

2011/01



## MARINE RESOURCES (LARGE PELAGIC LONGLINE FISHERY) ORDER 2011

Queen's Representative

### ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this 11<sup>th</sup> day of April 2011

Present:

### HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE IN EXECUTIVE COUNCIL

PURSUANT to section 6 of the Marine Resources Act 2005, the Queen's Representative, acting by and with the advice and consent of the Executive Council, hereby makes the following Order:

### ANALYSIS

- |                                    |                 |
|------------------------------------|-----------------|
| 1. Title and commencement          | 3. Fishery Plan |
| 2. Designation of Longline Fishery | Schedules       |

### ORDER

An Order to provide for the designation of the Large Pelagic Longline Fishery and the related Fishery Plan.

1. Title and commencement – (1). This Order may be cited as the Marine Resources (Designation of the Large Pelagic Longline Fishery) Order 2011.

(2) This Order will come into force on the day it is assented to by the Queen's Representative.

2. Designation of Longline Fishery - The Large Pelagic Longline Fishery is hereby declared to be a Designated Fishery in terms of section 6 of the Act.

3. Fishery Plan – (1) The Fishery Plan approved by the Secretary in accordance with section 6 of the Act and attached as a Schedule to this Order will apply to the Large Pelagic Longline Fishery.

(2) The Fishery Plan will come into force on the same date this Order is assented to.

Price \$6.00

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**Clerk of the Executive Council**

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This Order is administered by the Ministry of Marine Resources

**BY AUTHORITY:**  
Cook Islands Government – 2011

**SCHEDULE****LARG PELAGIC LONGLINE FISHERY PLAN 2011****PART 1****PRELIMINARY INFORMATION**

1. Title - This Fishery Plan may be referred to as the Large Pelagic Longline Fishery Plan, 2011("the Fishery Plan").

2. Application – (1) The Fishery Plan was prepared in accordance with section 6 of the Marine Resources Act 2005.

(2) The Fishery Plan supplements, and does not in any way replace or override the provisions of the Act or regulations promulgated under the Act (the Regulations).

(3) The Fishery Plan includes those provisions of the Act and the Regulations that are particularly relevant for the Large Pelagic Longline Fishery ("the Longline Fishery") in the Cook Islands fishery waters and adds some additional requirements.

(4) All activities under the Fishery Plan is subject to the applicable provisions of all Acts and Regulations of the Cook Islands.

(5) The Fishery Plan applies to all commercial longline fishing, targeting large pelagic species within the fishery waters, except that the Fishery Plan does not apply to -

- (a) exploratory fishing carried out under section 5 of the Act;
- (b) subsistence fishing; or
- (c) recreational fishing, including the use of recreational vessels for hire or charter.

(6) The Fishery Plan does not apply to fishing beyond the fishery waters.

(7) Any licence issued under the Act for fishing within the fishery waters does not authorise fishing in areas beyond national jurisdiction (i.e. High Seas).

(8) Fishing in the high seas requires a separate authorisation to make sure the vessel complies with any applicable RFMO requirements.

(9) This Fishery Plan may be amended by Order in Executive Council.

4. Definitions – All words shall bear the meanings ascribed to them in the Act unless the context indicates otherwise or as otherwise set out in this section -

"Act" means the Marine Resources Act 2005;

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“bycatch species” means non-target, dependent or associated species of the target species;

“commercial fishing” means taking fish for sale;

“conservation and management measures” means measures to conserve and manage one or more species of living marine resources in accordance with the objectives of this Fishery Plan and the provisions of sections 3 and 4 of the Act;

“large pelagic longline fishery” means fishing for those pelagic target species set out in section 5 of this Fishery Plan and any bycatch by means of longlining;

“longline fishing” means fishing using equipment that comprises a mainline, branchlines and hooks.

4. Identification of the Fishery - (1) The following species are the target species for the Longline Fishery namely;

- Tuna - albacore (*Thunnus alalunga*), bigeye (*Thunnus obesus*), Pacific Bluefin (*Thunnus orientalis*) skipjack (*Katsuwonus pelamis*) and yellowfin (*Thunnus albacares*));
- Billfish - blue marlin (*Makaira nigricans*), black marlin (*Makaira indica*), striped marlin (*Tetrapturus audax*) and swordfish (*Xiphias gladius*));
- sharks (including a range of shark species), and
- other large pelagic species (such as mahi mahi (*Coryphaena hippurus*), wahoo (*Acanthocybium solandri*)).

(2) Within the fishery waters, the Longline Fishery is characterised by a distinct split between two fisheries –

- (a) a fishery in the northern group, focused on albacore, mostly frozen, with catches mainly landed outside Cook Islands; and
- (b) a fishery in the southern group, landing mainly fresh fish in Rarotonga, in which catches of other species besides albacore including marlins, swordfish, bigeye, pacific bluefin and yellowfin, are also important.

6. Status of the Fishery – (1) Before 2000, tuna longline fishing was largely conducted by foreign flagged vessels operating under access agreements. Since 2000, there have been no access agreements for longline fishing, but Cook Islands businesses with an investment in the fishery have been able to charter foreign owned vessels to operate under the Cook Islands flag. Over that period, the fleet has gone through a boom and bust cycle,

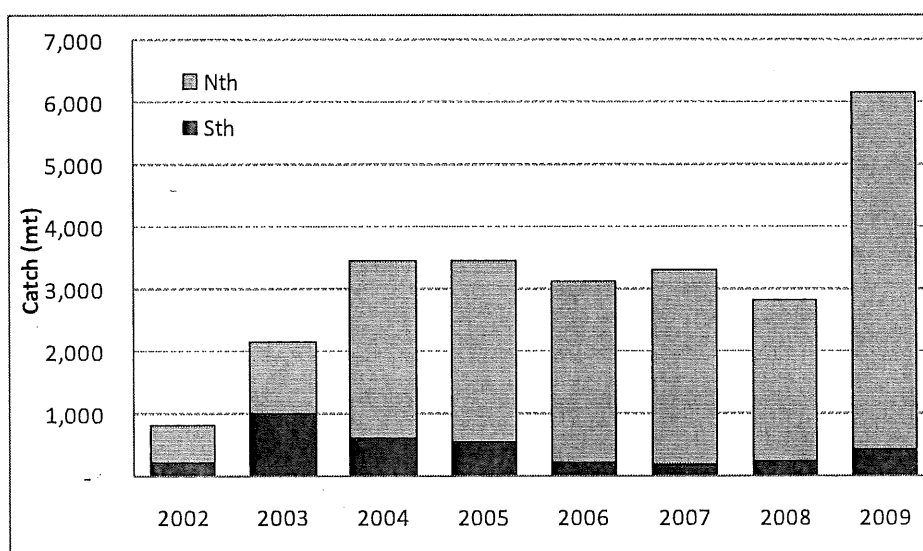
peaking at 51 vessels licensed in 2003, and then stabilising at 30 to 40 vessels. The table below shows the number of vessels licensed to fish in the Cook islands since 2000.

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Licensed Vessels	1	4	17	51	37	27	30	27	38	23

(2) The reported total catches grew rapidly from 2000 to 2005, then stabilised around 3,000 tonnes until 2008, and have now increased in 2009. This increase contrasts with the general decline in the regional longline fisheries, and the adverse effect of the global recession on tuna demand. Over this time, catches in the northern fishery have become more important. Catches for the southern fishery have been decreasing since 2003 due to the decline in the number and size of the vessels operating out of the port of Avatiu, as a result of both inconsistent catch rates and declining profitability. This decline reflects the decline in locally-based longline fleets in neighbouring countries, which is compounded by the high costs of operation from Rarotonga. Albacore tuna is the predominant catch species in both fisheries, the bulk of which is caught in the Northern fishery and makes up an average of 71% of the total catch composition.

#### Catches (mts): 2002-2009

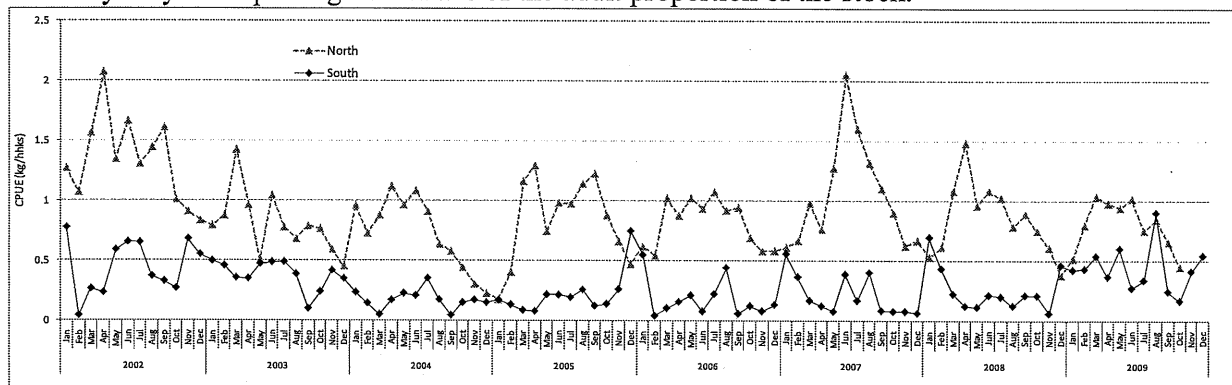
	ALBACORE		BIGEYE		YELLOWFIN		SWORDFISH		Total all species		
Fishery	Nth	Sth	Nth	Sth	Nth	Sth	Nth	Sth	Nth	Sth	Total
2002	485	123	43	18	31	15	2	14	601	224	826
2003	798	500	132	66	107	62	6	153	1,132	1,019	2,151
2004	1,715	158	343	61	466	50	10	159	2,844	623	3,467
2005	2,244	130	160	49	323	72	7	86	2,923	547	3,470
2006	2,311	69	159	12	221	21	17	76	2,927	216	3,143
2007	2,569	86	193	10	195	15	4	36	3,120	188	3,308
2008	2,028	155	249	15	143	15	2	18	2,576	243	2,820
2009	4,546	319	465	16	485	34	3	21	5,744	430	6,174



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(3) Catch rates are substantially higher in the north due to the higher productivity of the ecosystem when compared to the southern fishery and show a marked seasonal pattern with lower catch rates in the period December to March. Catch rates have remained relatively stable over time; however annual average albacore catch rates have decreased since 2007, with recent stock assessments indicating that the current rate of fishing mortality may be impacting catch rates of the adult proportion of the stock.



(4) Stock Status and Regional Management - States and Territories involved in fishing for the regional stocks of highly migratory fish cooperate in the management of those stocks through the WCPF Commission. The table below summarises the biological status of the stocks of the four main target species in the longline fishery in Cook Islands waters and the measures in place for the conservation and management of those stocks in the Western and Central Pacific Ocean (WCPO). In addition, the WCPF Commission has adopted resolutions relating to the conservation of non-target species, including seabirds, sharks and turtles.

	South Pacific Albacore	Bigeye	Yellowfin	Swordfish
<b>WCPO Catch 2008 (mts)</b>	95,043	157,054	539,481	26,190
<b>Cook Islands Catch</b>	2,183.7mt 2.3%	263.9mt 0.17%	157.3mt 0.03%	20mt 0.07%
<b>Major Fisheries</b>	Longline, Troll	Longline, Purse Seine	Longline, Purse seine	Longline
<b>Status</b>	Catches can be increased	Catches are too high	Becoming fully exploited	Considered not overfished, however uncertainties remain due to data gaps
<b>Conservation Measures in Place</b>	Limits on fishing south of 20 south	Limits on longline catches by flag and purse seine effort by	Limits on purse seine effort by zone	Limits on effort south of 20 south

		zone		
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(5) Overall, catches in Cook Islands waters are relatively low in relation to its zone size and catches of other Pacific Islands. Apart from albacore, the catches of the target species in Cook Islands waters are insignificant in terms of the overall impact of fishing on the regional stock; and there is apparently scope for sustainably increasing overall catches of albacore. The current levels of catches by the longline fishery in Cook Islands waters and the level of fishing allowed by the Plan comply with the relevant conservation and management measures of the WCPFC. The reasons for the increase in 2009 are assumed to relate to 1) the more stable and transparent licensing framework established under the Plan, and 2) the establishment of a fixed cap on licensing, which has created value through limited access opportunity. The impact of fishing at these levels will continue to be monitored. There is provision in the Plan to apply tighter limits if this is required to maintain stock sustainability or economic viability, or comply with associated WCPFC measures.

(6) Licence Fees: following the introduction of increased licence fees reflecting the economic value of the opportunity to fish in Cook Islands waters, government revenue from licence fees have more than doubled with the increased fees applied in the Plan to \$927,000 in 2009 as shown in the table below:

**Licence Fees: 2007-9**

2007	2008	2009
\$235,500	\$396,250	\$927,000

5. Objectives - The objectives of the Fishery Plan are –

6.

- (a) to provide for the sustainable use of large pelagic fish resources for the benefit of the people of the Cook Islands;
- (b) to ensure the long-term sustainability of the Longline Fishery;
- (c) to mitigate the impact of fishing on non-target species;
- (d) to develop and maintain the economic viability of the Longline Fishery and associated fishing industry, including the development of the Cook Islands domestic fleet and onshore processing in the Cook Islands;
- (e) to ensure that Cook Islands meets its international environmental and fisheries obligations;
- (f) to strengthen the exercise of Cook Islands sovereign rights and ensure that its special requirements as a Small Island Developing States are appropriately taken into account in regional tuna management, and position Cook Islands for equitable participation in the regional tuna fisheries;
- (g) to protect traditional and small scale commercial inshore fishers;

- (h) to protect the integrity of government revenue; and
- (i) to fulfill the purposes and principles in the Act.

7. Principal Ways to Achieve the Objectives – (1) The measures to be applied to achieve the objectives of the Plan include the following –

- (a) Establish licensing arrangements that encourage fishing operations to provide greater benefits to Cook Islands, particularly through the landing, value adding and processing of fish in Cook Islands;
- (b) Limit the size of the large pelagic longline fleet in the fishery waters to avoid local depletion particularly of albacore;
- (c) Provide secure access with transparent procedures that encourage investment in tuna longline fishing and processing;
- (d) Require the use of fishing gear and methods that reduce the impacts of fishing on non-target species;
- (e) Monitor fishing operations and catches, particularly through vessel monitoring systems, onboard observers and port sampling;
- (f) Collect other scientific and fisheries information on the tuna longline fishery, including collection and analysis of daily catch and effort information;
- (g) Combat IUU fishing and ensure compliance with laws, regulations, licence conditions and provisions of the Fishery Plan;
- (h) Implement relevant measures of the WCPF Commission and the relevant provisions of the WCPF Convention and other relevant international fisheries and environmental instruments.

(2) The measures in this Plan first adopted in 2008 involve a shift away from the dependence on demise charter vessels that characterised the tuna longline fishery since its rejuvenation in 2001. In the period from 2001 to 2008, licensing policy required foreign boat owners and investors to work through national boat owners to participate in the fishery by making their vessels available to Cook Islands boat owners under charter arrangements. Foreign boat owners could not apply directly for a licence. With concessional levels of licence fees in place, this allowed Cook Islands boat owners to extract fee payments from the foreign boat owners as an incentive to Cook Islanders to invest in tuna longline fishing. Following advice from the Crown Law Office that the charter incentive arrangements breached requirements

of the Public Monies Act, the charter incentives were abolished and replaced with a strategy that has three main elements –

- (a) licence fees have been raised from the previous concessionary levels to substantial levels reflecting the economic value of the opportunity to fish in Cook Islands waters, with reduced fees for vessels that are locally-based or unload fish in Cook Islands as incentives for domestic development;
- (b) a limit on licence numbers has been established with criteria giving preference to Cook Islanders, and to vessels involved in operations that promote Cook Islands social and economic development;
- (c) a Fishery Development Facility will be established for fisheries development purposes, including training, grants or loans to qualifying individuals, companies, Island Councils or non-governmental organisations, and other domestic development activities. This Facility replaces the assistance previously provided by the earnings of Cook Islands boat owners from charters with a transparent industry assistance programme. Key issues such as the forms of assistance to be provided, institutional arrangements and the level of funding will be addressed in a feasibility/design study. The Facility should be financed by a transfer directly from licence fee receipts or by separate appropriations.

## PART 2 CONSULTATIVE PROCESS

9. Stakeholder Consultation – (1) The Secretary shall organise consultations with key stakeholders in the pelagic longline fishery at least once in each calendar year.

- (2) The scope of the consultations shall include matters related to –
  - (a) the management and regulation of fishing including licensing and conditions of fishing;
  - (b) the development of fishing and fish processing including investment policies, financial arrangements and projects to promote large pelagic fishing, marketing or processing;
  - (c) socio-economic or environmental impacts of large pelagic fishing, processing and marketing; and
  - (d) such other issues related to the large pelagic longline fishery as the Secretary may decide.

## PART 3

### LICENSING COMMITTEE

10. Licensing Committee - A Licensing Committee is hereby established in order to provide transparent advice to the Minister and the Secretary on the granting of licences. The Committee will be chaired by the Secretary and will include representatives of the Crown Law Office, the Ministry of Finance and Economic Management and the Business Trade Investment Board. The function of the Committee is to provide business development, economic and legal advice to the Secretary and the Minister on the granting of licences to ensure that licences are granted in a manner that –

- (a) Contributes to long term socio-economic development;
- (b) Promotes business and investment in offshore fisheries, including onshore processing and related activities; and
- (c) Is in accordance with the Marine Resources Act, other national laws and the international legal obligations of Cook Islands.

### PART 4 ECOSYSTEM CONSIDERATIONS

11. Limits on Fishing Effort - (1) The number of tuna longline licences shall be limited to 40 vessels fishing north of 15°S, and 50 vessels for the entire EEZ. This number may be increased or decreased by the Secretary in consultation with the Licensing Committee if it is assessed that the addition or reduction of licences would contribute to achieving of the objectives of the Plan<sup>1</sup>.

(2) The Secretary will monitor the quarterly level of fishing effort and catch.

(3) If the Secretary determines that the level of total commercial longline catch in the fishery waters north of 15 degrees south exceeds 8,000 metric tonnes in any 4 quarter period, he or she will review the impact of this level of catch on achievement of the objectives of the Plan, and may amend the total number of longline licences, or apply appropriate limits to fishing in the north, which may include time/area closures.

(4) The Secretary may apply additional limits to fishing with the approval of the Minister and after consultation with the Large Pelagic key stakeholders in the large pelagic fishery when he or she is of the opinion that it is in the interest of the sustainability or economic viability of the commercial large pelagic longline fishery.

12. Conservation of Target Species - All catches of albacore, bigeye, swordfish and yellowfin will be closely monitored.

13. Protection of Non-Target Species - (1) Seabird Mortality: Cook Islands has prepared a National Plan Of Action For Reducing Incidental Catch Of Seabirds (NPOA-

<sup>1</sup> A vessel over 35m in length (such as ULT/Freezer Longliners), shall for the purposes of this Plan, be considered as 1.5 vessels applicable under the vessel cap.

Seabirds) in accordance with the FAO IPOA-Seabirds. An assessment prepared for the NPOA has determined that there is no problem with incidental bycatch of seabirds in the longline fishery in Cook Islands' waters. This is consistent with the approach of the WCPFC which has adopted measures to mitigate incidental seabird mortality in longline fisheries that apply north of 23N and south of 30S, and which do not therefore apply in Cook Islands waters. Fishers are required to record any encounters with seabirds (live or dead) and report this to MMR. Fishers are also required to comply with any applicable national or international measures to protect seabirds when they are fishing in waters outside of Cook islands' waters.

(2) Turtle Mortality: The Cook Islands has prepared a National Plan Of Action For Sea Turtle Bycatch Mitigation (NPOA-Turtles). The NPOA-Turtles implements the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations and the Regional Action Plan for Sea Turtle By-Catch Mitigation in respect of fishing in Cook Islands waters and fishing by Cook Islands vessels. The key elements in the NPOA-Sea Turtles are –

- a) collection and monitoring of fishery data to improve understanding of the nature, scope and scale of sea turtle/ tuna fishery interactions in order to develop appropriate responses;
- b) research and investigations to obtain information that cannot be acquired through monitoring, and test possible mitigation measures;
- c) mitigation measures to encourage/ require that fishers take steps to reduce turtle/fishery interactions and mortality rates resulting from such interactions.

The Cook Islands has made a substantial commitment to reducing sea turtle mortality from fishing through actions such as distributing mitigation tools and education awareness materials to vessels, implementing a hook-exchange program in the domestic longline fishery to encourage and trial the use of circle hooks, and requiring vessels to carry and use equipment for releasing turtles.

(3) Shark Conservation and Management: The Cook Islands has prepared a National Plan of Action for the Conservation and Management of Sharks (NPOA-Sharks) in accordance with the FAO IPOA-Sharks. The NPOA-Sharks bans the use of trace wire to prevent targeting of sharks and limits sharkfin landings to deter the finning of sharks and discarding of shark carcasses.

(4) Other non-Target species: fishers will be required to avoid the capture, and release unharmed, to the extent practicable, non-target species that are not to be retained.

14. Discarding - The discarding of edible, marketable fish in the longline fishery is a serious concern. The loss of this catch is wasteful and reduces the contribution of the longline fishery to food security. In addition, discards are often not adequately reported which reduces the quality of information available for scientific purposes and could disadvantage Cook Islands in future regional allocation discussions. Fish is discarded for economic reasons to maximise the value of catches on board, and banning discards is a

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difficult and costly measure, especially at a time when the future viability of longlining is uncertain. In response, penalties will be applied for failing to adequately report discards and the Ministry will continue to work with operators to create incentives to reduce discarding.

15. Transshipment - The distance between the prime fishing grounds in the north and the major national port at Avatiu is a severe constraint on the development of longline fishing in Cook Islands waters. It results in much of the catch being delivered for unloading outside Cook Islands because it is uneconomic to deliver it to Avatiu. The Ministry welcomes the recent development of operations to collect and consolidate catches from fishing vessels in the north and bring them to Rarotonga and will continue to support this kind of operation. At the same time, transshipment outside of ports where it can be monitored increases the risk of transshipment being used to undermine conservation and management efforts. For this reason, transshipment outside of Avatiu is prohibited without approval of the Secretary and will be subject to necessary conditions, including the fee in the Schedule for transshipment of catches that are being taken out of Cook Islands

16. Other Ecosystem Issues - Marine Pollution – Dumping of non-biodegradable waste at sea is banned, consistent with the MARPOL convention. Biodegradable wastes may only be dumped at sea at a distance greater than 12 nautical miles from land.

## **PART 5 CONSERVATION AND MANAGEMENT MEASURES**

17. Vessel Licensing – (1) No vessel 10 metres or more in length shall be used for commercial large pelagic longline fishing or related activities in the fishery waters except in accordance with a valid license issued pursuant to the Act.

(2) Applications for a licence for commercial large pelagic longline fishing shall be made to the Secretary on the applicable form set out in the First Schedule to the Marine Resources (Licensing and Regulation of Fishing Vessels) Regulation 1995.

(3) No licence shall be issued unless the required fees and other forms of compensation have been paid in accordance with this Fishery Plan and section 39 of the Act. The license shall only be issued to the owner or operator of the applicant vessel.

(4) The Minister or Secretary, as appropriate, may in accordance with Section 35 of the Act, deny an application for a licence on any of the following grounds –

- (a) the applicant, owner or operator is the subject of proceedings under the bankruptcy laws of any jurisdiction and reasonable financial assurances have not been provided;
- (b) there has been failure to satisfy a judgment or other determination for a contravention of the Act by the applicant, owner or operator of the vessel in respect of which application for a licence has been made until such time as the judgment or other determination for has been made; or

- (c) the applicant, owner or operator of the vessel has committed an offence against the laws of the Cook Islands;
- (d) where the fishing vessel in respect of which the application is made does not have good standing on the Regional Register.

(5) The Minister or Secretary, as appropriate, shall deny any application for a licence where the granting of the licence would conflict or would be inconsistent with the requirements of the Act, this Fishery Plan or any international conservation and management measure.

18. Cancellation or suspension of licences - The Secretary or Minister as appropriate may cancel or suspend a licence on any of the following grounds in accordance with the procedures set out in Section 41 of the Act –

- (a) it is necessary to do so in order to give effect to any licensing programme or conservation measure specified in, or implemented in accordance with a fishery plan;
- (b) a vessel in respect of which the licence has been issued has been used in contravention of this Act or of any condition of the licence or in breach of any applicable access agreement;
- (c) payment has not been made and is overdue for any fees, other charges and compensation required under this Act, or for any penalty, fine or other determination imposed pursuant to this Act; or
- (d) good standing on the Regional Register has been withdrawn in respect to the licensed vessel where such good standing is a condition of licence issuance.

19. Licensing Criteria - When considering, an application for a licence, the Minister or the Secretary, as appropriate, shall have regard to –

- (a) contribution of the applicant to social and economic development;
- (b) whether or not the applicant is a Cook Islander; and
- (c) where the applicant is a company, the extent to which the beneficial control of the company vests in Cook Islanders;
- (d) the ability of the applicant to use the licence in a satisfactory manner; and
- (e) the compliance record of the applicant, the owner, or the operator of the vessel.

20. Terms of Licences – (1) Every licence for large pelagic longline fishing shall be valid for a period not exceeding twelve months.

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(2) Notwithstanding anything contained in paragraph 20(1) the Secretary may, upon application, renew a licence granted under paragraph 20(1) in respect of a Cook Islands fishing vessel, for a period of up to four years, provided that –

- (a) the vessel continues to be operational; and
- (b) the vessel has not been used in contravention of the Act, this Plan or any condition of a licence.

21 Transshipment - (1) The licensed/authorised Company vessel shall not land at any port or place in the Cook Islands except the island of Rarotonga or in Areas beyond national jurisdiction including areas of High Seas without the express permission in writing, of the Secretary.

(2) No fish may be transhipped in the Cook Islands (except for the island of Rarotonga) or in the fishery waters or in Areas beyond national jurisdiction including areas of High Seas except as the Secretary may authorise in writing in accordance with the Act.

(3) The Company shall provide to the Secretary, information relating to the catch offloaded in the form prescribed by the Secretary. Such information shall include details of the catch offloaded by weight, species, rejected catch, and final destination of the catch offloaded.

(4) Catches may be transhipped at sea with the permission of the secretary in accordance with such conditions as the secretary may apply.

22. Conditions of Fishing – (1) All commercial large pelagic longline fishing shall be conducted in accordance with the Act, the Regulations, conditions of licences and directives given by the Secretary under section 25 of this Plan.

(2) No person shall fish for large pelagic species by horizontal long lining within 12 nautical miles of any island.

(3) A set of standard licence conditions for the large pelagic longline fishery is set out as part of Form I in the First Schedule 2 to the Marine resources (Licensing and Regulation of Fishing Vessel) Regulations 1995.

(4) The Minister or Secretary, as appropriate, may attach to any licence such special conditions as may be required for the proper management of the large pelagic longline fishery.

23. Appeals - Any person affected and aggrieved by –

- (a) the refusal of the Secretary to issue or renew a licence in accordance with this Fishery Plan in respect of a commercial large pelagic longline fishing vessel; or

- (b) the cancellation or suspension by the Secretary in accordance with this Fishery Plan or the Act of a licence issued in respect of a commercial large pelagic longline fishing vessel may, within 30 days of the receipt of notification of that decision appeal against it to the Minister, whose decision shall be final.

24. Obligations of Licence Holders - Licence holders shall –

- (a) comply with this Fishery Plan;
- (b) take measures to ensure that they exercise effective control over vessels for which they are granted licences during the period of the licence;
- (c) ensure compliance with this Fishery Plan and the Act by all vessels licensed by them;
- (d) comply with any directive given under paragraph 25 below; and
- (e) comply with all conditions specified on the vessel licence.

**PART 6**  
**MISCELLANEOUS**

25. General Obligations of the Secretary - (1) The Secretary shall establish a system for the collection and compilation, storage and exchange of data and other fishery related information on the tuna and large pelagic fishery. This information shall include position reports, catch and effort log sheets, observer and other scientific data. The Secretary shall determine the characteristics and procedures of such a system in accordance with international and regional standards and the objectives of the Act and this Fishery Plan.

(2) Observer Programme -The Secretary shall establish an observer programme for the purpose of achieving a level of observer coverage in the tuna and large pelagic fishery that the Secretary is satisfied is appropriate to meet the objectives of the Act and this Fishery Plan, and which is consistent with any applicable regional and international standards and obligations. This may include participation in regional programmes, where appropriate.

(3) Monitoring, control and surveillance (MCS) -The Secretary may establish an MCS programme that assists in meeting the conservation and management objectives of this Fishery Plan and all relevant international and regional obligations. Such a programme may include –

- (a) vessel monitoring systems;
- (b) the provision of observers and the conditions under which they operate;
- (c) a vessel inspection regime;

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- (d) a port and catch inspection regime;
- (e) the prohibition or regulation of transshipment at sea or in port;
- (f) aerial and sea surveillance;
- (g) participation in co-operative regional arrangements.

(4) Over the next few years, the Cook Islands will face increasing costs for fishery monitoring, including the cost of observer and port sampling programmes required to meet WCPFC obligations. These costs should be recovered from boat owners. Monitoring vessels that unload outside Cook Islands waters will be particularly costly. As a first step towards recovering these costs, a monitoring fee will be applied to all vessels licensed to fish in Cook Islands waters that are not locally based.

26. Directives - (1) The Secretary may, by notice in writing, give directives providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Fishery Plan including, but not limited to –

- (a) the return or abandonment of any target species or bycatch;
- (b) the impact of fishing operations in the aquatic environment;
- (c) the landing of any fish caught under the authority of a licence outside the fishery waters;
- (d) the maintaining, completion and furnishing of log books, records, returns or other information;
- (e) the administration, implementation or operation of any monitoring, control or surveillance programme;
- (f) the seasonal or permanent closure of areas to fishing under the authority of any licence.

(2) Any conditions or obligations imposed under any directive issued pursuant to subsection 1 above may be additional to, or more restrictive than, but shall not be inconsistent with, the provisions of this Fishery Plan or the Act.

(3) Any person who fails to comply with any directive issued under paragraph 26(1) commits an offence and, upon conviction, shall be liable to a fine not exceeding \$100,000.

27. Fees – Despite the existence of the Second Schedule to the Marine Resources (Licensing and Regulation of Fishing Vessels) Regulations 1995, the fees applicable and payable under this Fishery Plan is as set out in Annex 1 of this Fishery Plan.

28. Biennial Review of the Fishery Plan - (1) The Secretary shall, prior to the expiry of every 2-year period from the commencement date of the Fishery Plan, conduct a

review of the conservation and management measures set out in this Fishery Plan, and determine whether the Fishery Plan should be amended and/or revoked.

(2) In reviewing the Fishery Plan the Secretary shall have particular regard to, amongst other things –

- (a) the objectives of the Act and this Fishery Plan;
- (b) the effectiveness of the data collection, observer and monitoring, control and surveillance programmes;
- (c) the status of the stocks (both target and non-target or associated species), including changes in yield, species, size composition or distribution;
- (d) the status and economic viability of the fishery and associated fishing industry;
- (e) the appropriateness of fees and charges;
- (f) the effectiveness of the conservation and management measures.

(3) Having conducted the analysis, the Secretary shall make recommendations to the Minister as to the continued management of the large pelagic longline fishery. In particular the Secretary may make recommendations regarding the amendment, revocation or continuation of the Fishery Plan.

(4) The Secretary shall consult with key stakeholders prior to making any recommendation to the Minister as a result of the review.

29. Amendment of the Annexes - The Secretary may revise the Annexes as necessary which shall come into force by Order in Executive Council.

(2) The Secretary shall advise holders of licences in writing of any revisions to the Schedules.

30. Delegation - The Secretary may, in writing, delegate to an officer of the Ministry, any of his powers or functions under this Fishery Plan, except this power.

31. Savings - This Fishery Plan shall be interpreted in a manner consistent with the provisions of the Act provided however that if any provision of this Fishery Plan or any conditions imposed by or under this Fishery Plan are held to be invalid, the invalidity does not affect the provisions of any other part of the Fishery Plan or conditions imposed, and to this end the remaining provisions of the Fishery Plan or other conditions shall be treated as severable from the invalid provisions or conditions.

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## ANNEX 1

FEES  
(NZ\$)

1. Application for a fishing licence \$50
2. Application for a transshipment permit \$50
3. Application for a fish processing establishment licence \$50
4. Fishing licence for Cook Islands Fishing Vessels -

	Locally-Based	Not Locally-Based
Under 20 metres	\$2,000	
20-35 metres	\$5,000	\$40,000
Over 35 metres	\$7,500	\$60,000

Where the requirements for a vessel to be considered as locally-based are -

- a) the vessel is fully operated from Cook Islands;
- b) the vessel fishes mainly in Cook Islands waters; and
- c) the vessel lands all or a substantial part of its catch in Cook Islands.

5. Annual fishing licence for Foreign Fishing Vessels -

Under 35 metres LOA	Over 35 metres LOA
\$50,000	\$75,000

6. Unloading incentive for fishing vessels \$20,000 reduction from the  
unloading/landing at least 20mts of fish products taken fee otherwise payable  
in Cook Islands waters in the previous licensing year\*

\* Note: the unloading incentive is applicable on submission of documentation required by the Secretary. All unloaded/landed catch must be of an approved standard (i.e. HACCP) and must be handled by an established and licensed fish processing/storage facility.

7. Annual Fishery Development Fee: payable by all \$10,000  
vessels that are not locally-based
8. Annual Fish processing establishment licence \$100
9. Transshipment & bunkering permit \$50