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3) REGULATIONS ON MARINE FISHERIES

a) Fisheries (Foreign Fishing Vessels) Regulations 1982

FISHERIES ORDINANCE (CAP 45)
FISHERIES (FOREIGN FISHING VESSEL) REGULATIONS - 1982

IN EXERCISE of the powers conferred on me by section 22 of the Fisheries Ordinance (CAP 45) I HEREBY MAKE the following Regulations:

PRELIMINARY

Title and
Commencement

1. These Regulations may be cited as the Foreign Fishing Vessel Regulations 1982 and shall come into force on the 1st day of December 1982.

2. In these Regulations unless the context otherwise requires:

"the Ordinance" means the Fisheries Ordinance (Cap 45);
"call sign" means the International Radio call sign unless the Fisheries Officer has authorised a different method of identification under regulation 7(2);
"crew member" includes any fishing master;
"country of registration" of any vessel means the state in which the vessel is recognised at international law as being registered;

Inter-
pretation

"vessel" includes all equipment on board or used by a vessel;
"equipment" includes all instruments apparatus and gear including fishing gear;
"fishing log" means the fishing log required to be maintained on a permitted vessel under Regulation 9 of these Regulations;
"FAD" means any floating object, whether anchored or drifting, placed for the purpose of aggregating fish;
"master" includes any person acting for the time being as master;
"owner" includes any person chartering or for the time being operating the vessel and the person who applied for the permit in respect of that vessel;

Permit

"Permit" means any Permit granted under subsection (2) of section 5 of the Ordinance;
"Permitted Vessel" means any vessel in respect of which a permit has been granted;

All words and phrases defined in the Ordinance shall bear the same meaning in these Regulations unless the context otherwise requires.

THE GRANT OF PERMITS TO FOREIGN FISHING VESSELS

3. (1) In this Regulation -

"Forum Fisheries Agency" means the South Pacific Forum Fisheries Agency established pursuant to the South Pacific Forum Fisheries Agency Convention;

"Regional Register" means the register of foreign fishing vessels established at the Forum Fisheries Agency;

"Good Standing Status" means the status maintained by each vessel registered on the Regional Register unless and until that status is changed in accordance with the rules established from time to time by the member and observer countries of the Forum Fisheries Agency.

Application of Permit

(2) A Permit shall unless the Minister otherwise directs be in the form set out in the First Schedule to these Regulations.

(3) The Fisheries Officer shall not grant any permit pursuant to subsection 2 of section 5 of the Ordinance unless the vessel in respect of which that permit is granted is registered on the Regional Register with Good Standing Status.

(4) The Fisheries Officer shall be entitled to treat any letter, telex or telegraphic communication purporting to come from the Director of the Forum Fisheries Agency as conclusive with regard to the registration and status of any vessel.

Schedule II

(5) The Fisheries Officer shall require that all applications for permits shall be in the form set out in the Second Schedule.

Surrender of Permit

4. (1) Where the Fisheries Officer cancels or suspends any Permit the Permit shall be delivered to the Fisheries Officer within 7 days of delivery of a demand for the same by the Fisheries Officer to the address of the owners of the vessel or by telegraph to the telegraphic address supplied under the provisions of Regulations 24 of these Regulations.

(2) On expiry of the Permit it shall be returned to the Fisheries Officer within 7 days.

Permit to be displayed

5. Every Permit shall be delivered by the owner to the vessel to which it relates as soon as possible and shall there be maintained in good condition in a place where it can be readily inspected by an authorised officer.

CONTROL OF FOREIGN FISHING VESSELS IN THE FISHERY LIMITS

Notification Intended Arrival and Departure

6. (1) No Permitted vessel shall enter the fishery limits unless, not less than 24 hours before its entry, the Fisheries Officer (or any person or body nominated by him in writing) has been notified of the following matters:

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- (a) The name, call sign, and the country of registration of the vessel;
- (b) The Permit number of any Permit granted in respect of that vessel;
- (c) The latitude and the longitude of the point at which the vessel will enter the fishery limits;

(2) On leaving the fishery limits the Master of any Permitted vessel shall, within 24 hours, report to the Fisheries Officer giving the following information: -

- (a) The name call sign and country of registration of vessel;
- (b) The Permit number of any Permit granted in respect of that vessel;
- (c) The port at which the fish are intended to be finally unloaded and whether transshipment is intended.

Flags and
call Signs

7. (1) Every Permitted vessel shall at all times while it is in the fishery limits fly the flag of its country of registration.

(2) The Fisheries Officer may authorise the use of some system of recognition other than the call sign and where he does so authorise then these Regulations shall take effect as if the words "call sign" were replaced by words identifying the system authorised wherever the words "call sign" appear in these Regulations.

Display of
call Sign
and Permit
Number

8. (1) Every Permitted vessel shall at all times that it is within the fisheries limits display its call sign on the top of the vessel so as to be clearly visible from the air and also on both sides of the hull with letters and numbers at least one meter high and in clearly visible colours.

(2) No Permitted vessel shall use for fishing in the fishery limits any fishing gear that cannot readily be seen to be attached to the vessel unless the vessel's call sign is permanently and legibly marked on the gear in a place and position where it is easily seen. In respect of this subregulation "fishing gear" includes FADS.

Log Books
Schedule III

9. (1) Every master of a Permitted vessel shall maintain in the English language and in ink, at all times that the vessel is within the fishery limits, a log book in the form set out in the Third Schedule.

(2) The fishing log referred to in regulation 9(1) shall be maintained so that it is at all times a complete and accurate record of the vessel's fishing activities.

(3) The original unaltered fishing log maintained under the provisions of subregulation (1) shall be sent by airmail to the Fisheries Officer or to the person prescribed in any access agreement or in writing by the Fisheries Officer as

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soon as possible and in any event within 45 days after the completion of the voyage to which the fishing log relates.

Means of
Communication

10. (1) Every Permitted vessel shall, at all times while it is within the fishery limits, have on board a person who can communicate sufficiently well in English to receive instructions from any authorised officer.

(2) Every Permitted vessel shall carry the latest edition of the International Code of Signals published by the Inter-Governmental Maritime Consultative Organisation Marine Safety Committee.

(3) Every Permitted vessel shall carry on board whilst within the fishery limits a radio capable of receiving any direction communicated to it via the telegraphic address supplied in accordance with regulation 24.

Reporting

11. (1) Each permitted vessel shall report, by telex to the Fisheries Officer or to any person or body nominated to receive such reports in an access agreement relating to the vessel or nominated in writing by the Fisheries Officer, the vessels position and the total catch on board at the following times: -

- (a) immediately upon entry into the fishery limits; and
- (b) every 7th day while the vessel is in the fishery limits; and
- (c) immediately upon departure from the fishery limits.

(2) Any report made in accordance with the provisions of regulation 11(1) shall contain the following information: -

- (i) The name, call sign, and the country of registration of the vessel; and
- (ii) The Permit number of the Permit granted in respect of that vessel; and
- (iii) The position of the vessel at the time of reporting; and
- (iv) The quantity of fish on board the vessel broken down according to species.

Stowage

12. All fishing equipment on board any foreign fishing vessel within the fishery limits, except for equipment which that vessel may lawfully use pursuant to a Permit granted in respect of that vessel, shall be stowed or stored in such a manner that it is not readily available for use for fishing.

Avoidance
of set
gear

13. (1) Every master of a foreign fishing vessel within the fishery limits shall ensure that a distance of not less than one-half of a nautical mile is maintained at all times between the vessel and any equipment that: -

- (a) has been placed in the sea; and
- (b) has been marked so as to be visible to persons on board any vessel navigating within one-half of a nautical mile of the set gear.

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- (2) Regulation 13(1) shall not apply: -
- (a) to fishing equipment from the vessel in question; or
 - (b) to fishing equipment which the master has been given permission to approach by a person entitled to approach that gear.

F.A.D.

14. (1) No FAD may be placed in the fishery limits unless: -
- (i) Permission to place the FAD has been granted in an access agreement or in writing by the Fisheries Officer; and
 - (ii) In the case of an anchored FAD, the FAD is placed in accordance with any direction as to siting contained in an access agreement or given in writing by the Fisheries Officer; and
 - (iii) the FAD is constructed and anchored in accordance with any specifications or conditions contained in an access agreement or given in writing by the Fisheries Officer.

(2) Any foreign fishing vessel placing a FAD, whether anchored or free floating, shall within 24 hours of such placement inform the Fisheries Officer -

- (i) of the name and call sign of the vessel placing the FAD; and
- (ii) whether the FAD is anchored or free floating; and
- (iii) the best estimate of the position at which the FAD is anchored or where it was released.

(3) No foreign fishing vessel shall fish within one-half of a nautical mile of an anchored FAD unless that FAD was placed by that vessel or unless permission for the use of the FAD by the fishing vessel has been given by the person responsible for the placing of the FAD:

Provided that it shall be a defence to any prosecution for an offence under Regulation 22 of these Regulations in respect of a breach of this subregulation for the person charged to prove that he did not know and could not with reasonable care have discovered the presence of the FAD.

Transshipment 15. No fish shall be transhipped from a foreign fishing vessel within the fishery limits to any other vessel except at a place and time authorised by the Fisheries Officer and in accordance with such conditions (if any) as he may impose.

Landing of Fish 16. No fish shall be landed in Tuvalu from any Permitted Vessel without the prior authorisation of the Fisheries Officer and any authorised landing shall be in accordance with such conditions as the Fisheries Officer may apply.

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17. No article, substance, or living organism other than fishing equipment or bait in use pursuant to a permit shall be put released or allowed to come into contact with the sea within the fishery limits from any vessel if that article, substance or living organism is likely to: -

- (a) cause harm to any fish or marine mammal; or
- (b) obstruct fishing equipment; or
- (c) become a hazard to navigation; or
- (d) pollute the waters.

ENFORCEMENT

18. (1) Any licensing officer may at any time within the fishery limits and with the aid of such persons as he considers necessary: -

- (a) require the master or any other crew of any foreign fishing vessel within the fishery limits to inform him of the name, call sign, and country of registration of the vessel and the name of the master and of any other crew member;
- (b) require the master of the vessel to produce the ships log and fishing log to him for inspection and to allow him to make a copy or transcript for the retention of the authorised officer;
- (c) make any entry (being an entry dated and signed by him) in the ship's log;
- (d) carry out such inspection as he feels necessary including but not limited to the vessel's charts, lines, fish holds, equipment, and gear;
- (e) give the master or any other crew member such directions as he thinks fit as to the sealing, stowing or landing on shore of any equipment that has or in his opinion may have been used in contravention of any of the laws or regulations of Tuvalu.
- (f) give such other directions subject to the laws of Tuvalu as he may feel are appropriate or necessary for the enforcement of, or to ensure compliance with the Ordinance and with these Regulations.

(2) In carrying out any of the matters set out in this Regulation and without limiting his powers the licensing officer shall endeavour to interrupt or interfere with the fishing operation of any vessel operating lawfully under a Permit as little as possible. The authorised officers decision as to the extent to which interference or interruption of such operation is necessary in the furtherance of his duties is final.

19. Every master or crew member of a foreign fishing vessel within the Fishery Limits shall immediately comply with every instruction direction or requirement that is given or made to him by an authorised officer pursuant to these Regulations.

- Observers 20. (1) Every master of a permitted vessel within the fishery limits shall:
- (a) allow any licensing officer to board the vessel as an observer and to remain on board until such time as the vessel shall quit the fishery limits; and
 - (b) proceed to such port or rendezvous as may be required by any officer to allow a licensing officer to embark on or to disembark from the vessel.
- (2) At all times when a licensing officer is on board any Permitted Vessel pursuant to subregulation (1) the master shall: -
- (a) allow the licensing officer full access to all equipment, records, holds and fish on board the vessel; and
 - (b) allow the licensing officer to make such tests observations and records and to remove such samples as he may require in order to ascertain the nature, extent and type of the vessel's activities with the fishery limits; and
 - (c) provide for the licensing officer all reasonable food and accommodation, at least equivalent to the standard provided for the officers of the vessel.
- (3) In carrying out any of the matters set out in this Regulation and without limiting his powers the licensing officer shall endeavour to interrupt or interfere with the fishing operation of the vessel as little as possible. The licensing officers decision as to the extent to which interference or interruption of such operation is necessary in the furtherance of his duties is final.
- (4) Nothing in this Regulation shall be construed as limiting any of the other powers conferred on a licensing officer in respect of any foreign fishing vessel its crew or catch.

- Safety of Authorised Officers 21. Every person who is a master or crew member shall take all reasonable precautions for the safety of every authorised officer or person with or assisting him.

OFFENCES AND MISCELLANEOUS PROVISIONS

- Offences 22. (1) Any master of a foreign fishing vessel in respect of which any of the provisions of these Regulations are contravened or not complied with commits an offence and is liable to imprisonment not exceeding 6 months and to a fine of not exceeding \$1,000 or to both.
- (2) In any proceedings in which a person is charged with an offence under these Regulations it shall be a defence to the charge if the defendant proves that any material act or omission was done or made for the purpose of: -

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- (a) saving human life; or
- (b) obtaining emergency medical assistance for any person; or
- (c) averting imminent danger to the safety of any vessel.

Time Limits 23. Where any time limit is prescribed by these Regulations the Fisheries Officer may in any particular case or class of cases if he thinks fit extend that time limit.

Telegraphic Address 24. All owners to whom a Permit is granted in respect of a Permitted Vessel shall provide a telegraphic address at which all notices may be served or through which directions to that Permitted Vessel may be given by any licensing officer and it shall be the duty of such person to ensure that any such direction or directions from a licensing officer are transmitted forthwith to the Permitted Vessel. Such direction or directions shall be deemed to have been received by the Permitted vessel as at the time when such direction or directions could first reasonably have been so transmitted to and received by that vessel.

Revocation of 1980 Reg. 25. The Foreign Fishing Regulations 1980 (as amended) are revoked.

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SCHEDULE I

Permit No.:

FISHING PERMIT

In accordance with the provisions of section 5(3) of the Fisheries Ordinance a Permit is hereby granted to the person named herein in respect of the vessel named herein to fish within the Fisheries Limits.

NAME OF OWNER :
ADDRESS OF OWNER :
REGISTRATION NO. :
NAME OF VESSEL :
PORT OF REGISTRY :
GROSS TONNAGE :
TYPE OF FISHING :
TYPE AND TEMPERATURE OF REFRIGERATION :
REGISTERED LENGTH :
BEAM :
HORSEPOWER :
CALL SIGN :
TELEGRAPHIC ADDRESS :
UNDER REGULATION 24 :
FOREIGN FISHING CRAFT REGULATIONS 1980 :

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SCHEDULE 2

APPLICATION FOR PERMIT
APPLICATION FORM

INSTRUCTIONS:

Underline surnames
Address means complete mailing address

Mark X where appropriate

If not applicable mark NA
Type or Print Clearly
All Units Metric, Specify units if other system used

I hereby apply a Permit to fish within Tuvalu Fisheries Limits

1. Name of Vessel _____
2. Name of Owner _____
3. Address of Owner _____

4. Name of Charterer _____
5. Address of Charterer _____

6. Country of Registration _____
7. Country Registration Number _____
8. Radio Call Sign _____
9. Operational Base(s):
Port _____ Country _____
Port _____ Country _____
10. Name of Vessel Master _____

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11. Address of Vessel Master _____

12. Name of Fishing Master (if different) _____

13. Address of Fishing Master (if different) _____

14. Type of Vessel

Single Purse Seiner Group Purse Seiner
Longliner Purse Seine Carrier
Pole and Liner
Other (Specify) _____

15. Normal Total Number of Crew _____

16. Flag State Authorised Fishing Area _____

17. Hull Materials: Steel Wood
FRP Other (Specify) _____

18. Year Built 19____

19. Place of Construction _____

20. Gross Tonnage _____

21. Overall Length _____ Meters

22. Main Engine(s) Power _____ (Specify Units)

23. Fuel Carrying Capacity _____ Kiloliters

24. Daily Freezing Capacity (More than one, if appropriate)

Method () (X where appropriate)	Capacity () Metric tons/day ()	Temperature () C°
Brine (NaCl) <input type="checkbox"/> BR	_____	_____
Brine (CaCl) <input type="checkbox"/> CB	_____	_____
Air (Blast) <input type="checkbox"/> BF	_____	_____
Air (Coils) <input type="checkbox"/> RC	_____	_____
Other (Specify) _____	_____	_____

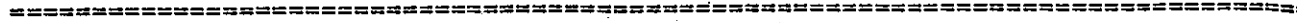
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25. Storage Capacity (More than one, if appropriate)

Method () (X where appropriate)	Capacity () Cubic Meters ()	Temperature °C
Ice <input type="checkbox"/> IC	_____	_____
Refrigerated <input type="checkbox"/>	_____	_____
Sea Water <input type="checkbox"/> RW	_____	_____
Brine (NaCl) <input type="checkbox"/> BR	_____	_____
Brine (CaCl) <input type="checkbox"/> CB	_____	_____
Air (coils) <input type="checkbox"/> BC	_____	_____
Other (Specify) _____	_____	_____

Complete either A, B, or C below as appropriate.

A. For Purse Seiners



26. Net Length _____ Meters

27. Net Depth _____ Meters

28. Support Vessels

Name _____ Type _____

Name _____ Type _____

Name _____ Type _____

Name _____ Type _____



B. For Pole and Line Vessels



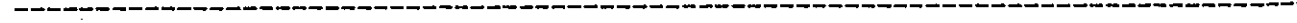
29. Bait Storage (more than one, if appropriate)

Circulation Method _____ Capacity
(X where appropriate) _____
Cubic Meters

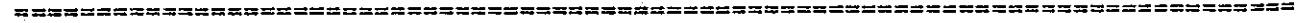
Natural NN _____

Circulation CR _____

Refrigerated RC _____



C. For Support Vessels



30. Activities (X more than one if appropriate)

Refrigerated Carrier

Scouting Boat

Anchor Boat

Supply/Mothership

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Other (Specify) _____

1. Fishing Vessel(s) Supported _____

I understand, I am required to Report any changes in item 1 through 13 to
TUV 32 within 30 days, and

Signature of Applicant _____

Owner

Charterer

Duly Authorised

Agent

Name of Applicant _____

Address of Applicant _____

