Arrangement
between
the Cook Islands, New Zealand, Niue, Samoa, Tonga and Tokelau
on Cooperation in Fisheries Surveillance and Law Enforcement
Subsidiary to
the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region of 9 July 1992

(“Te Vaka Toa Arrangement”)
The Governments of the Cook Islands, New Zealand, Niue, Samoa, Tonga and Tokelau (hereafter referred to as “the Participants”):

RECALLING that the Cook Islands, New Zealand, Niue, Samoa and Tonga are Parties to the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region of 9 July 1992 (“the Niue Treaty”) and that Tokelau is bound by the Niue Treaty through New Zealand’s treaty action;

SEEKING to implement Articles II and III of the Niue Treaty and to cooperate in fisheries Monitoring, Control and Surveillance (“MCS”) and enforcement activities;

RESPONDING to the commitment by Pacific Islands Forum leaders, contained in the Vava’u Declaration on Pacific Fisheries Resources, to support and endorse the development of new multilateral regional arrangements for cooperation on fisheries MCS and enforcement activities;

CONFIRMING their commitment to cooperate in order to further the shared interests of the Participants in the Te Vaka Moana Arrangement, including the sustainable use of domestic and high seas fisheries resources to secure, protect and enhance associated long-term economic benefits from such fisheries, and to protect the important contribution fisheries make to the food security of communities;

WISHING to promote cooperation between the Participants with regard to fisheries MCS, and enforcement activities both domestically and on the high seas, including in seeking to increase the value of fisheries through countering illegal, unregulated and unreported (“IUU”) fishing;

RECOGNISING the rights of each Participant to manage fisheries within waters under their national jurisdiction;

RECOGNISING bilateral Niue Treaty Subsidiary Arrangements and Agreements that already exist or may be developed in the future between the Participants to this Arrangement;

FURTHER RECOGNISING other fisheries MCS arrangements or agreements that may exist, including ship-riding agreements, Pacific Islands Forum Fisheries Agency initiatives, and obligations pursuant to measures adopted by the Western and Central Pacific Fisheries Commission and other relevant international law;

HAVE REACHED THE FOLLOWING UNDERSTANDING:
PARAGRAPH 1 - OBJECTIVE

This Arrangement seeks to promote cooperation between the Participants with regard to fisheries MCS and enforcement activities, both within Participants Fisheries Waters and on the high seas, in order to counter IUU fishing and increase the value of the Participants' fisheries.

PARAGRAPH 2 – DEFINITIONS

For the purposes of this Arrangement:

“Assisting Participant” means a Participant who provides resources to another Participant under this Arrangement;

“Central Contact Point” has the meaning set out in Paragraph 21;

“Fisheries Waters” for each Participant means the exclusive economic zone, territorial sea and internal waters under the national jurisdiction of that Participant;

“National Authority” has the meaning set out in Paragraph 22;

“Receiving Participant” means a Participant in whose Fisheries Waters the resources of an Assisting Participant will be used under this Arrangement.

PARAGRAPH 3 – AREA OF APPLICATION

3.1 This Arrangement will apply to the Fisheries Waters of each Participant and the high seas areas adjacent to each Participant’s exclusive economic zone to the extent provided for in this Arrangement.

3.2 Each Participant will notify the Central Contact Point of its sea boundaries legislation, together with the delimiting coordinates of its Fisheries Waters; a list of fishing vessels licensed to engage in fishing in the area of application, as defined in paragraph 3.1, of this Arrangement; and any other information as required by other provisions of this Arrangement. Each Participant will ensure that the Central Contact Point is notified of any amendments to the above information in order that the information held by the Central Contact Point is kept up to date.

3.3. Each Participant will take note, as appropriate, of the sea boundaries legislation, and delimiting coordinates of the Fisheries Waters, of other Participants.
PARAGRAPH 4 – SCHEDULES

4.1 The Schedules to this Arrangement form an integral part of this Arrangement.

4.2 Except as otherwise provided in the Schedules to this Arrangement, the provisions of this Arrangement will apply equally to all Participants.

PARAGRAPH 5 – IDENTIFICATION

Each Assisting Participant will ensure that:

(a) any of its resources used under this Arrangement are clearly marked and identifiable as being appropriately authorised under this Arrangement through an appropriate form of identification, which may include an identification card, flag, pennant, symbol or call sign;

(b) any of its vessels or aircraft used under this Arrangement will be clearly marked and identifiable as being on government service and authorised to that effect; and

(c) while conducting activities under this Arrangement in the Fisheries Waters of another Participant, its vessels will fly the flag set out in Schedule A and its authorised personnel will carry the identification card set out in Schedule B.

PARAGRAPH 6 – AUTHORISATION OF RESOURCES AND DIPLOMATIC CLEARANCES

6.1 Each Assisting Participant will ensure that any of its resources, including its personnel, vessels and aircraft, used under this Arrangement are appropriately authorised in accordance with its domestic law, policies and procedures.

6.2 Each Receiving Participant will ensure that the vessels and aircraft of each Assisting Participant that are operating under this Arrangement are granted diplomatic clearance, where such clearance is required. Each Participant will endeavour to provide such diplomatic clearances on an annual basis.

PARAGRAPH 7 – USE OF RESOURCES

7.1 The Participants will cooperate with one another in the use of resources, including appropriately authorised personnel (including analytical expertise), vessels, aircraft and systems in order to achieve the objective of this Arrangement. Each Participant will notify the Central Contact Point of the resources which it may make available for the purposes of such cooperation. Each Participant will ensure that the Central Contact Point is notified of any
amendments to the above information in order that the information held by the Central Contact Point is kept up to date.

7.2 Each Participant, through its National Authority, may consult with, and request the use of resources from, other Participants. Any Participant who makes a request will provide, as a minimum, the information set out in Schedule C.

7.3 Each Participant will respond to a request made under Paragraph 7.2 within a reasonable timeframe. In its response, each Participant will, inter alia, advise, to the extent practicable, whether there are any circumstances that may impact on the effective use of the resources.

7.4 Notwithstanding any response made under Paragraph 7.3, each Assisting Participant may, at any time, reassign its resources if its priorities so require.

7.5 Except as otherwise specified in its response made under Paragraph 7.3, each Assisting Participant will retain the ownership, command and/or control of any of its resources used under this Arrangement. The National Authority of a Receiving Participant may assist in determining the day to day activities of the resources during an operation in its Fisheries Waters, provided that such assistance does not expose the resources to unnecessary harm or risk. Where resources are used under this Arrangement in the high seas, the Assisting Participants will cooperate as far as practicable in determining the day to day activities of the resources during the operation.

7.6 The Participants will, to the extent practicable, engage in cooperative planning of fisheries MCS activities to ensure effective and efficient use of resources. For the avoidance of doubt, each Participant may provide assistance in the planning of fisheries MCS activities to another Participant under this Arrangement.

PARAGRAPH 8 – NOTIFICATIONS, APPROVALS AND REPORTS

8.1 Each Assisting Participant will ensure that, prior to conducting fisheries MCS or enforcement activities in the Fisheries Waters of a Receiving Participant under this Arrangement:

(a) the National Authority of the Assisting Participant has provided to the National Authority of the Receiving Participant written notification of its intention to conduct fisheries MCS or enforcement activities; and

(b) the National Authority of the Receiving Participant has provided to the National Authority of the Assisting Participant written approval for the conduct of such fisheries MCS or enforcement activities.

8.2 Within ten working days of the completion of fisheries MCS or enforcement activities conducted under this Arrangement, the National Authority of the
Assisting Participant will provide a report of such activities to the Receiving Participant, including the date the activities were completed and the outcome of the activities.

**PARAGRAPH 9 – NOTIFICATION OF POWERS THAT MAY BE USED**

Each Participant will notify the Central Contact Point of its law, policies and procedures which provide the powers appropriately authorised personnel may exercise within that Participant’s Fisheries Waters when conducting fisheries MCS or enforcement activities under this Arrangement. Each Participant will ensure that the Central Contact Point is notified of any amendments to the above information in order that the information held by the Central Contact Point is kept up to date.

**PARAGRAPH 10 – MONITORING**

The Participants may cooperate to assist one another with fisheries MCS activities in the Fisheries Waters of other Participants. This cooperation may include Vessel Monitoring System (VMS) monitoring, the use of observers, port inspections and other information sharing or monitoring, with the involvement of the National Authority of each Participant as appropriate.

**PARAGRAPH 11 – SHARING OF INFORMATION**

11.1 Consistent with the Te Vaka Moana Arrangement, the Participants may share specific information for the purposes of supporting one another in fisheries MCS and enforcement activities for the maintenance of relevant fisheries law, including where they reasonably believe doing so will enable:

(a) the prevention, detection, investigation and punishment of fisheries offences; and

(b) the protection and maintenance of fisheries management frameworks, systems and processes.

11.2 The management and use of information, and any derivatives of such information, shared between the Participants will be conducted in such a way so as not to prejudice:

(a) the entrusting of information or the international relations of the governments to whom each Participant corresponds, on a basis of confidence by the government or agency of the government of either Participant; or

(b) the relationship between the Participant and any international organisation; or
(c) any applicable law that might be in force in any of the Participants’ jurisdictions; or

(d) the maintenance of the law, including the prevention, detection, investigation, and punishment of offences, and the right to a fair trial; or

(e) the relationship between the Participants.

11.3 The Participants will take reasonable security safeguards to ensure that such information and any derivatives of such information are protected against:

(a) loss;

(b) access, use, modification, or disclosure except with the express authority of the Participant sharing the information; and

(c) other misuse.

11.4 If it is necessary for a Participant to share information, provided by another Participant under this Paragraph, with a third party in connection with the provision of services, the sharing Participant will obtain the express authority of the Participant that provided the information and will also take reasonable measures to prevent unauthorised use, or unauthorised disclosure of that information or derivatives of such information.

11.5 The Participants will ensure that information or derivatives of such information provided under this Arrangement, that is no longer required for the purpose for which it was provided, is destroyed as soon as practicable after use.

**PARAGRAPH 12 – HOT PURSUIT**

The Participants may, in accordance with their respective domestic law, policies and procedures, cooperate in the hot pursuit of a foreign ship where that hot pursuit is in accordance with international law, including Article 111 of the United Nations Convention on the Law of the Sea of 10 December 1982.

**PARAGRAPH 13 – PORTS**

13.1 Each Port State Participant will, consistent with its domestic law, policies and procedures, cooperate with other Participants to carry out port inspections and other fisheries MCS or enforcement activities in its ports with respect to vessels that have fished, transported fish or supported fishing operations within or adjacent to the Fisheries Waters of any of the Participants.
13.2 The Participants will cooperate with the view to encouraging and, where appropriate, enabling port inspections, of vessels in ports of non-Participants, where such vessels have fished, transported fish or supported fishing operations within or adjacent to the Fisheries Waters of any of the Participants. The Participants will cooperate to seek any information connected with such inspections.

**PARAGRAPH 14 – INVESTIGATIONS**

The Participants will cooperate in conducting investigations into:

(a) alleged offences against the domestic law of any Participant relating to fisheries activities; and

(b) alleged violations of conservation and management measures adopted by the Western and Central Pacific Fisheries Commission or other relevant international law.

**PARAGRAPH 15 – EVIDENCE**

15.1 Any item seized or evidence obtained during the course of fisheries MCS or enforcement activities under this Arrangement will be managed and disposed of in accordance with the domestic law, policies and procedures of the Participant in whose Fisheries Waters the item was seized or the evidence was obtained.

15.2 Each Participant will notify the Central Contact Point of its domestic law, policies and procedures relevant to Paragraph 15.1. Each Participant will ensure that the Central Contact Point is notified of any amendments to the above information in order that the information held by the Central Contact Point is kept up to date.

**PARAGRAPH 16 – FOLLOW-UP ACTION**

The Participants will, to the extent appropriate and practicable, cooperate to assist one another in any domestic or international action that may result from fisheries MCS or enforcement activities conducted under this Arrangement.

**PARAGRAPH 17 – COSTS**

17.1 Where, under this Arrangement, two or more Participants have cooperated in the use of resources in the area of application, as defined in Paragraph 3.1 of this Arrangement, those Participants will seek to reach an understanding on the defrayment of costs incurred. Wherever possible, the understanding will be reached in advance of the use of the resources. Each
Assisting Participant may waive all or part of the costs incurred by that Participant in the use of resources under this Arrangement.

17.2 If, after a reasonable period following the cooperation in the use of resources, any Participant considers that an understanding referred to in Paragraph 17.1 is not able to be reached, each Receiving Participant will compensate each Assisting Participant for the actual cost of crew allowances, fuel, provisions and victuals incurred by that Assisting Participant in the use of resources within the Fisheries Waters of that Receiving Participant.

17.3 Where, under this Arrangement, two or more Participants have cooperated in the use of resources on the high seas, those Participants will share the costs incurred equally unless otherwise decided by those Participants.

17.4 Each Assisting Participant will provide, in advance, to the other Participants involved in the particular activity under this Arrangement, a detailed estimate of the costs relating to the use of resources under this Arrangement and identify possible options for the defrayment of any costs incurred.

**PARAGRAPH 18 – PROCEEDS**

18.1 Any proceeds, including any assets and goods, resulting from fisheries MCS or enforcement activities conducted under this Arrangement will be shared in accordance with any prior understanding reached between the Participants involved in such activities, or whose fisheries laws have been violated.

18.2 If no prior understanding has been reached in accordance with paragraph 18.1, any proceeds will be shared in accordance with the domestic laws, policies or procedures of the Participant in whose Fisheries Waters such violations have occurred.

**PARAGRAPH 19 – PROTECTION FROM CRIMINAL AND CIVIL LIABILITY**

Each Participant will notify the Central Contact Point of its domestic law, policies and procedures which would protect authorised personnel, vessels and aircraft from criminal and/or civil liability in relation to fisheries MCS or enforcement activities that are conducted under this Arrangement. Each Participant will ensure that the Central Contact Point is notified of any amendments to the above information in order that the information held by the Central Contact Point is kept up to date.

**PARAGRAPH 20 – CONSULTATIONS**

Each Participant may, at any time, request consultations with another Participant on the implementation and operation of this Arrangement. Such consultations will begin at the earliest possible date, but not later than 90 days from the date the Participant receives the request, unless otherwise mutually determined by the relevant Participants.
PARAGRAPH 21 – CENTRAL CONTACT POINT

The Participants determine that New Zealand will be the Central Contact Point. The Central Contact Point will have the responsibilities that are set out in this Arrangement and will promptly distribute to all Participants a copy of any notification, information or official communication provided to the Central Contact Point. The Participants may jointly determine any additional functions for the Central Contact Point.

PARAGRAPH 22 – NATIONAL AUTHORITY

Each Participant will notify the Central Contact Point of its National Authority, which will be responsible for the implementation of this Arrangement and for any internal coordination with national agencies. That notification will include the information set out in Schedule D. Each Participant will ensure that the Central Contact Point is notified of any amendments to the above information in order that the information held by the Central Contact Point is kept up to date.

PARAGRAPH 23 – INTERNATIONAL LAW

All activities carried out by the Participants under this Arrangement will be consistent with international law.

PARAGRAPH 24 – FINAL PROVISIONS

24.1 Following signature of this Arrangement, each Participant will notify the Central Contact Point of the completion of any internal procedures necessary for this Arrangement to come into effect for that Participant. This Arrangement will enter into effect on the date that the Central Contact Point receives such notification from two of the Participants.

24.2 After this Arrangement has entered into effect in accordance with Paragraph 24.1, it shall enter into effect for any other Participant on the date the Central Contact Point receives that Participant’s notification.

24.3 Any Participant may withdraw from this Arrangement by providing 90 days’ notice in writing to the other Participants. Where one Participant gives such notice, this Arrangement will remain in effect as between the other Participants.

24.4 The Participants will jointly review this Arrangement annually, including any activities conducted under this Arrangement.
24.5 This Arrangement may be amended at any time by the mutual written consent of the Participants and such amendments will come into effect as mutually determined by the Participants.

Signed

___________________
Cook Islands
DATE:

___________________
Samoa
DATE:

___________________
New Zealand
DATE:

___________________
Tonga
DATE:

___________________
Niue
DATE:

___________________
Tokelau
DATE:
The Regional Fisheries Surveillance and Law Enforcement Flag is authorized for use by vessels during surveillance patrols. It should be flown at the same times as the national or ensign flag with the national or ensign flag superior.
SCHEDULE B

Identification Card

TREATY ON COOPERATION IN FISHERIES SURVEILLANCE AND LAW ENFORCEMENT IN THE SOUTH PACIFIC REGION

THE HOLDER OF THIS CARD IS AUTHORISED TO ENFORCE THE FISHERIES LAWS OF THE COUNTRIES LISTED BELOW WHILE ON BOARD THIS CRAFT:

NAME OF HOLDER: __________________________
SIGNATURE: ____________________________

ISSUED BY: ____________________________
(Name of issuing officer)
SIGNATURE: ____________________________

DATE: ____________

THIS AUTHORISATION IS VALID UNTIL: ____________
SCHEDULE C

TEMPLATE FOR INFORMATION REQUIRED FOR THE REQUEST FOR USE OF RESOURCES

Minimum information Requirements

Name of Requesting Participant:

Name of Assisting Participant:

Resources requested:

Intended use of the resources:

Period resources are required for (Start Date/End Date)

Understandings reached on costs and proceeds, if any.
SCHEDULE D

TEMPLATE FOR THE PROVISION OF INFORMATION ON NATIONAL AUTHORITY

Participant:

Name of National Authority:

Phone Number:

Fax Number:

E-mail Address:

Physical Address:

Personnel (optional)

<table>
<thead>
<tr>
<th>Name</th>
<th>Position/responsibility</th>
<th>Contact Details</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>