

**COOK ISLANDS**

**PLAN OF ACTION TO PREVENT, DETER AND  
ELIMINATE ILLEGAL, UNREPORTED AND  
UNREGULATED FISHING**

**2006**

**MINISTRY OF MARINE RESOURCES**

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## ACRONYMS

1882 UN Convention	United Nations Convention on the Law of the Sea of 10 December 1982
1993 FAO Compliance Agreement	Agreement to Promote Compliance and International Conservation and Management Measures by Fishing Vessels on the High Seas
1995 UN Fish Stocks Agreement	Agreement for the Implementation of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
ALC	Automatic Location Communicators
CCAMLR	Commission for the Protection of Antarctic Marine Living Resources
CIMRIS	Cook Islands Marine Resources Institutional Strengthening Project
CITES	Convention on International Trade in Endangered Species
COFI	FAO Committee on Fisheries
CPC	Contracting Party and Cooperating non-Party
EEZ	Exclusive Economic Zone
FAD	Fish Aggregating Device
FFA	The South Pacific Forum Fisheries Agency
FAO	The Food and Agriculture Organization of the United Nations
GDP	Gross Domestic Product
FINSS	Fisheries Information Statistical System
FOC	Flag of Convenience
HACCP	Hazard Analysis Critical Control Point
IATTC	Inter-American Tropical Tuna Commission
ICCAT	International Commission for the Conservation of Atlantic Tunas
IMO	International Maritime Organisation
IOTC	Indian Ocean Tuna Commission
IPOA-IUU	International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
MCIL	Maritime Cook Islands Limited
MCS	Monitoring, Control and Surveillance
MMR	Ministry of Marine Resources
MTCs	Minimum Terms and Conditions for Fishing Access
Niue Treaty	1991 Regional Treaty on Cooperation in Fisheries Surveillance and Law Enforcement
NPOA-IUU	National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated fishing
PIC	Pacific Island Country
RFMOs	Regional Fisheries Management Organizations
SID	Small Island Developing State
SOPAC	South Pacific Geoscience Commission
SPC	Secretariat of Pacific Communities
SPREP	South Pacific Regional Environment Programme
UNCED	United Nations Conference on Environment and Development
VMS	Vessel Monitoring System
WSSD	World Summit on Sustainable Development

## EXECUTIVE SUMMARY

This document outlines Cook Islands National Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated (NPOA-IUU) fishing. It has been developed in accordance with the International Plan of Action to prevent, deter and eliminate IUU fishing adopted in 2001 by the Food and Agriculture Organisation of the United Nations. Included in this document is a brief outline of the Cook Islands fisheries sector.

The Cook Islands is a Small Island Developing State and for centuries Cook Islanders have depended on the surrounding Pacific Ocean as a food source. Even today on the most urbanised island of Rarotonga fish remains an important source of protein with average per capita consumption estimated to be 40 kilograms. On some isolated outer islands, annual per capita consumption exceeds 100 kilograms with almost all inhabitants involved in some sort of fishing activity.

While food security will always be a major focal point, the commercial exploitation of fisheries resources is also a priority area and efforts to establish a viable industrial tuna fishing capacity are well underway. The export of marine products including fresh fish is now the biggest contributor to total export earnings.

Measures have been taken nationally and in partnership with other Pacific Island Countries (PICs) to ensure that all fisheries are managed sustainably. At the national level, the Cook Islands has implemented fisheries management legislation that incorporates principles established by the 1993 FAO Compliance Agreement, the 1995 Fish Stocks Agreement and the Code of Conduct and will further elaborate these principles in its various fisheries management plans and licensing arrangements.

At the regional level the Cook Islands continues to be an active member of the Forum Fisheries Agency and has implemented regionally agreed minimum terms and conditions for fishing access (MTCs) that require fishing vessels to comply with registration, licensing, catch reporting, position reporting, observer, transshipment and unloading regulations. Cook Islands is also a member of the Western and Central Pacific Fisheries Commission and is committed to the implementation of all agreed management measures for the conservation and management of tuna and associated species in the region. As well, as a flag State with vessels that operate in other regions, Cook Islands cooperates with other regional fisheries management organisation including the Inter-American Tropical Tuna Commission (IATTC) and the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).

IUU fishing occurs in all fisheries but it is considered that the biggest threat is posed by the illegal, unreported and unregulated fishing that takes place with respect to the regionally shared tuna resources. To eradicate this will require greater regional cooperation including the full harmonisation of management and conservation measures and the coordination of monitoring, control and surveillance capacity on a regional or sub-regional basis.

Cook Islands has limited fisheries management resources to manage fisheries resources in its nearly 2 million square kilometre Exclusive Economic Zone (EEZ) and relies to some extent on regional and bilateral cooperation to prevent, deter and eliminate illegal, unreported and unregulated fishing. Cook Islands is committed to further developing its management capacity and to work with partner States in the region and internationally, to ensure the conservation and long term sustainable use of fish stocks and the protection of the environment.

Cook Islands has adopted fisheries management initiatives developed regionally and has adopted new legislation that incorporates principles contained in the 1995 UN Fish Stocks Agreement, the 1993 Compliance Agreement and the Code of Conduct for Responsible

Fishing, to a large extent, this document is a record of actions already underway. In the process of developing this NPOA-IUU however, a number of areas of management were found to require strengthening and these areas will be attended to over the coming months. The Cook Islands will carry out on-going review of the National Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and will submit revisions to FAO as required.

## 1. INTRODUCTION

### 1.1. Purpose

This document outlines the Cook Islands National Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing (NPOA-IUU).

The Cook Islands NPOA-IUU has been developed in accordance with the International Plan of Action to prevent, deter and eliminate IUU fishing (IPOA-IUU). The IPOA-IUU was adopted in 2001 by the Committee on Fisheries (COFI) of the Food and Agriculture Organisation of the United Nations (FAO).

### 1.2. FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

The IPOA-IUU was developed as a voluntary instrument within the framework of the FAO Code of Conduct for Responsible Fisheries.

The objective of the IPOA is to prevent, deter and eliminate IUU fishing by providing all States with comprehensive, effective and transparent measures by which to act, including through appropriate regional fisheries management organisations (RFMOs) established in accordance with international law.

The IPOA-IUU calls on States to develop and implement NPOAs by June 2004, to further achieve the objectives of the IPOA and give full effect to its provisions as an integral part of their fisheries management programmes and budgets.

The IPOA-IUU serves as a comprehensive “toolbox” of measures to address IUU fishing in a range of contexts. The IPOA-IUU contains general measures targeted at all States, as well as measures targeted specifically at flag States, coastal States and port States. It also contains market-related measures, measures to support the special requirements of developing countries in their achievement of the objective of the IPOA-IUU, and measures to be taken by States through RFMOs. Some of the IPOA-IUU provisions reflect obligations that many States have accepted as binding, either through global instruments, RFMOs or through national legislative instruments.

The IPOA-IUU incorporates the following principles and strategies:

Participation and coordination: To be fully effective, the IPOA-IUU should be implemented by all States either directly, in cooperation with other States, indirectly through relevant RFMOs or through the FAO and other appropriate international organisations. The full participation of stakeholders in combating IUU fishing, including industry, fishing communities, and non-governmental organizations, should be encouraged.

Phased implementation: Measures to prevent deter and eliminate IUU fishing should be based on the earliest possible phased implementation of NPOAs-IUU, and regional and global action in accordance with the IPOA-IUU.

Comprehensive and integrated approach: Measures to prevent deter and eliminate IUU fishing should address factors affecting all capture fisheries. In taking such an approach, States should embrace measures building on the primary responsibility of the flag State and using all available jurisdictions in accordance with international law, including port State measures, coastal State measures, market-related measures and measures to ensure that nationals do not support or engage in IUU fishing. States are encouraged to use all these measures, where appropriate, and to cooperate in order to ensure that measures are applied

in an integrated manner. The action plan should address all economic, social and environmental impacts of IUU fishing.

Conservation: Measures to prevent, deter and eliminate IUU fishing should be consistent with the conservation and long-term sustainable use of fish stocks and the protection of the environment.

Transparency: The IPOA-IUU should be implemented in a transparent manner in accordance with Article 6.13 of the Code of Conduct for Responsible Fisheries.

Non-discrimination: The IPOA-IUU should be applied without discrimination in form or in fact against any State or its fishing vessels.

### **1.3. Definition of Illegal, Unreported and Unregulated Fishing**

The IPOA-IUU defines IUU fishing according to the definition below: the Cook Islands also uses this definition in its NPOA-IUU.

Illegal fishing refers to activities:

- conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
- conducted by vessels flying the flag of States that are parties to a relevant RFMO but operate in contravention of the conservation and management measures adopted by that organisation and by which the States are bound, or relevant provisions of the applicable international law; or
- in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant RFMO.

Unreported fishing refers to fishing activities:

- which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- undertaken in the area of competence of a relevant RFMO which have not been reported or have been misreported, in contravention of the reporting procedures of that organisation.

Unregulated fishing refers to fishing activities:

- in the area of application of a relevant RFMO that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation; or
- in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

The IPOA-IUU notes that unregulated fishing may take place in a manner which is not in violation of applicable international law, and may not require the application of measures envisaged under the IPOA-IUU.

### **1.4. Why is IUU fishing a problem?**

In the context of the Code of Conduct for Responsible Fisheries and its overall objective of sustainable fisheries, the issue of IUU fishing in world fisheries is a serious and increasing concern. IUU fishing undermines efforts to conserve and manage fish stocks in all capture fisheries. When confronted with IUU fishing, national and regional fisheries management organisations can fail to achieve management goals. This situation leads to the loss of both



short-term and long-term social and economic opportunities and to negative effects on food security and environmental protection. IUU fishing can lead to the collapse of a fishery or seriously impair efforts to rebuild stocks that have already been depleted. Existing international instruments addressing IUU fishing have not been effective due to a lack of political will, priority, capacity and resources to ratify or accede to and implement them.

To avoid detection, IUU fishers often violate certain basic safety requirements, such as keeping navigation lights lit at night, which puts other users of the ocean at risk. Operators of IUU vessels also tend to deny to crew members fundamental rights concerning the terms and conditions of their labour, including those concerning wages, safety standards and other living and working conditions.

In addition to its detrimental economic, social, environmental and safety consequences, the *unfairness* of IUU fishing raises serious concerns. By definition, IUU fishing is either an expressly illegal activity or at minimum, an activity undertaken with little regard for applicable standards. IUU fishers gain an unjust advantage over legitimate fishers. In this sense, IUU fishers are “free riders” who benefit unfairly from sacrifices made by others for the sake of proper fisheries conservation and management. This situation undermines the morale of legitimate fishers and, perhaps more importantly, encourages them to disregard the rules as well. Thus, IUU fishing tends to promote additional IUU fishing, creating a downward cycle of management failure.

The unreported nature of IUU fishing makes it particularly difficult to quantify. Available information nevertheless indicates that, for some important fisheries, IUU accounts for up to 30 percent of total catches. Moreover, available information strongly suggests that, despite apparent improvement in some regional situations, the amount of IUU fishing world-wide is increasing, as IUU fishers seek to avoid compliance with stricter fishing regulations that are being imposed to deal with downturns in a growing number of fish stocks. While some estimates suggest that IUU fishing may account for as much as one quarter of total catch in the world’s oceans, fully reliable data on IUU fishing are by definition, scarce.

IUU fishing is a dynamic, multi-faceted problem which cannot be effectively addressed by any single strategy. A multi-pronged approach is required at international, regional and national levels, with buy-in from all stakeholders involved and affected.

The IPOA-IUU contains a range of effective tools to address IUU fishing. Widespread implementation of the provisions contained in the IPOA-IUU presents an opportunity for States and RFMOs to reinforce existing measures and to implement new measures to address IUU fishing.

### **1.5. Profile of Cook Islands fisheries**

The Cook Islands EEZ covers an area of approximately 1.83 million square kilometres of the central sub-tropical Pacific Ocean. The EEZ extends between approximately 7-24 degrees South and 168-155 degrees West and includes both tropical and sub-tropical areas. The Cook Islands EEZ borders with Tokelau, American Samoa, and Niue to the west, Kiribati (Line Islands) to the north-east and French Polynesia to the east. Areas of high seas are located immediately to the north and south with a small pocket of high seas to the east. The total land area is 240 square kilometres spread over 15 islands with a resident population of 12,800 people occupying 12 of those islands.<sup>1</sup> Gross Domestic Product (GDP) in constant 2000 prices for 2005 was estimated at \$216 million. The value of exports in 2005 was NZ\$7.4 million including NZ\$3.4 million of fresh fish, NZ\$1.7 million of black pearls. The tourist

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<sup>1</sup> For 2005 the resident population was estimated at 12,400. The total population was estimated at 20,200 which included visitors. In 2005 visitor numbers were estimated at 87,681. Cook Islands Annual Statistical Bulletin 2006, Statistics Cook Islands.

industry continued to dominate the economy contributing an estimated NZ\$131 million in 2005.

In general Cook Islanders have a high reliance on living marine resources as a source of food particularly those living in the Northern Group atoll islands and also for those living in the Southern Group outer islands. Per capita fish consumption in one northern island was estimated at 150 kilograms but for the country as a whole, consumption is estimated at 47 kilograms annually and almost all this fish is taken from lagoon and inshore areas.

In terms of off-shore fishing over the last five years Cook Islands has focused on the development of domestic catching and processing capacity aimed at the fresh tuna export market with low value fish retained for the domestic market. Currently 29 tuna longline vessels are licensed to operate along with 2 processing plants. Landings of tuna and related species in 2005 amounted to 3,300 metric tonnes.

The Cook Islands also has 9 flag vessels authorised to operate beyond areas of national jurisdiction. Currently these vessels operate in the WCPFC and IATTC regions.

#### **1.5.1. The fisheries**

The fisheries sector of Cook Islands can be divided into three broad sub-sectors:

- Lagoon and Inshore;
- Offshore; and
- Aquaculture.

#### **Lagoon and inshore :**

Reef-flats, lagoons, fringing and barrier reefs and the open ocean provide an important source of protein and income for many Cook Islanders. Reefs and lagoons in the Cook Islands support a wide variety of fish, corals, molluscs, crustaceans, enchinoderms and other marine organisms. Beyond the reef, tuna (including albacore, yellowfin, bigeye and skipjack) form part of the Western and Central Pacific tuna stocks. Fish and invertebrates are harvested from nearshore areas by using gill nets, traps, spears, rod and reel, gleaning and simple hook and line gear.

Since the late 1980s, a small aquarium fish export operation has been established on Rarotonga. Since 1989, the value of aquarium fish exports have ranged between NZ\$281,000 and NZ\$54,000. Over the last few years, exports have included juvenile giant clam reared at the Aitutaki hatchery.

#### **FAD fishery**

The establishment of fish aggregating devices since 1980 has resulted in increased catches of pelagic species including tunas, dolphinfish, wahoo and billfish. Trolling and vertical longlining are methods used for catching oceanic species associated with FADs.

#### **Offshore longline fishery**

Offshore fishing for tuna and associated species has been prevalent in waters surrounding the Cook Islands since the 1950s when Japanese longline vessels were active. These vessels began to be replaced in the 1970s by vessels from Taiwan and Korea. The Cook Islands declared its EEZ in 1977 and began licensing Korean and Taiwan longliners in 1980 and 1981 respectively. These vessels were geared principally for the canned albacore market but also took catches of yellowfin and bigeye. In 1993 two longline vessels targeting the fresh fish sashimi market began operations out of Rarotonga and were followed in 1994 by a fully owned Cook Islands operation. These operations however proved to be unsustainable and it

wasn't until 2002 that a significant domestic based fleet became established. By 2002 a total of 21 domestic or domestically based foreign vessel licenses were issued (the licensing of foreign fishing vessels was discontinued in 2000). Vessel numbers and catch for the period 2002 to 2005 is provided in Table 2.

**Table 1: Off-shore Sector Fish Landed 2002-2005 (tonnes)**

	<b>Vessels</b>	<b>North of 15 South</b>	<b>South of 15 South</b>	<b>Total</b>
2002	21	1,484	365	1,849
2003	51	1,883	1,201	3,084
2004	37	2,914	746	3,660
2005	25	2,744	572	3,316

Two distinct longline fisheries exist in the Cook Islands. In the Northern Cook Islands the target species is albacore for the canning market. In the Southern Group vessels are based in Rarotonga and target high value tunas for the fresh fish sashimi markets in Japan and the USA. Overall, albacore is the predominant species caught making up 70% of total catch.

### **Aquaculture**

Black pearl production dominates the aquaculture sector. To date farms have been established in the lagoons of Manihiki, Penrhyn and Rakahanga. While a number of pearl farming permits have been issued, there are currently ten main producers farming approximately 2 million oysters. To support the pearl industry, MMR operates a pearl hatchery in Penrhyn with the main aim of supplying spat to farmers and the Ministry also monitors lagoon water quality and provides management advice to farmers.

MMR also operates a giant clam hatchery in Aitutaki which aims to spawn and rear clams to re-seed lagoons in the Southern Group. The hatchery has also been trialling the production of clams for the aquarium fish market.

*Trochus niloticus* was introduced into the Aitutaki lagoon in 1957 and from there brood stock have been released in other lagoons throughout the country. Aitutaki and Rarotonga are the only islands currently exporting shell and most of this goes to the United Kingdom in raw unprocessed form to be manufactured into buttons. *Trochus* management in Aitutaki is the responsibility of the Island Council which issues transferable quotas to families for them to either harvest during open season or sell the quota to another family.

The farming of fresh-water prawns has been trialled on Rarotonga and it is anticipated that a large farm will become operational in the near future.

#### **1.5.2. Economic role of the fishing industry**

The fisheries sector remains a critical element of the Cook Islands economy both because fish is the basic source of protein and because the sector is a major export earner. The catch of fish from lagoon and reef areas is not well documented but it is estimated that in the Northern Group islands, up to 95% of the population is engaged in some form of fishing whether domestic or commercial. In the Southern Group island of Aitutaki it is estimated that 80% of households are engaged in fishing activities and 85% of the total catch is for home consumption. For the relatively urbanised capital Rarotonga, it is estimated that 70% of residents over the age of 15 years search the reef for food or go fishing at least once a year. While the national per capita consumption of fish is estimated at 47 kilograms, consumption in the outer islands is considerably higher. In Penrhyn per capita consumption is estimated at 150 kilograms.

Due to the number of tourists visiting the Cook Islands (88,000 in 2005) as well as the urban nature of Rarotonga (approximately 8,000 in 2005), the domestic demand for locally caught fresh fish is significant. The bulk of the Rarotonga market is supplied from the inshore FAD fishery, the offshore longline fishery and the Palmerston Island parrot fish fishery. The Palmerston Island product is in filleted form and with an average of 8 tonnes shipped to Rarotonga annually, earns that island about NZ\$120,000. The volume of longline caught fish actually landed for the Rarotonga market is not known but it is estimated that 300-500 tonnes of whole fish would be required to meet local demands.<sup>2</sup>

The local processing/retail sector provides a wide range of products including loins, fillets, sashimi cuts, ika mata (cubed raw fish for marinating and smoked fish).

In terms of exports, earnings from fresh fish and black pearls have dominated total export earnings over the last four years. Table 3 shows that in 2003, exports of fish related products accounted for 76 percent of total earnings and in 2005 these exports accounted for 69% of total earnings.

**Table 2: Total and Fisheries Exports 2002-2005 (NZ\$'000)**

	Total	Live Fish (aquarium)	Fresh/Chilled	Pearls	P. Shell	%
2002	10,928	211	2,334	6,405	6	46
2003	14,588	281	8,258	2,843	49	76
2004	10,771	135	2,898	3,177	37	58
2005	7,417	111	3,381	1,646	3	69

### 1.5.2.1 Economic policy objectives for the fisheries sector

Policy objectives include:

- Long term conservation and sustainable use of fishery resources, and to this end adopt management measures which promote the objective of optimum utilization to achieve economic growth, food security, human resource development, employment creation and sound ecological balance;
- To promote and expand sustainable competitive exports of marine products by implementing appropriate fisheries management plans developed in partnership with the private sector;
- To encourage local value adding and downstream processing with the aim of maximising the value of marine products.

### 1.5.2.2 Development prospects

The development of the marine sector to ensure food security and enhance income generation through domestic sales and exports, are primary objectives of the Cook Islands.

Market opportunities are believed to exist for a range of inshore resources including prawns, mud crab, giant clam, grape seaweed, milkfish, live rock lobster and deep-sea snapper. One opportunity that could assist both the offshore industry and rural communities is the use of milkfish as bait for the longline fishing industry. The large-scale production of milkfish could provide a new source of income for rural people and replace longline bait that is currently

<sup>2</sup> There is a need to more accurately establish the demand for fish in the main centres Rarotonga and Aitutaki.

being imported. Another opportunity that is set to expand is the export of hatchery reared giant clams to the aquarium trade.

Black pearls have been produced in export quantities from Manihiki since the late 1980s but it is considered that the lagoon is at full capacity. Penrhyn has an established pearl industry and although the lagoon itself can support additional farms, further expansion will depend on the ability of the hatchery to supply juveniles. Rakahanga is the only other island with an established pearl farm which is managed on a community basis. Other islands that may be suitable for farming include Palmerston and Pukapuka.

The prospect of increasing the export of mother of pearl shell seems plausible both because of the number of pearl oysters being farmed and because trochus stocks in lagoons not currently harvested, may be opened for harvest.

With respect to off-shore fisheries, there appears to be some prospect for the expansion of the tuna industry both in terms of total catch and processing. Current knowledge of tuna stocks indicate that current levels could be doubled. In terms of processing for export, there appears to be scope for marketing tuna loins as well as by-catch.

### **1.5.3. Fisheries management**

#### **1.5.3.1. Management objectives**

The conservation, management and development of Cook Islands fisheries is governed by the following legislation:

- Ministry of Marine Resources Act, 1984; and
- Marine Resources Act, 2005.

The principal objectives and functions of the Ministry as set out in the MMR Act, 1984 are:

- To seek and promote a rational approach to the development, exploitation, management and conservation of all living and non-living resources that are found in waters under Cook Islands jurisdiction, and to exploit such resources in a manner that will ensure maximum benefits accruing to the people of the Cook Islands;
- To increase self-sufficiency in fish and protein production at the household and levels;
- To rapidly expand development in areas offering the greatest potential for export or import substitution or both;
- To assess and introduce cost-effective fisheries technology appropriate to the Cook islands and to ensure that such technological innovations are primarily geared to assist subsistence, artisanal and full-time fishermen;
- To develop the exploitation of marine resources in the Outer Islands that offer opportunities for self-employment thereby raising the standard of living and slowing down emigration;
- To work in close cooperation with those in Government and in the private sector that are involved in the development of marine resources of the Cook Islands.

The principal objective of the Marine Resources Act, 2005 is to provide for the sustainable use of living and non-living marine resources for the benefit of the people of the Cook Islands. All persons exercising or performing functions, duties or powers provided for in both sets of legislation are required to do so in a manner consistent with the Cook Islands international and regional obligations relating to the conservation and management of living and non-living resources in the fishery waters. Principals established by the Marine Resources Act include:

- Decisions should be based on the best scientific evidence available;
- The precautionary approach should be applied;
- Impacts of fishing on non-target species and the marine environment should be minimised; and
- Biological diversity of the aquatic environment and habitat of particular significance for fisheries management should be protected.

Other legislation that impacts on the management of marine resources include the Environment Act 2003, the Prevention of Marine Pollution Act, 1998 and the Shipping Act, 1998 which provides for the Cook Islands Ships' Registry.

### **1.5.2.3 Ministry of Marine Resources Structure**

The Ministry of Marine Resources is currently structured as follows:

#### **Offshore Fisheries Division**

To provide services that increase the profitability and sustainability of commercial offshore fisheries including the provision of assistance aimed at improving the effectiveness of industry organisations and the adoption of management measures to ensure the sustainability of key fish stocks.

#### **Pearl Industry Support Division**

To increase the profitability of pearl farming by supporting the activities of an effective industry organisation and the adoption of cost-effective market-led approaches to pearl farming.

#### **Aquaculture and Inshore Fisheries Management Division**

To increase income and employment opportunities (particularly in the outer islands) through sustainable development of aquaculture and inshore fisheries.

#### **Legal and Policy Division**

To increase the economic, policy and legal capacity of the Ministry in order to ensure proactive participation in national, regional and international fisheries management initiatives.

#### **Corporate Services**

To facilitate and provide the Ministry with necessary resources, systems and capabilities that will support the Ministry to achieve its outputs effectively and efficiently.

### **1.5.3.3. Information for management decisions**

Information is acquired by the MMR for management decisions in a number of ways. Licensed operators in the commercial fisheries are required to record and submit daily records of fishing activity, including catch of all species including by-catch, and fishing effort. From time to time licensed vessels are required to carry an observer who collects information on fishing activities for monitoring and enforcement purposes. Stock assessment and other management related information is also provided through the Inshore Fisheries and Aquaculture Division as well as from outside agencies including SPC with respect to tuna.

The traditional (lagoon) fisheries are managed by respective island or village councils with scientific and management support provided by MMR. For the off-shore sector, the industry

has established an association and industry representatives are involved in the management process through the convening of meetings when the need arises.

#### **1.5.3.4. Monitoring, control and surveillance**

Monitoring of fishing activity and enforcement of fisheries management legislation relating to off-shore fishing is the responsibility of the Off-shore Fisheries and the Legal and Policy divisions within MMR. The Ministry is assisted in this function by the Department of Police Maritime Surveillance Division which operates the patrol vessel *Te Kukupa* and the Crown Law Office which conducts prosecutions. In addition, periodic air and surface surveillance patrols are provided by New Zealand, France and Australia defence forces.

#### **Licensing and authorisation:**

The Marine Resources Act, 2005 establishes that all fishing vessels measuring 10 meters or more in length, are required to be licensed to be able to fish in the EEZ.<sup>3</sup> Since 2002 the policy has been that only Cook Islands registered vessels may be so licensed. Currently there are 15 foreign vessels under demise charter to Cook Islands interests and 13 locally owned vessels licensed to fish. All charter licenses are issued subject to there being in place an access agreement which sets out the terms and conditions for fishing access. These terms and conditions follow the regionally agreed minimum terms and conditions and include requirements relating to the maintenance of catch logs, reporting requirements, VMS, observers and closed areas. All demise charter vessels (foreign vessels) are required to be registered on the FFA Regional Register.

Through the Multilateral Treaty on Fishing with the United States, Cook Islands also licenses purse seine vessels. These vessels are monitored by FFA and currently there are 12 purse seiners active in the region. Purse seine activity in the Cook Islands is rare as this fishery targets surface schooling tuna including skipjack and juvenile yellowfin and bigeye.

Section 35 of the Marine Resources Act, 2005 requires that any Cook Islands flag vessel that intends to fish beyond areas of national jurisdiction, be authorised to do so. Flag vessels that operate in areas managed by RFMOs are required to be listed on the appropriate RFMO list of authorised vessels. In addition, Cook Islands vessels that operate in the FFA region are required to be in good standing on the FFA Regional Register.

MMR maintains a register of licensed vessels as well as a register of flag vessels.

#### **Vessel Monitoring System**

MMR operates two VMS systems: the regional VMS administered by FFA that tracks all vessels listed on the Regional Register and the domestic which monitors Cook Islands owned vessels and Cook islands flagged vessels authorised to fish in areas beyond national jurisdiction. Like the FFA system, the national VMS is Inmarsat C based.

Under a regional VMS arrangement Cook Islands, Samoa and Niue have agreed to allow one-another access to in-zone FFA VMS tracking information.

#### **Observers & Port Sampling**

As a condition of access, all licensed vessels are required to carry observers as determined by MMR. Currently the Ministry has access to 20 observers that have completed the FFA/SPC regional observer training programme. Observer coverage is limited to 5% at present but a

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<sup>3</sup> Marine Resources Act 2005, Section 20.

target of 10% coverage has been set. Vessel operators are required to cover the cost of the observer placement. Observer reports follow the regional standard and observers are debriefed upon task completion and reports are copied to SPC for further analysis.

Port sampling for catch verification and scientific analysis is undertaken for vessels that land catch in Rarotonga. The aim is to have complete coverage of all licensed vessels including those that land in PagoPago. The recruitment of additional manpower is underway in order to monitor Rarotonga landing. For landings that occur in PagoPago, a formal cooperative arrangement with American Samoa is being pursued.

## **Surveillance**

Surface surveillance is the responsibility of the Maritime Surveillance Division which operates the patrol vessel *Te Kukupa*. Periodic patrols of the EEZ are conducted based on fishing vessel activity information provided by MMR. These patrols are coordinated with aerial patrols conducted by the New Zealand and France defence forces. In recent years, joint surface operations have been undertaken with neighbouring countries.

### **1.5.4. Research and Training**

The development of research capacity has been an on-going focus of the Ministry. Currently the Ministry operates three research stations in the Outer Islands to support the black pearl industry in Manihiki and Penrhyn as well as the clam hatchery in Aitutaki. The major focus of research in Rarotonga is the monitoring of water quality in the lagoon. It is planned to establish a national laboratory which will be utilised by MMR for fisheries research purposes and will include the testing of fish samples associated with the export industry.

The Ministry relies to some extent on outside expertise including that provided by SPC for inshore research and on-going tuna stock assessment.

Technical training is largely conducted off-shore through tertiary institutions in Australia, New Zealand and Fiji. In-country training is also conducted and generally conducted by the regional organisations including FFA, SPC and FAO. A major capacity strengthening project which includes manpower development, funded by New Zealand, is currently underway.

### **1.5.5. Development Assistance**

The Ministry is currently receiving significant development assistance from the New Zealand Government through the Cook Islands Marine Resources Institutional Strengthening (CIMRIS) project which commenced in 2006 and will run to 2009. The project is aimed at developing the capacity of the Ministry to appropriately manage the country's marine resources as well as its capacity to participate in the management of the WCPFC Area. On-going assistance is also provided through regional organisations including FFA, SPC and SOPAC. The Australian Government through the Pacific Patrol Boat Programme assists with the maintenance and management of the Maritime Surveillance Centre as well as the *Te Kukupa*.

### **1.5.6. International and Regional Law and Relations**

#### **1.5.2.4 Treaties and agreements**

The Cook Islands has ratified and is party to the following international treaties and agreements:

- **1973 Convention on International Trade in Endangered Species (CITES)** – Cook Islands supports closer cooperation between CITES and FAO to improve the



applicability of CITES provisions to commercial fisheries. In particular, listing some commercially harvested species on Appendix II (this requires trade in the species to be regulated) would complement RFMO efforts through addressing issues such as non-member fishing and through the potential for multilateral trade sanctions against States that do not comply with CITES requirements;

- **1982 United Nations Convention on the Law of the Sea** - which provides the framework for the better management of marine resources and confers on coastal States rights and responsibilities for the management and use of fishery resources within the area of their national jurisdiction (EEZs); and
- **1995 UN Fish Stocks Agreement** – which builds on the 1982 United Nations Convention on the Law of the Sea and is closely associated with the 1993 Compliance Agreement sets out the framework for the management and conservation of highly migratory fish stocks and straddling fish stocks.

The Cook Islands has ratified and is party to the following regional treaties:

- **1987 Treaty on Fishing with the United States**, permitting access to the waters of the regional parties by United States purse seine vessels;
- **1989 Convention for the Prohibition of Fishing with Long Driftnets**, banning the use of long driftnets in the South Pacific region;
- **1991 Regional Treaty on Cooperation in Fisheries Surveillance and Law Enforcement**, providing the framework for sub-regional arrangements under which parties can conduct joint and reciprocal surveillance and enforcement; and
- **2000 Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean**, establishing the framework for the management of fishing in high seas areas in the region;

#### 1.5.6.1. Membership in regional fisheries bodies

**The Secretariat of the Pacific Community (SPC)** - The main objective of the SPC is to encourage and strengthen international cooperation in promoting the economic and social welfare and advancement of the peoples of the region. The Divisional goal for the Fisheries Programme, is to provide a regional service which provides information, advice and direct assistance to the region through SPC member governments, either individually or collectively, in using living marine resources in the most productive and responsible manner possible. Activities include fisheries stock assessment (for both reef fisheries and highly migratory fish stocks), marine ecosystem research for reef and pelagic fisheries, tuna fisheries development support, coastal fisheries management support and fisheries information and databases within the area of competence. Two fisheries programmes form the framework for SPC's fisheries activities. These are the Coastal Fisheries Programme and the Oceanic Fisheries Programme.

**The South Pacific Forum Fisheries Agency (FFA)** - The objectives of the FFA include: (i) conservation and optimum utilization of the highly migratory species; (ii) promotion of regional cooperation and coordination in respect of fisheries policies; (iii) securing of maximum benefits from the living resources of the region for their peoples and for the region as a whole and in particular the developing countries; and (iv) facilitating the collection, analysis, evaluation and dissemination of relevant statistical scientific and economic information about the resources covered by the Convention. The functions of the Organization include, *inter alia*: (i) harmonization of policies with respect to fisheries management; (ii) cooperation in respect of relations with distant water fishing countries; (iii) cooperation in surveillance and enforcement; (iv) cooperation in respect of onshore fish processing; (v) cooperation in marketing; (vi)

cooperation in respect of access to the 200 mile zones of other Parties. FFA provides some services to its members allowing them to assess the extent, impact and effects of IUU fishing, such as the operation of a regional VMS. However, because FFA does not have a management mandate, as noted above, it is not in a position to indicate activities, priorities or plans in relation to specific issues. It does, however, have important roles such as: the provision of information among member countries and between the countries and the Organization; and assisting members in improving their capacity to manage and develop the oceanic fisheries resources for their benefits.

**The Western and Central Pacific Fisheries Commission (WCPF Commission)** - The WCPF Convention which entered into force on 19 June, 2004 established a Commission for the conservation and management of highly migratory fish stocks in the Western and Central Pacific Ocean. At this stage fourteen FFA Member Countries are the sole contracting parties. The inaugural meeting of the Commission is set for December, 2004. WCPF Commission will be a regional fisheries management organisation with regulatory powers and include members from the region and distant water fishing nations. The Commission's mandate allows broad scope for it to implement the 1995 UN Fish Stocks Agreement in the region, including through data collection, MCS and trade sanctions. The Commission will agree on management measures to be implemented by its members including measures to prevent, deter and eliminate IUU fishing. These actions reinforce the need for the laws and practices of Tonga concerned with implementing the international fisheries instruments, including the IPOA-IUU, to be in place to discharge its responsibilities under the Commission.

**The South Pacific Regional Environmental Programme (SPREP)** - SPREP is a regional organization established by the governments and administrations of the region to look after its environment. It has grown from a small programme attached to the SPC in the 1980s into the region's major intergovernmental organisation charged with protecting and managing the environment and natural resources. Its mandate is to promote cooperation in the region and provide assistance to protect and improve the environment, including the marine environment, and ensure sustainable development for present and future generations. The island governments and administrations saw the need for SPREP to serve as the conduit for concerted environmental action at the regional level. The establishment of SPREP also sends a clear signal to the global community of the deep commitment of the island governments and administrations towards sustainable development, especially in light of the outcomes of the World Summit on Sustainable Development (WSSD).

### **1.6. The impact of IUU fishing on Cook Islands**

Protection of the marine ecosystem is a key issue for Cook Islands in its bid to ensure food security and to maximise benefits from the sustainable exploitation of fisheries resources. All fishing activity that degrades the marine environment and that threatens the health of fish stocks in Cook Islands and the wider Pacific Ocean region is a threat to the health and livelihood of the Cook Islands people and to the supply of fish, particularly shared fish stocks, available to Cook Islands and the outside world.

Coastal marine resources are already under stress from legitimate fishers consequently, the additional impact of IUU fishers can only be catastrophic both for the resource and the livelihood of traditional fishers and their families dependent on income from the exploitation of those stocks. Action to protect the resources and the livelihood of Cook Islands fishers in the traditional fisheries is on-going and includes not only the prosecution of licensed operators that conduct IUU fishing but also unlicensed fishers including the expulsion of a number of foreign fishers.

Over the next 20 years Cook Islands intends to develop its industrial fleet to exploit demersal and pelagic resources and to displace all foreign fishing operations currently active in the EEZ. In addition, the opportunity exists for Cook Islands vessels to operate outside national waters including in high seas areas. Indiscriminate and uncontrolled fishing in off-shore areas including on the high seas poses a real threat to these development objectives.

Cook Islands has limited fisheries management resources and will increasingly rely on regional and bilateral cooperation to prevent, deter and eliminate illegal, unreported and unregulated fishing. Cook Islands is committed to developing its own management capacity and to work with partner States in the region and internationally to ensure the conservation and long term sustainable use of fish stocks and the protection of the environment.

### **1.7. Scope of the Cook Islands National Plan of Action**

The Cook Islands NPOA-IUU closely follows the structure of the IPOA-IUU. Like the IPOA-IUU, the Cook Islands NPOA-IUU addresses general measures targeted at all States, as well as measures targeted specifically at flag States, coastal States and port States. The NPOA-IUU focuses principally on tuna fisheries and as such considerable importance is attached to the role of RFMOs in fisheries management, particularly with respect to high seas fisheries management.

Cook Islands has recently enacted fisheries conservation and management legislation which is consistent with the 1993 FAO Compliance Agreement, the 1995 UN Fish Stocks Agreement and which makes provision for management measures that may be required by RFMOs including WCPFC. As a result, the Cook Islands NPOA-IUU is largely a record of actions already underway though does not close the door to future developmental needs.

In developing the NPOA-IUU, a number of additional fisheries conservation and management measures were identified that if implemented, would strengthen MMR's ability to eradicate IUU fishing. In addition, it was found that some existing measures could be strengthened through modification. These include additional measures to strengthen control over flag vessels, the adoption of an administrative penalties procedure and the establishment of joint and reciprocal MCS arrangements with neighbouring States.

As suggested in the IPOA-IUU, the Cook Islands NPOA-IUU will be reviewed and if necessary, revised every four years for submission to FAO.

## 2. ALL STATE RESPONSIBILITIES

### 2.1. International Instruments

The IPOA-IUU calls on States to give full effect to relevant norms of international law in order to prevent, deter and eliminate IUU fishing. States are encouraged as a matter of priority to ratify, accept or accede to the 1982 UN Convention, the 1995 Fish Stocks Agreement, the 1993 FAO Compliance Agreement and the Code of Conduct and its related IPOAs and to become members of, or cooperate to establish new, RFMOs where appropriate.

The Cook Islands is a party to the following international legal instruments relating to fisheries conservation, management and development:

- 1979 FFA Convention;
- 1982 UN Convention on the Law of the Sea;
- 1989 Driftnet Convention;
- 1991 Regional Treaty on Cooperation in Fisheries Surveillance and Law Enforcement;
- 1995 UN Fish Stocks Agreement;
- 2000 Western and Central Pacific Fisheries Convention.

The Cook Islands has flag vessels that operate in other regions and is a contracting party to CCAMLR and a cooperating non-party to IATTC. Application for observer status to the South West Indian Ocean Fisheries Commission (SWIOFC) has also been made.

In addition to the IPOA-IUU, the Cook Islands will also be developing, as appropriate, national plans of action relating to sharks, sea birds and turtles.

Although Cook Islands has incorporated principles of the 1993 FAO Compliance Agreement, into the Marine Resources Act, 2005, it is not a party to the agreement. The 1993 FAO Compliance Agreement entered into force in 2002 and States that wish to become a party are required to submit a letter of acceptance to FAO.

### 2.2. National Legislation

#### 2.1.1. Legislation

The IPOA-IUU states that national legislation should address, in an effective manner, all aspects of IUU fishing. National legislation should address, inter alia, evidentiary standards and admissibility including, as appropriate, the use of electronic evidence and new technologies.

Fisheries conservation, management and development are conducted in accordance with the Marine Resources Act, 2005. The Act incorporates principles established by the 1982 Agreement, the 1993 FAO Compliance Agreement and the 1995 UN Fish Stocks Agreement.

With respect to evidentiary standards and the use of electronic evidence the Act provides for the use of certificate evidence, photograph evidence and the use of information from Automatic Location Communicators (ALC). As a condition of license, all foreign fishing vessels are required to have an authorised (ALC) device installed and operated in accordance with established procedures. The ALC shall be judicially recognised as notoriously accurate. Where a photograph is taken of any fishing or related activity and simultaneously the date and

time on which the photograph is taken are superimposed upon the photograph then it shall be presumed unless the contrary is proved that the photograph was taken on the date and time and in the position so appearing.

### 2.1.2. State Control over Nationals

The IPOA-IUU calls on States, to the greatest extent possible, to take measures or cooperate to ensure that their nationals do not support or engage in IUU fishing, and to cooperate to identify those nationals who are the operators or beneficial owners of IUU fishing vessels.

MMR maintains a register of all flag vessels greater than 10 meters in length including those vessels authorised to operate beyond areas of national jurisdiction. The register includes information relating to vessel owner, master and operator. All vessels that operate outside the Cook Islands are required to be VMS compliant and to be entered on the list of vessels authorised to operate which is maintained by the relevant RMFO. Currently Cook Islands flag vessels operate in the Indian Ocean, Eastern Pacific Ocean and the Western and Central Pacific Ocean. The Act provides for a fine of up to \$1 million for the operator and master of a flag vessel that violates:

- the laws of a foreign State;
- a multilateral access agreement; and
- conservation and management arrangements established for areas of high seas.

A Cook Islander may only use a foreign vessel to fish on the high seas, provided the vessel is duly authorised to do so by the flag State. Any person who contravenes this requirement is liable to a fine not exceeding \$100,000.

Under Section 33 of the Marine Resources Act, 2005, it is unlawful for any person to import, export, transport, sell, receive, acquire or purchase any fish or fish product taken, possessed, transported or sold in violation of any law or regulation of a foreign State upon implementation on a reciprocal basis, of a fisheries management agreement between the Government and such other State or States, in which such activities are agreed to be unlawful. To date however, no such agreements are in place and it is advised that the legislation be amended as follows:

“A person subject to the jurisdiction of the Cook Islands who:

- (a) on his or her own account, or as partner, agent or employee of another person, lands, imports, exports, transports, sells, receives, acquires or purchases; or
- (b) causes or permits a person acting on his behalf, or uses a fishing vessel, to land, import, export, transport, sell, receive, acquire or purchase,

Any fish taken, possessed, transported or sold contrary to the law of another State or in a manner that undermines the effectiveness of conservation and management measures adopted by a Regional Fisheries Management Organisation shall be guilty of an offence and shall be liable to pay a fine not exceeding \$1 million.”

### 2.1.3. Vessels without Nationality

The IPOA-IUU calls on States to take measures consistent with international law in relation to vessels without nationality on the high seas that are involved in IUU fishing.

Cook Islands is not yet a member of the International Maritime Organisation (IMO) although it is on the “White List” while it canvasses support for membership to IMO. The Cook Islands is a party to SOLAS and is ISPS Code compliant and will support any effort of that body to prevent vessels from becoming stateless during their transfer to a new flag.

Any information received on vessels without nationality operating in the region, will be passed on to neighbouring States and relevant RFMOs as appropriate, as well as the International MCS Network for further dissemination.

#### 2.1.4. Sanctions

The IPOA-IUU provides that sanctions for IUU fishing by vessels and nationals under its jurisdiction should be of sufficient severity to effectively prevent, deter, and eliminate IUU fishing and to deprive offenders of the benefits accruing from such fishing.

The Marine Resources Act, 2005 establishes severe penalties for fisheries violations including as follows:

Fishing without a license by a foreign fishing vessels	\$1 million
Fishing without a license by a Cook Islands vessel	\$100,000 - \$1 million
Flag vessel violation of foreign State Law, multilateral agreement or high seas management arrangement	\$100,000 - \$1 million
Use of foreign flag vessel that does not have flag State authorisation, by CI national in a foreign State or on the high seas	\$100,000
Use of prohibited fishing gear	\$100,000 - \$1 million
Unauthorised export of fish caught in Cook Islands or on high seas	\$500,000 plus value of fish
Contamination of fisheries waters	\$500,000 plus value of clean-up
Unauthorised Transshipment	\$500,000
Violation of ALC conditions	\$250,000 plus cancellation of license
Failing to provide or providing false information with respect to any document, record, return or log lawfully requested	\$500,000
Purchase, sale, possession, trade of IUU fish	\$500,000 plus value of fish

On the conviction of any person or Company for an offence against the Act for which the maximum penalty is a fine of \$1 million or more, the High Court shall in addition to imposing any fine order that vessel, gear and catch be forfeit to the Government.

In addition, the Minister or Secretary, as appropriate, may cancel the licence of a vessel used in contravention of the Act or of any condition of the licence or in breach of any applicable access agreement. An authorised officer may seize any vessel, gear and catch he reasonably believes to be associated with any breach of the Act. Any property seized may be released

under bond. The amount of the bond is determined by the value of the property, the maximum fine and the loss, damages or costs incurred or likely to be incurred in detection, apprehension, detention and prosecution.

#### **2.1.5. Non Cooperating States**

The IPOA-IUU recommends that all possible steps should be taken, consistent with international law, to prevent, deter, and eliminate the activities of non-cooperating States to a relevant RFMO that engage in IUU fishing.

The Cook Islands will cooperate with all RFMOs to which it belongs to prevent, deter and eliminate the activities of non-cooperating States which engage in IUU fishing. This will include implementing trade and other sanctions that may be recommended by FFA and WCPFC.

#### **2.1.6. Economic Incentives**

The IPOA-IUU provides that States should avoid conferring economic support, including subsidies, to companies, vessels, or persons that are involved in IUU fishing.

Economic support will be withheld from companies, vessels and persons that are involved in IUU fishing. In particular, this will include the denial of access to soft loans, tax incentives and fuel subsidies.

#### **2.1.7. Monitoring, Control and Surveillance**

The IPOA-IUU calls on all States to undertake comprehensive and effective monitoring, control, and surveillance (MCS) of fishing from its commencement, through the point of landing, to final destination.

The Cook Islands has a well established MCS system that is geared to support the attainment of long term development objectives including those relating to food security, job creation and income generation including through exports.

All fishing vessels over 10 meters and fish processing plants are required to be licensed and an inspection capability is in place to monitor vessels, ports and export facilities. All licensed vessels are required to be VMS compliant, submit to inspection including the hosting of observers and adhere to established catch reporting schedules.

Legislative provisions need to be developed to establish an administrative enforcement procedure which allows MMR to settle cases of IUU fishing directly without the need to burden the court system. This should provide a greater deterrent for fishers to engage in IUU fishing and when violations do occur, for penalties and settlements to be made more quickly.

MCS would also be enhanced if links were established with other States in the region and WCPFC to allow for the timely exchange of information including information relating to licensing, inspections, catch and effort and violations.

### 2.1.8. Cooperation between States

The IPOA-IUU calls on States to coordinate their activities and cooperate directly, and as appropriate through relevant RFMOs, in preventing, deterring and eliminating IUU fishing.

Cook Islands is a member of FFA and WCPFC and implements regionally agreed conservation and management measures adopted with respect to tuna. These measures include the provision of information concerning flag vessels authorised to operate in the WCPFC Area, the provision of catch and effort information, including statistical documentation specifically required for bigeye tuna. MMR has also established a port inspection scheme that incorporates major elements of the FAO Model Scheme. Other MCS measures implemented include the requirement for tuna vessels to be VMS compliant and to carry observers for management compliance purposes.

In order to ensure effective coordination at the regional level it is vital that Cook Islands fulfil its regional obligations with respect to the timely provision of accurate information to FFA, SPC and WCPFC including with respect to violations, catch and effort, statistical documentation and inspections. In this respect it is noted that IOTC has developed FINSS for installation in member countries. The FINSS system could be used for all aspects of fisheries MCS including statistics, shore sampling for correcting weights and commercial categories, bridges to national VMS systems (allowing VMS logbook data, sightings, license details analysis etc.) all aspects of port inspections, sightings, observer reports and registration. The Seychelles now has an electronic, automated licensing system using FINSS, linking vessel agents, the fisheries management authority, licensing authority, central bank as well as coast guard and enforcement authorities. The approach taken by the Seychelles could, as appropriate, serve as a model for the Cook Islands and other FFA member countries in developing such a system. Importantly, IOTC is also developing a regional vessel record and statistical hub using FINSS.

### 2.1.9. Publicity

The IPOA-IUU calls on States to publicise widely, including through cooperation with other States, full details of IUU fishing and actions taken to eliminate it, in a manner consistent with any confidentiality requirements.

At the artisanal fisheries level the principle method used by MMR to publicise IUU fishing incidents and resulting convictions is through public meetings with community fishing groups. On occasion these meetings are televised. The greater involvement of community based fisheries committees is envisaged to assume greater importance in the management of the traditional sector through the establishment of a department of Traditional Committees within MMR.

Comment [P1]: As above

Occasional meetings are also held with those involved in the commercial sector to discuss the proposed introduction of additional conservation and management measures. This approach is important because it includes stake-holders in the decision-making process, allows for enhanced understanding of management measures and leads to higher levels of compliance.

A database of all inspections including those involving, commercial vessels, traditional vessels, companies and factories as well as exports, is maintained. The database includes details of suspected violations and resulting actions including the results of any court proceedings. Posting IUU related information on the MMR website would allow its wide



dissemination and would also act as a disincentive to would-be IUU fishers who may not appreciate the negative publicity.

### **3. FLAG STATE RESPONSIBILITIES**

#### **3.1. Fishing Vessel Registration**

The IPOA-IUU calls on States to ensure, including through appropriate fishing authorisation and vessel registration procedures, that their flag vessels and vessels under charter do not engage in or support IUU fishing.

All Cook Islands flag fishing vessels that wish to operate within or beyond the Cook Islands EEZ are required to be authorised to do so. All foreign vessels under demise charter to local companies are required to be registered on the Maritime Cook Islands Ltd (MCI) Ship's Register. Prior to registration, all fishing vessel applications are referred to MMR for advice on whether or not the vessel is likely to be issued a licence to fish in the Cook Islands or authorisation to fish outside the Cook Islands. Should MMR advise that an applicant vessel will not be licensed or authorised, the application for registration will be declined. Background checks are made on applicant vessels including with respect to any history of IUU fishing.

On application to be licensed, the vessel is required to be inspected to ensure it is fit for fishing and conforms to safety and hygiene standards. Notification of any change of ownership or modification to a licensed vessel is required and further inspection is mandatory. Licenses are non-transferable either between fishers or vessels.

A record of Cook Islands fishing vessels which are authorised to operate beyond the Cook Islands EEZ is maintained and this information is provided to the relevant RFMO on an annual basis or as changes occur.

Foreign tuna vessels under charter to Cook Islands interests are required to be entered in the WCPFC Record of Fishing Vessels as a prerequisite for licensing. A further pre-requisite is that the vessel be in compliance with the certification and safety standards established by the Ministry of Transport.

#### **3.2. Record of Fishing Vessels**

The IPOA-IUU calls on each flag State to maintain a record of fishing vessels entitled to fly its flag. Each flag State's record of fishing vessels should include, for vessels authorised to fish on the high seas, all information set out in paragraphs 1 and 2 of Article VI of the 1993 FAO Compliance Agreement, as well as the additional information specified in paragraph 42 of the IPOA-IUU.

MMR maintains a register of licensed fishing vessels and vessels authorised to operate beyond the fisheries waters, that includes the following information:

- Name of fishing vessel, registration number and port of registry;
- Previous name and flag (if any);
- Name and address of owner, charterer and agent;
- Name and nationality of master;
- Normal crew compliment;
- International Radio Call Sign;
- Vessel communications types (Radio VHF, Inmarsat, SSB);
- Where and when built;
- Type of vessel;
- Type of fishing methods and fishing gear details;
- Length, depth, breadth;
- Gross register tonnage;
- Main and auxiliary engine details;
- Fuel and water capacity;
- Carrying capacity, including freezer type, brine tanks, bait tanks, storage and temperature information; and
- Safety equipment.

In addition, all licence applications are required to include a recent colour photograph of the vessel showing vessel markings.

Information required under paragraph 42 of the IPOA-IUU not included in the register are:

- Ownership history and history of non-compliance.

All fishing vessels that apply to be registered as Cook Islands vessels are checked by MCI against all IUU listings maintained by RFMOs and environmental organisations. Vessel information held by MMR combined with information that is available from MCI fulfils the information requirements under Article VI of the 1993 Compliance Agreement in relation to vessel information required to be submitted to FAO.

While the history of non-compliance by a vessel is not included in the record of flag vessels, MMR maintains a record of all fishing violations that occur in its EEZ including violations involving vessels.

### **3.3. Authorisation to Fish**

The IPOA-IUU calls on States to ensure that no vessel be allowed to fish unless so authorised, in a manner consistent with international law for the high seas. A flag State should ensure that each of the vessels entitled to fly its flag fishing in waters outside its sovereignty or jurisdiction holds a valid authorisation to fish issued by that flag State. Where a coastal State issues an authorisation to fish to a vessel, that coastal State should ensure that no fishing in its waters occurs without an authorisation to fish issued by the flag State of the vessel.

Section 35 of the Marine Resources Act, 2005 provides for the authorisation of Cook Islands vessels to operate outside the fishery waters. Currently there are 9 fishing vessels authorised to fish beyond areas of national jurisdiction.

All fishing vessels licensed to operate in the fishery waters are Cook Islands flag vessels.

### **3.4. Measures to Control Transport and Re-supply Vessels**

The IPOA-IUU calls on flag States to ensure their fishing, transport and support vessels do not support or engage in IUU fishing. The IPOA-IUU also calls on States to ensure that, to the greatest extent possible, all of their fishing, transport and support vessels involved in transshipment at sea have a prior authorisation to tranship issued by the flag State, and report specified information to the national fisheries administration or other designated institution.

Along with other FFA member countries, Cook Islands prohibits transshipment at sea. All transshipment is required to take place at a designated port and any vessel wishing to land or tranship is required to provide 24 hours notice of its intention to do so. All fishing vessels are inspected and catches verified on arrival. Inspection reports are signed by the inspector and counter-signed by the vessel master.

## **4. COASTAL STATE RESPONSIBILITIES**

In the exercise of sovereign rights of coastal States for exploring and exploiting, conserving and managing the living marine resources under their jurisdiction, the IPOA-IUU calls on coastal States to implement measures to prevent, deter and eliminate IUU fishing in waters under their jurisdiction. Measures which coastal States should consider are: effective MCS; cooperation and exchange of information with other States and RFMOs; ensuring that all fishing is authorised; ensuring all vessels are registered; logbook requirements; controls on transshipment/processing of fish; regulation of fishing access; and avoiding licensing vessels with an IUU history.

The Marine Resources Act, 2005 requires all fishing and related activities to be authorised by MMR. Licensed vessels are required to be VMS compliant and to adhere to reporting requirements including the maintenance of catch and effort logs. All unloading and transshipments are required to take place at a designated port where vessels are inspected and any activity monitored. Licensed vessels are also required to participate in the national observer programme.

As a member of WCPFC, the Cook Islands ensures that all national tuna vessels authorised to fish beyond areas of national jurisdiction are entered in the WCPFC List of Fishing Vessels. Any vessels which appear on IUU lists maintained by RFMOs including WCPFC are required to be investigated and appropriate remedial action taken. Cook Islands also ensures that all flag vessels that operate in other regions are entered in the appropriate RFMO vessel register.

While cooperation and information sharing with other States does take place, effective management of regional tuna fisheries would be enhanced with the establishment of formal arrangements with other States with common interests. In particular it would appear advantageous for the establishment of a formal arrangement between the Cook Islands and other neighbouring States with an interest in the longline fishery.

In 2005 the Cook Islands and Samoa signed the Agreement Between the Governments of the Cook Islands and the Independent State of Samoa on Cooperation in Fisheries Surveillance and Law Enforcement which establishes a mechanism for the shared use of surface

surveillance and enforcement assets.<sup>4</sup> This agreement should be considered a starting point for a wider arrangement that includes other neighbouring countries and allows for continuous monitoring and enforcement for the sub-region as a whole. For the Cook Islands, it is critical that major home and unloading ports in the sub-region: Suva and PagoPago are an integral component of this sub-regional approach.

## 5. PORT STATE MEASURES

The IPOA-IUU calls on States to use measures, in accordance with international law, to control port access by fishing vessels in order to prevent, deter and eliminate IUU fishing.

Access to Cook Islands ports is restricted to licensed vessels. All licensed vessels are monitored by VMS and are required to submit to inspection and catch sampling on port entry. Catch logs and unloading information is collected at port.

### 5.1. Advance Notice of Access

The IPOA-IUU calls on States to require vessels seeking access to their ports to seek prior permission to enter their ports and to provide reasonable advance notice of their entry into port, a copy of their authorisation to fish, and details of their fishing trip and quantities of fish on board, in order to ascertain whether the vessel may have engaged in, or supported, IUU fishing.

All vessels requiring access to a designated port must provide 24 hours notice of their intention to enter port along with information of catch on-board and catch to be transhipped or unloaded.

Consistent with international law, Cook Islands provides port access to foreign flagged vessels for reasons of *force majeure* or distress or for rendering assistance to persons, ships or aircraft in danger or distress.

### 5.2. Denial of Access

The IPOA-IUU calls on each port State, where it has clear evidence that a vessel has engaged in IUU fishing activity, to prohibit the vessel from landing or transhipping fish in its ports, and to report the matter to the flag State of the vessel.

Port access is restricted to Cook Islands flag vessels. If, following inspection there is reason to believe that the vessel has been involved in IUU fishing then the matter will be referred to the Secretary for further action including possible prosecution.

### 5.3. Authorised Ports

The IPOA-IUU encourages States to publicise ports to which foreign flagged vessels may be permitted admission and to ensure that these ports have the capacity to conduct inspections.

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<sup>4</sup> As part of the agreement Cook Islands and Samoa have opted to maintain mutual access to one another's VMS information.

As a condition of licence, all fishing vessels are required to unload in Rarotonga. However, for logistical reasons, unloading by vessels that operate in the northern Cook Islands albacore fishery is authorised to take place in PagoPago.

The inspection of fishing vessels is mandatory to verify the catch on board and to ensure that conservation and management measures have not been infringed. An inspection report is completed for each inspection and this is signed by the inspecting officer as well as the vessel captain. All catch unloaded is checked for species and weight accuracy and remaining catch on board is also verified. In the event that an infringement is detected, the vessel agent is advised and the matter referred to the Secretary of MMR for further consideration and possible prosecution.

#### **5.4. Evidence indicating IUU Fishing**

If, in the course of an inspection, a port State finds that there are reasonable grounds to suspect that a vessel has engaged in or supported IUU fishing, the IPOA-IUU calls on port States to immediately report the matter to the flag State of the vessel and, where appropriate the RFMO. The port State may take other action with the consent of, or upon the request of, the flag State.

The current policy is that only Cook Islands registered vessels may operate in the fishery waters. Port access is only available to flag vessels.

#### **5.5. Cooperation with port States/through RFMOs**

The IPOA-IUU calls on States to cooperate, as appropriate, bilaterally, multilaterally and within relevant RFMOs, to develop compatible measures for port State control of fishing vessels. The IPOA-IUU also encourages States to consider developing, within relevant RFMOs, port State measures building on the presumption that fishing vessels entitled to fly the flag of States not parties to a RFMO and which have not agreed to cooperate with that RFMO, which are identified as being engaged in fishing activities in the area of that particular organisation, may be engaging in IUU fishing.

In 2005 WCPFC agreed to use the FAO Model Scheme as the basis for a region wide port State inspection scheme and it is anticipated that an agreed scheme will be adopted at the December 2006 session of the WCPFC Commission. As a member of WCPFC, Cook Islands is bound to implement port State measures adopted by WCPFC.

Although Cook Islands currently implements many elements of the FAO Model Scheme, to be fully compliant enhancement will be required in database management, the sharing of information and training. Critically also, Cook Islands will need to become party to a formal region-wide arrangement that allows for the exchange of information between port States and possibly also the sharing of enforcement resources.

### **6. INTERNATIONALLY AGREED MARKET RELATED MEASURES**

#### **6.1. Trade-related Measures**

The IPOA-IUU encourages States to take steps, consistent with international law, to prevent fish caught by vessels identified by the relevant RFMO to have been engaged in IUU fishing being traded or imported into their territories.

Section 33 of the Marine Resources Act, 2005 makes it unlawful for any person to import, export, transport, sell, receive, acquire or purchase any fish or fish product taken, possessed, transported or sold in violation of any law or regulation of a foreign State upon implementation, on a reciprocal basis, of a fisheries management agreement between the Government and such other State or States, in which such activities are agreed to be unlawful.

The WCPFC is empowered to develop procedures which allow for non-discriminatory trade measures to be taken against any State or entity whose fishing vessels fish in a manner which undermines the effectiveness of the conservation and management measures that are adopted.

#### **6.1.1. Catch documentation Schemes**

The IPOA-IUU suggests that certification and documentation requirements should be standardised to the extent feasible, and electronic schemes developed where possible, to ensure effectiveness, reduce opportunities for fraud, and avoid unnecessary burdens on trade.

Measures will be taken to implement catch documentation and certification schemes that are adopted by FFA and the WCPFC and any other relevant RFMO to which Cook Islands is or may become a member. The Cook Islands has adopted the regional MTCs and adheres to the regional reporting and documentation requirements.

#### **6.1.2. Transparency of Markets**

The IPOA-IUU calls on States to take steps to improve the transparency of their markets to allow the traceability of fish or fish products.

The Cook Islands currently exports fresh tuna to Japan and the United States. All such exports are required to be certified by MMR. Future plans include determining export requirements to the EU and New Zealand which will require product to include proper marking or labels indicating the species, the production method and the catch or production area.

#### **6.1.3. Information Dissemination**

The IPOA-IUU calls on States to take measures to ensure that their importers, transhippers, buyers, consumers, equipment suppliers, bankers, insurers, other service suppliers and the public are aware of the detrimental effects of doing business with vessels identified as engaged in IUU fishing, and should consider measures to deter such business. Similarly, the IPOA-IUU calls on States to take measures to ensure that their fishers are aware of the detrimental effects of doing business with importers, transhippers, buyers, consumers, equipment suppliers, bankers, insurers and other service suppliers identified as doing business with vessels identified as engaged in IUU fishing.

Information is disseminated through a monthly newsletter and through occasional meetings with stakeholders that include fishing industry representatives.

Information dissemination would be enhanced through the development of a fisheries management website that could include information on IUU fishing and related matters.

## **7. REGIONAL FISHERIES MANAGEMENT ORGANISATIONS**

### **7.1. Party Compliance**

The IPOA-IUU calls on States to ensure compliance with and enforcement of IUU fishing related policies and measures adopted by any RFMOs by which they are bound. States should cooperate in the establishment of such organisations in regions where none currently exists.

The Cook Islands will continue to work through RFMOs to implement the IPOA-IUU and to meet all obligations arising from the membership of an RFMO.

### **7.2. Non-party Compliance**

The IPOA-IUU calls on States to give effect to their duty to cooperate by agreeing to apply the conservation and management measures by RFMOs to which they are not members, or by adopting measures consistent with those conservation and management measures, and should ensure that vessels entitled to fly their flag do not undermine such measures.

Consistent with the 1995 UN Fish Stocks Agreement, the Cook Islands will cooperate and act consistently with the conservation and management measures agreed by RFMOs to which it is not a member.

Currently there are 9 flag fishing vessels authorised to fish in areas beyond the Cook Islands fishery waters.

### **7.3. Innovation**

The IPOA-IUU encourages States, acting through relevant RFMOs, to take action to strengthen and develop innovative ways, in conformity with international law, to prevent, deter, and eliminate IUU fishing.

As a member of FFA and WCPFC the Cook Islands will actively pursue innovative ways to prevent, deter and eliminate IUU fishing including, as appropriate, closer cooperation with other FFA and WCPFC members. The Cook Islands will also work with other RFMOs responsible for implementing conservation and management measures where Cook Islands flag vessels operate, to develop innovative ways to combat IUU fishing.

### **7.4. Inclusion of non-contracting Parties**

The IPOA-IUU encourages States, acting through relevant RFMOs, to encourage non-contracting parties with a real interest in the fishery concerned to join those organisations and to participate fully in their work. Where this is not possible, the RFMOs should encourage and facilitate the participation and cooperation of non-contracting parties, in accordance with applicable international agreements and international law, in the conservation and management of the relevant fisheries resources and in the implementation of measures adopted by the relevant organisations. RFMOs should address the issue of access to the resource in order to foster cooperation and enhance sustainability in the fishery, in accordance with international law.

The Cook Islands acknowledges that the effectiveness of RFMOs depends on securing the membership and participation of all States and entities fishing in an area, or for species covered by an RFMO. The WCPFC has developed a protocol to allow the Cook Islands, as appropriate, to encourage non members to join WCPFC and to participate fully in the Commission's work.

With respect to flag vessels that operate in other regions beyond WCPFC, the Cook Islands is a contracting party to CCAMLR, a contracting non-Party to IATTC and a cooperating non-Party to IOTC. The Cook Islands is also involved in the establishment of the South Pacific Fisheries Commission to be responsible for the high seas management of demersal fisheries in the Southern Pacific Ocean. Consideration is being given to membership of the North East Atlantic Fisheries Commission (NEAFC), the South West Indian Ocean Fisheries Commission (SWIOFC) and ICCAT.

## **8. SPECIAL REQUIREMENTS OF DEVELOPING COUNTRIES**

The FAO-IUU encourages States, with the support of FAO and relevant international financial institutions and mechanisms, to cooperate to support training and capacity building and consider providing financial, technical and other assistance to developing countries, including in particular the least developed among them and small island developing States, so that they can more fully meet their commitments under the IPOA-IUU and obligations under international law. Such assistance should be directed in particular to help such States in the development and implementation of national plans of action.

The FAO also encourages States, with the support of FAO and relevant international financial institutions and mechanisms, where appropriate, to cooperate to enable: review and revision of national legislation and regional regulatory frameworks; the improvement and harmonisation of fisheries and related data collection; the strengthening of regional institutions; and the strengthening and enhancement of integrated MCS systems, including

This Part of the IPOA, which relates to participation in efforts to assist developing States, and give bilateral assistance to developing States, is not relevant for the NPOA-IUU of the Cook Islands because it calls upon donors. However, the Cook Islands supports the establishment of a voluntary trust fund. The Cook Islands is currently the beneficiary of New Zealand aid assistance under the Cook Islands Marine Resources Institutional Strengthening Project, which is providing institutional strengthening assistance to enhance the fisheries management capability of MMR.