

TOKELAU ARRANGEMENT FOR THE MANAGEMENT OF THE SOUTH PACIFIC LONGLINE FISHERY

THE PARTIES

TAKING into account the United Nations Convention on the Law of the Sea, 1982, in particular Articles 56(1)(a) and 61;

ACKNOWLEDGING that in accordance with the relevant principles of international law each of the Parties has established an exclusive economic zone or fisheries zone (hereinafter called the “the exclusive economic zones”) which extends up to two hundred nautical miles from the baseline from which their respective territorial seas are measured and within which they respectively and separately exercise sovereign rights for the purposes of exploring, exploiting, conserving and managing all living marine resources;

HAVING REGARD to the objectives of the Forum Fisheries Agency Convention 1979 and the Western and Central Pacific Convention for the Conservation and Management of Highly Migratory Fish Stocks 2004 and in particular the promotion of regional cooperation and coordination of fisheries policies and the need for implementation of these objectives through regional and sub-regional arrangements;

RECOGNISING the responsibilities of coastal states and fishing states to cooperate with each other in the conservation and management of the living marine resources of the high seas and taking into account the special interest of coastal states and territories in highly migratory species while outside their exclusive economic zones;

RECOGNISING that in order to ensure sustained conservation of living marine resources both within and beyond the exclusive economic zone, fisheries management regimes must effectively maintain the ecological relationship between dependent and associated populations, prevent any decrease in the size of harvested populations below those necessary to ensure their stable recruitment, economically viable fishing operations, and avoid adverse impacts upon the marine environment and further recognising that in order to ensure conservation and promote optimum utilisation of the living resources fishing must be carried out only on the basis of economically and environmentally sound practices, effectively monitored and enforced;

AWARE of the obligation to implement conservation and management measures for the Management Area that are compatible with and do not undermine the standards set by the Palau Arrangement Longline Vessel Days Management Scheme in overlapping Areas, and which in particular are not incompatible with management measures implemented pursuant to the Palau Arrangement by any Party to the Tokelau Arrangement;

REAFFIRMING the obligation of flag States and vessel operators to provide full and verifiable data on their fishing operations;

MINDFUL of the dependence of small island developing states and territories of the Western and Central Pacific (hereinafter called the “SIDS”) upon the rational development and utilization of the living marine resources and the continued abundance of these resources;

ACCEPTING the right of all FFA members and SIDS to become Parties to this Arrangement;

HAVE AGREED AS FOLLOWS:

ARTICLE 1

DEFINITIONS AND INTERPRETATIONS

1.1 In this Arrangement –

(a) “Longline Fisheries Management Area” (hereinafter referred to as “the Area”) means the exclusive economic zones or fisheries zones of the Parties hereto including adjacent high seas areas in the Western Pacific within which longline vessels operate.

(b) “Party” means a State or Territory party to this Arrangement, and “Parties” means all such States and Territories from time to time;

(c) “Party to the Palau Arrangement” means a Party to the Palau Arrangement for the Management of the Western Pacific Fishery as amended 11th September 2010.

(d) “Regional Register” means the Regional Register of Foreign Fishing Vessels maintained by the Pacific Islands Forum Fisheries Agency.

(e) “fishing vessel” means any boat, ship or other craft which is used for, equipped to be used for or of a type normally used for fishing or related activities;

(f) “domestic vessel” means any fishing vessel –

(i) wholly owned by the Government of a Party or by any public corporation or body established by or under any law of a Party, all of the shares in which are beneficially owned by the Government of the Party;

(ii) wholly owned and controlled by one or more natural persons who are citizens or permanent residents of the Party in which the vessel is based under the relevant laws relating to nationality and citizenship of that Party; or

(iii) wholly owned and controlled by any company, society or other association of persons incorporated or established under the laws of the Party in which the vessel is based.

(g) “locally-based foreign fishing vessel” means a foreign fishing vessel which is based in a Party, lands all of its catch in that Party and/or operates under a joint venture arrangement in the territory of that Party which is approved by the Government of that Party or under arrangements whereby the operator of the vessel is participating in shore based developments or is otherwise making a substantial contribution to the development of the domestic tuna industry of the licensing Party.

(h) “foreign fishing vessel” means any fishing vessel other than a domestic vessel or a locally- based foreign fishing vessel.

ARTICLE 2

SCOPE OF THE ARRANGEMENT

2.1 The understandings found in this document will apply to all species of tuna and tunalike species (including billfish and other incidental by-catch (hereinafter referred to as “tuna”)), taken by longline vessels, wherever they may occur in the Area.

ARTICLE 3

MANAGEMENT MEETINGS

3.1 The Parties to this Arrangement will meet once a year for the purpose of reviewing the current status of tuna stocks and to establish necessary measures for their management and conservation.

3.2 The functions of the Management Meeting are -

(a) to consider all available information including scientific data relating to catch and operations of longline fishing vessels within the Area and economic and socioeconomic information relating to the impact of the fishery on Parties;

(b) to consider management measures, which may include, but are not limited to -

(i) the regulation of fishing effort and/or catch by longline vessels which have good standing on the Regional Register;

(ii) the implementation and operation of Management Schemes and Harvest Strategies, and the review and amendment of those Management Schemes and Harvest Strategies as appropriate;

(iii) the agreement of precautionary target and limit reference points, indicators and harvest control rules for any fish stock targeted or otherwise taken by longliners in the Management Area as necessary for the proper implementation of Management Schemes and Harvest Strategies, provided such standards are not already regionally agreed;

(iv) the establishment of fishing gear restrictions, closed areas and closed seasons; and

(v) any other management measure deemed necessary from time to time.

(c) the establishment and implementation of a system of observation and inspection consistent with regionally agreed initiatives;

(d) the more effective development and implementation of Conservation and Management Measures of the WCPFC applicable to longline fisheries;

(e) the development of surveillance and enforcement procedures consistent with regionally agreed initiatives;

(f) the referral of matters for consideration by Special Working Groups as may be considered necessary from time to time;

(g) the adoption of a budget for the management of tuna resources; and

(h) the determination of the level of contributions by Parties.

3.3 The Management Meeting shall, when performing its functions under Article 3.2(b), take into account the strong dependence of Pacific coastal states and territories on fisheries resources and the special importance to them of the conservation and optimum utilization of highly-migratory species of tuna in the region.

3.4 All secretariat services and arrangements for meetings will be performed by the Forum Fisheries Agency.

3.5 Each Party will ensure that its nationals and fishing vessels comply with any management measures adopted by the Management Meeting.

ARTICLE 4

DECISIONS OF THE MANAGEMENT MEETING

The decisions of the Management Meeting will be arrived at by consensus and will be binding on the Parties.

ARTICLE 5

SPECIAL WORKING GROUPS

5.1 The Management Meeting may designate Special Working Groups to examine issues arising out of the implementation of this Arrangement.

5.2 Each Party will have the right to appoint a representative to any Special Working Group.

5.3 Where expertise is not available within the Area, the Management Meeting may invite external expertise to participate in the meetings of the Groups. The costs of external experts' participation may be met by Parties to this Arrangement.

5.4 The recommendations of any Special Working Groups will be submitted in writing to the Management Meeting. The recommendations shall not be binding on Parties or the Management Meeting.

ARTICLE 6

INFORMAL CONSULTATIONS WITH OTHER STATES AND INTERNATIONAL ORGANISATIONS

6.1 The Parties recognise the need to cooperate with other states or international organisations having an interest in the tuna resources within the Area.

6.2 The Parties agree that such cooperation will take place through informal consultations between the Parties and other states or international organisations.

ARTICLE 7

SECRETARIAT

7.1 The Director General of the Forum Fisheries Agency will assist the Parties in the implementation and coordination of the provisions of this Arrangement.

7.2 The Director General will coordinate any licensing mechanism under this Arrangement. This will include -

- (a) evaluating the level of compliance by assessing returned catch reports on the SPC/FFA Regional Tuna Fisheries Database; and
- (b) evaluating reports received from Parties relating to compliance by longline vessels with Parties national laws and reporting requirements.

7.3 The Parties agree to comply with the rules and procedures relating to the operation of the Regional Register as agreed upon from time to time by the Forum Fisheries Committee.

7.4 In addition, the Parties will notify the Director General of the name, call sign, local licence or registration number and regional register number, if any, of all longline vessels licensed to fish in their exclusive economic zones or authorised to fish in the WCPFC Convention Area, regardless of whether such vessels are considered for the purposes of national legislation as foreign, domestic, domestic-based, locally-based foreign fishing vessels or otherwise, at monthly intervals. Deadlines shall be set at the first day of each month.

7.5 The Director will notify the Parties of the name, call sign and registration number of all longline vessels licensed to fish in the exclusive economic zones of all the Parties each month.

ARTICLE 8

CONSULTATIONS AND DISPUTE SETTLEMENT

8.1 At the request of any Party, consultations will be held with any other Party within sixty (60) days of the date of receipt of the request. All other Parties will be notified of such requests for consultations and any Party will be permitted to participate in such consultations.

8.2 Any dispute arising out of the interpretation or implementation of this Arrangement between two or more Parties will be settled through peaceful negotiations.

ARTICLE 9

ENTRY INTO FORCE

9.1 This Arrangement will be open for signature by SIDS and is subject to ratification.

9.2 This Arrangement will enter into force 14 days following receipt by the depositary of instruments of ratification by five signatories. Thereafter it shall enter into force for any signing or acceding State 30 days after receipt by the depositary of the instrument of ratification or accession.

9.3 The depositary for this Arrangement shall be the Pacific Islands Forum Fisheries Agency.

9.4 Following entry into force this Arrangement shall be open for accession by other SIDS and members of the Forum Fisheries Agency.

9.5 Reservations to this Arrangement shall not be permitted.

9.6 Any Party may withdraw from this Arrangement by giving written notice to the depositary. Withdrawal shall take effect one year after receipt of such notice.

9.7 Any amendments to this Arrangement proposed by a Party shall be adopted by consensus.

9.8 An amendment shall be incorporated in this Arrangement and shall have effect immediately after the Annual Meeting that approves the amendment or in the case where one or more Parties are not present at the Annual Meeting or at a Special Meeting of the Parties, thirty days following the date upon which the Party or Parties have notified the depositary of their acceptance of the proposed amendment.

IN WITNESS WHEREOF the undersigned, duly authorised by their respective Governments, have signed this Arrangement.

DONE at Nukunonu this 4th day of July 2014

DRAFT

TOKELAU ARRANGEMENT FOR THE MANAGEMENT OF THE SOUTH PACIFIC LONGLINE FISHERY - MANAGEMENT SCHEME (LONGLINE HARVEST SCHEME)

(ADOPTED BY FFC89 – 4 JULY 2014)

Article 1

Definitions

[As per the VDS Management Scheme, definitions will be required for numerous terms that will appear throughout the text. Most of these will be standard terms and could be cross referenced to other instruments such as UNCLOS, UNFSA and the WCPFC Convention for simplicity.

There will also be some new terms to define, such as the Total Allowable Catch that Parties will establish as well as something like PTACs (Party Total Allowable Catches) that would be the individual member limits.]

Article 2

Objectives and description

2.1 This Management Scheme is made pursuant to the Tokelau Arrangement for the management of the South Pacific Longline Fishery. The objective of this Management Scheme is to enhance the management of longline fishing vessel effort in the waters of the Parties by encouraging collaboration between all Parties, and:

- i) promote optimal utilization, conservation and management of tuna resources;
- ii) maximize economic returns, employment generation and export earnings from sustainable harvesting of tuna resources;
- iii) support the development of domestic locally based longline fishing industries;
- iv) secure an equitable share of fishing opportunities and equitable participation in the south Pacific longline fisheries for the Parties;
- v) increase control of the south Pacific longline fishery for the Parties;
- vi) enhance data collection and monitoring of the fishery;
- vii) promote effective and efficient administration, management and compliance; and
- viii) encourage collaboration between the Parties.

2.2 Through this Management Scheme, the Parties shall seek to limit the level of fishing by longline vessels in their waters to the levels of total allowable catch agreed by the Parties to the Tokelau Arrangement.

2.3 At the beginning of the Management Scheme, the Parties will meet to set the TAC for the first Management Year and may set the TACs for the subsequent two Management Years. At least 9 months prior to the end of each Management Year, the Parties will meet to set the TAC for the subsequent Management Year if it has not been set. The Parties may set the TAC each year for up to three years in advance.

Longline HS Committee

2.3 Oversight of this management scheme will be the responsibility of a Longline Harvest Scheme Committee (LLHSC) comprising a nominee of each of the Parties to the Tokelau Arrangement. The LLHSC will be a sub-committee of the Tokelau Arrangement Parties and be subject to their absolute control. The LLHSC will meet as required and be subject to the following general procedures:

[[Meeting procedures etc can probably be cross-referenced to the FFC Rules of Procedure]]

Annual meeting of Parties to the Tokelau Arrangement

2.5 The annual meeting of the Parties to the Tokelau Arrangement will consider matters relating to the administration of the Longline HS. In particular, but without limiting the matters the meeting can consider, it will be a function of the annual meeting to:

- i) Consider any matter referred to it for decision by the LLHSC.
- ii) Receive a briefing from the Administrator on any transfer of management units between Parties. In respect of any deliberation on this matter the Parties will take into account the need to ensure that such transfers are not detrimental to the fishery or the fishery management scheme.
- iii) Set the TAC in accordance with the provisions of this Management Scheme.
- iv) Consider the need to establish procedures to consult with distant water fishing nations, fishing parties, fishing organizations, and other relevant organizations and provide direction to the Administrator in that respect.
- v) Determine controls on high seas fishing to be applied to fishing parties operating under the Harvest scheme or other arrangements, treaties or agreements.

Article 3

Non-application to certain longline vessels

The scheme shall not apply to artisanal vessels. [[The definition section will need to define an artisanal vessel – which should be based around those vessels for which data is not collected (ie – those not taken into consideration in the limit setting exercise)]]

Article 4

Obligation to limit catch

Each Party shall take all necessary measures to ensure that the number of catch units of nominated species taken by longline vessels in its waters does not exceed that Party's PAC or Adjusted PAC in any Management Year.

Article 5

Calculation of management units

[[This section to describe how "management units" (tonnes of catch) will be deducted from each PTAC. If some or all Parties seek to implement via an effort management system, this will be complicated and conversion factors and procedures will be spelt out here]]

Article 6

PAC Adjustments: transfers between Parties

6.1 The Parties shall develop a scheme to facilitate the transfer of management units between the Parties, and:

- (i) A Party may not agree to transfer to other Parties more than 100% of its PAC;
- (ii) A Party may not agree to transfer any part of its PAC which that Party has already used at the time the request is made.

6.2 A Party that proposes to transfer PAC pursuant to an agreement under Article 6.1 must provide a transfer notification to the Administrator, using the form set out in Schedule 2 (a) and according to any transfer administration procedures that have been agreed by the Parties on the recommendation of the Administrator, no later than 31 January of the Management Year following the Management Year that the proposed transfer relates to. The transfer will be approved by the Administrator provided it meets the requirements of the Harvest Scheme.

6.3 If the Administrator is satisfied that the Parties have complied with the requirements of Articles 6.1 and 6.2, the Administrator shall adjust the PAC of the relevant Parties in accordance with the transfer notification.

Article 7

PAC Adjustments: transfers between Management Years

[[Members will need to consider whether to allow this flexibility and if so, what rules would sit around it to ensure that very large catch transfers can occur between years.]]

Article 8

Register of Longline Vessels

[[There will need to be a specific register of vessels that are authorised to operate under the scheme. This will include domestic and foreign vessels. The Register of Good Standing should be the basis of this Register (to avoid further proliferation and duplication). Parties will need to ensure that any LL Licences include a condition that the vessel be registered.]]

Article 9

Monitoring

[[Port to Port monitoring as per the FFA Vessel Register should be reiterated]]

[[Parties are strongly encouraged to make electronic reporting of logsheets compulsory for any vessel operating under this scheme. Some flexibility could be built in for very small vessels fishing in and out of a home port if necessary.]]

Article 10

Compliance

[[Rules are required here to ensure good communication between the administrator and Parties as they approach limits. Rules are also required to deal with any situation where a Party exceeds its PAC in a given year.]]

Article 11

Administrator

11.1 The Administrator of this Management Scheme shall be the Director General of the Pacific Islands Forum Fisheries Agency.

11.3 The Administrator shall have the following functions:

- (i) performing any function that this Management Scheme requires the Administrator to perform;
- (ii) receiving information and documents from the Parties;
- (iii) receiving Registration Application Fees pursuant to Article 8.4 (iii);
- (iv) convening meetings of the Parties pursuant to this Article;
- (v) performing any function that the Parties direct the Administrator to perform; and
- (vi) performing any function that is necessary for the effective administration of this Management Scheme.

11.4 The Administrator shall perform their functions consistently with any direction given by the Parties. The Administrator shall consult with the Parties as required and take all necessary steps to ensure that reports and information required to be provided by Parties are provided on time.

11.5 The Administrator shall apply fees collected pursuant to this Management Scheme as directed by the Parties. The Administrator shall prepare an annual budget for this Management Scheme, for consideration and approval by the Parties at the annual Management Meeting under the Tokelau Arrangement.

11.6 The Administrator shall convene a special meeting of the Parties to consider the operation of this Management Scheme if the Administrator receives a written request for such a meeting, and where that request is supported by a minimum of three (3) additional Parties.

Article 12

Calculation of TAC and PAC

12.1 Subject to article 3, the TAC is the maximum number of management units of a nominated species to be taken by all licensed longline vessels in all waters of the Parties to the Tokelau Arrangement in any Management Year.

Calculation of the TAC

[[TAC should be set annually. This section will need to deal with the immediate situation, where decision making will be based on something like:

- i) the best available scientific, economic, management and other relevant advice and information;
- ii) the provisions of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean;
- iii) the special requirements of Parties that are small island developing states;
- iv) the objectives of the South Pacific Longline Harvest Scheme; and
- v) any submission on this issue from any party, individual or organisation.]]

BUT this section should also create a pathway for more robust mechanisms to set economic Target Reference Points and agree on Harvest Control Rules that will be used in the longer term to move the TAC away from its starting point (MSY) and towards levels consistent with the objectives.]]

Allocation of the TAC among the Parties

[[As per limit setting so far, the PAC will be allocated amongst members. There are lessons that can be learnt from the PSVDS about the way this should be set up. For example, allocation should not be conducted annually if that can be avoided. Allocations should be set for a longer period. A number of principles are likely to apply and it makes sense that the relative proportions from the intl limits that have been agreed should be the starting basis. Some movements in PACs will occur as a result of the Harvest Strategy rules that have been agreed to. That process also needs to be described here.]]

[[Parties need to decide on the area of application of this Scheme – does it apply in Archipelagic Waters and Territorial Seas?]]

Article 13

Amendment to the Longline Harvest Scheme

This Harvest Scheme may be amended in any respect by the agreement of the Parties to the Tokelau Arrangement.

Article 14

Fees for administration of the Longline Harvest Scheme and charges for vessel days

14.1 The Parties to the Tokelau Arrangement may, at any meeting, agree upon or vary any fees to be charged by vessels registered to operate under the Harvest Scheme and the scheme for administration of any such fees.

14.2 The Parties to the Tokelau Arrangement may, at any meeting, agree upon a scheme for standardising fees for the sale of management units.

Article 15

Transitional Provisions

15.1 At the commencement of the Management Scheme the Parties agree that the Management Scheme be applied on a provisional basis for an agreed period which shall be known as the transitional period, for the purposes of providing time for negotiations with fishing parties, and to monitor and to trial the implementation. The Parties may extend the transitional period for a further duration if the Parties consider it necessary.

15.2 During the transitional period of the Management Scheme, decisions pertaining to the implementation of the Management Scheme may only be made by Parties who have agreed to apply the scheme.

Article 16

Entry into force

16.1 This Management Scheme will be open for signature by the Parties to the Tokelau Arrangement.

16.2 This Management Scheme will enter into force 14 days following signature of the Scheme by any five Parties. This Management Scheme will only apply to Parties that agree to apply the Scheme through signature.

16.3 For each State that signs this Management Scheme after its entry into force, the Scheme shall enter into force for that State 30 days after receipt by the depositary of such signature.

**TOKELAU ARRANGEMENT FOR THE MANAGEMENT OF THE SOUTH PACIFIC LONGLINE FISHERY -
MANAGEMENT SCHEME (LOGLINE HARVEST SCHEME)**

SCHEDULE 1

Party	Highest catch 2001-12	Average catch 2001-12	Year (MY 1) PAC	Proportion of TAC
Australia	2,526	578	2,526	3.21%
Cook Islands	10,736	8,602	9,698	12.33%
Fiji	7,294	3,836	7,294	9.27%
Niue	337	0	2,500	3.18%
New Zealand	6,700	3,100	6,700	8.52%
Samoa	4,824	1,730	4,824	6.13%
Solomon Islands	20,879	12,920	14,500	18.44%
Tokelau	252	116	2,500	3.18%
Tonga	1,388	715	2,500	3.18%
Tuvalu	736	569	2,500	3.18%
Vanuatu	8,376	6,500	8,376	10.65%
New Caledonia	1,923	1,716	2,500	3.18%
French Polynesia	4,555	3,407	4,555	5.79%
American Samoa	5,173	2,224	5,173	6.58%
Wallis & Futuna	34	3	2,500	3.18%
TOTAL	75,733	46,016	78,646	

[[Note: List of Parties depends on signatories to the Tokelau Arrangement at that point in time. Additional Parties PAC will be added upon signature under the same rules that determined the PACs allocated to existing Parties (as set by the Committee)]]