

ANNEX V

PART 1 INTRODUCTORY

1. In this Annex:
 - (a) “Closed Area” means an area described in Schedule 2;
 - (b) “designated area” means a port or area authorized by the Parties for the purposes of transshipment and described in Schedule 4;
 - (c) “Limited Area” means an area described in Schedule 3;
 - (d) “the vessel” means the vessel in respect of which a regional access licence pursuant to Article 6 of this Arrangement is issued.

2. Schedule 1 may be amended from time to time by the inclusion by any Party of any applicable national law and, for the purposes of this Arrangement, except as provided in this paragraph, the amendment shall take effect from the date that the amended Schedule has been notified to each of the remaining Parties. Any Party proposing an amendment shall use its best endeavours to provide advance notice to the Parties 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.

PART 2 COMPLIANCE WITH APPLICABLE NATIONAL LAWS

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 fishing for any kinds of fish other than tunas, except that other kinds of fish may be caught as an incidental by-catch, nor for any method of fishing other than the purse seine method.

6. Except as may be permitted by the home Party in the waters of the home Party or as may be otherwise permitted by this Arrangement, the vessel shall not be used for fishing in any Closed Area.

7. 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.

8. No fish on board the vessel shall be transhipped at sea.

PART 4 TRANSHIPMENT

9. Within the Arrangement Area, transhipment shall be permitted only at a designated area at the time and in the manner authorized by the Party in whose zone the transhipment is to take place.

10. Schedule 4 may be amended from time to time by the inclusion by any Party of any designated area and, for the purposes of this Arrangement, the amendment shall take effect from the date that the amended Schedule has been notified to each of the remaining Parties.

11. The master and each member of the crew of the vessel from which any fish taken in the Arrangement Area is transhipped shall:

- (a) allow and assist any person identified as an officer of the Party in whose zone the transhipment is to take place to:
 - (i) have full access to the vessel and any place where such fish is being transhipped and the use of facilities and equipment which the officer may determine is necessary to carry out his or her duties;
 - (ii) have full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish;
 - (iii) collect samples;
 - (iv) have full access to the vessel's records including its log and documentation for the purpose of inspection and copying; and
 - (v) gather any other information required to fully monitor the activity without interfering unduly with the lawful operation of the vessel;
- (b) not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with any such officer in the performance of his or her duties.

12. Notwithstanding any additional terms and conditions that may be agreed between the operator of the vessel and the Party in whose zone the transhipment is to take place, catch shall only be transhipped to a carrier vessel which, at the time the transhipment takes place, is duly registered in good standing on the Regional Register of Foreign Fishing Vessels and is duly licensed in accordance with national laws and regulations.

PART 5 REPORTING

13. Information relating to the position of and catch on board the vessel shall be provided by telex or facsimile, in the format described in Part 1 of Schedule 5, to the Administrator at the following times:

- (a) at least 24 hours prior to the estimated time of entry into or departure from port; and
- (b) each Wednesday.

14. Information relating to the position of and catch on board the vessel shall be provided to the relevant Party, in the format described in Part 1 of Schedule 5, as follows:

- (a) at the time of entry into and of departure from waters which are, for any purpose, subject to the jurisdiction of a Party;
- (b) each Wednesday while within the waters of that Party;
- (c) at least 24 hours prior to the estimated time of entry into or departure from port;
- (d) upon entry into and departure from a Closed Area; and
- (e) as otherwise set out in Part 2 of Schedule 5.

PART 6

ENFORCEMENT

15. The master and each member of the crew of the vessel shall immediately comply with every instruction and direction given by an authorized and identified officer of the Party within whose jurisdiction the vessel is present, including to stop, to move to a specified location, and to facilitate safe boarding and inspection of the vessel, its licence, gear, equipment, records, facilities, 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 authorized officer of the Party within whose jurisdiction the vessel is present and shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with an authorized officer in the performance of his or her duties.

16. The operator shall ensure that a recent and up-to-date copy of the International Code of Signals (INTERCO) is on board and accessible at all times.

17. 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 search and rescue, fisheries management, surveillance and enforcement authorities of the Parties.

18. The operator shall comply with the 1989 FAO Standard Specifications for the Marking and Identification of Fishing Vessels. In particular 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) on the vessel's hull or superstructure, with each letter and number being at least one metre high and having a stroke width of 16.7 centimetres, with the background extending to provide a border around the mark of not less than 16.7 centimetres;
- (b) on the vessel's deck, on the body of any helicopter and on the hull of any skiff, with each letter and number being at least 30 centimetres high, and having a stroke width of 5 centimetres wide with the background extending to provide a border around the mark of not less than 5 centimetres; and
- (c) on any other equipment being carried by and intended to be separated from the vessel during normal fishing operations, with each letter and number being at least 10 centimetres high and having a stroke width of 1.7 centimetres, with the background extending to provide a border around the mark of not less than 1.7 centimetres,

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

19. The regional access licence shall be carried on board the vessel at all times and produced at the request of an authorized enforcement official of any of the Parties. Prior to receipt of

the regional access licence, a duly certified copy, facsimile or telex confirmation thereof or the correct citation of the regional access licence number shall satisfy this requirement.

PART 7

OBSERVERS

20. The operator and each member of the crew of the vessel shall allow and assist any person duly identified as an observer to:

- (a) board the vessel for scientific, compliance, monitoring and other functions;
- (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, including full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish;
- (c) collect samples;
- (d) have full access to the vessel's records, including its logs and documentation for the purpose of inspection and copying;
- (e) have reasonable access to navigation equipment, charts, and radios;
- (f) gather any other information relating to fisheries in the Arrangement Area without interfering unduly with the lawful operation of the vessel;
- (g) disembark at the point and time notified by the Administrator; and
- (h) carry out all 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.

21. The operator shall provide the observer, while on board the vessel, at no expense to the Parties or the Administrator, with full insurance cover and with food, accommodation and medical facilities equivalent to those provided to officers of the vessel.

22. The operator of the vessel from which any fish taken in the Arrangement Area is off-loaded shall allow, or arrange for, and assist any person authorized for this purpose by the Parties to have full access to any place where such fish is off-loaded, to collect samples and to gather any other information relating to fisheries in the Arrangement Area.

PART 8

MISCELLANEOUS REQUIREMENTS

23. 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.

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

25. Any information required to be recorded, or to be notified, communicated or reported pursuant to a requirement of this Arrangement 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.

26. It is understood that a region-wide vessel tracking system applicable to all vessels licensed to fish in the Arrangement Area may be established. Fishing vessels of the Parties with a licence to fish under this Arrangement shall participate in such a system and shall install and operate a transponder of a type and in such a manner as may be agreed by the Parties. It is understood that data derived through the system shall be treated as confidential business information and that the terms and conditions for access to that information shall be a matter of discussions between the Parties.

27. At any time when the vessel is within the waters of a Party the operator shall, upon request by the relevant authorities of that Party, take reasonable steps to assist those authorities in search and rescue operations at sea.

SCHEDULE 1

APPLICABLE NATIONAL LAWS

Federated States of Micronesia

Titles 18, 19 and 24 of the Code of the Federated States of Micronesia and regulations promulgated thereunder.

Kiribati

Fisheries Ordinance, 1979

Fisheries (Amendment) Act, 1984

Marine Zones (Declaration) Act, 1983

Fisheries (Amendment) Act, 1992

Marshall Islands

Title 33, Marine Resources Act, as amended by P.L. 1989-56, P.L. 1991-43 and P.L. 1992-25 of the Marshall Islands Revised Code

Nauru

Interpretation Act, 1971

Interpretation Act (Amendment) Act No.1, 1975

Interpretation Act (Amendment) Act No.2, 1975

Marine Resources Act, 1978

Palau

Palau National Code, Title 27

Papua New Guinea

Fisheries Act, 1994

Fisheries Regulations, 1994

Fisheries (Torres Strait Protected Zone) Act, 1984

National Seas Act (Cap 361)

Whaling Act (Cap 225)

Solomon Islands

Delimitation of Marine Waters Act, 1978

Fisheries Act, 1972

Fisheries Limits Act, 1977

Fisheries Regulations, 1972

Fisheries (Foreign Fishing Vessels) Regulations, 1981

Tuvalu

Fisheries Act (Cap 45)

Fisheries (Foreign Fishing Vessel) Regulations, 1982

Marine Zones (Declaration) Act, 1983

SCHEDULE 2
CLOSED AREAS

Federated States of Micronesia Twelve nautical mile territorial sea and within one nautical mile of the edge of all named banks and reefs as depicted on the following charts:

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

DMAHTC No.81023 (3rd. edn., Aug. 7, 1976)

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

Within a two nautical mile radius of any fish aggregating device of the government, a citizen or any other body established under the laws of the Federated States of Micronesia.

Kiribati Gilbert Group: within archipelagic waters as established in accordance with the Marine Zones Declaration Act 1983, within 3 nautical miles of any anchored fish aggregating device for which notification of its location shall be given by geographical coordinates.

Phoenix Group: 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.

Line Group: 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.

Palau Within 12 nautical miles of all island baselines in the Palau Islands; the area -

- (a) commencing at the north-easternmost intersection of the outer limit of the 12 nautical mile territorial sea of Palau by the arc of a circle having a radius of 50 nautical miles and its centre at Latitude 07°16'34" North, Longitude 134°28'25" East, being at about the centre of the reef entrance to Malakal Pass;
- (b) running thence generally south-easterly, southerly, south-westerly, westerly, north-westerly, northerly and north-easterly along that arc to its intersection by the outer limit of the 12 nautical mile territorial sea; and
- (c) thence generally northerly, north-easterly, easterly, south-easterly and southerly along that outer limit to the point of commencement.

NOTE: Where for the purpose of this paragraph it is necessary to determine the position on the surface of the Earth of a point, line or area it shall be determined by reference to the World Geodetic System 1984, that is to say, by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378,137 metres and a flattening of 1/298.2572.

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 Internal waters, territorial sea, archipelagic waters and within 5 nautical miles of any anchored fish aggregating device for which notification of its location shall be given by geographical coordinates..

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

SCHEDULE 3 LIMITED AREAS

SCHEDULE 4 DESIGNATED PORTS FOR TRANSHIPMENT

Federated States of Micronesia

Pohnpei

Chuuk (Weno)

Yap (Tomil Harbour)

Kosrae (Okat Harbour)

Kiribati

Tarawa

Kiritimati

Marshall Islands

Majuro

Papua New Guinea

Lae

Kavieng

Lorengau (Manus Island)

Madang (Sek Harbour)

Misima

Port Moresby

Rabaul

Wewak

Solomon Islands

Honiara

Noro

Tulagi

SCHEDULE 5
REPORTING DETAILS

PART 1
**FORMAT FOR REPORTS TO ADMINISTRATOR AND NATIONAL
AUTHORITIES**

Zone Entry and Exit Reports

- a) report type (ZENT for entry and ZDEP for Exit)
 - b) RA licence number
 - c) date and time (GMT)
 - d) international call sign
 - e) position (to one minute of arc)
 - f) total catch on board by weight by species
 - g) intended action
- as: ZENT (or ZDEP) / RA LIC# / ddmm yy / hhmm / CALL SIGN / LAT / LON / SJ nnn YF nnn OTH
nnn / INTENDED ACTION

Weekly Reports

- a) report type (WEEK)
 - b) RA licence number
 - c) date and time (GMT)
 - d) international call sign
 - e) noon position (to one minute of arc)
 - f) catch taken in zone by weight by species
 - g) number of fishing days
 - h) intended action
- as: WEEK / RA LIC# / ddmm yy / hhmm / CALL SIGN / LAT / LON / SJ nnn YF nnn OTH nnn / FISH
DAYS / INTENDED ACTION

Port Entry Reports

- a) report type (PENT)
 - b) RA licence number
 - c) date and time (GMT)
 - d) international call sign
 - e) position (to one minute of arc)
 - f) total catch on board by weight by species
 - g) intended action
 - h) port name
 - i) estimated date and time of entry into port (GMT)
- as: IPENT / RA LIC# / ddmm yy / hhmm / CALL SIGN / LAT / LON / SJ nnn YF nnn OTH nnn /
INTENDED ACTION / PORT NAME / ddmm yy / hhmm

Port Departure Reports

- a) report type (PDEP)
- b) RA licence number
- c) date and time (GMT)
- d) international call sign
- e) position (to one minute of arc)
- f) total catch on board by weight by species
- g) intended action
- h) port name
- i) estimated time of departure from port (GMT)
- j) catch unloaded by weight by species

as: PDEP / RA LIC# / ddmm yy / hhmm / CALL SIGN / LAT / LON / SJ nnn YF nnn OTH nnn /
INTENDED ACTION / PORT NAME / ddmm yy / hhmm / SJ nnn YF nnn OTH nnn

Closed Area Entry and Exit Reports

- a) report type (CENT for entry and CDEP for Exit)
- b) RA licence number
- c) date and time (GMT)
- d) international call sign
- e) position (to one minute of arc)
- f) total catch on board by weight by species
- g) intended action

as: CENT (or CDEP) / RA LIC# / ddmm yy / hhmm / CALL SIGN / LAT / LON / SJ nnn YF nnn OTH
nnn / INTENDED ACTION

PART 2

ADDITIONAL NATIONAL REPORTING REQUIREMENTS

Kiribati

Refuelling Notice

At least 24 hours before refuelling from a licensed tanker:

- a) report type (FUEL)
- b) registration or Licence number
- c) call sign or signal letters
- d) date of reporting (GMT)
- e) position of reporting (to one minute of arc)
- f) amount of fuel on board (kilolitres)
- g) estimated date of bunkering
- h) estimated position of bunkering
- i) name of tanker

eg: FUEL / 89TKSPS001TN / JJAP2 / 06.02.90 / 0130S;17010E / 08.02.90 / 0131S;17030E /
CHEMSION

Bunkering Activity Report

Immediately after refuelling from a licensed tanker.

- a) report type (BUNK)
- b) registration or licence number
- c) call sign or signal letters
- d) starting date and time of bunkering (GMT)
- e) starting position of bunkering
- f) amount of fuel received in kilolitres
- g) ending position of bunkering
- h) name of tanker

eg: BUNK / 89TKS-S001TN / JJAP2 / 08.02.90:1200Z / 0131S;17030E / 160 / 08.02.90:1800Z /
0131S;17035E / CRANE PHOENIX