# COMMISSION FOR THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN

# FIRST MEETING OF THE TECHNICAL AND COMPLIANCE COMMITTEE [5 - 9 DECEMBER 2005]

and

# SECOND ANNUAL SESSION [12 – 16 DECEMBER 2005]

30 November 2005

### NATIONAL REPORT

### **NIUE**

### INTRODUCTION

Niue's fishery waters (~450,000km²) have only been fished reasonably lightly and sporadically by longline vessels of foreign distant water fishing fleets under license access arrangements in the past. The highest number of vessels licensed in any one year has been 48, with catches in the order of several hundred metric tonnes. The offshore tuna fishery consists of 3 components, a small artisanal boat and canoe fishery, small developing sport fishery, and the newly developing commercial domestic longline fishery. Tuna resources are considered by Niue as a major natural resource available to support significant economic development opportunities in the fisheries sector.

Niue does not have a fleet operating in the WCPF Convention Area, however it currently has 13 vessels licensed to fish under charter arrangement. The latter vessels, ranging in size from 10-29 metres, fish into the new joint venture fish processing facility (Niue Fish Processors Ltd). The offshore tuna fishery is managed under a tuna management and development plan. The number of licenses and larger vessels under charter is expected to increase to 20 over the next year, with smaller local boats not yet limited. No catch has been taken in the commercial fishery over the last two years resulting from the development of a new joint venture processing plant, and a discontinuation of foreign access licensing.

Four smaller longliners have commenced fishing since May 2005 and preliminary data available indicate the deployment of 57,000 hooks and an estimated catch rate of around 58kg/100hooks. Over the three month period May-July the estimated total catch of these vessels have been around 33 tonnes. This is expected to increase significantly as larger vessels licensed arrive. The new processing plant can process up to 6,000mt of fish per annum. Fresh fish (Bigeye and Yellowfin) is currently exported to New Zealand and the U.S.A, with frozen albacore going to the canneries in Pago Pago. A new service (Reef Air) has also been established under joint venture

to freight fish out of Niue, and significant wharf and harbour development is in the advanced planning stages. Port sampling and observer programmes are in place and have commenced.

### **FLEET STRUCTURE**

Niue has a fleet of 13 vessels fishing in Niue's EEZ under charter arrangements. These vessels range in size from 10 - 29 metres and fish under the auspices of the new joint venture processing facility – Niue Fish Processors Limited.

### ANNUAL CATCHES IN THE WCPO CONVENTION AREA 2000 – 2004

		ALE	BACC	RE			B	IGEY	Έ			YEL	LOV	VFIN			7	ГОТА	L	
Year	00	01	02	03	04	00	01	02	03	04	00	01	02	03	04	00	01	02	03	04
Catch	0.2	0	35	1	13	0.1	0	11	0	0.4	0	0	42	4	1.7	0.2	0	89	6	15.1
(mt)																				ł

There have been no recorded catches for skipjack for the period 2000 - 2004.

## ANNUAL CATCHES IN MEMBERS OR CO-OPERATING NON MEMBERS EEZ 2000 – 2004

Niue does not have a shipping registry and therefore it does not have any Niue flagged vessels fishing in the EEZs of members and co-operating non-members.

# DEVELOPMENTS AND TRENDS IN THE DOMESTIC AND/OR OFFSHORE INDUSTRY

Niue has reviewed its Tuna and Billfish Management Plan. Key elements of the Plan include: -

- The development of onshore processing: the vision from the Niue Fishery Industry Development report, investment policies (taxes etc), infrastructure
- The enhancement of Niuean participation: development scheme, zoning, local market, FADs, ownership, flagging
- Ensuring good governance; transparency & efficiency, institutional arrangements, the TMAC, stakeholders, eligibility/allocation of licences, duration of licences, fees
- **Promoting Responsible fishing;** principles from the Code of Conduct precautionary approach, scientific assessment, avoid over-capacity, minimize bycatches and waste
- **Protecting the environment:** sharks, seabirds & turtles, dumping waste, processing plant impacts, seamount
- Making a positive contribution to regional and international arrangements: Forum and its secretariat, FFA, SPC, FAO, SPREP, WCPF, Niue Treaty, mutually beneficial arrangements with other countries
- Strengthening Fishery Monitoring: logsheets etc, observers, VMS
- **Detering IUU fishing:** delimitation, MCS, patrols, penalties

• Increasing awareness & understanding: education, associations

### APPLICATION OF CONSERVATION AND MANAGEMENT MEASURES ON THE HIGH SEAS AND COMPLEMENTARY MEASURES IN WATERS UNDER NATIONAL JURISDICTION

Niue does not have vessels fishing on the high seas and therefore did not apply conservation and management measures on the high seas. Under the Territorial Sea and Exclusive Economic Zone Act 1997, Niue imposes conservation and management measures in its territorial seas and EEZ. With respect to the Commission decisions on the Record of Fishing Vessels and Authorisation to Fish, Annex I to this Report sets out the domestic law status of the application of the Record of Fishing Vessels and Authorisation to Fish. It should be noted that Niue does not have a fleet fishing on the high seas at this stage.

Niue is undergoing a comprehensive review of its domestic legislation to e4nable it to fully implement conservation and management measures adopted by the Commission and its international obligations. Key principles of conservation and management have also been incorporated in the Tuna and Billfish Management Plan. These include the incorporation of the following principles:

- The establishment of sustainability/exploitation limits target catch level, vessel number limit, zoning/closed areas, bycatches, monitoring;
- The introduction of licensing requirements to be restricted to WCPF members or Cooperating Non-Party including safety and eligibility;
- Habitat protection;
- Protected species;
- Protection of other fisheries; and
- Other WCPF Compliance issues such as Niuean vessels and nationals not to fish outside Niuean waters except in accordance with high seas permit, laws of other coastal states and any other measures adopted by the WCPF Commission

Niue has developed draft Regulations to implement the licensing requirements under the Convention. The draft Regulations is appended as Annex II. These would bring Niue's licensing regime in conformity with the Commission measures.

# MONITOR, INVESTIGATE AND PENALISE VIOLATIONS OF PROVISIONS OF THE CONVENTION AND MEASURES ADOPTED

There were no violations of the provisions of the Convention and measures adopted thereunder which required action by Niue.

### PORT STATE MEASURES

Niue has developed procedures for the collection and processing of tuna fisheries data. These procedures have been used for the monitoring the joint venture longline operation. All vessels off-load their catch in Niue. Catch and effort logsheets from

vessels fishing in Niue are forwarded to SPC. The target for logsheet coverage is 100%. Niue maintains its own catch and effort database.

Niue currently does not have an observer programme, but is planning to develop one with assistance from SPC/OFP and FFA in order to develop a capacity to attain a 20% coverage of the new joint venture longline fishing operation. A number of Niuean observers have been trained as observers.

There is a port sampling programme in place and there are plans to develop capacity to allow 20% coverage for vessels landing fish to the new processing facility.

# Relevant Legislation Reviewed Territorial Sea and Exclusive Economic Zone Act 1997

WCPFC Requirements	Yes	No	Comments
A(1)(a) Authorisation to fish in accordance with Art		<b>√</b>	
A(1)(b) Measures to ensure compliance with conservation and management measures of Convention		<b>✓</b>	
A(1)(c) Measures to ensure fishing in convention area only by vessels flagged to commission members	<b>✓</b>		Note: The obligation here is broader than flag State responsibility. It is intended to be more of an obligation on coastal states or port states to take measures in respect of vessels flagged to non-members of the Commission. This obligation does not necessarily require legislation.
A(1)(d) Measures to ensure flagged vessels to fish in another States' jurisdiction only where permitted.		<b>✓</b>	
A1)(e) Manage the fishing effort authorised with reference to the total allowable catch in the Convention area		<b>✓</b>	
A(1)(f) No Authorisation where vessel connected with IUU fishing		<b>✓</b>	
A(1)(g) Withdraw authorisation consistent with Article 25(4) of the Convention		<b>✓</b>	
A(1)(h) Take into consideration history of fishing violations in application for authorisation		<b>✓</b>	
A(1)(i) Requirement that vessels on the WCPFC register are owned by citizens/nationals/residents		<b>✓</b>	

WCPFC Requirements	Yes	No	Comments
A(2) Prohibition of flagged vessels to fish in Convention area outside national jurisdiction without authorisation		<b>✓</b>	
<b>A(3)</b> Authorization containing required details		✓	
B(4) Maintain Record of fishing vessels containing relevant information B(5) Submit vessel record information to the Executive Director, containing relevant information	<b>✓</b>	✓	May be implemented by administrative action
<b>B</b> (6) Notify Executive Director of relevant information within 15 days/72 hours before commencement of fishing	<b>√</b>		May be implemented by administrative action
B(7) Submit information requested by the Executive Director within 15 days of such request	<b>✓</b>		May be implemented by administrative action
C(8) Establishment of Commission Record of fishing vessels	No Acti	on Requi	red
C(9) Publicity given to the WCPFC Record	No Acti	on Requi	red
C(10) Circulation of Annual Summary by Executive Director	No Action	on Requi	red
C(11) Review internal action/measures and report to the Commission annually	<b>✓</b>		May be implemented by administrative action
C(12) Prohibition of activities of flagged vessels not on record of fishing vessels		<b>✓</b>	
C(13) Prohibition on landing/transhipment by flagged vessels not on register		✓	

C(14) Notify Executive Director pursuant to Art 25		$\checkmark$	May be implemented by administrative action			
WCPFC Requirements	Yes	No	Comments			
C(15) Respond to infringement notice from Executive Director and report back		✓	May be implemented by administrative action			
C(16) Vessels without cooperating status	No Action Required					
C(17) Cooperation with FAO etc	No Action Required					
<b>D</b> (18) Obligations apply to cooperating non-parties	No Action Required by Commission Members, Cooperating Non-Parties to Note					
<b>D</b> (19) Procedures under review	No Action Required					

# TERRITORIAL SEA AND EXCLUSIVE ECONOMIC ZONE (LICENSING) REGULATIONS 2005

### Arrangement

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### Territorial Sea and Exclusive Economic Zone (Licensing) Regulations 2005

PURSUANT to section 60 of the Territorial Sea and Exclusive Economic Zone Act 1997 Cabinet makes the following regulations:

### Part 1 – Preliminary

### 1 Short Title and Commencement

- (1) These Regulations may be cited as the Territorial Sea and Exclusive Economic Zone (Licensing) Regulations 2005.
- (2) These Regulations come into force on the day they are approved by Cabinet.

### 2 Interpretation

- (1) The terms and phrases defined in the Territorial Sea and Exclusive Economic Zone Act 1997 shall be given the same meaning in these regulations unless the context requires otherwise.
- (2) In these regulations, unless the context otherwise requires -

<sup>&</sup>quot;the Act" means the Territorial Sea and Exclusive Economic Zone Act 1997;

"Commission" means the Commission established under the Convention for the Conservation and management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean:

"foreign entity" means a person other than a Niuean;

"foreign fishing vessel" means a vessel flagged to a State other than Niue;

"locally based foreign fishing vessel" means a foreign fishing vessel whose operations are based in Niue and landing all of its catch in Niue;

"locally-based foreign fishing joint venture vessel" means a locally based foreign fishing vessel operating under a joint venture between the Government of Niue or a Niuean and a foreign entity;

"local fishing joint venture vessel" means a local fishing vessel operating under a joint venture between the Government of Niue or a Niuean and a Niuean;

"local fishing vessel" means any vessel owned and operated by a Niuean with its operations based in Niue, whether flagged to Niue or not;

"marine scientific research" means any activity undertaken in the fisheries waters to expand scientific knowledge of the marine environment and its processes;

"recreational fishing" means fishing for leisure or relaxation and may include the use or hiring out of a fishing vessel or services thereof for recreational fishing purposes;

"test fishing" means any fishing operations carried out for a limited period of time for the purpose of testing the feasibility of commercial fishing operations with a view to the establishment of a commercial fishing operation

### Part 2 - Part 2 - Fishing Licence Division 1 -

### **3** Fishing licence application

- (1) Every application for a fishing licence made under section 27 of the Act shall be on Form A, and shall be accompanied by the fee specified in Part 1 of the Second Schedule.
- (2) In addition to the information provided on Form A, the Minister may require further information such as proof of ownership of the vessel or vessels to be used for fishing.
- (3) The Minister, with the approval of Cabinet, may grant to an applicant
  - (a) a local fishing licence; or
  - (b) a local fishing joint venture licence;
  - (c) a locally-based foreign fishing licence;
  - (d) a locally-based foreign fishing joint venture licence;
  - (e) a foreign fishing licence.

### 4 Factors to be taken into account in deciding an application

- (1) In addition to the factors specified in sections 27 and 28 of the Act, in making the decision on the application for a fishing licence, the Minister may take into account the following factors
  - (a) the applicant's record of compliance with fisheries laws of Niue, FFA member countries, fisheries management and conservation measures adopted by the Commission; or any other regional fisheries management organisation which Niue is a member or cooperates with;
  - (b) the relevant management and development plan;
  - (c) Niue's international obligations;
  - (d) the need to protect the interests of Niueans in the fisheries;
  - (e) any other relevant factors.
- (2) Unless otherwise required by the terms of an agreement between Niue and any other party, the Minister shall not be required to inform the applicant of the grounds upon which he or she has refused to issue a licence.

### 5 Licence fees

- (1) The Minister, with the approval of Cabinet, shall determine the licence fee from the range of fees for each category of vessels as provided in Part 2 of the Second Schedule.
- (2) The Cabinet may exempt any person from all or part of the payment of the licence fee.

### 6 Licence

Every fishing licence shall be issued in writing on Form B.

### 7 Renewal of licences

In addition to the requirements in sections 27 and 28 of the Act, in making a decision to renew a licence, the Minister may take into account the factors provided in regulation 4 of these regulations.

### 8 Record of Fishing Vessels

- (1) The Director shall cause to be maintained a Record of Fishing Vessels which are licensed under these regulations.
- (2) The Record of Fishing Vessels shall contain the following information:
  - (a) name of the fishing vessel, registration number, Commission Identification Number where applicable, previous names (if known);
  - (b) port of registry;
  - (c) name and address of the owner or owners;
  - (d) name and nationality of the master;
  - (e) previous flag (if any);
  - (f) International Radio Call sign, where applicable;
  - (g) vessel communication types and numbers;
  - (h) colour photograph of the vessel;
  - (i) where and when the vessel was built;
  - (j) type of vessel;

- (k) normal crew complement;
- (l) type of fishing method or methods;
- (m)length;
- (n) moulded depth;
- (o) beam;
- (p) gross registered tonnage;
- (q) power of main engine or engines;
- (r) carrying capacity, including freezer type, capacity and number, and fish hold capacity; and
- (s) the period of validity of the licence; and
- (t) such additional information relating to the licences as may be required.

### Part 3 - Part 3 - Miscellaneous

### 9 General penalty for breach of regulations

Any person who contravenes any provision of these regulations or acts in contravention of any licence, permit or authorisation granted pursuant to these regulations commits an offence and, unless otherwise provided in these regulations or in the Act, shall be liable to a fine not exceeding \$250,000.

### 10 Non-application of regulations

The First and Second Schedules of these regulations do not apply to vessels to be used for recreational fishing, test fishing or for the taking of fish for marine scientific research.

### **First Schedule**

Form A	Application for licence for fishing vessel
Form B	Licence for fishing vessel

### FORM A

### **Division 2 - GOVERNMENT OF NIUE**

### Part 4 - APPLICATION FOR A FISHING LICENCE

This Application is in accordance with Section 27 of the Territorial Sea and Exclusive Economic Zone Act, 1997.

**INSTRUCTIONS** 

- \* Underline surnames
- \* For "Address", provide complete mailing address
- \* If not applicable, write "N/A".
- \* Type or print clearly
- \* All units metric; if other system used, specific unit.

# I HEREBY APPLY FOR A FISHING LICENCE IN RESPECT OF THE FISHING VESSEL DESCRIBED BELOW

# DESCRIPTION OF VESSEL 1. Name of Vessel 2. Country and Port of Registration 3. Country Registration Number 4. Details of Radio: \_\_\_\_\_\_\_ Frequency: \_\_\_\_\_\_\_ Radio Call Sign: \_\_\_\_\_\_ Number of Channels: \_\_\_\_\_\_ 5. Operational Base(s) Port \_\_\_\_\_\_ Country \_\_\_\_\_\_ Port \_\_\_\_\_ Country \_\_\_\_\_ 6. Name of Vessel Master 7. Address of Vessel Master 8. Name of Fishing Master 9. Address of Fishing Master \_\_\_\_\_\_\_ 10. Type of Vessel Single Purse Seine \_\_\_\_\_\_ Longline

	Group Pur	se Seir	ner Pole and Line
	Purse Sein	ne Carri	ier Other (Specify)
11.	Normal total number of crev	V	
12.	Hull Materials Steel _ FRP _		Wood Other (Specify)
13.	Year Built		
14.	Place of Construction		
15.	Gross Tonnage		
16.	Overall Length (Metres)		
17.	Main Engine(s) Power		(Specify Units)
18.	Fuel Carrying Capacity		(Kiloliters)
			<u>DETAILS OF OWNERSHIP</u>
19.	Name of Owner		
20.	Address of Owner		
21.	Name of Charterer		
22.	Address of Charterer		
23.	Name and address of local a	gent	
24.	State whether the owner or of any jurisdiction. If "yes"		er is the subject of proceedings under the bankruptcy give details.
			DETAILS OF FISHING OPERATION
25.	Fish Resources Targeted		
26.	Type of Fishing Gear C	Carried	
	Т	o be U	Jsed
27.	Type of Fishing Operations		
28.	Proposed Fishing Areas		
29.	Proposed Commencement E of Fishing Operations	Date	
30.	Period of License Requeste	ed	

31.	Daily Freezing (Mark "X" where		riate)		
	Method		Capacit Metric '	y Tonnes/day	Temperature $\circ C$
	Brine (NaCl) Brine (CaCl) Air (Blast) Air (Coils) Other (Specify)	BR CB BF RC			
32.	Storage Capacity (Mark "X" where		riate)		
	Method		Capacity Cubic Metres		Temperature $\circ C$
	Ice Refrigerated Sea Water Brine (NaCl) Brine (CaCl) Air (Coils) Other (Specify)				
CON	MPLETE A, B <u>OR</u>	C.			
A.	PURSE SEINER	.S			
33. 34. 35.	Net Length Net Depth Support Vessels		Metres Metres		
	Name			Type	
	Name			Type	
	Name			Type	
B.	POLE AND LIN	E VESS	ELS		
36.	Bait Storage (Ma	ırk "X":	more than one, if a	ppropriate)	
	Circulation Meth	od	Capac Cubic	eity Metres	
	Natural Circulation Refrigerated	NN CR RC			
C.	SUPPORT VESS	SELS			
37.	Activities (Mark	"X" whe	ere appropriate)		
	Refrigerated Carr Scouting Boat Anchor Boat Supply/Mothersh				

	Other (Specify)
38.	Fishing Vessel (s) Supported
	FURTHER INFORMATION
39.	If previously licensed in Niue:  (a) Specify the Number of the last licence held  (b) Specify any changes to information previously provided  (c) State whether the vessel has ever been used in an offence against the laws of Niue. It so, please provide details.
40.	State whether the vessel holds current fishing licences elsewhere in the region, including in member countries of the South Pacific Forum Fisheries Agency.
	If "yes", please state the licensing country/countries and licence number/numbers.
41.	Describe any joint ventures or other contractual arrangements with or in Niue in connection with the operations.
42.	Specify whether there is currently in force an access agreement between the Government of Niue and the Government of the flag state of the vessel in respect of which this application is made or with an association representing foreign fishing vessel owners or characters of which the owner or character of this vessel is a member:
43.	State whether the vessel, or the owner, charterer or master of the vessel have at any time contravened an access agreement (whether the Government of Niue is a party or not), and, if so, the nature of the contravention and the action taken or the penalty imposed as a consequence.
44.	State whether the vessel, or the owner, charterer or master of the vessel are the subject of an inquiry, investigation or legal proceeding relating to an alleged contravention of such an access agreement or as a consequence of being engaged in fishing in the water of any other country and, if so, the nature of the allegation.
45.	State whether the vessel is subject to any encumbrance, charge, lien, mortgage;
46.	State whether the vessel has been denied approval to fish in the water of any other country and, if so the reasons for the denial;
47.	State whether the vessel has had its approval to fish in the waters of any other country suspended or withdrawn and, if so, the reasons for the suspension or withdrawal.
48.	State whether the owner, charterer or master of the vessel has incurred any unsatisfied liability or penalty or may incur any liability or penalty, arising out of any contravention, inquiry investigation or proceeding.
48.	Fishing Areas authorized by Flag State
49.	Has this vessel been used for driftnet fishing activities? If "yes", please describe.

### **DECLARATION BY APPLICANT**

I declare that the vessel in respect of which this application is made is in good standing on the regional register of foreign fishing vessel maintained by the South Pacific Forum Fisheries Agency.

I further declare that the information given above it true, complete and correct. I agree to comply with the provisions of the Territorial Sea and Exclusive Economic Zone Act, 1997, the regulations made under it and the conditions of any licence to me.

Signature of Applicant	Date:
Print Name of Applicant	
State whether Owner, Charterer or Agent	
Address of Applicant	



Licence/Po	ermit Number:
Name of Licence Holder:	
Address:	Vessel Type:
	Year Built:
Licence Expire Date (d/m/y):	_
The Licence Holder and the vessel named with the Territorial Sea and Exclusive Ec made thereunder and pursuant to the Agreen the to fish in accordance with the terms prescribed from time to time in the said Agreen	onomic Zone Act, 1997 and regulations nent between the Government of Niue and and conditions set out in this license and
	Size of vessel (specify)
Name of Vessel:	GRT (Other
Country Registration Number:	International Radio Call Sign:
	Authorised fishing method:
Authorised Target Species:	

### For and on behalf of the Government of Niue

### **Second Schedule**

### Part 1 – Fees upon application for licence (USD)

Application for fishing licence	\$50.00

### Part 2 - Licence fees (USD)

1	Local fishing vessel up to 12m	\$100 - \$5,000
2	Local fishing vessel between 12m - 25m	\$500 - \$10,000
3	Local fishing vessel greater than 25m	\$1,000 - \$10,000
4	Local fishing joint venture vessel up to 25m	\$1,000 - \$10,000
5	Local fishing joint venture vessel greater than 25m	\$2,500 - \$15,000
6	Locally based foreign fishing joint venture vessel up to 25m	\$1,000 - \$10,000
7	Locally based foreign fishing joint venture vessel greater than 25m	\$2,500 - \$15,000
8	Foreign fishing vessel up to 25m	\$1,000 - \$10,000
9	Foreign fishing vessel greater than 25m	\$2,500 - \$15,000

### Approved by Cabinet at the Cabinet Chambers, Fale Fono, Alofi this

day of	2004.
Signed by Hon. Young Vivian Premier	
Countersigned by Ngatu Tukutama Clerk to Cabinet	