whom the seizure is made.

10. Any person who—

(a) wilfully obstructs any authorised officer in the exercise of any of his powers under this Ordinance; or

(b) fails to comply with any lawful requirements imposed or to answer any lawful enquiry made by any authorised officer

Obstruction,
etc., of
authorised
officers

under this Ordinance, including enquiries as to the source of supply of fish,

shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months, and if the obstruction or non-compliance takes place on board or alongside a vessel the master of the vessel shall be liable on conviction to a like penalty.

Authorised officers to declare office, etc.

11. Any authorised officer acting in the exercise of his powers under this Ordinance shall, on demand, produce such document of identification or other evidence as may be reasonably sufficient to show that he is an authorised officer for the purpose of this Ordinance.

Non-liability of authorised officers

12. No authorised officer shall be personally liable in respect of any act done or omitted to be done by him in good faith in the execution or purported execution of his powers and duties under this Ordinance.

PART IV.

ADDITIONAL OFFENCES AND LEGAL PROCEEDINGS

Throwing overboard or destroying incriminating evidence

13. Any person who, being on board any vessel being pursued or about to be boarded by any authorised officer, throws overboard or destroys any fish, fishing gear, explosive, poison, noxious substance or any other thing whatsoever, with intent to avoid the seizure of such fish, fishing gear, explosive, poison, noxious substance or thing, or the detection of any offence against this Ordinance, shall be liable on conviction to a fine of \$400 and to imprisonment for 1 year.

Fishing with explosives, poison and other noxious substances

14. (1) Any person who—

- (a) permits to be used, uses or attempts to use any explosive, or any poison or other noxious substance, for the purpose of killing, stunning, disabling or catching fish or in any way rendering fish more easily caught; or
- (b) carries or has in his possession or control any explosive, poison or other noxious substance in circumstances which raise a reasonable presumption that such an explosive, poison or other noxious substance is intended to be used for any of the aforesaid purposes,

shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

(2) Any person who, knowing or having reasonable cause to believe that any fish has been taken in contravention of the provisions of this section, without lawful excuse, receives or is found in possession of such fish shall be liable on conviction—

- (a) where the circumstances of such receipt or possession raise a reasonable presumption that the fish is intended to be sold in the course of business, to a fine of \$200 and to imprisonment for 6 months; or
- (b) where no such presumption arises, to a fine of \$50 and to imprisonment for 2 months.

15. Where any person is convicted of an offence against this Ordinance the court may, in addition to any other penalty it may impose, order that any fish caught or fish product produced in the commission of such offence or the proceeds of sale of such fish product, and any fishing gear, instruments or appliances and, in the case of any offence under section 5 (1), section 13 or section 14 (1) any vessel (together with its equipment, stores and cargo) used in the commission of such offence or in respect of which such offence has been committed, shall be forfeited to the Republic, and if so forfeited such property shall be disposed of in such manner as the Minister of Finance may direct.

Forfeiture of gear, fish and vessels

16. All fish found on board any vessel used in the commission of an offence against the provisions of this Ordinance, or in respect of which any such offence has been committed, shall, unless the contrary is proved, be presumed to have been caught in the commission of such offence.

Presumption

17. Any offence against any of the provisions of this Ordinance committed within the fishery limits may be dealt with, and judicial proceedings taken, as if the offence had been committed in any place in Kiribati.

Jurisdiction of the courts

18. (1) Any fish, fish product or other article of a perishable nature seized or taken under the provisions of this Ordinance may on the direction of the Chief Fisheries Officer be sold and the net proceeds of the sale held pending the outcome of any prosecution brought under this Ordinance, and if no such prosecution is brought such proceeds shall be paid to the owner of the fish, fish product or other article sold.

Disposal of seized goods

(2) Any vessel, fishing gear, instrument or appliance seized under section 9 which is not ordered to be forfeited under section 15 shall be returned to its owner.

(3) where any vessel, fishing gear, instrument or appliance, fish or fish product has been seized under section 9 the court may order its release on receipt of a satisfactory bond or other security from any person claiming such property, conditioned on such person—

- (a) delivering such property to the court upon the order of the court, without any impairment of its value, and paying in full any fine imposed by the court in pursuance of this Ordinance; or
- (b) paying the monetary value of such property in accordance with an order or judgment of the court together with any fine imposed.

PART V

MISCELLANEOUS

Fishing for
scientific
purposes

19. The Minister may, in writing, authorise any fishing vessel to fish within the fishery limits for the purpose of scientific investigations, and may for this purpose exempt such fishing vessel from all or any of the provisions of this Ordinance and, in making such exemption, may impose such conditions as he may think fit.

Power of the
Minister to
enter into
agreements

20. (1) The Minister may enter, on behalf of the Republic, into an agreement with any person or any government, or agency of any government or international agency for the purpose of enabling the Government to perform any of the functions conferred by or under this Ordinance, or for the purpose of facilitating the performance of those functions, or generally to advance the purposes for which this Ordinance was enacted.

(2) The Minister may from time to time by order limit any provision of this Ordinance relating to the fishery limits so far as it is necessary to do so to give full effect to any convention, including any convention that is adopted by the Third United Nations Conference on the Law of the Sea, and to any international agreement or arrangement by which the Republic may become bound concerning fishing off the coast of Kiribati.

Protection of
native cus-
tomary rights

21. (1) No person shall take fish in any sea or lagoon area or on any reef forming part of the ancient customary fishing ground of any kainga, utu or other division or subdivision of the people unless he shall be a member thereof or shall first have obtained a licence so to do under the hand of the Minister who may grant or refuse any such licence at his discretion.

(2) A person who contravenes subsection (1) shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

22. The Beretitenti, acting in accordance with the advice of the Cabinet, may make regulations for carrying into effect any of the purposes or provisions of this Ordinance, and, without prejudice to the generality of the foregoing, such regulations may prescribe or provide for all or any of the following purposes—

Regulations

- (a) the training of fishermen; and
- (b) regulating the procedure relating to the issue of licences and permits and prescribing the forms thereof and forms of application therefor; and
- (c) the conditions and procedure to be observed by foreign fishing vessels while within the fishery limits; and
- (d) the conservation and protection of all species of fish; and
- (e) the establishment of closed seasons for any area of Kiribati or any species of fish therein specified; and
- (f) the placing of a limit on the amount, size or weight of fish, or any species of fish, which may be caught or traded; and
- (g) the designation of prohibited fishing areas for all fish or certain species of fish or certain methods of fishing; and
- (h) the prohibition of certain types of fishing gear or methods of fishing; and
- (i) in relation to fish nets, minimum mesh sizes, and
- (j) the organisation of sport fishing; and
- (k) the licensing of fish farms and the regulation of importation of live fish; and
- (l) the organisation and regulation of marketing, distribution and export from Kiribati of fish or fish products; and
- (m) controlling the handling, landing and transportation of fish or fish products; and
- (n) methods and procedures to be adopted in relation to fish storage and processing; and
- (o) substances and materials to be used in fish processing; and
- (p) the inspection of fish processing establishments and fish products; and
- (q) minimum standards in relation to the quality of fish or fish products; and
- (r) methods of analysis of fish and fish products; and
- (s) the grant of exemption to any vessel or class of vessel or fish processing establishment from all or any of the provisions of this Ordinance; and

- (t) the prohibition of any practices or methods, or employment of equipment or apparatus or materials, which are likely to be injurious to the maintenance and development of a stock of fish; and
- (u) anything required to be prescribed by this Ordinance; and
- (v) the provision of penalties for contraventions thereof of terms of imprisonment of 6 months and fines of \$1,000.

[Subsidiary]

SUBSIDIARY LEGISLATION

Proclamation of fishery limits under section 2

L.N. 31/79

The following limits have been defined and declared by a proclamation dated 18 April 1979.

1. As from the 19th April 1979 the fishery limits of Kiribati shall extend to 200 miles from the baseline of Kiribati.

2. Notwithstanding paragraph 1, where any part of the median line is less than 200 miles from the nearest part of the baseline referred to in paragraph 1, that part of the median line shall be the fisheries limit of Kiribati.

3. The Republic will exercise the same exclusive rights in respect of fishery within the said fishery limits outside the territorial waters of Kiribati as it has in respect of fishery in the territorial waters of Kiribati subject to such provisions as may be made by law for the control and regulation of fishing within the said limits.

4. In this Proclamation—

“baseline of Kiribati” means the low water mark of the seaward side of the reef fronting the coast of any part of Kiribati or bounding any lagoon waters adjacent to such coast or, where a reef is not present the low water mark of the coast itself of any part of Kiribati;

“median line” means a line every point of which is equidistant from the nearest points of, on the one hand, the baseline of Kiribati and, on the other hand, the corresponding baseline of any other country;

“mile” means the international nautical mile.

[Subsidiary]

Regulations under section 22

PROHIBITED FISHING AREAS (DESIGNATION) REGULATIONSL.N. 61/78
L.N. 77/78

Commencement: 31st July 1978

1. These Regulations may be cited as the Prohibited Fishing Areas (Designation) Regulations. Citation
2. Fishing is prohibited in the areas specified in the Schedule to these Regulations (referred to as "prohibited fishing areas"). Prohibition of fishing
3. Any person who fishes in a prohibited fishing area commits an offence and shall be liable to imprisonment for 6 months and to a fine of \$1,000. Penalty

SCHEDULE

Azur Lagoon
 Pelican Lagoon
 Isles Lagoon
 The Tonga Channel and the adjoining Artemia Ponds.

**FISHERIES CONSERVATION AND PROTECTION
(ROCK LOBSTERS—PANULIRUS SPECIES) REGULATIONS**

K.L.N. 3/79

Commencement: 11th June 1979

1. These Regulations may be cited as the Fisheries Conservation and Protection (Rock Lobsters—Panulirus Species) Regulations. Citation
2. In these Regulations— Interpretation
 - (a) "rock lobster" (sometimes known as crayfish) means the species of crustacean known by the scientific name of *Panulirus*; and
 - (b) a rock lobster shall be deemed to be immature if the length of its carapace is less than 85 millimetres measured from its eyes; and
 - (c) "carapace" means the inflexible shell covering the forepart of a rock lobster.
3. Any person who catches, takes, kills, has in his possession, sells, exposes for sale, buys for sale or consigns to any person for the purpose of sale— Protection of certain rock lobsters
 - (a) any immature rock lobster; or
 - (b) any female rock lobster bearing its eggs,

shall be guilty of an offence and liable to a fine of \$100 or imprisonment for 3 months.

Section 5

Omit from subsection (2) "such fee as he may from time to time prescribe",

substitute "the prescribed fee".

Section 10

Omit "The Minister",

substitute "The Beretitenti, acting in accordance with the advice of the Cabinet,".

FISHERIES ORDINANCE 1977 (No. 22 of 1977)

(GAP. 33 of 1977).

Section 2 (1977, S. 2)

Omit from the definition "authorised officer" the words ", any officer or member of the Defence Force".

Omit from the definition "fishery limits" the words "the Governor",

substitute "the Beretitenti, acting in accordance with the advice of the Cabinet,".

Omit from paragraph (b) of the definition "local fishing vessel" the words "the laws of the Gilbert Islands",

substitute "the laws of Kiribati".

Section 3 (1977, S. 3)

Omit from subsection (2) "The Minister",

substitute "Subject to section 99 of the Constitution, the Minister".

Section 20 (1977, S. 20)

Insert after "may enter" the words ", on behalf of the Republic,".

Do not amend "government" (twice occurring).

Omit "the Minister" (second occurring),

substitute "the Government".

Section 22 (1977, S. 22)

Omit "The Minister may make such regulations as seen to him expedient",

substitute "The Beretitenti, acting in accordance with the advice of the Cabinet, may make regulations".

REPUBLIC OF KIRIBATI
(No. 8 of 1983)

I assent,

U. Talai
Beretitenti.
11th May, 1983.

AN ACT TO AMEND THE FISHERIES ORDINANCE
(Chapter 33).

Commencement:
11th May, 1983.

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Short title.

1. This Act may be cited as the Fisheries (Amendment) Act 1983.

Commencement.

2. This Act shall come into operation on such date as the Minister may by notice in the Gazette appoint.

Amends S.2
of Cap. 33

3. Section 2 of the Principal Ordinance is amended deleting the definition of 'fishery limits' and substituting therefor:

"'fishery limits' means the exclusive economic zone of Kiribati or such part of that zone as is defined by the Minister, for the purpose by Notice published in the Gazette".

Further
amends S.2
of Cap. 33.

4. Section 2 of the Principal Ordinance is further amended by, in the definition of 'territorial sea' deleting '3 geographical miles' and substituting therefor '12 geographical miles'.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 2nd May 1983 and is found by me to be a true and correctly printed copy of the said Bill.

Qu J

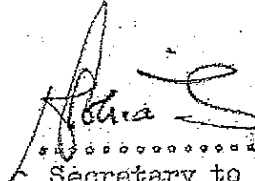
.....
Clerk to the Maneaba
ni Maungatabu.

I certify that the above Act was on the 2nd day of May 1983 passed by the Maneaba ni Maungatabu on a certificate of urgency under Section 68(3)(a) of the Constitution.


Speaker
.....
Speaker.

Published by exhibition -

(a) at the Public Office of the Beretitenti on
11th May 1983


.....
Secretary to the Cabinet

(b) at the Maneaba ni Maungatapu on
11th May 1983


.....
Clerk to the Maneaba ni
Maungatapu.

-3-

FISHERIES (AMENDMENT) ACT 1983

EXPLANATORY MEMORANDUM

The brief amendments to the Fisheries Ordinance (Cap. 33) are required to achieve conformity with the Marine Zones (Declaration) Act 1983. That Act has yet to be passed and assented to, and the Fisheries (Amendment) Act is for practical purposes conditional on the Marine Zones (Declaration) Act becoming law. It is for that reason that the Fisheries (Amendment) Act will take effect only on an appointed date.

This Act provides that fishery limits shall be the same as the exclusive economic zone, or part of such zone as may be decided by the Minister. It also increases the limit of the territorial seas to 12 from 3 miles. Although the Marine Zones (Declaration) Act so provides, it has been felt advisable for purposes of clarity and reference to specifically amend the Fisheries Ordinance in this regard.

R.L. Davey
Attorney General

LEGAL REPORT

I hereby certify my opinion that none of the provisions of this Act conflict with the provisions of the Constitution and that the Beretitenti may properly assent to the Act.

R.L. Davey
Attorney General
8 March 1983

THE REPUBLIC OF KIRIBATI
(No. 9 of 1984)

I assent,

V. Tabai
Beretitenti,

8/12/1984.

AN ACT TO AMEND THE FISHERIES ORDINANCE
(Cap 33)

Commencement:

10 December 1984.

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Short title.

1. This Act may be cited as the Fisheries (Amendment) Act 1984.

Amendment of section 2.

2. Section 2 of the Fisheries Ordinance (Cap 33) as amended which is referred to in this Act as the principal Ordinance is amended by -

(a) repealing the definition of "fish" and substituting the following:

"fish" means any aquatic animal, whether piscine or not and includes any mollusc, crustacean, coral, sponge, seaweed, holothurians (beche-de-mer), sea urchins and turtle and their young and eggs"; and

(b) by repealing the definition of "fishing" and substituting the following:

"fishing" means the actual or attempted fishing, catching, taking, killing or harvesting of fish, and includes any other activity which may reasonably be expected to result in the fishing or attempted fishing or catching, taking, killing or harvesting of fish, or any operations in support of or in preparation for any of the foregoing activity"; and

(c) (i) inserting in the definition of "fishing processing establishment" after the word "sale" and before the word "outside" the words "within or" and

(ii) repealing in the definition of "fish processing establishment" the words "but does not include any vessel on which fish caught off such vessel are gutted, salted, iced or frozen for the sole purpose of preserving such fish"; and

- (d) inserting in the definition of "fishing vessel" after the word "commercially" and before the word "but" in the second line the following words:-
- "and includes support vessels and craft, an helicopter and light aircraft used in fishing operations"; and
- (c) repealing in the definition of "territorial sea" the words "3 geographical miles" and substituting the following:
- "12 nautical miles".

Amendment of section 4.

3. Section 4 of the principal Ordinance is amended in (4) by -
- (a) repealing the word "\$200" and substituting the word "\$1000"; and
- (b) repealing the words "6 months" and substituting the words "3 years".

Amendment of section 5.

4. Section 5 of the principal Ordinance is amended in -
- (a) subsections (4), (5), (6), (7), (8), (9) and (10) by repealing all these subsections; and
- (b) Subsection (13) by repealing the words "as may be prescribed" and substituting the following:
- "as not to be readily accessible for fishing"; and
- (c) subsection (14) by -
- (i) repealing the word "contravenes" in the first line and substituting the following words:
- "is used in contravention of"; and
- (ii) repealing the words "\$100,000" in paragraph (a) and substituting the word:
- "\$250,000"; and
- (iii) repealing the words "\$25,000" in paragraph (b) and substituting the word:
- "\$50,000"; and
- (d) subsection (15) by -
- (i) repealing the words "contravenes" in the first line and substituting the words "is used in contravention of"; and

- (ii) repealing the words "\$25,000" and substituting the words "\$50,000".

Amendment of section 9.

5. Section 9 of the principal Ordinance is amended in subsection (1)(b)(ii) by inserting in the bracket after the word "cargo" in the bracket and before the word "which" the word "bunker".

Amendment of section 13.

6. Section 13 of the principal Ordinance is amended by -

- (a) repealing the words "\$400" and substituting the words "\$1000"; and
- (b) repealing the words "1 year" and substituting the words "5 years".

Amendment of section 20.

7. Section 20 of the principal Ordinance is amended by inserting after subsection (1) and before subsection (2) the following subsection:

"(1A) For the purposes of giving effect to any agreement or arrangement under subsection (1) the Minister may by order authorise:

- (a) any
 - (i) person; or
 - (ii) government; or
 - (iii) agency or government; or
 - (iv) international agency,

to issue fishing permits under section 5 of the principal Ordinance subject to such conditions as he may specify in the order.

- (b) the doing of any other matter which may be required to be done under such agreement or arrangement".

Amendment of section 22.

8. Section 22 of the principal Ordinance is amended by -

- (a) inserting after paragraph "(k)" and before paragraph "(l)" the following paragraph:

"(ka) regulating the importation of fish or fish products; and"

- (b) inserting after paragraph "(t)" and before paragraph "(u)" the following paragraphs:

"(ta) the implementation of any agreement or arrangement entered into under section 20; and

"(tb) regulating the taking of coral and seaweed; and".

Repeal of
Fisheries
(Amendment)
Act No.8 of
1983.

9. The Fisheries (Amendment) Act 1983 (No.8 of 1983) is amended in section 4 by repealing the section.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 20 November, 1984, and is found by me to be a true and correctly printed copy of the said Bill.

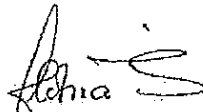


Clerk to the Maneaba
ni Maungatabu

Published by exhibition —

(a) at the Public Office of the Beretitenti

this 10th day of December 1984.



Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu this 10th day of Dec, 1984.



Clerk to the Maneaba
ni Maungatabu

THE FISHERIES (AMENDMENT) ACT 1984

EXPLANATORY MEMORANDUM

This Act amends the Fisheries Ordinance (Cap 33). Although that Ordinance is basically sound since 1977 when it was enacted, there have been significant developments in the Kiribati fishing industry particularly on the international side. The international law of the sea is constantly changing and such developments and the activities of the South Pacific Forum Fisheries Agency have instigated a reappraisal of legislation.

With increasing access by foreign fishing vessels and their modern methods of fishing and our own involvement in the Nauru Agreement amendments to our fishing laws are required. The Act has been so drafted and includes heavier penalties.

Michael Neaua Takabwebwe
The Attorney General

LEGAL REPORT

I hereby certify that none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

Michael Neaua Takabwebwe
The Attorney General
3 April 1984

I assent,

T. Tabai
Beretitenti,
2/11/1988

AN ACT TO GIVE EFFECT TO THE TREATY ON FISHERIES
BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC
ISLAND STATES AND THE GOVERNMENT OF THE UNITED
STATES OF AMERICA AND FOR CONNECTED PURPOSES

Commencement:
1988

MADE by the Maneaba ni Maungatabu and assented to by the
Beretitenti.

Short title

1. This Act may be cited as the Fisheries (Pacific Island States' Treaty with the United States of America) Act 1988 and shall come into operation on such date as the Minister may appoint by notice.

Interpretation

2. In this Act, unless the context otherwise requires -
"applicable national law" has the meaning assigned to it in the Treaty;

"Pacific Island State" has the meaning assigned to it in the Treaty;

"Treaty" means the Treaty between the Governments of certain Pacific Island States and the Government of the United States of America, to which Kiribati is a party, a copy of which is set out in the Schedule to this Act.

Schedule

Treaty to
have the force
of law

3(1) Subject to the Constitution and the provisions of this Act the Treaty shall have the force of law in Kiribati.

(2) If there is any inconsistency between the provisions of any applicable national law in force in Kiribati and the provisions of the Treaty, the provisions of the Treaty shall, to the extent of such inconsistency, prevail.

Savings

4. This Act shall not affect any legal proceedings begun or any rights or liabilities accruing or arising out of an occurrence before the date of commencement of this Act.

Power of Minister to make orders

5. Without prejudice to the powers of the Minister under any other law the Minister may, by order, make such provisions not inconsistent with the Constitution or this Act or the Treaty as he may consider necessary or expedient for giving full effect to the provisions of the Treaty.

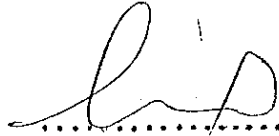
Offences and penalties, etc

6(1) Where a fishing vessel to which the Treaty applies is used in contravention of the Treaty or any applicable national law the master, owner and charterer, if any, of such vessel shall (without prejudice to any other penalty prescribed by or contained in such applicable national law) each be guilty of an offence and be liable on conviction to a fine not exceeding United States \$250,000.

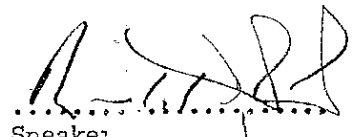
(2) The Master, owner, charterer or any member of the crew of a fishing vessel to which the Treaty applies shall not be liable to imprisonment or corporal punishment on conviction for an offence under the Treaty or any applicable national law.

(3) Where the master, owner, charterer or any member of the crew of a fishing vessel to which the Treaty applies is in pre-trial custody in respect of an offence which amounts to a breach of the Treaty or any applicable national law, he shall be promptly released if he enters into a bond for a reasonable amount or furnishes a reasonable security to appear before the appropriate court for trial.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 16th August, 1988 and is found by me to be a true and correctly printed copy of the said Bill.

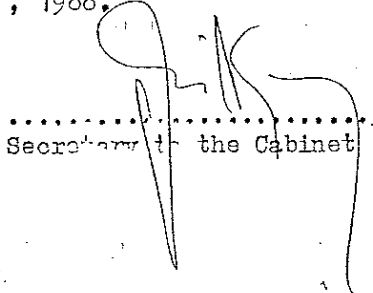

.....
Clerk to the Maneaba ni
Maungatabu

I certify that the above Act was on the 16th day of August, 1988 passed by the Maneaba ni Maungatabu on a certificate of urgency under section 68(3)(a) of the Constitution.

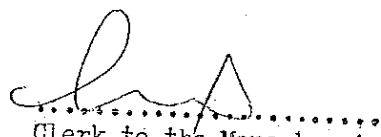

.....
Speaker

Published by exhibition -

(a) at the Public Office of the Ieretitenti on the day of 2 Nov, 1988.


.....
Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu on the 2nd
day of November, 1988.

A handwritten signature in cursive script, appearing to be 'L. P. ...', written in dark ink.

Clerk to the Maneaba ni
Maungatabu.

TREATY ON FISHERIES
BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA



INDEPENDENT STATE OF PAPUA NEW GUINEA

C E R T I F I C A T E

I, **TARCISIUS ERI**, Assistant Secretary (Treaties Branch), Department of Foreign Affairs;

HEREBY CERTIFY that the attached is a true and authentic copy of the TREATY ON FISHERIES BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA signed at Port Moresby on 2nd April, 1987.

IN WITNESS THEREOF, I have attached the seal of the Department of Foreign Affairs.

DATED at Port Moresby this 2nd day of April, 1987.



TARCISIUS ERI

TREATY ON FISHERIES
BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

The Government of the Pacific Island States party to this Treaty and the Government of the United States of America:

ACKNOWLEDGING that in accordance with international law, coastal States have sovereign rights for the purposes of exploring and exploiting, conserving and managing the fisheries resources of their exclusive economic zones or fisheries zones;

RECOGNISING the strong dependence of the Pacific Island parties on fisheries resources and the importance of the continued abundance of those resources;

BEARING IN MIND that some species of fish are found within and beyond the jurisdiction of any of the parties and range throughout a broad region; and

DESIRING to maximize benefits flowing from the development of the fisheries resources within the exclusive economic zones or fisheries zones of the Pacific Island parties;

HAVE AGREED AS FOLLOWS:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 In this Treaty:

- (a) "Administrator" means that person or organisation designated by the Pacific Island parties to act as such on their behalf pursuant to this Treaty and notified to the Government of the United States;
- (b) "final judgment" means a judgment from which no appeal proceedings have been initiated within sixty days;
- (c) "fishing" means:
 - (1) searching for, catching, taking or harvesting fish;

- attempting to search for, catch, take or harvest fish;
- (iii) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish;
 - (iv) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;
 - (v) any operations at sea directly in support of, or in preparation for any activity described in this paragraph; or
 - (vi) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel;
- (d) "fishing vessel of the United States" or "vessel" means any boat, ship or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, which is documented under the laws of the United States;
- (e) "Licensing Area" means all waters in the Treaty Area except for:
- (i) waters subject to the jurisdiction of the United States in accordance with international law; and
 - (ii) waters closed to fishing by fishing vessels of the United States in accordance with Annex I;
- (f) "operator" means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master;
- (g) "Pacific Island party" means a Pacific Island State party to this Treaty and "Pacific Island parties" means all such States from time to time;
- (h) "Pacific Island State" means a party to the South Pacific Forum Fisheries Agency Convention, 1979;
- (i) "party" means a State party to this Treaty, and "parties" means all such States, from time to time;
- (j) "this Treaty" means this Treaty, its Annexes and Schedules; and

(k) "Treaty Area" means all waters north of 60 degrees South latitude and east of 90 degrees East longitude, subject to the fisheries jurisdiction of Pacific Island parties, and all other waters within rhumb lines connecting the following geographic co-ordinates, designated for the purposes of this Treaty, except for waters subject to the jurisdiction in accordance with international law of a State which is not a party to this Treaty:

2°35'39"S	141°00'00"E
1°00'35"N	140°48'35"E
1°00'35"N	129°30'00"E
10°00'00"N	129°30'00"E
14°00'00"N	140°00'00"E
14°00'00"N	142°00'00"E
12°30'00"N	142°00'00"E
12°30'00"N	158°00'00"E
15°00'00"N	158°00'00"E
15°00'00"N	165°00'00"E
18°00'00"N	165°00'00"E
18°00'00"N	174°00'00"E
12°00'00"N	174°00'00"E
12°00'00"N	176°00'00"E
5°00'00"N	176°00'00"E
1°00'00"N	180°00'00"
1°00'00"N	164°00'00"W
8°00'00"N	164°00'00"W
8°00'00"N	158°00'00"W
0°00'00"	150°00'00"W
6°00'00"S	150°00'00"W
6°00'00"S	146°00'00"W
12°00'00"S	146°00'00"W
26°00'00"S	157°00'00"W
26°00'00"S	174°00'00"W
40°00'00"S	174°00'00"W
40°00'00"S	171°00'00"W
46°00'00"S	171°00'00"W
55°00'00"S	180°00'00"
59°00'00"S	160°00'00"E
59°00'00"S	152°00'00"E

and north along the 152 degrees of East longitude until intersecting the Australian 200 nautical mile limit.

1.2. Nothing in this Treaty shall be deemed to affect the applicability of any provision of a Pacific Island party's law which is not identified or otherwise described in this Treaty.

ARTICLE 2

BROADER CO-OPERATION

2.1 The Government of the United States shall, as appropriate, co-operate with the Pacific Island parties through the provision of technical and economic support to assist the Pacific Island parties to achieve the objective of maximizing benefits from the development of their fisheries resources.

2.2 The Government of the United States shall, as appropriate, promote the maximization of benefits generated for the Pacific Island parties from the operations of fishing vessels of the United States licensed pursuant to this Treaty, including:

- (a) the use of canning, transshipment, slipping and repair facilities located in the Pacific Island parties;
- (b) the purchase of equipment and supplies, including fuel supplies, from suppliers located in the Pacific Island parties; and
- (c) the employment of nationals of the Pacific Island parties on board licensed fishing vessels of the United States.

ARTICLE 3

ACCESS TO THE TREATY AREA

3.1 Fishing vessels of the United States shall be permitted to engage in fishing in the Licensing Area in accordance with the terms and conditions referred to in Annex I and licences issued in accordance with the procedures set out in Annex II.

3.2 It shall be a condition of any licence issued pursuant to this Treaty that the vessel in respect of which the licence is issued is operated in accordance with the requirements of Annex I. No fishing vessel of the United States shall be used for fishing in the Licensing Area without a licence issued in accordance with Annex II or in waters closed to fishing pursuant to Annex I, except in accordance with paragraph 3 of this Article, or unless the vessel is used for fishing albacore tuna by the trolling method in high seas areas of the Treaty Area.

3.3 A Pacific Island party may permit fishing vessels of the United States to engage in fishing in waters under the jurisdiction of that party which are:

- 10/10/1984 for page 52 to 10/10/1984 for page 52
except for purse seine vessels of that party
- (a) within the Treaty Area but outside the Licensing Area;
or
 - (b) except for purse seine vessels, within the Licensing Area but otherwise than in accordance with the terms and conditions referred to in Annex I,

in accordance with such terms and conditions as may be agreed from time to time with the owners of the said vessels or their representatives. In such a case, the Pacific Island party gives notice to the Government of the United States of such arrangements, and if the Government of the United States concurs, the procedures of Articles 4 and 5.6 shall be applicable to such arrangements.

ARTICLE 4

FLAG STATE RESPONSIBILITY

4.1 The Government of the United States shall enforce the provisions of this Treaty and licences issued thereunder. The Government of the United States shall take the necessary steps to ensure that nationals and fishing vessels of the United States refrain from fishing in the Licensing Area and in waters closed to fishing pursuant to Annex I, except as authorised in accordance with Article-3.

4.2 The Government of the United States shall, at the request of the Government of a Pacific Island party, take all reasonable measures to assist that party in the investigation of an alleged breach of this Treaty by a fishing vessel of the United States and promptly communicate all the requested information to that party.

4.3 The Government of the United States shall ensure that:

- (a) each fishing vessel of the United States licensed pursuant to this Treaty is fully insured against all risks and liabilities;
- (b) all measures are taken to facilitate:
 - (i) any claim arising out of the activities of a fishing vessel of the United States, including a claim for the total market value of any fish taken from the Licensing Area without authorisation pursuant to this Treaty, and the prompt settlement of that claim;

- (ii) the service of legal process by or on behalf of a national or the Government of a Pacific Island party in any action arising out of the activities of a fishing vessel of the United States;
- (iii) the prompt and full adjudication in the United States of any claim made pursuant to this Treaty;
- (iv) the prompt and full satisfaction of any final judgment or other final determination made pursuant to this Treaty; and
- (v) the provision of a reasonable level of financial assurances; if, after consultation with the Government of the United States, all Pacific Island parties agree that the collection of any civil or criminal judgment or judgments or determination or determinations made pursuant to this Treaty has become a serious enforcement problem;
- (c) an amount equivalent to the total value of any forfeiture, fine, penalty or other amount collected by the Government of the United States incurred as a result of any actions, judicial or otherwise, taken pursuant to this Article is paid to the Administrator as soon as possible following the date that the amount is collected.

4.4 The Government of the United States shall, at the request of the Government of a Pacific Island party, fully investigate any alleged infringement of this Treaty involving a vessel of the United States, and report as soon as practicable and in any case within two months to that Government on that investigation and on any action taken or proposed to be taken by the Government of the United States in relation to the alleged infringement.

4.5 In the event that a report provided pursuant to paragraph 4 of this Article shows that a fishing vessel of the United States:

- (a) while fishing in the Licensing Area did not have a licence to fish in the Licensing Area, except in accordance with paragraph 2 of Article 3; or
- (b) was involved in any incident in which an authorised officer or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcefully resisted, refused boarding or subjected to physical intimidation or physical interference in the performance of his or her duties as authorised pursuant to this Treaty; or

that there was probable cause to believe that a fishing vessel of the United States:

- (c) was used for fishing in waters closed to fishing pursuant to Annex I, except as authorized in accordance with paragraph 3 of Article 3;
- (d) was used for fishing in any Limited Area as described in Annex I, except as authorized in accordance with that Annex 1;
- (e) was used for fishing by any method other than the purse seine method, except in accordance with paragraph 2 of Article 3;
- (f) was used for directed fishing for Southern Bluefin Tuna or for fishing for any kinds of fish other than tunas, except that other kinds of fish may be caught as an incidental by-catch;
- (g) used an aircraft for fishing which was not identified on a form provided pursuant to Schedule 1 of Annex II in relation to that vessel; or
- (h) was involved in an incident in which evidence which otherwise could have been used in proceedings concerning the vessel has been intentionally destroyed;

and that such vessel has not submitted to the jurisdiction of the Pacific Island party concerned, the Government of the United States shall, at the request of that party, take all necessary measures to ensure that the vessel concerned leaves the Licensing Area and waters closed to fishing pursuant to Annex I immediately and does not return except for the purpose of submitting to the jurisdiction of the party, or after action has been taken by the Government of the United States to the satisfaction of that party.

4.6 In the event that a report provided pursuant to paragraph 4 of this Article shows that a fishing vessel of the United States has been involved in a probable infringement of this Treaty, including an infringement of an applicable national law as identified in Schedule 1 of Annex I, other than an infringement of the kind described in paragraph 5 of this Article, and that the vessel has not submitted to the jurisdiction of the Pacific Island party concerned, the Government of the United States shall, at the request of that party, take all necessary measures to ensure that the vessel concerned:

- (a) submits to the jurisdiction of that party; or
- (b) is penalised by the Government of the United States at such level as may be provided for like violations in United States law relating to foreign fishing vessels licensed to fish in the exclusive economic zone of the United States but not to exceed the sum of US\$250,000.

8.
4.7 Financial assurances provided pursuant to this Treaty may be drawn against by any Pacific Island party to satisfy any civil or criminal judgment or other determination in favour of a national of the Government of a Pacific Island party.

4.8 Prior to instituting any legal proceedings pursuant to this Article concerning an alleged infringement of this Treaty in waters within the jurisdiction, for any purpose, as recognised by international law, of a Pacific Island party, the Government of the United States shall notify the Government of that Pacific Island party that such proceedings shall be instituted. Such notice shall include a statement of the facts believed to show an infringement of this Treaty and the nature of the proposed proceedings, including the proposed charges and the proposed penalties to be sought. The Government of the United States shall not institute such proceedings if the Government of that Pacific Island party objects within 30 days of the effective date of such notice.

4.9 The Government of the United States shall ensure that an agent is appointed and maintained in accordance with the requirements of subparagraphs (a) and (b) of this paragraph, with authority to receive and respond to any legal process issued by a Pacific Island party in respect of an operator of any fishing vessel of the United States (identified in the form set out in Schedule 1 of Annex II) and shall notify the Administrator of the name and address of such agent, who:

- (a) shall be located in Port Moresby for the purpose of receiving and responding to any legal process issued in accordance with this Article; and
- (b) shall, within 21 days of notification that legal process has been issued in accordance with this Article, travel to any Pacific Island party, at no expense to that party, for the purpose of receiving and responding to that process.

ARTICLE 5

COMPLIANCE POWERS

5.1 It is recognised that the respective Pacific Island parties may enforce the provisions of this Treaty and licences issued thereunder, including arrangements made pursuant to Article 3.3 and licences issued thereunder, in waters under their respective jurisdictions.

5.2 The Governments of the Pacific Island parties shall promptly notify the Government of the United States of any arrest of a fishing vessel of the United States or any of its crew and of any charges filed or proceedings instituted following the arrest, in accordance with this Article.

5.3 Fishing vessels of the United States and their crews arrested for breach of this Treaty shall be promptly released upon the posting of a reasonable bond or other security. Penalties applied in accordance with this Treaty for fishing violations shall not be unreasonable in relation to the offence and shall not include imprisonment or corporal punishment.

5.4 The Government of the United States shall not apply sanctions of any kind including detentions, however effected, from any amounts which might otherwise have been paid to any Pacific Island party, and restrictions on trade with any Pacific Island party, as a result of any enforcement measure taken by a Pacific Island party in accordance with this Article.

5.5 The Governments of the parties shall adopt and inform the other parties of such provisions in their national laws as may be necessary to give effect to this Treaty.

5.6 Where legal proceedings have been instituted by the Government of the United States pursuant to Article 4, no Pacific Island party shall proceed with any legal action in respect of the same alleged infringement as long as such proceedings are maintained. Where penalties are levied or proceedings are otherwise concluded by the Government of the United States pursuant to Article 4, the Pacific Island party which has received notice of such final determination shall withdraw any legal charges or proceedings in respect of the same alleged infringement.

5.7 During any period in which a party is investigating any infringement of this Treaty involving a fishing vessel of the United States, being an infringement which is alleged to have taken place in waters within the jurisdiction, for any purpose, as recognised by international law, of a Pacific Island party, and if that Pacific Island party so notifies the other parties, any licence issued in respect of that vessel shall, for the purposes of Article 3, be deemed not to authorise fishing in the waters of that Pacific Island party.

5.8 If full payment of any amount due as a result of a final judgment or other final determination deriving from an occurrence in waters within the jurisdiction, for any purpose, of a Pacific Island party, is not made to that party within sixty (60) days, the licence for the vessel involved shall be suspended at the request of that party and that vessel shall not be authorised to fish in the Licensing Area until that amount is paid to that party.

ARTICLE 6

CONSULTATIONS AND DISPUTE SETTLEMENT

6.1 At the request of any party, consultations shall be held with any other party within sixty (60) days of the date of receipt of the request. All other parties shall be notified of the request for consultations and any party shall be permitted to participate in such consultations.

6.2 Any dispute between the Government of the United States and the Government of one or more Pacific Island parties in relation to or arising out of this Treaty may be submitted by any such party to an arbitral tribunal for settlement by arbitration no earlier than one hundred and twenty (120) days following a request for consultations under Article 6.1. Unless the parties to the dispute agree otherwise, the Arbitration Rules of the United Nations Commission on International Trade Law as at present in force, shall be used.

6.3 The Government or Governments of the Pacific Island party or parties to the dispute shall appoint one arbitrator and the Government of the United States shall appoint one arbitrator. The third arbitrator, who shall act as presiding arbitrator of the tribunal, shall be appointed by agreement of the parties to the dispute. In the event of a failure to appoint any arbitrator within the time period provided in the Rules, the arbitrator shall be appointed by the Secretary-General of the Permanent Court of Arbitration, at The Hague.

6.4 Unless the parties to the dispute agree otherwise, the place of arbitration shall be Port Moresby. The tribunal may hold meetings at such other place or places within the territory of a Pacific Island party or elsewhere within the Pacific Islands region as it may determine. An award or other decision shall be final and binding on the parties to the arbitration, and, unless the parties agree otherwise, shall be made public. The parties shall promptly carry out any award or other decision of the tribunal.

6.5 The fees and expenses of the tribunal shall be paid half by the Government or Governments of the Pacific Island party or parties to the arbitration and half by the Government of the United States, unless the parties to the arbitration agree otherwise.

11.

ARTICLE 7

REVIEW OF THE TREATY

7. The parties shall meet once each year for the purpose of reviewing the operation of this Treaty.

ARTICLE 8

AMENDMENT OF THE TREATY

8. The following procedure shall apply to the adoption and entry into force of any amendment to this Treaty.

- (a) Any party may propose amendments to this Treaty.
- (b) A proposed amendment shall be notified to the depositary not less than forty five (45) days before the meeting at which the proposed amendment will be considered.
- (c) The depositary shall promptly notify all parties of such proposal.
- (d) The parties shall consider proposed amendments to this Treaty at the annual meeting described in Article 7, or at any other time that may be agreed by all parties.
- (e) Any amendment to this Treaty shall be adopted by the approval of all the parties, and shall enter into force upon receipt by the depositary of instruments of ratification, acceptance or approval by the parties.
- (f) The depositary shall promptly notify all parties of the entry into force of the amendment.

ARTICLE 9

AMENDMENT OF ANNEXES

9. The following procedure may apply to the adoption and entry into force of any amendment to an Annex of this Treaty, at the request of the party proposing the amendment, in lieu of the procedure set out in Article 8 unless otherwise provided in the Annex.

- (a) Any party may propose amendment to an Annex of this Treaty at any time by notifying such proposal to the depositary, which shall promptly notify all parties of the proposed amendment.

(b) A party approving a proposed amendment to an Annex shall notify its acceptance to the depositary, which shall promptly notify all the parties of each acceptance. Upon receipt by the depositary of notices of acceptance from all parties, such amendment shall be incorporated in the appropriate Annex and shall have effect from that date, or from such other date as may be specified in such amendment. The depositary shall promptly notify all parties of the adoption of the amendment and its effective date.

ARTICLE 10

NOTIFICATION

10.1 The Administrator and each party shall notify the depositary of their current addresses for the receipt of notices given pursuant to this Treaty, and the depositary shall notify the Administrator and each of the parties of such addresses or any changes thereof. Unless otherwise specified in this Treaty, any notice given in accordance with this Treaty shall be in writing and may be served by hand or sent by telex or, where either method cannot readily be effected, by registered airmail to the address of the party or the Administrator as currently listed with the depositary.

10.2 Delivery by hand shall be effective when made. Delivery by telex shall be deemed to be effective on the business day following the day when the "answer back" appears on the sender's telex machine. Delivery by registered airmail shall be deemed to be effective twenty-one (21) days after posting.

ARTICLE 11

DEPOSITARY

11. The depositary for this Treaty shall be the Government of Papua New Guinea.

ARTICLE 12

FINAL CLAUSES

12.1 This Treaty shall be open for signature by the Governments of all the Pacific Island States and the Government of the United States of America.

12.2 This Treaty is subject to ratification by the States referred to in paragraph 1 of this Article. The instruments of ratification shall be deposited with the depositary.

12.3 This Treaty shall remain open for accession by States referred to in paragraph 1 of this Article. The instruments of accession shall be deposited with the depositary.

12.4 This Treaty shall enter into force upon receipt by the depositary of instruments of ratification by the Government of the United States and by the Governments of ten Pacific Island States which shall include the Federated States of Micronesia, the Republic of Kiribati and Papua New Guinea.

12.5 This Treaty shall enter into force for any State ratifying or acceding after the entry into force of this Treaty on the thirtieth day after the date on which its instrument of ratification or accession is received by the depositary.

12.6 This Treaty shall cease to have effect at the expiry of one year following the receipt by the depositary of an instrument signifying withdrawal or denunciation by the United States, any of the Pacific Island States named in Article 12.4, or such number of Pacific Island States as would leave fewer than ten such States as parties.

12.7 This Treaty shall cease to have effect for a party at the expiry of the sixth month following the receipt by the depositary of an instrument signifying withdrawal or denunciation by that party, except that where this Treaty would cease to have effect under the last preceding paragraph as the result of the receipt of the said instrument, it shall cease to have effect for that party in the manner provided in the last preceding paragraph.

12.8 Any licence in force pursuant to this Treaty shall not cease to have effect as a result of this Treaty ceasing to have effect, either generally or for any party, and Articles 1, 3, 4 and 5 shall be regarded as continuing in force between the United States and the Pacific Island State party in respect of such licence until such licence expires in accordance with its terms.

12.9 No reservations may be made to this Treaty.

12.10 Paragraph 9 of this Article does not preclude a State, when signing, ratifying or acceding to this Treaty, from making declarations or statements, provided that such declarations or statements do not purport to exclude or modify the legal effect of the provisions of this Treaty in their application to that State.

DONE at Port Moresby on the *second* day of *April*, 1987

REPRESENTATIVES OF THE GOVERNMENTS OF:

John Keir

AUSTRALIA

Edwin P. Wolfe
Steve Reynolds
UNITED STATES OF AMERICA

M. S. S. S.

COOK ISLANDS

John T. Amundson
FEDERATED STATES OF MICRONESIA

R. J. Amundson

FIJI

Thurston
REPUBLIC OF KIRIBATI

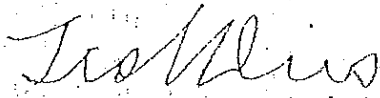
Charles E. Donnell
REPUBLIC OF THE MARSHALL ISLANDS

James A. Brown
REPUBLIC OF NAURU

Geoffrey M. Colville
NEW ZEALAND

NIUE

REPUBLIC OF PALAU

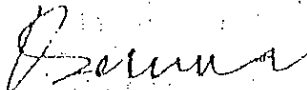


PAPUA NEW GUINEA



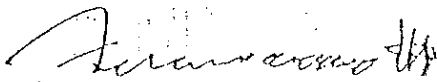
SOLOMON ISLANDS

KINGDOM OF TONGA



TUVALU

REPUBLIC OF VANUATU



WESTERN SAMOA

INTRODUCTORY

1. In this Annex:

(a) "applicable national law" means any provision of a law, however described, of a Pacific Island party which governs the fishing activities of foreign fishing vessels, being a law identified in Schedule 1, and which is not inconsistent with the requirements of this Treaty and shall be taken to exclude any provision which imposes a requirement which is also imposed by this Treaty;

(b) "Closed Area" means an area of a Pacific Island party as described in Schedule 2;

(c) "Limited Area" means an area described in Schedule 3; and

(d) "the vessel" means the vessel in respect of which a licence is issued.

2. Schedule 1 may be amended from time to time by the inclusion by any Pacific Island party of any applicable national law and, for the purposes of this Treaty, except as provided in this paragraph, the amendment shall take effect from the date that the amended Schedule has been notified to the Government of the United States. For the purposes of any obligation on the United States pursuant to paragraphs 4 and 5 of Article 4, the amendment shall take effect sixty (60) days from the date that the amended Schedule has been notified to the Government of the United States. The Government of the Pacific Island party shall use its best endeavours to provide advance notice to the Government of the United States of the amendment.

3. Nothing in this Annex and its Schedules, nor acts or activities taking place thereunder, shall constitute recognition of the claims or the positions of any of the parties concerning the legal status and extent of waters and zones claimed by any party. In the claimed waters and zones, the freedoms of navigation and overflight and other uses of the sea related to such freedoms are to be exercised in accordance with international law.

4. The operator of the vessel shall comply with each of the applicable national laws, and shall be responsible for the compliance by the vessel and its crew with each of the applicable national laws, and the vessel shall be operated in accordance with those laws.

PART 3

PROHIBITIONS

5. The vessel shall not be used for directed fishing for Southern Bluefin Tuna, or for fishing for any kinds of fish other than tunas, except that other kinds of fish may be caught as an incidental by-catch.

6. The vessel shall not be used for fishing by any method, except the purse seine method.

7. The vessel shall not be used for fishing in any Closed Area.

8. Except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, no aircraft may be used in association with the fishing activities of the vessel unless it is identified in item 6 or 7 of Schedule 1 of Annex II.

9. The vessel shall not be used for fishing in any Limited Area except in accordance with the requirements set out in Schedule 3, which are applicable to that Limited Area.

PART 4

REPORTING

10. Information relating to the position of and catch on board the vessel, as described in Part 1 of Schedule 4, shall be provided by telex to the Administrator at the following times:

- (a) before departure from port for the purpose of beginning a fishing trip in the Licensing Area;
- (b) each Wednesday while within the Licensing Area or a Closed Area; and

8 (c) before entry into port for the purpose of unloading fish from any trip involving fishing in the Licensing Area.

11. Information relating to the position of and catch on board the vessel, as described in Part 2 of Schedule 4, shall be provided to each Pacific Island party in the manner notified to the Government of the United States by that party as follows:

(a) at the time of entry into and of departure from waters which are, for any purpose, subject to the jurisdiction of the Pacific Island party;

(b) at least 24 hours prior to the estimated time of entry into any port of that party; and

(c) as otherwise set out in Part 3 of Schedule 4.

12. At the end of each day that the vessel is in the Licensing Area, an entry or entries for that day shall be completed on the catch report form as set out in Schedule 5, in accordance with the requirements of that form, and such forms shall be posted by registered airmail to the Administrator within fourteen (14) days following the date of the next entry into a port for the purpose of unloading its fish catch.

13. Immediately following the unloading of any fish from the vessel, a report shall be completed in the form set out in Schedule 6 and shall be posted by registered airmail to the Administrator within fourteen (14) days following the date of the completion of that unloading operation, or, in the case of unloading by transshipment, within fourteen (14) days following unloading of that transshipment at the processing site.

PART 5

ENFORCEMENT

14. The master and each member of the crew of the vessel shall immediately comply with every instruction and direction given by an authorised and identified officer of a Pacific Island party, including to stop, to move to a specified location, and to facilitate safe boarding and inspection of the vessel, gear, equipment, records, fish and fish products. Such boarding and inspection shall be conducted as much as possible in a manner so as not to interfere unduly with the lawful operation of the vessel. The operator and each member of the crew shall facilitate and assist in any action by an authorised officer of a Pacific Island party and shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with an authorised officer in the performance of his or her duties.

15. The international distress frequency, 2.182 MHz, and 156.8 MHz (Channel 16, VHF) shall be monitored continuously from the vessel for the purpose of facilitating communication with the surveillance and enforcement authorities of the parties.

16. The international radio call sign of the vessel shall be painted in white on a black background, or in black on a white background, in the following manner:

- (a) amidships on both sides immediately below the gunwale, and on a horizontal plane on the superstructure, in letters and figures 20 centimetres apart, with each letter and figure being at least one metre high and 50 centimetres wide and with each line at least 12.5 centimetres wide;
- (b) if a helicopter is being carried, on the body of the helicopter in a place clearly visible from sea level, in letters and figures five centimetres apart, with each letter and figure being at least 25 centimetres high, 10 centimetres wide and with each line being at least 2.5 centimetres wide; and
- (c) on any other equipment being carried by and intended to be separated from the vessel during normal fishing operations, in letters and figures clearly legible to the naked eye;

and at all times while the vessel is within the Licensing Area or a Closed Area, all parts of these markings shall be clear, distinct and uncovered.

17. The licence shall be carried on board the vessel and produced at the request of an authorised enforcement official of any of the parties. Prior to receipt of the licence, the correct citation of the licence number shall satisfy this requirement.

PART 6

OBSERVERS

18. The operator and each member of the crew of the vessel shall allow and assist any person identified as an observer by the Pacific Island parties to:

- (a) board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island parties to the Government of the United States;

- 20.
- (b) have full access to and the use of facilities and equipment on board the vessel which the observer may determine is necessary to carry out his or her duties; have full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area; without interfering unduly with the lawful operation of the vessel;
- (c) disembark at the point and time notified by the Pacific Island parties to the Government of the United States; and
- (d) carry out his or her duties safely;

and no operator or crew member of the vessel shall assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with an observer in the performance of his or her duties.

19. The operator shall provide the observer, while on board the vessel, at no expense to the Pacific Island parties, with food, accommodation and medical facilities of such reasonable standard as may be acceptable to the Pacific Island party whose representative is serving as the observer.

20. Any operator of the vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any person authorized for this purpose by the Pacific Island parties to have full access to any place where such fish is unloaded, to remove samples and to gather any other information relating to fisheries in the Licensing Area.

21. An observer programme shall be conducted in accordance with this Treaty and provisions that may be agreed from time to time.

PART 7

MISCELLANEOUS REQUIREMENTS

22. At all times while the vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in such a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing but so that the skiff is accessible for use in emergency situations; the helicopter, if any, shall be tied down; and launches shall be secured.

23. The vessel shall be operated in such a way that the activities of traditional and locally based fishermen and fishing vessels are not disrupted or in any other way adversely affected.

24. Any information required to be recorded, or to be notified, communicated or reported pursuant to a requirement of this Treaty shall be true, complete and correct. Any change in circumstances which has the effect of rendering any such information false, incomplete or misleading shall be notified to the Administrator immediately.

SCHEDULE 1

APPLICABLE NATIONAL LAWS

The following laws and any regulations or other instruments having the force of law which have been implemented pursuant to those laws, as amended at the time this Treaty enters into force shall be considered as applicable national laws for the purpose of this Treaty.

Australia

Antarctic Marine Living Resources Conservation Act, 1981
Continental Shelf (Living Natural Resources) Act, 1968
Continental Shelf (Living Natural Resources) Regulations
Fisheries Act, 1952
Fisheries Regulations
Torres Strait Fisheries Act, 1986
Whale Protection Act, 1980

Cook Islands

Cook Islands Commercial Fishing Regulations, 1951
Exclusive Economic Zone (Foreign Fishing Craft) Regulations, 1976
Fisheries Protection Act, 1976
Fishing Ordinance, 1950
Territorial Sea and Exclusive Economic Zone Act, 1977

Federated States of Micronesia

Titles 18 and 24 of the Code of the Federated States of Micronesia, as amended by Public Law Nos. 2-28, 2-31, 3-9, 3-10, 3-34, and 3-80

Fiji

Fisheries Act, 1942
Fisheries Ordinance (Cap 135)
Fisheries Regulations (Cap 135)
Marine Spaces Act, 1978
Marine Spaces (Foreign Fishing Vessels) Regulations, 1979

Kiribati

Fisheries Ordinance, 1979
Fisheries (Amendment) Act, 1984
Marine Zones (Declaration) Act, 1985

Marshall Islands

Marine Resources Jurisdiction Act, 1978
Marine Zones (Declaration) Act, 1984

Nauru

Interpretation Act, 1971
Interpretation Act, 1975
Marine Resources Act, 1978

New Zealand

Antarctic Marine Living Resources Act, 1981
Continental Shelf Act, 1964
Exclusive Economic Zone (Foreign Fishing Craft) Regulations, 1978
Fisheries Act, 1983
Marine Mammals Protection Act, 1978
Territorial Sea and Exclusive Economic Zone Act, 1977
Tokelau (Territorial Sea and Exclusive Economic Zone Act), 1977

Niue

Territorial Sea and Exclusive Economic Zone Act, 1978

Palau

Palau National Code, Title 27

Papua New Guinea

Fisheries Act (Cap 214)
Fisheries Regulations (Cap 214)
Fisheries (Torres Strait Protected Zone) Act, 1984
Tuna Resources Management (Exclusive Seas) Act (Cap 224)
Whaling Act (Cap 225)

Solomon Islands

Delimitation of Marine Waters Act, 1973
Fisheries Act, 1972
Fisheries Limits Act, 1977
Fisheries Regulations, 1972
Fisheries (Foreign Fishing Vessels) Regulations, 1981

Tonga

Fisheries Protection Act, 1975
Fisheries Regulation Act, 1975
Whaling Industry (Amendment) Act, 1979

Tuvalu

- Fisheries Act (Cap. 45)
- Foreign Fishing Vessel Regulations, 1982
- Fisheries (Foreign Fishing Vessel) (Amendment) Regulations, 1984
- Marine Zones (Declaration) Act, 1983

Vanuatu

- Fisheries Act, 1982
- Fisheries Regulations, 1983
- Maritime Zones Act, 1981

Western Samoa

- Exclusive Economic Zone Act, 1977
- Fisheries Protection Act, 1972
- Territorial Sea Act, 1971

CLOSED AREAS

Australia. All waters within the seaward boundary of the Australian Fishing Zone (AFZ) west of a line connecting the point of intersection of the outer limit of the AFZ by the parallel of latitude 25°30' South with the point of intersection of the meridian of longitude 151° East by the outer limit of the AFZ and all waters south of the parallel of latitude 25° 30' South.

Cook Islands. Territorial Sea.

Federated States of Micronesia. Three nautical mile territorial sea and nine nautical mile exclusive fishery zone and on all named banks and reefs as depicted on the following charts:

DMAHTC NO 81019 (2nd. ed., Mar. 1945; revised 7/17/72; corrected through NM 3/78 of June 21, 1978).

DMAHTC NO 81023 (3rd. ed., Aug. 7, 1976).

DMAHTC NO 81002 (4th. ed., Jan. 26, 1980; corrected through NM 4/80).

Fiji. Internal waters, archipelagic waters and territorial seas of Fiji and Rotuma and its Dependencies.

Kiribati. Within archipelagic waters as established in accordance with Marine Zones Declaration Act 1983; within 12 nautical miles drawn from the baselines from which the territorial sea is measured; within 2 nautical miles of any anchored fish aggregating device for which notification of its location shall be given by geographical coordinates.

Marshall Islands. 12 nautical mile territorial sea and area within two nautical miles of any anchored fish aggregating device for which notification of its location shall be given by geographical coordinates.

Nauru. The territorial waters as defined by Nauru Interpretation Act, 1971, Section 2.

New Zealand. Territorial waters; waters within 6 nautical miles of outer boundary of territorial waters; all waters to west of New Zealand main islands and south of 39° South latitude; all waters to east of New Zealand main islands south of 40° South latitude; and in respect of Tokelau: areas within 12 nautical miles of all island and reef baselines; twelve and one half nautical miles either side of a line joining Atafu and Nukunonu and Faka'ofu; and coordinates as follows:

Atafu: 8°35'10"S, 172°29'30"W
Nukunonu: 9°06'25"S, 171°52'10"W
9°11'30"S, 171°47'00"W
Faka'ofu: 9°22'30"S, 171°16'30"W

Niue. Territorial sea and within 3 nautical miles of Beveridge Reef, Antiope Reef and Haran Reef as depicted by appropriate symbols on NZ 225F (chart showing the territorial sea and exclusive economic zone of Niue pursuant to the Niue Territorial Sea and Exclusive Economic Zone Act of 1978).

Palau. Within 12 nautical miles of all island baselines in the Palau Islands; within a 50 nautical mile arc measured from the entrance to Malakal Harbour (7°16'44"N, 134°28'18"E) and extending from where the arc intersects the territorial sea limit to the northeast of Babelthup Island to the 134° East meridian of longitude, southwest of Angaur Island then due north along the 134° East meridian of longitude to the intersection with the territorial sea limit.

Papua New Guinea. In addition to its territorial sea and internal waters, within the area bounded by the following parallels and meridians - from latitude 0°30' South to latitude 3°30' South, and from longitude 149° East to longitude 153° East.

Solomon Islands. All waters within the fishery limits of the Solomon Islands (including internal waters, territorial sea and archipelagic waters) except that part of the fishery limits east and north of the following lines: commencing at a point 161° East, 4°20' South, then extending due south along 161° to a point 6°30' South, then by a line extending due east to a point 165° East, then by a line due south to a point 8° South, then by a line due east to a point 169°55' East.

Tonga. All waters with depths of not more than 1,000 metres, within the area bounded by the fifteenth and twenty third and one half degrees of south latitude; and the one hundred and seventy third and the one hundred and seventy seventh degrees of west longitude; also within a radius of twelve nautical miles from the islands of Teleki Tonga and Teleki Tokelau.

Tuvalu. Territorial sea and waters within two nautical miles of all named banks, i.e. Macaw, Kociusko, Rose, Bayonnaise and Iera, in Tuvalu EEZ, as depicted on the chart entitled "Tuvalu Fishery Limits" prepared by the United Kingdom Hydrographic Department, Taunton, January 11, 1981.

Tuvalu. Archipelagic waters and the territorial sea, and internal waters.

Western Samoa. Territorial sea; reefs, banks and areas bounded/enclosed by the following parallels and meridians to the extent such areas are within Western Samoa fisheries jurisdiction:

1. From latitude 12° 58' South to latitude 13° 11.5' South and longitude 171° 5.5' West to longitude 174° 26' West.
2. From latitude 12° 12' South to latitude 12° 38.5' South and longitude 173° 47' West to longitude 174° 25' West.
3. From latitude 13° 7' South to latitude 13° 19' South and longitude 172° 59' West to longitude 173° 38.5' West.
4. From latitude 14° 51' South to latitude 15° 3.4' South and longitude 172° 10.7' West to longitude 172° 19.1' West.
5. From latitude 14° 20.5' South to latitude 14° 28' South and longitude 171° 8' West to longitude 171° 17' West.

and within 2 nautical miles of any anchored fish aggregating device within the EEZ for which notification of its location shall be given by geographical coordinates.

Only the Closed Areas, as described above, of Pacific Island States which are parties to this Treaty shall be applicable under the terms of this Treaty.

SCHEDULE 3

LIMITED AREAS

Solomon Islands

1. The Solomon Islands Limited Area is all of the Licensing Area within the territorial limits of Solomon Islands as described in the Fishery Limited Act 1977 of Solomon Islands.
2. "Fishing day" means any day or part of a day of the week in which a vessel is used in fishing in the Solomon Islands Limited Area.
3. There shall be no fishing in the Solomon Islands Limited Area after the expiry of the five hundredth fishing day from the earliest date on which any Licensing Period takes effect in any given year.

SCHEDULE 4

REPORTING DETAILS

PART 1

LICENSING AREA REPORTS TO THE ADMINISTRATOR

(a) Port departure and entry into port for unloading

- (1) report type (LBEG for port departure to begin fishing and LFIN for port entry for unloading)
- (2) date
- (3) call sign
- (4) port name
- (5) catch on board by species (in short tons)

as: LBEG (or LFIN) / ddmmyy / CALL SIGN / PORT / SJ xxx YF yyy OTH zzz

(b) Weekly reports

- (1) report type (WEEK)
- (2) date
- (3) call sign
- (4) position (to one minute of arc)
- (5) catch on board by species

as: WEEK / ddmmyy / CALL SIGN / LA 1111 / LO 11111 / SJ xxx YF yyy OTH zzz

PART 2

REPORTS TO NATIONAL AUTHORITIES

(a) Zone entry and exit

- (1) report type (ZENT for entry and ZEXT for exit)
- (2) date
- (3) call sign
- (4) position (to one minute of arc)
- (5) catch on board by species

as: ZENT (or ZEXT) / ddmmyy / CALL SIGN / TIME / LA 1111 / LO 11111 / SJ xxx YF yyy OTH zzz

(b) Port entry reports

- (1) report type (PENT)
- (2) date
- (3) call sign
- (4) estimated time of entry into port (GMT)
- (5) port name

as: PENT / ddmmyy / CALL SIGN / TIME / PORT NAME

OTHER NATIONAL REPORTING REQUIREMENTS

1. Australia

- (a) Report of position each six days while within the Australian Fishing Zone;
- (b) 24 hours notice of intention to enter the Australian Fishing Zone; and
- (c) Report of catch by species every six days while within the Australian Fishing Zone.

2. Fiji

- (a) While in Fiji fisheries waters, daily position reporting of the name, call sign, and country of registration of the vessel and its position at that specified time; and
- (b) While in Fiji fisheries waters, weekly report of catch by species.

3. Kiribati

While in the Kiribati exclusive economic zone, report on entry into or exit from Closed Areas.

4. New Zealand

- (a) While in the New Zealand exclusive economic zone, notification of daily position, to be received no later than noon of the following day;
- (b) Notice of catch on board the vessel at the time of entry into the New Zealand exclusive economic zone;
- (c) A weekly report of catch on board in the New Zealand exclusive economic zone for the period 0001 hours on a Monday to 2400 hours on the following Sunday and to be received by noon of the following Tuesday; and
- (d) 24 hours notice of intention to enter the New Zealand exclusive economic zone.

5. Solomon Islands

Report on:

- (a) Expected vessel position, date and time of entry at least 24 hours before entry into the Solomon Islands Fishery Limits;

- (b) Entry to or exit from Solomon Islands limited Area together with the catch or haul by weight and volume; and
- (c) A weekly report of catch taken and fishing days in the Solomon Islands exclusive economic zone to cover the period 0001 hours on a Monday to 2400 hours on the following Sunday and to be received by noon on the following Tuesday

6. Tonga

While in the Tonga exclusive economic zone, daily position report by radio or telex.

7. Tuvalu

(a) Report not less than 24 hours before entry into the Tuvalu fishery limits out:

- (i) the name, call sign and country of registration of the vessel;
- (ii) the licence number;
- (iii) position on entry and catch by species;
- (iv)

PURSE SEINE UNLOADING REPORT

VESSEL NAME _____ RADIO CALL SIGN OR
ATLANTIC REGISTER NO. _____

(1) PORT _____

OR, IF AT SEA, POSITION: LAT _____ LONG _____

(2) DATES

(a) AT UNLOADING POINT

ARRIVAL _____ DEPARTURE _____

(b) AT UNLOADING

COMMENCEMENT _____ COMPLETION _____

(3) PARTIAL OR COMPLETE UNLOADING _____

(4) UNLOADING TO _____

(5)

(a) CARRIER VESSEL NAME _____

and RADIO CALL SIGN OR REGIONAL REGISTER NO. _____

or

(b) NAME AND ADDRESS OF U.S. FISHING FISH _____

(6) DESTINATION OF FISH _____

(7) QUANTITY UNLOADED

YELLOWFIN SKIPJACK OTHER OTHER

UNIT OF MEASUREMENT

ACCEPTED _____

REJECTED _____

SIGNATURES

VESSEL MASTER

INSPECTING AGENT

ANNEX II

1. For the purposes of this Annex:
 - (a) "Licensing Period" means the period of validity of Licences issued in accordance with this Treaty.
2. The Government of the United States shall make application for a licence in respect of any fishing vessel of the United States intended by the operator to be used for purse seine fishing in the Licensing Area at any time in the Licensing Period by providing to the Administrator a complete application form as set out in Schedule 1.
3. Licences issued pursuant to this Treaty shall not take effect until the Administrator has received payment, free of any charges whatsoever, of the amounts set out in Part 1 of Schedule 2 for that Licensing Period in the manner described in that Schedule. Other financial commitments shall be provided during the Licensing Period pursuant to Part 2 of Schedule 2.
4. Subject to paragraph 5, a licence may be denied:
 - (a) where the application is not in accordance with the requirements of paragraph 2;
 - (b) where the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, unless reasonable financial assurances have been provided to the Administrator;
 - (c) where the vessel in respect of which application for a licence has been made does not have good standing on the Regional Register of Foreign Fishing Vessels, maintained by the South Pacific Forum Fisheries Agency, provided that:
 - (i) good standing is withdrawn only as a result of:
 - (A) the commission of a serious offence against fisheries laws or regulations of a Pacific Island State and the operator has not fully complied with any civil or criminal judgment rendered with respect to such an offence;
 - (B) evidence existing that gives reasonable cause to believe that the operator has committed a serious offence against the fisheries laws or regulations of any Pacific Island State and that it has not been possible to bring the vessel operator to trial; or

- (i) the vessel operator has failed to comply with information requirements for registration as notified by the Administrator to the Government of the United States;
 - (ii) the Pacific Island party requesting withdrawal of good standing has first consulted the Government of the United States and has made all reasonable efforts to resolve the dispute in question before utilizing the procedures for withdrawal of good standing;
 - (iii) in the event of a request for withdrawal of good standing from the Regional Register of Foreign Fishing Vessels of a vessel licensed pursuant to this Treaty, the Pacific Island parties agree to take into consideration that vessel's compliance with the terms of this Treaty in determining whether to approve such a request; and
 - (iv) following a withdrawal of good standing the Pacific Island party involved promptly advises the Government of the United States in writing of the reason for the withdrawal and the requirements which must be fulfilled to reinstate good standing;
- (d) where there has been a failure to satisfy a final judgment or other final determination for a breach of this Treaty by the owner, charterer or master of the vessel in respect of which application for a licence has been made, until such time as the final judgment or other final determination is satisfied, and subsequent change in ownership of a vessel shall not affect the application of this provision; or
- (e) where an operator has committed, or the vessel has been used for:
- (i) a violation of this Treaty, providing that the Pacific Island parties, following consultation with the Government of the United States, determine that the violation is of a serious nature; or
 - (ii) any violation of this Treaty on more than one occasion, providing that the Pacific Island parties, following consultation with the Government of the United States, determine that such multiple violations constitute a serious disregard of this Treaty.

5. A maximum number of licences may be issued for any Licensing Period as set out in Schedule 2, and, upon request by the Government of the United States, the Pacific Island parties may agree to vary such number.

6. On receipt of an application for a licence in accordance with this Annex, the Administrator shall take the necessary steps to ensure that:

- (a) a licence in the form set out in Schedule 3 in respect of the vessel identified in the application; or
- (b) a statement setting out the reasons that a licence in respect of the vessel identified in the application is denied together with a refund of the amount or amounts provided with the application;

is promptly provided to the Government of the United States.

SCHEDULE 1

TREATY ON FISHERIES BETWEEN THE GOVERNMENTS OF CERTAIN
PACIFIC ISLAND STATES
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

APPLICATION FORM

Application is hereby made for a licence authorising the use of the vessel named in this application for fishing in the Licensing Area.

1. FULL NAME OF VESSEL: _____
2. RADIO CALL SIGN OF VESSEL: _____
3. REGIONAL REGISTER NUMBER OF VESSEL: _____
4. FULL NAME AND ADDRESS OF EACH PERSON WHO IS AN OPERATOR OF THE VESSEL, AND STATE WHETHER OWNER, CHARTERER, MASTER OR OTHER. IF OTHER, SPECIFY DETAILS: _____

5. FULL NAME AND ADDRESS OF INSURER FOR PURPOSES OF ARTICLE 4.3(a) OF THE TREATY: _____

6. REGISTRATION NUMBER AND MAKE OF HELICOPTER, IF ANY, TO BE CARRIED ON VESSEL: _____

7. REGISTRATION NUMBER AND MAKE OF ANY AIRCRAFT TO BE USED IN ASSOCIATION WITH FISHING ACTIVITIES AND NAME AND ADDRESS OF OPERATOR: _____

8. STATE WHETHER OWNER OR CHARTERER IS THE SUBJECT OF PROCEEDINGS UNDER THE BANKRUPTCY LAWS OF THE UNITED STATES: _____

9. STATE WHETHER OPERATOR OR VESSEL HAS BEEN INVOLVED IN A VIOLATION OF THIS TREATY. IF YES, SPECIFY DETAILS: _____

Date of application

Director of the Southwest Region
National Marine Fisheries Service
National Oceanic and Atmospheric
Administration

SCHEDULE 2

PAYMENTS

The following amounts are payable annually for a period of five (5) years pursuant to paragraph 3 of Annex II.

PART 1

1. The amounts payable as set forth in this paragraph.
 - (a) Annual industry payments shall be made as follows:
 - (i) for the first annual Licensing Period, a lump sum of US\$1.75 million for 35 vessels, with the next five licences to be made available for the same pro-rata payment as the first 35 licences, and an additional 10 licences to be made available at US\$60,000 per vessel;
 - (ii) for subsequent annual Licensing Periods, 40 vessel licences calculated on the same basis as the first 40 vessel licences in sub-paragraph (a) and indexed to the price of fish as set forth below, with 10 additional licences to be made available at US\$60,000 per vessel and indexed to the price of fish as set forth below.
 - (b) The indexation shall be applied as follows:
 - (i) DEFINITIONS
 - A. Base Vessel Payment: The Base Vessel Payment is US\$50,000 for the first 40 vessels to be licensed and US\$60,000 for vessels to be licensed in excess of 40 vessels.
 - B. Adjusted Individual Vessel Payment: The Adjusted individual vessel Payment is the individual vessel payment of each annual Licensing Period after the first annual Licensing Period. The Adjusted Individual Vessel Payment will always apply to the Licensing Period immediately following its calculation.
 - C. Landed Price: The Landed Price is the published standard price per ton (American Tuna Sales Association) for fish delivered to American Samoa prevailing at the time a United States purse seine vessel arrives in port for the purposes of offloading its catch.

- D. Average Landed Price: The Average Landed Price is calculated by averaging the established landed price categories for yellowfin and skipjack tuna in American Samoa. The landed price categories to be used are: over 7.5 pounds, 4 to 7.5 pounds and 3 to 4 pounds for skipjack; over 20 pounds, 7.5 to 20 pounds and 4 to 7.5 pounds for yellowfin.
- E. Base Price: The Base Price is the Average Landed Price for the three months prior to the Treaty entering into force.
- F. Estimated Landed Value: The Estimated Landed value is the Average Landed Price in effect at the time of a vessel's landing weighted by the yellowfin/skipjack mix ratio to be calculated from information on Schedule 6 for that vessel.
- G. Average Estimated Landed Value: The Average Estimated Landed Value is the Estimated Landed Value for all landings by United States purse seine vessels in American Samoa in the four quarters preceding the final quarter of the applicable Licensing Period divided by the total number of those landings for the same period.

(ii) CALCULATION AND APPLICATION OF INDEXING FACTOR

- A. To obtain the indexing factor by which the Adjusted Individual Vessel Payment shall be calculated, divide the Average Estimated Landed Value for the preceding four quarters by the Base Price.
- B. To obtain the Adjusted Individual Vessel Payment, multiply the Base Vessel Payment by the indexing factor obtained in Paragraph (ii) A.
- C. In no case shall the Adjusted Individual Vessel Payment be less than the Base Vessel Payment.

(iii) NOTIFICATIONS

The established prices and any changes shall be supplied to the Administrator by the Government of the United States within ten (10) days of their publication. The Administrator shall notify the Government of the United States sixty (60) days before the start of each Licensing Period of the Adjusted Individual Vessel Payment along with the computation used to arrive at the Adjusted Individual Vessel Payment. The Adjusted Individual Vessel Payment shall become final thirty (30) days after receipt by the Government of the United States, unless the Government

of the United States advises the Administrator otherwise, in which case consultations shall be held.

(iv) CONSULTATIONS

If the established price categories are revised, or if there is a change in the tuna industry structure which makes the price calculations as set forth above inappropriate, the Administrator may consult with representatives of the Government of the United States as necessary to revise the formula.

- (c) There shall be no pro-ration of the Base Vessel Payment or the Adjusted Individual Vessel Payment. There shall be no refunds of the Base Vessel Payment or the Adjusted Individual Vessel Payment following licence issuance pursuant to Annex II.

2. Sums payable pursuant to the related Agreement between the South Pacific Forum Fisheries Agency and the Government of the United States.

PART 2

3. Technical assistance, including provision of assistance by technicians, by the United States tuna industry valued at US\$250,000 annually in response to requests co-ordinated through the Administrator.

SCHEDULE 3

TREATY ON FISHERIES BETWEEN THE GOVERNMENTS OF CERTAIN
PACIFIC ISLAND STATES
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

LICENCE FORM

The vessel described in this licence is hereby authorised to engage in fishing in the Licensing Area for the period described in this licence, in accordance with the terms and conditions referred to in Annex I.

FULL NAME OF VESSEL: _____

RADIO CALL SIGN OF VESSEL: _____

REGIONAL REGISTER NUMBER OF VESSEL: _____

HELICOPTER OR OTHER AIRCRAFT WHICH MAY BE USED IN ASSOCIATION WITH THE FISHING ACTIVITIES OF THE VESSEL: _____

PERIOD OF VALIDITY:

The period of validity of this licence shall be no longer than one year:

FROM _____, 19____

TO _____, 19____

FOR AND ON BEHALF OF THE PACIFIC
ISLAND PARTIES

DATE OF ISSUE: _____

LICENCE NUMBER: _____

WARNING: IT IS AN OFFENCE AGAINST THE LAWS OF MANY NATIONS, INCLUDING THE UNITED STATES OF AMERICA, TO VIOLATE THE REQUIREMENTS OF ANNEX I. PENALTIES MAY INCLUDE SUBSTANTIAL FINES AND VESSEL FORFEITURE.

FISHERIES (PACIFIC ISLAND STATES' TREATY WITH UNITED STATES OF AMERICA) ACT 1988

EXPLANATORY MEMORANDUM

The object of this Act is to implement, on the part of Kiribati, the Treaty relating to fisheries entered into between the Governments of certain Pacific Island States and the Government of the United States of America which was signed at Port Moresby, Papua New Guinea on 2nd April 1987. A copy of the Treaty is set out in the Schedule to the Act.

2. The need for enacting such a legislation arises mainly from the fact that certain provisions of the Articles of the Treaty conflict, and/or are inconsistent, with some provisions of the domestic (applicable national laws) of the Pacific Island States which are parties to the Treaty: in the case of Kiribati the Fisheries Ordinance, Cap. 33 as amended, in particular

3. For example, Sections 13 and 14 of the said Fisheries Ordinance, empowers the court to impose a fine as well as a sentence of imprisonment on -

- (a) any person who, being on board a foreign fishing vessel which is being pursued or boarded by an authorised officer, throws overboard or destroys incriminating evidence; or
- (b) any person who fishes within the Kiribati fishery limits (or 200 miles Exclusive Economic Zone) with explosives, poison and other noxious substances.

However, Article 5.2 of the Treaty expressly provides that penalties applied in respect of fishing violations under the Treaty "shall not include imprisonment ...".

4. Section 3 of the Act provides that the Treaty shall have the force of law in Kiribati.

5. Furthermore, under section 5 of the Act, the Minister is empowered to make, by order, such provisions as he may consider necessary or expedient for giving full effect to the provisions of the Treaty.

6. Under the Treaty, Pacific Island States which are parties to the Treaty (including Kiribati) may permit fishing vessels of the United States of America (U.S.A.) to engage in fishing for tuna in each of such party's fishery limits (or 200 mile Exclusive Economic Zone) subject to the terms and conditions of licences issued by the Director of the South Pacific Forum Fisheries Agency (SPFFA) within the framework of the Treaty, and upon payment of the agreed fees set out in Schedule 2 to Annex II of the Treaty.

7. An important provision of the Treaty is contained in its Article 4 under which the Government of the U.S.A. assumes responsibility for enforcing the provisions of the Treaty and licences issued thereunder. In particular the Government of the U.S.A. "shall take necessary steps to ensure" that its nationals and fishing vessels of the U.S.A. refrain from fishing in waters covered by the Treaty except as authorised by the provisions of the Treaty and/or the domestic or national laws of the Pacific States affected.

8. The Government of the U.S.A. is also obliged under the Treaty to, among other things -

- (a) assist the Pacific Island States concerned in the investigation and prosecution of offending U.S.A. vessels;
- (b) ensure that measures are taken to facilitate the prompt and full satisfaction of any final judgement or other determination made against any offending U.S.A. fishing vessel pursuant to the Treaty;
- (c) ensure that if all Pacific Island States, parties to the Treaty, agree that any judgement or determination made against an offending fishing vessel of the U.S.A. (in favour of a Pacific Island State) cannot be enforced, a reasonable level of financial assurance or commitment is made available to satisfy such judgement or determination;
- (d) not to apply sanctions of any kind, including deductions from any amounts which might otherwise have been paid to any Pacific Island State and restrictions on trade with any Pacific State, as a result of any Pacific Island State enforcing the provisions of the Treaty and/or any of its domestic or national law relating to fisheries against an offending fishing vessel of the U.S.A.

9. Article 6 of the Treaty provides for the holding of consultations amongst parties to the Treaty if necessary and for the settlement of disputes by arbitration. Article 7, on the other hand, provides for the review of the Treaty once each year for the purpose of reviewing the operation of the Treaty.

10. Procedures for the adoption and entry into force of any amendments to the Treaty or its Annexes are also outlined in Articles 8 and 9 of the Treaty.

Michael N. Takabwebe
Attorney General
1 July 1988

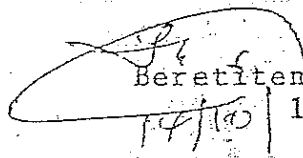
LEGAL REPORT

I hereby certify that in my opinion none of the provisions of the above Act conflict with the Constitution and that the Beretitenti may properly assent to the Act.

Michael N. Takabwebe
The Attorney General

THE REPUBLIC OF KIRIBATI
(NO. 5 OF 1992)

I assent,


Beretitenti,
14/10/1992

AN ACT TO AMEND THE FISHERIES ORDINANCE (CAP. 33)
AND FOR CONNECTED PURPOSES

MADE by the Maneaba ni Maungatabu and assented to by the
Beretitenti.

SHORT TITLE

This Act may be cited as the Fisheries (Amendment) Act
1992.

INSERTION OF A NEW SECTION

Section 5 of the Fisheries Ordinance is amended by inserting
between Section 5 and section 6 the following section -

"Master, owner or charterer not to leave Kiribati
unless fine is paid

5A.(1) Where the master, owner or charterer of a foreign
fishing vessel used in contravention of the provisions
of section 5, is convicted of an offence under this
Act, the Court so convicting may in addition to any
fine as it deems fit to impose, order that the Principal
Immigration Officer shall have power to prevent

- (a) such master;
- (b) owner; or
- (c) charterer,

from leaving Kiribati until they pay the full amount of
the fine so imposed.

(2) A copy of the Court order made under subsection
(1) and sent by the Court to the Principal Immigration
Officer shall be sufficient authority for the Principal
Immigration Officer to act in pursuance of subsection
(1).

(3) Subject to subsection (4), where the owner or charterer of the vessel referred to in subsection (1) is neither resident nor physically present in Kiribati at the time when the vessel was first arrested, the master referred to in subsection (1) -

(a) shall be deemed to be the owner or charterer for the purposes of this section; and

(b) may be charged, prosecuted, convicted, fined and prevented from leaving Kiribati as appropriate,

as if he were the owner and charterer of the vessel referred to in subsection (1).

(4) Where the owner or charterer of a foreign fishing vessel is neither resident nor physically present in Kiribati at the time when the vessel was first arrested or at any time after such arrest any employee, agent or representative of such owner or charterer, who may be resident or physically present in Kiribati at any time after such arrest -

(a) shall be deemed to be the owner or charterer as the case may be for the purposes of this section; and

(b) may be charged, prosecuted, convicted, fined and prevented from leaving Kiribati as appropriate,

as if such employee, agent or representative were the owner or charterer as the case may be.

(5) Any cost or expenditure incurred by the Republic in connection with -

(a) the arrest of a foreign fishing vessel illegally fishing in the fishery limits; and

(b) the prosecution of -

(i) the master, owner or charterer of such foreign fishing vessel; and

(ii) in the case where such owner or charterer is prosecuted and convicted through or by his employee, agent, or representative under subsection (4), such employee, agent or representative,

shall be borne by the owner or charterer as the Court may determine.

6) Any cost or expenditure incurred by -

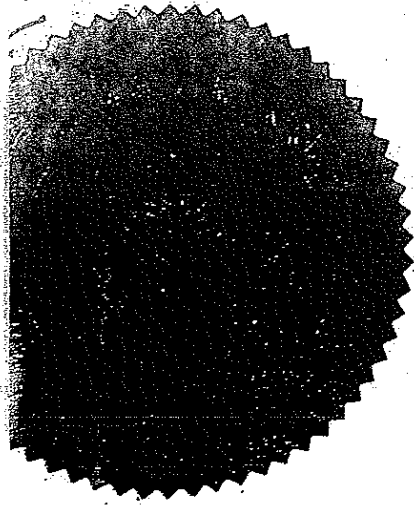
(a) the master, owner or charterer of a foreign fishing vessel; and

(b) in the case where such owner or charterer is prosecuted and convicted through or by his employee, agent or representative under subsection (4), such employee agent or representative, after being prevented from leaving Kiribati under subsection (1), shall be borne by such master, owner or charterer or in the case where paragraph (b) applies, by such employee, agent or representative.

(7) In this section -

"Master" means a person who is or appears to be in charge or command of a fishing vessel; and

"Principal Immigration Officer" means a person appointed to be the Principal Immigration Officer under Section 4(1) of the Immigration Ordinance (Cap. 41).



REPUBLIC OF KIRIBATI
(No. 11 of 1995)

I assent

Lebela

Beretitenti

23/10/1995

AN ACT TO AMEND THE FISHERIES ORDINANCE
(CAP 33)

Commencement
1995

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Short title

1. This Act may be cited as the Fisheries (Amendment) Act 1995.

Amendment of section 2

2. Section 2 of the Fisheries Ordinance is amended by repealing the definition of "local fishing vessel" and substituting a new definition as follows:-

"local fishing vessel" means any fishing vessel wholly owned and controlled by-

- (a) the Government of Kiribati;
- (b) a company, society or other association of persons incorporated or established under the laws of Kiribati, at least 49% of which is beneficially owned by citizens or the Government of Kiribati;
- (c) citizens of Kiribati; or

- (d) a joint venture, consortium or partnership arrangement or agreement between 2 or more parties, where at least 49% of the beneficial ownership and control of the joint venture, consortium or partnership is vested in or held by citizens or the Government of Kiribati."

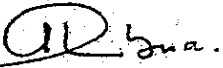
FISHERIES (AMENDMENT) ACT 1995

EXPLANATORY MEMORANDUM


1. The principal object of this Act is to amend the definition of a "local fishing vessel" under section 2 of the Fisheries Ordinance, Cap 33 (the principal Act) so as to exclude foreign fishing vessels being chartered or operated by locally registered companies from coming within the definition of local fishing vessels in the Ordinance.
2. Under the Act (Clause 2), a fishing vessel becomes a local fishing vessel if;
 - 1) it is wholly owned and controlled by the Government of Kiribati or
 - 2) it is wholly owned and controlled by a company, society or other association of persons incorporated or established under the laws of Kiribati, at least 49% of which is beneficially owned by citizens or the Government of Kiribati. This means that if foreigners establish a company in Kiribati and own more than 51% of the shares of the company, any fishing vessel they own will not qualify as local fishing vessels, or
 - 3) it is wholly owned and controlled by a joint venture, consortium or partnership arrangement or agreement between 2 or more parties, where at least 49% of the beneficial ownership and control of the joint venture, consortium or partnership is vested in or held by citizens or the Government of Kiribati. This means that where there is a joint venture agreement between the Government and other persons, or a joint venture agreement between citizens of Kiribati and other persons, and the Government or citizens of Kiribati hold at least 49% of the shares of such joint venture agreement, any vessel which they may own will become a local fishing vessel for the purposes of the Fisheries Ordinance.

Michael N Takabwebwe
Attorney General
11 February 1995

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 14th August 1995 and is found by me to be a true and correctly printed copy of the said Bill.


/ Clerk to the Maneaba ni Maungatabu

Published by exhibition at the Maneaba ni Maungatabu
this 30th day of October 1995


/ Clerk to the Maneaba ni Maungatabu

REPUBLIC OF KIRIBATI
(No. 8 of 1997)



I assent,

[Signature]
Beretitenti
07/07/1997

AN ACT TO AMEND THE FISHERIES ORDINANCE (CAP. 33)

Commencement:
1997

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti.

Short Title

1. This Act may be cited as the Fisheries (Amendment) Act 1997.

Amendment of section 2

2. Section 2 of the Fisheries Ordinance (hereinafter referred to as the "principal Ordinance") is hereby amended by inserting immediately after the definition of "fishery limits" the following definition -

"fishing master" means a person who is or appears to be controlling, directing or determining all fishing operations and activities of a fishing vessel;

Amendment of section 5

3. Section 5 of the principal Ordinance is hereby amended as follows -

(a) by inserting a new subsection (5A) as follows -

"(5A) Where a foreign fishing vessel enters the fishery limits for a purpose recognised by international law, the Master of such fishing vessel shall maintain on board the vessel, a ship's log book in which he shall enter daily in that log book a record of the date, time and nature of every activity of such vessel while inside the fishery limits."

(b) in subsection (7) by deleting the whole subsection and substituting the following -

"(7) When any foreign fishing vessel is used in contravention of any of the provisions of this section -

(a) the fishing master and master of such vessel shall each be liable on conviction;

(i) in the case of a contravention of subsection (1), to a fine of not less than \$20,000 but not more than \$100,000 and in default to a term of imprisonment of one (1) year; or

(ii) in the case of a contravention of subsection (2), subsection (5A) or subsection (6) to a fine of \$50,000 and in default to a term of imprisonment of six (6) months;

(b) the owner and charterer of such vessel shall each be liable on conviction;

(i) in the case of a contravention of subsection (1), to a fine of not less than \$100,000 but not more than \$500,000 and in default to a term of imprisonment of two (2) years;

(ii) in the case of a contravention of subsection (2) or subsection (6), to a fine of \$100,000 and in default to a term of imprisonment of one (1) year."

(c) in subsection (8) by deleting the whole of the subsection and substituting the following -

"(8) Where any foreign fishing vessel is used in contravention of any of the conditions of a permit granted under this section -

(a) the fishing master and master of such vessel shall each be liable on conviction to a fine of \$50,000; or

(b) the owner and charterer of such vessel shall each be liable on conviction to a fine of \$100,000.

Amendment of section 5A

4. Section 5A of the principal Ordinance is amended by deleting the whole section and substituting the following -

"Fishing Master, Master, owner or charterer not to leave Kiribati unless fine is paid

5A.(1) Where the fishing master, master, owner or charterer of a foreign fishing vessel used in contravention of the provisions of section 5, is convicted of an offence under this Ordinance, the Court so convicting may in addition to any fine as it deems fit to impose, order that the Principal Immigration Officer shall have power to prevent -

(a) such fishing master;

(b) master;

(c) owner; or

(d) charterer,

from leaving Kiribati until they pay the full amount of the fine so imposed.

(2) A copy of the Court order made under subsection (1) and sent by the Court to the Principal Immigration Officer shall be sufficient authority for the Principal Immigration Officer to act in pursuance of subsection (1).

Fishing Master, Master to be deemed owner and charterer

5B. Where -

- (a) a foreign fishing vessel is arrested under this Ordinance; and
- (b) the owner or charterer of such foreign fishing vessel is neither resident nor physically present in Kiribati at the time when that foreign fishing vessel was first arrested or at any time after such arrest -

the fishing master, master of such vessel:-

- (i) shall be deemed to be the owner and charterer for the purposes of this Ordinance;
- (ii) may be charged, prosecuted, convicted, fined and prevented from leaving Kiribati as appropriate under this Ordinance,

as if such fishing master, master were the owner and charterer of such vessel.

Employee or agent, etc. of owner or charterer to be deemed owner and charterer

5C. Where -

- (a) a foreign fishing vessel is arrested under this Ordinance; and
- (b) the owner or charterer of such foreign fishing vessel is neither resident nor physically present in Kiribati at the time when that foreign fishing vessel was first arrested or at any time after such arrest,

any employee, agent, or representative of such owner or charterer who may be resident or physically present in Kiribati -

- (i) shall be deemed to be the owner and charterer of such foreign fishing vessel for the purposes of this Ordinance; and
- (ii) may be charged, prosecuted, convicted, fined, and prevented from leaving Kiribati as appropriate under this Ordinance,

as if such employee, agent or representative were the owner and charterer of such vessel.

Cost of arrest of foreign fishing vessel to be borne by owner or charterer

5D. Any cost or expenditure incurred by the Republic in connection with -

- (a) the arrest of a foreign fishing vessel illegally fishing in the fishery limits;
and
- (b) the prosecution of the master, owner or charterer of such foreign fishing vessel,

shall be borne by the owner or charterer as the Court may determine.

Cost of preventing fishing master, master, owner or charterer from leaving Kiribati be borne by owner or charterer

5E. Any cost or expenditure incurred in the prevention of the fishing master, master, owner or charterer of a foreign fishing vessel from leaving Kiribati under sections 6, 7 and 8 or in the case of the owner or charterer not residing or physically present in Kiribati an employee, agent or representative of such owner or charterer, shall be borne by such fishing master, master, owner or charterer or an employee, agent or representative of such owner or charterer as the case may be."

THE FISHERIES (AMENDMENT) ACT 1997

EXPLANATORY MEMORANDUM

seeks to amend the provisions of the Fisheries Ordinance (Cap. 33), and to cure defects that exist in section 5A as amended by the Fisheries (Amendment) Act 1995 of 1995).

First amendment is to define the fishing master to catch him under the provisions of Ordinance. This is achieved under the amendment to section 2 of the principal Ordinance. Experience shows that fishing masters are people of great influence on any vessel. They control, direct or determine the fishing operations of a fishing vessel. As such, they are capable of being convicted under the provisions of Cap. 33 in the absence of a Master.

Second amendment relate to section 5, subsection (7) creating two sets of provisions, one for either the fishing master or master, and the other is for either the owner or charterer and setting limits for conviction under subsection (1) each attracting different fines. The present maximum of \$250,000 is now increased to \$500,000 which under this amendment is applicable to the owner or charterer. The fine for a fishing master and master is created at a much lower rate. The amendment to subsection (8) follows the pattern set in subsection 7.

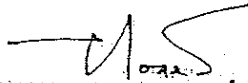
New sections 5A, 5B, 5C, 5D and 5E separates into various parts the former section 5 as amended by the amending Act (No 11 of 1995). In particular section 5B and 5C are further amended to cure the defects existing under the current sections 5A(2) and (3) where the offence is not created. The present amendment at section 5B to deeming the fishing master or master to be the owner or charterer, as the case may be and can be charged, prosecuted, convicted, fined and prevented from leaving Kiribati as appropriate under the principal Ordinance. Likewise the present amendment at section 5C deems an employee, agent, or representative of such owner or charterer to be an owner or charterer as the case may be and can be charged, prosecuted, convicted, fined and prevented from leaving Kiribati as appropriate under the principal Ordinance.

The purpose of subsection (5A) of section 5 is to impose on all foreign fishing vessels entering our fishery limits a requirement to maintain a log book recording every activity the vessel is engaged in. Recent experience shows that some foreign fishing vessels are entering our fishery limits for the purpose of innocent passage recognised under international law. In doing so, they are seen having their fishing gears not stowed away properly and raising suspicion of illegal fishing. On boarding these vessels, our authorised officers discovered that they do not have on board log books indicating what activities they engaged in while inside our fishery limits. One of the means to find out whether they fish in our waters or not is to impose on them a requirement that while in our fishery limits they must maintain a log book stating what activities they engage in.

Michael N. Takabwebwe
Attorney General
6 May 1997

CERTIFICATE OF THE CLERK OF THE MANEABA NI MAUNGATABU

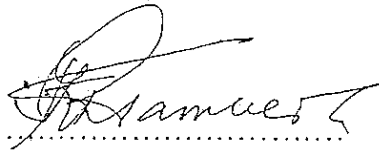
Printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 24th of June, 1997 and is found by me to be a true and correctly printed copy of the Bill.



.....
Clerk
of the Maneaba ni Maungatabu

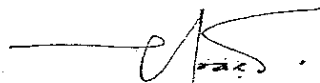
CERTIFICATE OF THE SPEAKER OF THE MANEABA NI MAUNGATABU

Verify that the above Act was on 24th June 1997, passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.

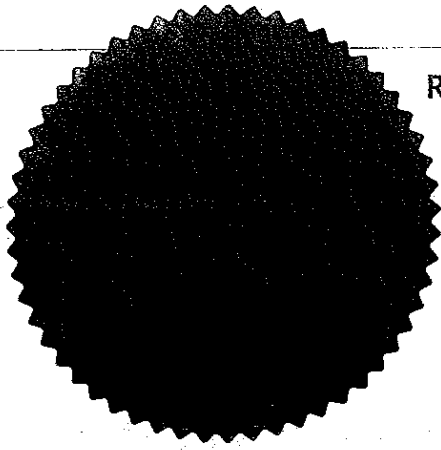


.....
Speaker
of the Maneaba ni Maungatabu

7
VERIFIED BY EXHIBITION AT THE MANEABA NI MAUNGATABU THIS 8th DAY OF ^{July} JUNE,



.....
CLERK
OF THE MANEABA NI MAUNGATABU



REPUBLIC OF KIRIBATI
(No 4 of 2008)

I assent,

Ando Tong

Beretitenti

29 May

2008

AN ACT TO AMEND THE *FISHERIES ORDINANCE* TO: EXTEND THE FISHERY LIMITS TO INCORPORATE ALL KIRIBATI WATERS; INCREASE PENALTIES FOR CERTAIN OFFENCES; PROVIDE FOR ADMINISTRATIVE PENALTIES; CLARIFY THE FORFEITURE PROVISIONS; UPDATE CERTAIN PROVISIONS; AND FOR CONNECTED PURPOSES

Commencement:
2008

MADE by the Maneaba ni Maungatabu and assented to by the Beretitenti

1. Short title

This Act may be cited as the *Fisheries (Amendment) Act 2008*.

2. Meaning of 'principal Act'

In this Act 'the principal Act' means the *Fisheries Ordinance* (Cap.33).

3. Amendment of section 2

Section 2 of the principal Act is amended—

- (a) in the definition of 'authorised officer', by repealing "Kiribati Shipping Corporation" and substituting "Kiribati Shipping Services Limited";
- (b) by repealing the definition of 'fishery limits' (as substituted by section 3 of the *Fisheries (Amendment) Act 1983*) and substituting the following definition—

"'fishery limits' means all of the area comprising the internal waters, archipelagic waters, territorial seas and exclusive economic zone of Kiribati (as those expressions are defined under Part II of the *Marine Zones (Declaration) Act 1983*), or such part of that area as may be declared by the Minister for the purpose by notice published in the *Gazette*"; and
- (c) by repealing the definitions of 'low-tide elevation', 'nautical mile' and 'territorial sea'.

4. Amendment of section 4

Section 4 of the principal Act is amended—

- (a) in subsection (1), by—
 - (i) repealing “section 15(1) of the Shipping Ordinance” and substituting “section 11(1) of the *Shipping Act 1990*”; and
 - (ii) repealing “section 13 of that Ordinance” and substituting “section 10 of that Act”; and
- (b) in subsection (4) (as amended by section 3 of the *Fisheries (Amendment) Act 1984*), by—
 - (i) repealing “or in the lagoon or inland waters of Kiribati”; and
 - (ii) repealing “a fine of \$1000” and substituting “a fine of \$50,000”.

5. Amendment of section 6(2)

Section 6(2) of the principal Act is amended by repealing “a fine of \$200 and to imprisonment for 6 months” and substituting “a fine of \$50,000 and to imprisonment for three years”.

6. Amendment of section 9(1)(b)(ii)

Section 9(1)(b)(ii) of the principal Act is amended by repealing “section 5(1)” and substituting “section 5”.

7. Amendment of section 13

Section 13 of the principal Act (as amended by section 6 of the *Fisheries (Amendment) Act 1984*) is further amended by repealing “a fine of \$1000” and substituting “a fine of \$50,000”.

8. Amendment of section 14

Section 14 of the principal Act is amended—

- (a) in subsection (1), by repealing “a fine of \$200 and to imprisonment for 6 months” and substituting “a fine of \$10,000 and to imprisonment for two years”;
- (b) in paragraph (a) of subsection (2), by repealing “a fine of \$200 and to imprisonment for 6 months” and substituting “a fine of \$10,000 and to imprisonment for two years”; and
- (c) in paragraph (b) of subsection (2), by repealing “a fine of \$50 and to imprisonment for 2 months” and substituting “a fine of \$500 and to imprisonment for one year”.

9. Repeal and replacement of section 15

Section 15 of the principal Act is repealed and the following section is substituted—

"15. Forfeiture

- (1) Where any person is convicted of an offence against this Ordinance the court may, in addition to any other penalty imposed in respect of that offence, order that—
 - (a) any fish caught or fish product produced in the commission of the offence; and
 - (b) any fishing gear, instruments or appliances used in the commission of the offence; and
 - (c) in the case of any offence under section 5(1), section 13 or section 14(1) – any vessel, together with its equipment, stores, cargo and fuel, used in the commission of the offence, or in respect of which the offence was committed,shall be forfeited to the Republic.
- (2) Where any fish, fish product or other article of a perishable nature has been sold under section 18(1), the proceeds of such sale are liable to forfeiture under subsection (1) in the same manner as the item sold.
- (3) Where any vessel, fishing gear, instrument or appliance has been released by order of the court upon receipt of a bond or other security under section 18(3), the bond or security is liable to forfeiture under subsection (1) in lieu of the vessel, fishing gear, instrument or appliance to which it relates.
- (4) Where any property or sum of money has been forfeited under this section, such property or money shall be disposed of in such manner as the Minister responsible for finance may direct.
- (5) Where a person is convicted of an offence relating to any item seized under this Act and the court imposes a fine or other monetary penalty (such as under section 5D or section 5E) but does not order forfeiture of the item—
 - (a) the item may be detained until the fine or penalty is paid;
 - (b) it may be sold under execution in satisfaction of the fine or penalty; or
 - (c) any proceeds realised from its disposition may be applied in payment of the fine or penalty.

10. New section 18A

After section 18 the following section is inserted in Part IV—

"18A. Administrative penalty

- (1) Where the Minister has grounds to believe that a foreign fishing vessel has been used in contravention of the provisions of section 5, the Minister may, with the consent of the Attorney-General and as an alternative to criminal proceedings, accept payment of an agreed sum (in this section referred to as an 'administrative penalty') from the fishing master, master, owner or charterer of the vessel.
- (2) Where the Minister has accepted payment of an administrative penalty under subsection (1), the fishing master, master, owner or charterer of the vessel are not liable to prosecution for an offence in relation to the contravention in respect of which the administrative penalty has been paid.
- (3) For the avoidance of doubt, an administrative penalty paid under subsection (1) shall be paid into the Consolidated Fund.

11. Substitution of 'Director of Fisheries' for 'Chief Fisheries Officer'

The principal Act is amended by repealing 'Chief Fisheries Officer' wherever it appears and substituting 'Director of Fisheries'.

FISHERIES (AMENDMENT) ACT 2008

EXPLANATORY MEMORANDUM

This Act has as its primary goal the clarification of the expression 'fishery limits' in the *Fisheries Ordinance* (Cap.33). At present the fishery limits are confined to the exclusive economic zone. That means that neither the territorial seas (the '12-mile zone') nor internal waters (the lagoons) are part of the fishery limits. This poses a significant impediment to our efforts to prevent illegal, unregulated and unreported fishing in Kiribati waters. Section 3(b) of the Act replaces the 'fishery limits' definition.

The Act also deals with the following additional matters:

- section 3(a) updates a reference to the Kiribati Shipping Corporation in the definition of 'authorised officer';
- section 3(c) repeals various definitions of expressions that are no longer used;
- section 4(a) corrects a reference to the now-repealed Shipping Ordinance in section 4(1) of the Ordinance;
- section 4(b) makes a change to section 4(4), to reflect the expanded definition of 'fishery limits', and increases the penalty for local fishing vessels caught fishing without a licence;
- section 5 increases the penalty for operating a fish processing establishment without a licence;
- section 6 corrects a mistaken cross-reference;
- section 7 increases the penalty for throwing overboard or destroying incriminating evidence;
- section 8 increases the penalties for fishing with explosives, poison and other noxious substances;
- section 9 clarifies the forfeiture provisions;
- section 10 makes provision for administrative penalties – a concept whereby the Minister (with the Attorney-General's consent) can quickly negotiate payment of a penalty for a breach of the Ordinance by a foreign fishing vessel, instead of the lengthy process of taking the matter to Court. It is intended that this procedure will be used to deal with minor contraventions of the Ordinance, such as breaches of licence conditions;
- finally, section 11 updates references to the Chief Fisheries Officer to refer instead to the Director of Fisheries.

Titabu Tabane
Attorney General
13-March 2008

**CERTIFICATE OF THE CLERK OF THE MANEABA NI
MAUNGATABU**

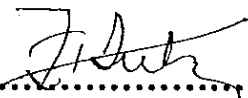
This printed impression of the Fisheries (Amendment) Act 2008 has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on the 1st May 2008 and is found by me to be a true and correctly printed copy of the said Bill.



.....
Ioataake Timeon
Clerk of the Maneaba ni Maungatabu

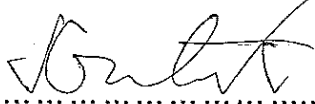
**CERTIFICATE OF THE SPEAKER OF THE MANEABA NI
MAUNGATABU**

I certify that the above Act was on the 1st May 2008 passed by the Maneaba ni Maungatabu on a Certificate of Urgency under section 68(3)(a) of the Constitution.



.....
Hon. Taomati Iuta
Speaker

Published by exhibition at the Maneaba ni Maungatabu this day
of *May* 2008. *29th*



.....
for Clerk of the Maneaba ni Maungatabu

SUPPLEMENT No. 5

Legal Notice No. 20

FISHERIES ORDINANCE 1977
(no. 22 of 1977)

INTERNATIONAL AGREEMENTS (GOVERNMENT OF JAPAN) ORDER 1978

Made: 4th September, 1978

Laid before the House of Assembly: 5th September, 1978

Coming into operation:

The Minister of Natural Resource Development in exercise of the power conferred upon him by section 20(2) of the Fisheries Ordinance 1977 and of all other powers enabling him in that behalf hereby makes the following Order:

1. This Order may be cited as the International Agreements (Government of Japan) Order 1978; and shall come into operation on the date of commencement of the Fisheries (Amendment) Ordinance 1978.

2. The Agreement made on 26th June 1978 at Tokyo between the Government of the Gilbert Islands and the Government of Japan, with the consent of the Government of the UK, concerning fisheries off the coasts of the Gilbert Islands ("the Agreement") shall have effect notwithstanding any provision to the contrary of the Fisheries Ordinance 1977, and to the extent of any conflict between the Agreement and the Fisheries Ordinance 1977 the provisions of the Agreement shall prevail.

3. For the purposes of this Order, the Agreement is set out

in the Schedule to this Order.

Hon. TAOMATI T. IUTA
Minister for Natural
Resource Development

SCHEDULE

Agreement between
the Government of the Gilbert Islands and the Government of Japan concerning Fisheries off the Coasts of the Gilbert Islands

The Government of the Gilbert Islands with the authority and consent of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan,

Considering their common concern for the rational management, conservation and optimum utilisation of fishery resources off the coasts of the Gilbert Islands,

Recognising that the Gilbert Islands is a developing country whose major resources are the fishery resources in the sea around its territories, and that development in the field of fisheries is of vital necessity for the Gilbert Islands,

Recognising that the Government of the Gilbert Islands has jurisdiction in respect of fishery resources within the Fishery Limits as defined by the Proclamation by the Governor of the Gilbert Islands dated 10 March 1978 (hereinafter referred to as "the Fishery Limits"),

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern, and

Affirming their wish to establish mutually beneficial cooperation in the field of fisheries and in this way to contribute to friendly relations between the Gilbert Islands and Japan,

Have agreed as follows:

ARTICLE I

Fishing by nationals and fishing vessels of Japan within the Fishery Limits shall be conducted in accordance with the relevant laws and regulations of the Gilbert Islands with regard to the Fishery Limits and with this Agreement.

ARTICLE II

The Government of the Gilbert Islands and the Government of Japan shall hold consultations regarding the implementation of this Agreement and the amendments to be made by the Government of the Gilbert Islands in accordance with Article III of this Agreement.

ARTICLE III

The Government of the Gilbert Islands shall determine each year, taking into account consultations with the Government of Japan referred to in Article II of this Agreement, on the basis of the best available scientific evidence, the necessary measures with respect to the conduct of fishing by nationals and fishing vessels of Japan within the Fishery Limits.

The Government of the Gilbert Islands shall notify the Government of Japan of the determinations referred to in paragraph 1 of this Article on a regular basis.

ARTICLE IV

The Government of the Gilbert Islands shall issue, in accordance with the relevant laws and regulations of the Gilbert Islands with regard to the Fishery Limits, licences on receipt of fees at such reasonable rates as may be agreed

upon with the Government of Japan, to enable fishing vessels of Japan to engage in fishing in the Fishery Limits.

ARTICLE V

The Government of Japan shall ensure, in accordance with the relevant laws and regulations of Japan, that fishing vessels of Japan unless licensed under this Agreement shall not engage in fishing within the Fishery Limits and that nationals and fishing vessels of Japan engaging in fishing under this Agreement comply with the provisions of this Agreement.

ARTICLE VI

1. In cases of arrest or seizure by the authorities of the Gilbert Islands of nationals or fishing vessels of Japan which do not comply with the provisions of this Agreement, notification shall be given promptly informing the Government of Japan of the action taken.

2. Arrested nationals of Japan and seized fishing vessels of Japan shall be promptly released, subject to reasonable bond or other security.

ARTICLE VII

The Government of the Gilbert Islands may impose reasonable fines on nationals and fishing vessels of Japan which do not comply with the provisions of this Agreement.

ARTICLE VIII

The Government of the Gilbert Islands and the Government of Japan shall promote the objective of conservation and optimum utilization of the resources of tuna and tuna-like fishes of the Pacific Ocean including the waters off the coasts of the Gilbert Islands.

ARTICLE IX

Subject to the availability of facilities and the needs of the Gilbert Islands vessels, the Government of the Gilbert

Published by exhibition at the Public Office of the
Beretitenti this 11th day of December 1981.

RITEMA BETAJA
for Secretary to the Cabinet

Legal Notice No. 40

REPUBLIC OF KIRIBATI
FISHERIES ORDINANCE
(Cap. 33)

FISHERIES (VESSEL LICENCES) REGULATIONS 1981

In exercise of the powers conferred by section 22 of the Fisheries Ordinance, the Beretitenti, acting in accordance with the advice of the Cabinet makes the following Regulations:-

PART I
PRELIMINARY

- | | | |
|----|---|-------------|
| 1. | These Regulations may be cited as the Fisheries (Vessel licences) Regulations 1981. | Short Title |
| 2. | In these Regulations "the ordinance" means the Fisheries Ordinances. | |

PART II
FORMS AND FEES

- | | | |
|----|--|----------------------|
| 3. | The form and licence set out in schedule 1 to these Regulation shall be the form and licence for the purposes of section 4 of the Ordinance and the fees set out in Schedule 2 to these Regulation shall be the fees prescribed for the purpose of section 4 of the Ordinance, provided that the Chief Fisheries Officer may exempt any class of local fishing vessel from the payment of all or any part of such fees in accordance with any directions which may be given by the Minister under Section 4(1) of the Ordinance. | Prescribed forms and |
|----|--|----------------------|

SCHEDULE 1

Application for local fishing vessel licence
(Section 4 of the Fisheries Ordinance)

I, the undersigned, hereby apply for a licence for a local fishing vessel the details of which are shown below;

The description of the vessel is:-

1. Registered number
2. Vessel type
3. Length overall (L.O.A.) in metres
4. Beam, in metres
5. Means of propulsion
6. Horsepower and make of engine
7. Fish storage facilities
8. Details of any other vessels or craft used in conjunction with the operation

Dated this 11th day of December, 1981.

I. T. TABAI
Beretitenti

Published by exhibition at the Public office of the
Beretitenti.

RITEMA BETAIA
for Secretary to the Cabinet

Legal Notice No. 41

REPUBLIC OF KIRIBATI

FISHERIES ORDINANCE

(Cap. 33)

FISHERIES (PROCESSING AND EXPORT)
REGULATIONS 1981

In exercise of the powers conferred by section 22 of the
Fisheries Ordinance, the Beretitenti acting in accordance
with the advice of the Cabinet hereby makes the following
Regulations:-

PART I
PRELIMINARY

1. These Regulations may be cited as the Fisheries
(Processing and Export) Regulations, 1981.
2. In these Regulations -
"the Ordinance" means the Fisheries Ordinance;
"class" means any one of the classes of fish-processing
establishment set out in Schedule 2 to these Regulations.

Short Title

Interpreta-
tion.

PART II
FORMS AND FEES

3. The licence set out in Schedule 1 to these Regulations
shall be the licence prescribed for the purposes of
Section 6 of the Ordinance and the fees set out in
Schedule 2 to these Regulations shall be the fees pres-
cribed for the purposes of section 6 of the Ordinance.

Forms and
Fees.

PART III
FISH-PROCESSING ESTABLISHMENTS

4. An application for a licence under section 6 (1) of the
Ordinance shall be in writing and shall specify that the
class and the premises in respect of which a licence is
required and shall contain such further particulars as the
Chief Fisheries Officer may require.

Application
for licence

5. Every licence granted under section 6 (1) of the
Ordinance:-

(1) shall not extend beyond 1 year from the
date of issue thereof; and

(2) shall be personal to the holder; and

(3) shall not be transferable; and

(4) shall be subject to such conditions as may be
prescribed and to such other conditions as the

Chief Fisheries Officer may in his absolute discretion endorse thereon; and

- (5) shall be conspicuously displayed on the premises in respect of which it was granted; and
- (6) shall extend only to those operations or activities set out in Schedule 2 to these Regulations in relation to the class in respect of which the licence was granted; and
- (7) shall be conditional upon compliance with the Pure Foods Ordinance, the Public Health Ordinance and any other applicable statutory provision.

Cancellation or suspension.

6. In the event of cancellation or suspension of a licence under section 7 of the Ordinance a licensing officer may seize any such licence or endorse any such licence to that effect.

Endorsements.

7. A licensing officer who has entered a fish processing establishment in pursuance of section 8 of the Ordinance or of any condition endorsed upon a licence granted under section 6(1) of the Ordinance may if he is satisfied that there has been no contravention of any provision of the Ordinance or of any such condition endorse such licence to that effect.

Water source.

8. All water used in a fish processing establishment whether used for ice-making, fish-cleaning or otherwise shall be of potable quality and shall contain no more than 3000 coliforms in each 100 millilitres and shall be treated in such manner as a licensing officer may from time to time direct.

Operating requirements.

9. (1) Fish processing establishments shall conform to the requirements set out in Schedule 4 to these Regulations.
- (2) Sub-paragraph (1) shall not apply to a fish processing establishment in respect of which the Chief Fisheries Officer has granted an exemption in writing.

PART IV

EXPORT

Certificates of quality.

10. No fish or fish product processed at a fish processing establishment may be exported for sale outside Kiribati unless it is accompanied by a duly completed certificate of quality in the appropriate form set out in Schedule 3 to these Regulations.

Prohibited fish.

11. No fish or fish product in respect of which a licensing officer has issued a notice of prohibition in the form set out in Schedule 3 to these Regulations may be processed in a fish-processing establishment for sale in or outside Kiribati as the notice may specify.

Samples.

12. On payment or tender to any person operating a fish processing establishment or his servant or agent of the

current market price or at a rate of payment which may be prescribed a licensing officer may select and take or obtain samples of a fish or fish product for the purposes of this Ordinance or these Regulations.

13. A licensing officer may seize and destroy any fish or fish product intended for sale for human or other consumption if he is satisfied on reasonable grounds that such fish or fish product is unfit for its intended purpose and an owner of such seized and destroyed fish or fish product shall be entitled to compensation at the current market price of such fish or fish product (Only if he can show that there were no such reasonable grounds)

Destruction of unfit fish.

PART V

SAMPLES AND OFFENCES

14. Any person who contravenes or operates or causes or allows to be operated a fish-processing establishment in contravention of Regulation 8 or Regulation 9 or who contravenes Regulation 10 or Regulation 11 shall be liable on conviction to a fine of \$200 and to imprisonment for 6 months.

Offences.

SCHEDULE 1

REPUBLIC OF KIRIBATI
FISHERIES ORDINANCE

(Cap. 33)

FISH PROCESSING ESTABLISHMENT LICENCE

(Pursuant to section 6 of the Fisheries Ordinance)

The following person (or persons) is (are) licensed to operate a fish-processing establishment of the Class and at the premises shown below and subject to the following conditions:-

PREMISES
CLASS OF LICENCE
CONDITIONS

DATE OF ISSUE

THIS LICENCE IS VALID FOR ONE YEAR FROM THE DATE OF ISSUE.

Issued by
Chief Fisheries Officer

ENDORSEMENTS:

SCHEDULE 2

FISH-PROCESSING ESTABLISHMENT

<u>CLASS</u>	<u>Operation or activities which may be carried on by the Establishment</u>	<u>Fee payable for Licence</u>
A.	Processing by canning, pickling,	...50..

marinading, fermenting, cooking or smoking if it is intended that the smoked fish product should be eaten uncooked.

- B. Chilling, freezing or other storage of raw fish which is intended for human consumption.40..
- C. Salting, drying, smoking if it is intended that the smoked fish product should be cooked before human consumption.25..
- D. Processing if the resulting fish products are not intended for human consumption.10..
- E. Processing for the manufacture of animal food-stuffs.10..
- F. The operations and activities listed in relation to Class C if all the resulting fish products intended for sale outside Kiribati are delivered to a fish-processing establishment in respect of which a class C licence has been granted.1...

In the event that the operations and activities carried on by a fish-processing establishment are listed in more than one class the Chief Fisheries Officer shall decide which class shall apply to the licence granted and the conditions attached to the licence shall apply to the whole of the premises of the fish-processing establishment.

SCHEDULE 3

REPUBLIC OF KIRIBATI
FISHERIES (PROCESSING AND EXPORT) REGULATIONS 1981
(Regulation 11)

NOTICE OF PROHIBITION

The processing, processing for export from Kiribati and/or export from Kiribati of the following fish or fish products is hereby prohibited:

I-KIRIBATI	NAME OF FISH OR FISH PRODUCT		PLACE OF ORIGIN OR	PERIOD OF PROHIBITION
	ENGLISH	SCIENTIFIC		

Dated this day of

Signed:
Licensing Officer

REPUBLIC OF KIRIBATI

FISHERIES (PROCESSING AND EXPORT) REGULATIONS 1981
CERTIFICATE OF EXPORT QUALITY
(Pursuant to Regulation 10)

GRADE I PRODUCTS

I being a licensing officer appointed under the Fisheries Ordinance hereby certify that the fish or fish products marked on Bill of Lading No/Airway Bill No..... and accompanying this certificate have been examined and have been found to conform with the standards of quality and purity required under the Fisheries (Processing and Export) Regulations 1981 and the Code of Practice for fish-processing for Group(s).....

Issued this day of

Signed
(Licensing Officer or other authorised Officer)

REPUBLIC OF KIRIBATI

Fisheries (Processing and Export) Regulations 1981
CERTIFICATE OF EXPORT QUALITY
(Pursuant to Regulation 10)

GRADE II PRODUCTS

Applicable to Class B, C, D, & E fish processing establishments only.

I hereby certify that the fish or fish products marked on on Bill of Lading No/Airway Bill No and accompanying this certificate have been processed in a fish-processing establishment licensed under the Fisheries Regulations 1981 which conforms to the fish-processing Code of Practice for Group(s)

Signed
(An exporter permitted to so certify by a licensing Officer)

Dated

THIS CONSIGNMENT HAS NOT BEEN EXAMINED BY A FISHERIES OFFICER.

SCHEDULE 4

Regulation 9

Requirements for Fish Processing Establishments
In all Class A and Class B Fish Processing Establishments

1. In any part of the premises where fish is gutted,

filleted or otherwise handled all surfaces and walls shall be constructed of materials which may be cleaned easily and effectively.

2. Adequate fly-screening and/or closing doors shall be provided in any processing area.

3. All internal walls and floors and any surface which fish is processed shall be kept clean with a disinfectant of not less than 50 ppm chlorine or with or by any other material or method which may be approved by a licensing officer.

4. Cold stores in which fish are kept shall be maintained at temperatures approved by a licensing officer and

a. chill rooms shall be at an operating temperature of not more than 3° centigrade; and

b. freezer stores shall be at an operating temperature of not more than minus 18° centigrade.

5. All fish products shall satisfy a licensing officer on visual bacteriological or chemical examination of their fitness for human consumption.

6. Any person handling fish or fish product shall wear protective clothing of a type approved by a licensing officers.

7. Wash basins and any other sanitary equipment which a licensing officer may consider necessary shall be provided

In all Class C Fish processing establishments

Fish and fish products shall be protected from attack by flies, rats and other vermin and shall be stored in such manner as a licensing officer may from time to time prescribe.

Dated the 11th day of December, 1981.

I. T. TABAI
Beretitenti

Published by exhibition at the Public Office of the Beretitenti this 11th day of December 1981.

RITEMA BETAIA
For Secretary to the Cabinet

Legal Notice No. 42

THE CONSTITUTION

(Section 63 (5))

THE ELECTORAL COMMISSION

The Maneaba ni Maungatabu having so approved on 21st August 1980; the recommendation of the Electoral Commission made under section 63 (3) of the Constitution, in exercise of the power conferred upon me by section 63 (5) of the Constitution I hereby make the following Order:

The Electoral District of Onotoa Island shall be represented

in the Maneaba ni Maungatabu by 2 elected members.

Dated the 16th day of December,

NANTOKA TIBAU
Chairman of the
Electoral Commission

Published by exhibition at the Maneaba ni Maungatabu and the Public Office of the Beretitenti on 23rd day of December, 1981.

MATITA TANIERA
Clerk to the Maneaba ni Maungatabu

Tarawa Teinainano 2.30/gallon (51c/litre)
 Benzine: Makin - Abemama \$3.87/gallon (86c/litre)
 Nonouti - Arorae 3.96/gallon (88c/litre)
 Tarawa Teinaieta 3.78/gallon (84c/litre)
 Tarawa Teinainano 3.24/gallon (72c/litre)

Dated this 22nd day of March 1982.

TAOMATI T. IUTA
 Minister for Trade, Industry and Labour

Published by exhibition at the Public Office of the
 Beretitenti this 22nd day of March 1982.

RITEMA BETAIA -
 for Secretary to the Cabinet

Legal Notice No. 13

REPUBLIC OF KIRIBATI
 FISHERIES ORDINANCE

(Cap. 33)

FISHERIES (VESSEL LICENCES) Regulation (No. 1) OF 1982

In exercise of the powers conferred by section 22 of the Fisheries Ordinance (Cap. 33), the Beretitenti, acting in accordance with the advice of the Cabinet makes the following Regulations:-

1. This Regulation may be cited as the Fisheries (Vessel Licences) Regulation (No. 1) of 1982.
2. The Fisheries (Vessel Licences) Regulations of 1981 are hereby amended by repealing Schedule 1 and substituting the following Schedule -

"Schedule 1"
 (Regulation 3)

SCHEDULE 1

APPLICATION FOR A LOCAL FISHING VESSEL LICENCE

(Section 4 of the Fisheries Ordinance)

1. the undersigned hereby apply for a licence for a local fishing vessel the details of which are shown below:

1. Particulars of owner

1.1. Name

1.2. Address

1.3. Place of business (if different from 1.2).

2. Description of vessel

2.1. Vessel Name

2.2. Registered Number (if any)

2.3. Radio Call Sign

2.4. Vessel type

Short tit:

 Repeals &
 replaces
 schedule 1

- 2.4. Vessel type
- 2.5. Length overall (L.O.A.) in metres
- 2.6. Beam (in metres)
- 2.7. Registered tonnage
- 2.8. Displacement weight (Vessels of 40m LOA or over only)
- 2.9. Means of propulsion
- 2.10. Horsepower and make of engine
- 2.11. Fish storage facilities
- 2.12. Details of any other vessels or craft used in conjunction with the operation
- 2.13. Operational base port

3. Crew Particulars

- 3.1. Vessel Master/skipper's name
- 3.2. Address
- 3.3. Fishing Master's name (if different from 3.1.)
- 3.4. Fishing Master's address (if different from 3.1.)
- 3.5. Number of crew (excluding Master and Fishing Master)

Signature of Licensing Officer

Date of Issue

(Reverse of Local Fishing Vessel Licence)

C O N D I T I O N S

- 1. The registered number of the vessel is to be painted in white letters and numbers on a black background, or in black letters and numbers on a white background, and the number shall be painted on such part of the vessel as the licensing officer shall stipulate in condition 2.
The minimum size of the number shall be as follows:
Vessels over 20 metres L.O.A. 1 metre high x 125mm wide
Vessels over 7 metres L.O.A. but under 20 metres L.O.A. - 500mm high x 65mm wide.
- 2. The site of the registered number of this vessel shall be

Dated this 23rd day of March 1982.

I. T. TABAI
Beretitenti

Published by exhibition at the Public Office of the
Beretitenti.

This 24th day of March 1982

RITEMA BETAIA
for Secretary to the Cabinet

Legal Notice No. 14

REPUBLIC OF KIRIBATI
NATIVE LANDS ORDINANCE
(Cap. 61)

NATIVE LANDS LEASES REGULATIONS 1982

In exercise of the powers conferred by section 40 of the
Native Lands Ordinance, Cap. 61, the Beretitenti, acting
in accordance with the advice of Cabinet, hereby makes
the following Regulations:-

Short title
and
commencement

1. These Regulations may be cited as the Native Lands
Leases Regulations 1982 and shall come into operation on
the 31st day of March 1982.

Amends
L.N. 11/74

2. Schedule 2 to Regulation 9 of the Native Lands
Leases Regulations by revoking Schedule 2 and replacing
with the following Schedule 2:

Schedule 2

- | | | |
|-------|--|----------|
| 1 (a) | For surveying land or demarcating a boundary or boundaries for each parcel surveyed, or preparing a plan and providing 3 or 2 copies thereof for a lease or sublease - or for each boundary established. | \$ 30.00 |
| (b) | For preparation of leases per set of 3 copies and submission of proposed lease to the Lands Court under section 10 (2). | 10.00 |
| (c) | For preparation of subleases - per set of 2 copies and registration under section 10 (5) or 13. | 10.00 |
| (d) | For preparation of a copy of a document 9 registered under section 10 (5) or 13 - per page. | 1.00 |