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MARSHALL ISLANDS MARINE RESOURCES AUTHORITY

**RULES AND REGULATIONS ON
FOREIGN FISHING AGREEMENTS AND
FISH PROCESSING ESTABLISHMENTS**

The following regulations are promulgated under the authority of the Marshall Islands Marine Resources Authority Act 1988, Title 33 Marshall Islands Revised Code, Chapter 4.

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| SECTION 1 | General Provisions; Definitions |
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SECTION 1 **GENERAL PROVISIONS; DEFINITIONS**

A **GENERAL PROVISIONS**

These rules and regulations are intended to provide further detail to the provisions of the Marshall Islands Marine Resources Authority Act. These rules and regulations apply to all aspects of MIMRA jurisdiction unless otherwise provided.

B **DEFINITIONS**

Terms used in these regulations shall have the meanings assigned them in the Marshall Islands Marine Resources Authority Act 1988. In addition, the following terms are defined:

- (1) "Act" means the Marshall Islands Marine Resources Authority Act 1988.
- (2) "Baseline of the Marshall Islands" shall have the meaning assigned it in the Marine Zones (Declaration) Act 1984: the low water line of the seaward side of the reef fringing the coast of any part of the Marshall Islands or bounding any lagoon waters adjacent to any part of that coast, or, where a reef is not present, the low water line of the coast itself.
- (3) "Exclusive Economic Zone" shall have the meaning assigned it in the Marine Zones (Declaration) Act 1984: those parts of the sea having as their inner limits the outer limits of the territorial sea, and as their outer limits a line drawn 200 nautical miles seaward from the baselines from which the breadth of the territorial sea is measured.
- (4) "Fish processing establishment" means any land, premises or other place on or in which fish are canned, packed, dried, gutted, salted, iced, chilled, frozen, or otherwise processed for sale by wholesale in or outside the Republic.
- (5) "Foreign fishing agreement" means a bilateral or multilateral agreement providing for

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fishing rights to foreign fishing vessels in accordance with the requirements of the Act.

- (6) "Foreign fishing vessel" means any fishing vessel other than a local fishing vessel.
- (7) "Jurisdiction of a Local Government Area" means the sea and seabed of the internal waters of an atoll or island and the surrounding sea and seabed to a distance of five nautical miles from the baselines from which the territorial sea of that atoll or island is measured.
- (8) "Local fishing vessel" means a fishing vessel -
 - (i) registered in the Republic of the Marshall Islands; and
 - (ii) wholly owned and controlled, or chartered by -
 - (A) the Government of the Republic of the Marshall Islands;
 - (B) a public corporation established under the laws of the Republic of the Marshall Islands; or
 - (C) any citizen of or person permanently domiciled in the Republic of the Marshall Islands.
- (9) "Nautical mile" means an international nautical mile of 1,852 meters.
- (10) "Person" means any individual, corporation, company, association, partnership, authority, commission, foundation, the Republic of the Marshall Islands government or its political subdivisions, or any local, state, or foreign government or municipality, or other institution or entity, whether public or private.
- (11) "Territorial sea" shall have the meaning assigned it in the Marine Zones (Declaration) Act 1984: that part of the sea within twelve (12) nautical miles from the baseline of the Marshall Islands.

C ADDITIONAL REQUIREMENTS; WAIVER OR VARIANCE

MIMRA may, if it deems appropriate, vary or waive any of the items herein, or impose additional requirements.

SECTION 2 REQUIREMENTS OF FOREIGN FISHING AGREEMENTS

A SCOPE

These regulation set out terms and conditions of foreign fishing agreements to which substantial agreement will be sought.

B ESSENTIAL ITEMS

The following items shall be considered basic and essential terms for any foreign fishing agreement:

- (1) That the party seeking an agreement present a business plan that outlines at least the following:

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- (i) experience in the fishing industry and references;
 - (ii) vessels to be used;
 - (iii) intended catch species and quantity;
 - (iv) intended marketing plans for catch;
 - (v) plans and measures designed to assure compliance by all vessels with the laws of the Republic.
- (2) recognition of RMI sovereignty over it's exclusive economic zone of 200 nautical miles, it's territorial sea, as well as local government authority over their specific areas of jurisdiction.
- (3) recognition of all RMI Laws, rules and regulations, local government ordinances, and where appropriate, local custom and specific consent to the jurisdiction of the RMI courts.
- (4) appointment of local agent for service of process. Designation of local address for mailings.
- (5) maintain at all times a bond or letter of credit, in the amount of \$500,000 per vessel license application, in the Majuro Branch of the Bank of Hawaii. The bond or letter of credit is intended to ensure payment of judgements, fees, fines, or penalties that may be imposed against any vessel charterer, captain, crew, or owner.
- (6) recognition of importance of, and agreement to comply with, all catch and position reporting requirements.
- (7) agreement to comply with all reasonable requirements for and by observers and authorized personnel.
- (8) as appropriate to the particular agreement any or all of the following:
- (i) local-based off-loading only;
 - (ii) prohibition of any off-loading or trans-shipment other than at Ebeye or Majuro;
 - (iii) exclusion from certain areas of the RMI fishery waters;
 - (iv) the type or method of fishing or related activity;
 - (v) the target species and amount of fish authorized to be taken, including any restriction on by-catch.

C ADDITIONAL REQUIREMENTS

MIMRA may, if it deems appropriate, impose additional requirements. Examples of additional requirements may include, but are not limited to, maintaining a bond or letter of credit in an amount greater than required in B(5); specifications regarding fishing gear; items respecting the terms and conditions of licenses and items respecting the export of fish.

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SECTION 3

REQUIREMENTS PRIOR TO ENTRY OF VESSELS FOR LOCAL GOVERNMENT AREA ACTIVITIES

A SCOPE

These regulations set out the minimum requirements for a foreign fishing agreement required of any person that desires to enter into a license agreement with a Local Government Authority for fishing or other exploitation of marine resources within the jurisdiction of the Local Government Authority. These regulations are in addition to the requirements of Section 2 of these regulations regarding the basic elements of a foreign fishing agreement.

B REQUIREMENTS

- (1) any person or corporation, prior to entering into a license agreement with a Local Government Council regarding exploitation of marine resources shall comply with MIMRA requirements regarding foreign fishing agreements.
- (2) any proposal to enter into a license agreement with a Local Government Council shall include at least the following elements:
 - (i) name of the Local Government Council;
 - (ii) the substantive terms of the proposal to be made to the Local Government Council, including target species or marine resource, projected catch, gathering or harvest rates, marketing plans, price, length of license requested, and elements of local control that will be included to assure local government involvement;
 - (iii) a copy of the foreign investment business license;
 - (iv) a copy of the articles of incorporation and by-laws;
 - (v) evidence of liability insurance for all boats and any shore-based facility. Such insurance must include coverage of all personnel;
 - (vi) specific acknowledgement of the need to comply with all laws, rules, and regulations of the Marshall Islands, as well as all local ordinances, and customs.
- (3) the following items must be filed with MIMRA prior to any MIMRA clearances coming into effect:
 - (i) all agreements or contracts for local fishing licenses or any other activity related to the exploitation of fish or any marine resources must be filed in final and executed form with the Director of MIMRA;
 - (ii) all agreements, contracts, or licenses filed as required herein must be accompanied by a certified copy of the Local Government Council resolution approving the matter. Such resolution must recite the key terms of the agreement (as set out in item (iv) below) and show the name and signature of all council members voting to approve or accept the agreement;

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- (iii) all resolutions shall be submitted in Marshallese and English and must include an affidavit of translation; and
 - (iv) all agreements with Local Government Councils must state:
 - (A) the types of fish to be caught or other marine resource to be exploited;
 - (B) the areas within the jurisdiction of the Local Government that will be exploited and those which are to be protected;
 - (C) the amount of the catch or other gathering allowed, or restrictions that will be imposed; and
 - (D) the amount and method of payment that will be made to the Local Government Council.
 - (v) no agreement may state a duration of greater than one year unless, upon written submission, a request for longer duration is made. A request for a longer term will be considered if it involves local construction and related investment in facilities or equipment needed in connection with the proposed agreement. Requests for agreements of longer terms must be accompanied by a business plan and any resulting agreement must include appropriate performance standards.
 - (vi) all local government agreements that involve export must provide that the catch or harvest will be exported from Majuro or Ebeye.
- (4) on at least a semi-monthly basis, any person with a local fishing agreement shall report to MIMRA complete and detailed information on the catch made, in a form required by MIMRA.

SECTION 4 FISH PROCESSING ESTABLISHMENTS

A SCOPE

These Regulations cover the licensing, operation, and inspection of fish processing centers.

B APPLICATION

Any person who desires to operate a fish processing establishment must submit an application to MIMRA and include a non-refundable fee as prescribed by MIMRA. Each application shall include the following information:

- (1) name of applicant, address, telephone number;
- (2) if a corporation - name, address, telephone number, and place of incorporation, a copy of the articles of incorporation and by-laws;
- (3) foreign investment license number, if applicable;
- (4) proposed site (describe or attach diagrams and information regarding land lease, utility connections);

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- (5) information on the proposed facility, including, but not limited to, a description or diagram of the facility, as well as dates for construction, modification etc of physical plant, and plans for financing;
- (6) information on proposed capacity and fish handling capabilities, including but not limited to: ice-making capacity and arrangements for sufficient water;
- (7) information on plans to comply with relevant laws and regulations on environmental protection and employment;
- (8) information on shipping arrangements for the processed material;
- (9) general information on the planned source of the fish.

C REVIEW OF APPLICATION

MIMRA shall review each complete application within 45 business days after it is submitted. If further information is required, or the application is not complete, MIMRA shall inform the applicant what further information is required.

D APPROVED APPLICATION

If an application is approved, the applicant will receive from MIMRA an indication of permission to proceed with construction or modification of the physical plant, as the case may be.

E ISSUANCE OF LICENSE

No license will be issued until the fish processing establishment has been completed in accordance with the submitted application and plans or any approved modifications, and is ready for operation. No operations are allowed to proceed until a license has been issued.

F TEMPORARY LICENSE

In the event that a processing establishment, although not completed in accordance with the application, is capable of appropriate handling of fish, MIMRA may issue a temporary license. No temporary license may be issued for a period exceeding 6 months, and may be issued for a shorter period.