

Draft of 19/1/95.
INDEPENDENT STATE OF PAPUA NEW GUINEA.

STATUTORY INSTRUMENT.

No. *2* of 1995.

Fisheries Regulation 1995.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

STATUTORY INSTRUMENT.

No. of 1995.

Fisheries Regulation 1995,

Being a Regulation,

MADE by the Head of State, acting with, and in accordance with, the advice of the National Executive Council, under the *Fisheries Act 1994*.

PART 1. - PRELIMINARY.

1. INTERPRETATION.

In this Regulation, unless the contrary intention appears -

"amendment to notice of export" means an amendment to a notice of export under Section 45;

"analyst" means a person authorized by the Minister in accordance with Section 2 of the Act to perform the duties of an analyst under the Act and this Regulation;

"based in the country", in relation to a boat, means exclusive or predominant use by the boat of land-based facilities in the country, and the use may include location of the boat's home port in the country, offloading all fish in the country, or transshipping all fish taken in fisheries waters at a port in the country;

"citizen enterprise" includes the State, a State body, and an enterprise wholly owned by a citizen or citizen enterprise;

"container system unit" means a container designed for repeated use as a unit of transporting equipment in a system of cargo transport which uses those units for containing goods for transport;

"distant water boat" means a foreign boat which takes tuna, other than a boat which is owned or substantially chartered by a citizen, national or foreign enterprise and based in the country;

"domestic boat" means a boat other than a distant water boat;

"enterprise" means any person, corporation, body or association of persons engaged in commercial activities;

"export boat" means a boat which is licensed as a fish export facility under Section 43;

"fish aggregating device" means a man-made or partially man-made floating or semi-submerged device, whether anchored or not, intended to aggregate fish, and includes any natural floating object on which a device has been placed to facilitate its location;

"fish buyer" means a person who is authorized by a fish buyer's licence under Section 33 to buy fish from persons engaged in artisanal fishing;

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- "fish export facility" means premises, a boat or other place from which the export of fish is authorized by a fish export facility licence under Section 43;
- "fish factory" means premises which are authorized as a fish factory by a fish factory licence under Section 38;
- "fish farm" means a place in fisheries waters or on land where fish farming is authorized by a fish farm licence under Section 31;
- "fish farming" means the commercial cultivation, propagation or farming of fish, whether from eggs, spawn, spat or seed, or by rearing fish lawfully taken from the wild or lawfully imported into the country, or by other similar process;
- "fish storage facility" means premises other than premises used for general retail sale of food, which are used for the commercial — storage, processing or sale of fish, or any combination of these, authorized by a fish storage facility licence under Section 37;
- "fishing boat licence" means a licence issued under Section 20 in respect of a boat authorizing the use of the boat to take fish, or to receive fish on board that have been purchased from persons engaged in artisanal fishing, and to store, package, transport and process, according to the terms of the licence, the fish so taken or received;
- "fishing trip" means a period of time spent by a boat fishing in fisheries waters, which ends when any or all of the fish on board the boat are removed from the boat, either by offloading to shore or by transshipment;
- "foreign enterprise" means an enterprise registered as such in accordance with the *Investment Promotion Act* 1992;
- "game fishing operation" means a fishing operation authorized by a game fishing licence under Section 32, in which game fishing facilities are let to the public for reward;
- "legal representative" means the person appointed in respect of a foreign boat under Section 49(1)(e) of the Act;
- "licensed boat" means a boat licensed as a fishing boat under Section 20, or deemed to be licensed by Section 54 of the Act;
- "national enterprise" means an enterprise of which —
- (a) more than 50% is owned directly or indirectly by a citizen or a citizen enterprise, unless in the opinion of the Authority the control exercisable in law or by any agreement between the shareholders, or by agreement between the enterprise and a third party, or in practice, is maintained by a person other than a citizen or a citizen enterprise; and
 - (b) the arrangements for contribution towards costs and expenses and for distribution of profits, dividends and other payments in the opinion of the Authority adequately reflect the majority ownership of the citizen or citizen enterprise;
- "notice of export" means a notice of export given under Section 45 in respect of fish being exported;
- "offshore enterprise" means an enterprise which is not a citizen enterprise, a national enterprise or a foreign enterprise;
- "port call" means a certified entry into a designated port carried out in accordance with Section 26;
- "registered trade mark" means a trade mark registered under the *Trade Marks Act* (Chapter 385);

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"shipment" means export from the country by sea or air;

"substantially chartered", in relation to a foreign boat, means chartered under a contract of hire or charter agreement whereby a substantial measure of control over the master, the crew and the operations of the boat, other than only being liable for the payment of wages, is vested in the hirer;

"support aircraft" means an aircraft used in conjunction with a boat in support of fishing by the boat;

"support craft" means a dinghy, tender or other craft used in conjunction with a fishing boat in support of fishing by the boat, or in conjunction with a fish farm;

"trial fishing" means carrying out fishing trials, investigations or research for the purpose of -

- (a) proposing proper resource utilization and management guidelines; or
- (b) determining the biological and species composition, abundance, population size and distribution of a fisheries resource, and related matters; or
- (c) testing the commercial viability of new fishing methods, developing new stocks of fish or fishing in previously unexploited waters; or
- (d) establishing the viability or otherwise of a fishery, a fishing method, or other similar matter;

"trial fishing boat" means a boat fishing under and in accordance with a trial fishing permit issued under Section 30.

(2) A reference to a commercial activity, in relation to fish or fishing, includes a reference to buying, selling, trading or exporting fish taken in fisheries waters, or conducting fishing or a related activity for reward, but does not include -

- (a) an activity carried out by indigenous inhabitants at village and artisanal level; or
- (b) an activity carried out by a school, college or other educational establishment in the course of providing education in fisheries activities,

and does not, unless the contrary intention appears, include retail buying, selling or trading.

(3) The determination as to whether or not -

- (a) an activity is commercial; and
- (b) the control and financial arrangements of an enterprise are such that it is a national enterprise; and
- (c) a boat is based in the country; and
- (d) a foreign boat is substantially chartered so as not to be a distant water boat; and
- (e) a boat used in fishing is a support craft,

for the purposes of this Regulation shall be made by the Board.

(4) A reference to the holder of a licence shall, in the case of a fishing boat licence, be deemed to be a reference to the operator of the boat or, in the case of a foreign boat, the legal representative of that boat.

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(5) Tuna taken in the Exclusive Economic Zone by a distant water boat, and transhipped in fisheries waters from the boat or carried out of fisheries waters by the boat is not goods exported from Papua New Guinea within the meaning of this Regulation or the *Customs Tariff Act* (Chapter 101A), or a prescribed unprocessed natural resource within the meaning of the *Customs (Export) Tariff Act* (Chapter 103).

PART II. - LICENCES.

2. ACTIVITIES REQUIRING LICENCE.

(1) This section does not apply to fishing or a related activity carried out by or on behalf of the State or the Authority.

(2) For the purposes of Division IV.2 of the Act -

(a) subject to Subsection (3), a boat, which is used in fisheries waters -

- (i) for commercial fishing, other than trial fishing; or
- (ii) for the commercial buying, storage or processing of fish,

shall be licensed as a fishing boat under Section 20; and

(b) a boat used for trial fishing shall do so in accordance with a trial fishing permit issued under Section 30; and

(c) a fish farm in fisheries waters or on land shall be licensed as a fish farm under Section 31; and

(d) notwithstanding Section 3(2) of the Act, a person conducting a game fishing operation shall hold a game fishing licence under Section 32; and

(e) a person buying fish on a commercial basis from persons engaged in artisanal fishing shall be licensed as a fish buyer under Section 33; and

(f) a person authorized to perform agency functions in respect of a boat shall be licensed as a boat agent under Section 34; and

(g) premises which are used exclusively or predominantly for the commercial storage, processing or packaging of fish shall be licensed as a fish storage facility under Section 37 or a fish factory under Section 38; and

(h) subject to Subsection (3), premises or a boat or other place in or on which fish are processed for export, shall be licensed as a fish export facility under Section 43.

(3) Notwithstanding Subsection (2)(a) -

(a) a boat which is deemed to be licensed by Section 54 of the Act; and

(b) a support craft used in conjunction with a fishing boat; and

(c) unless the terms of a fish farm licence require it, a support craft used solely or mainly in conjunction with a fish farm,

do not require a licence.

(4) The provisions of this Part do not apply to boats licensed under a Treaty unless the terms of the Treaty permit the application.

3. LICENCE FEES.

(1) Subsection to Section 5, the license fees respectively specified in Column 2 of Schedule 2 are payable in respect of the matters specified in Column 1.

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(2) Where the period of a licence is greater than one year, the annual licence fee for that licence is payable on or by a date specified in the licence or notified by the Authority, or, where no such date is specified or notified, yearly from the date of issue of the licence.

(3) Failure to pay the annual licence fee on or by the due date in accordance with Subsection (2) is a ground for suspension or cancellation of the licence.

(4) No licence fee shall be refunded except in accordance with Section 44(1)(c) of the Act.

4. ACCESS FEES.

(1) Subject to Section 5, an access agreement shall make provision for the payment of an access fee in respect of all distant water boats licensed under the access agreement.

(2) An access fee is payable in respect of a distant water boat according to the terms of the access agreement under which the boat is licensed.

5. LUMP SUM FEES UNDER ACCESS AGREEMENTS.

Notwithstanding Sections 3 and 4, an access agreement may make provision for the payment, by a lump sum method, of all or part of the fees payable in respect of all or some of the distant water boats licensed under the access agreement, in which case the fees shall be paid accordingly.

6. PERIOD OF LICENCE.

For the purposes of Section 48(1)(d) of the Act, the period of a licence issued under this Regulation is as set out in Column 3 of Schedule 2, or such lesser time as the Board may direct in any particular case.

7. GROUND FOR REFUSAL.

(1) The Board may refuse to grant or renew a licence if -

- (a) it is satisfied that information required to be given or reported under this Act and any applicable access agreement is false, incomplete, incorrect or misleading; or
- (b) a material misrepresentation, omission or misstatement of fact has been made in the application for the licence; or
- (c) it is satisfied that the operation the subject of the application does not conform in a material respect to the requirements of the Act or this Regulation, any applicable access agreement or other agreement, the Licensing Guidelines or any other relevant law; or
- (d) the applicant (or where the applicant is a corporate person, any of the principals of the applicant) has -
 - (i) been convicted of an offence against the Act or this Regulation, the *Fisheries Act* (Chapter 214) (*repealed*), the *Continental Shelf (Living Natural Resources) Act* (Chapter 210) (*repealed*), or, concerning fisheries matters, any other law; or
 - (ii) been convicted of an offence involving dishonesty under any law; or
 - (iii) become bankrupt, applied to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounded with his creditors or made an assignment of his remuneration for their benefit; or

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- (e) in the case of an application for trial fishing permit, the applicant fails to submit a satisfactory research and trial fishing plan.
- (2) A licence shall not be granted or renewed if -
 - (a) the required licence fee has not been paid in full; or
 - (b) the applicant, or where the application is made in respect of a boat, any operator of the boat, has failed to satisfy a judgement or other determination regarding a breach of the Act or this Regulation, the *Fisheries Act* (Chapter 214) (*repealed*), the *Continental Shelf (Living Natural Resources) Act* (Chapter 210) (*repealed*), or, concerning matters, any other law; or
 - (c) the conduct of the operation the subject of the application would contravene a notice for the time being in force under Section 52 of the Act; or
 - (d) in the case of a renewal, there have been more than two failures to report as required by this Regulation; or
 - (e) in respect of a fishing boat licence renewal, the catch of the boat has been misreported; or
 - (f) in respect of a foreign boat, the boat does not have good standing, or its good standing is suspended; or
 - (g) in respect of a distant water boat licence renewal, the applicant fails to produce -
 - (i) a certificate of port call issued under Section 26(4); and
 - (ii) a transshipment report which has been certified under Section 29,in respect of the boat during the last licence period.

8. PERFORMANCE BONDS.

- (1) For the purposes of Section 50(1)(a) of the Act, the form of a performance bond may be -
 - (a) a cash deposit; or
 - (b) a letter of credit or other form of bank guarantee, approved by the Executive Director.
- (2) For the purposes of Section 50(2) of the Act, a performance bond -
 - (a) shall be lodged in respect of a distant water boat in a sum specified in the access agreement under and in accordance with which the boat is licensed; and
 - (b) may be lodged in respect of any other boat in a sum as determined under the terms of the licence or by the Executive Director.

- (3) A performance bond required by this Regulation or the terms of a licence shall be lodged within one week of the issue of the licence.

9. DRAWING OF PERFORMANCE BONDS.

- (1) For the purposes of Section 50(3) of the Act, where the Authority proposes to draw on a performance bond for non-compliance with a term, condition or requirement of the licence, the Act or this Regulation, the Authority shall, subject to Subsection (5), give written notice in accordance with Subsection (2) to the licensee or, in the case of a foreign boat, to the legal representative of the boat.

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(2) A notice under Subsection (1) shall -

- (a) contain a description of the non-compliance alleged and a statement of the amount which it is proposed to draw; and
- (b) state that the bond will be drawn upon if no objection is received by the Authority within 14 days from the date of the notice.

(3) Unless the terms of the licence permit otherwise, the amount that may be drawn on a performance bond under Subsection (2)(a) shall not exceed 100% of the maximum fine prescribed for the offence created by the non-compliance.

(4) Where no objection is received by the Authority within 14 days from the date of a notice under this section, the Authority may draw directly on the performance bond.

(5) Notwithstanding any other provision of this Part, where a person who has been duly served a summons to answer a charge of a contravention of, or failure to comply with, a term or condition of a licence, fails to appear in answer to the summons, the Authority may, without notice, draw directly on any performance bond lodged in respect of the licence to an amount not exceeding 100% of the maximum fine prescribed for the offence created by the non-compliance.

10. LICENCE NOT TRANSFERABLE.

(1) A licence is not transferable.

(2) A licence issued in respect of a boat, premises or place may not be transferred to be held in respect of another boat, premises or place.

11. APPROVAL OF CHANGE OF OWNERSHIP.

(1) A licensee which is a corporate person and which proposes a change in its shareholding or beneficial ownership of a kind referred to in Section 32(1) or 32(2) of the *Investment Promotion Act* 1992 shall require the prior approval of the Board under this section.

(2) An application for approval under this section shall be in writing and lodged with the Executive Director.

(3) On receipt of an application under Subsection (2), the Executive Director shall consider the information furnished with the application and, where he is of the opinion that further information is required from the applicant in order for the Board to properly consider the application, he may require the applicant, if the applicant wishes to proceed with the application, to furnish such further information.

(4) Where the Executive Director is satisfied that he is in receipt of sufficient information to enable the Board to properly consider an application for approval under this section, he shall refer the application to the Board.

(5) The Board shall consider an application referred to it under Subsection (4) and determine whether to approve, with or without conditions specified by it, or disapprove of the proposed change in the shareholding or beneficial ownership of the licensee and the Chairman shall notify the licensee, in writing, of the Board's decision.

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(6) In making a determination under Subsection (5), the Board shall consider the proposed change of shareholding or beneficial ownership of the licensee in terms of -

- (a) its effect on the financial resources of the licensee; and
- (b) its effect on the expertise and experience of the licensee relevant to the fishing or related activity in which it is involved; and
- (c) its effect on any other relevant matters of the kind set out in Section 45(3) of the Act; and
- (d) consistency or otherwise with the Licensing Guidelines and other relevant government policies.

(7) Approval under this section shall not count as approval of the change in shareholding or beneficiary ownership of a licensee required under any other law, or pursuant to any agreement between the licensee and another person or persons.

(8) Where there is a change in the shareholding or beneficial ownership of a licensee for which approval is required under this section, and the approval has not been given, or conditions upon which the approval was given have not been complied with, the licence shall automatically terminate in accordance with Section 16.

12. LOST, DESTROYED OR DEFACED LICENCE.

(1) Where a licence has been lost or destroyed, the licensee may make written application to the Executive Director for the issue of a duplicate licence.

(2) Where the Executive Director is satisfied that -

- (a) the licence has been lost or destroyed; and
 - (b) no improper use has been made or is being made of the licence,
- he may, on payment of the prescribed fee, issue a duplicate licence to the licensee.

(3) Where a licence has been defaced, the licensee shall, on returning the licence to the Executive Director and on payment of the prescribed fee, be issued with a duplicate licence.

(4) A duplicate licence issued under this section has the same force and effect as the licence of which it is a duplicate.

13. FORM OF REGISTER.

A register kept under Section 48(4) of the Act shall be in Form 1 of Schedule 1.

14. AUTOMATIC SUSPENSION OF LICENCE.

(1) A licence which authorizes fishing or a related activity in contravention of a notice under Section 52 of the Act is, to the extent that its terms contravene the notice, automatically suspended.

(2) If the good standing of a licensed boat is suspended, any licence in respect of the boat is automatically suspended until and unless the good standing of the boat is restored.

(3) If a performance bond is not lodged in accordance with Section 8, the licence in respect of which the performance bond is required is automatically suspended until and unless the performance bond is lodged.

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15. SUSPENSION OF LICENCE.

(1) The Executive Director may suspend a licence, either generally or in relation to a specified area -

- (a) if a material misrepresentation, omission or misstatement of fact has been made in the application for the licence; or
- (b) if there has been consistent failure to report as required by this Regulation; or
- (c) if he has reasonable grounds to suspect that there has been a contravention of, or a failure to comply with, a term or condition of the licence, not being a ground to which he has previously exercised his powers under this section in relation to the licence; or
- (d) if any fee, charge or levy required in respect of the licence has not been paid; or
- (e) for a specified period, if he is satisfied that the suspension is necessary for the proper management of a fishery; or
- (f) if the holder of the licence has been charged with an offence involving dishonesty under any law and the charge has not yet been determined; or
- (g) on any ground given under this Regulation for the suspension of licence.

(2) Before a licence is suspended, the Executive Director shall serve a notice on the holder specifying the ground for suspension and -

- (a) where the licence is being suspended under Subsection (1)(b) or (c), allowing the holder not less than 14 days after the date of serving of the notice to remedy the contravention or the failure to comply or pay; or
- (b) where the licence is being suspended under Subsection (1)(d) or (f), allowing the holder not less than 14 days after the date of service of the notice to make representations as to why the licence should not be suspended.

(3) Unless sooner revoked, the suspension of a licence under Subsection (1) takes effect on the expiry of the time allowed in the notice under Subsection (2) and continues until the suspension is rescinded by the Executive Director or the licence expires or is cancelled.

(4) On the request of the holder, the Executive Director shall allow him an opportunity to be heard and, where he is satisfied that the ground for suspension does not apply or is not sufficiently serious as to merit suspension, shall rescind the notice.

(5) On the application of the holder, the Executive Director shall rescind a suspension under this section where the holder is performing his obligations and complying with the Act and this Regulation.

(6) The Executive Director shall rescind a suspension -

- (a) under Subsection (1)(e), if the suspension is no longer required for the proper management of the fishery; and
- (b) under Subsection (1)(f), when the charge has been determined.

16. AUTOMATIC TERMINATION OF LICENCE.

(1) Where -

- (a) the flag state registry; or
- (b) the ownership,

of a licensed boat changes, any current licence in respect of the boat shall automatically terminate.

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(2) Where the good standing of a licensed boat is cancelled, any current licence in respect of the boat shall automatically terminate.

(3) Where approval for a change of ownership of a licensee which requires approval under Section 11 has not been sought in accordance with that section, or approval has not been given or conditions upon which the approval was given have not complied with, and the change of ownership has occurred, any current licence held by the licensee shall automatically terminate.

17. CANCELLATION OF LICENCE BY COURT.

(1) Where a person who has been duly served a summons to answer a charge of a contravention of, or failure to comply with, a term or condition of a licence, fails to appear in answer to the summons, the court shall, unless it considers that there are exceptional reasons for not doing so, order the cancellation of the licence.

(2) Where a court convicts a licensee of an offence in respect of the licence, it may, in addition to any other penalty -

- (a) order the cancellation of the licence; and
- (b) as it thinks fit, declare that the person is disqualified from obtaining a licence for such time as the court thinks proper.

(3) Where a court convicts a person of an offence in the commission of which a licensed boat was used or otherwise involved, it may, in addition to any other penalty that it imposes in respect of the offence, order the cancellation of the licence in respect of the boat.

18. CANCELLATION OF LICENCE BY BOARD.

(1) The Board may cancel a licence -

- (a) if it is satisfied that information required to be given or reported under the Act or this Regulation and any applicable access agreement is false, incomplete, incorrect or misleading; or
- (b) if the licensee (or where the licensee is a corporate person, any of the principals of the licensee) -
 - (i) is convicted of an offence against the Act or this Regulation, the *Fisheries Act* (Chapter 214) (*repealed*), the *Continental Shelf (Living Natural Resources) Act* (Chapter 210) (*repealed*), or any other law concerning fisheries matters; or
 - (ii) is convicted of an offence involving dishonesty under any law; or
 - (iii) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (c) if it is satisfied on reasonable grounds that the licensed activity is not being conducted in accordance with the requirements of the Act and this Regulation, any applicable access agreement or other agreement, the Licensing Guidelines or any other relevant law, or that there has been a change in the circumstances of the licensee sufficient to justify cancellation of the licence; or

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- (d) if any fee, charge or levy required in respect of the licence has not been paid; or
- (e) on any ground given under this Regulation for the cancellation of a licence.

(2) For the purposes of Subsection (1), "principals", in respect of a corporate person, includes director, manager, secretary or other similar officer or any person purporting to act in such a capacity.

(3) Where the Board proposes to cancel a licence under this section, the Executive Director shall serve a notice on the licensee -

- (a) advising him of the intention to cancel the licence and of the reasons for the intended cancellation; and
- (b) requiring him, within 14 days from the date of service of the notice, to make representations as to why the licence should not be cancelled.

(4) On the request of the licensee within 14 days from the date of the service of the notice under Subsection (3), the Executive Director shall allow the licensee an opportunity to be heard.

(5) Where the licensee does not make, within 14 days, representations under Subsection (3)(b) or a request to be heard under Subsection (4), the Board shall cancel the licence.

(6) Where representations have been made under Subsection (3)(b) or there has been a hearing under Subsection (4), the Executive Director shall forward to the Board a written report on the representations or hearing, and the Board shall consider the report in reaching its decision.

19. SURRENDER OF LICENCE.

(1) Where a licence is suspended, terminated or cancelled under this Regulation, the licence-holder shall, within 72 hours of receiving notice of the suspension, termination or cancellation, surrender the licence to the Authority.

(2) On the expiry of the period of suspension of a licence, the Authority shall return it to the licence-holder.

PART III. - FISHING BOATS.

20. CONDITIONS OF LICENCES.

(1) An application for a fishing boat licence shall be in Form 2 of Schedule 1.

(2) A fishing boat licence -

- (a) shall be in Form 3 of Schedule 1; and
- (b) shall be issued for a specified type, class or species of fishstock; and
- (c) may be issued for a specified area of fisheries waters; and
- (d) shall specify which fishing, buying, processing or other activities are permitted under the licence; and
- (e) may specify a port or ports at which the boat may tranship, offload, refuel or reprovision; and

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- (f) may specify such further conditions in relation to any fishing, buying, storage, packaging, transport and processing permitted under the licence, including any applicable conditions in relation to total allowable catch, as are necessary or desirable; and
- (g) may specify the number of citizens who are to be employed as crew aboard the boat during the licence period; and
- (h) may require that a specified type of vessel monitoring system be installed and maintained in good working order on the boat during the licence period; and
- (i) shall be endorsed in respect of any support aircraft and support craft; and
- (j) subject to this section, shall be subject to such further terms and conditions as are specified in it.

(3) Where the fishing boat licence entitles fish to be bought onto the boat, the buying shall be conducted by a fish buyer.

(4) A licensed boat may take by-catch, unless limited or prohibited by the terms and conditions of its licence.

21. ALLOCATION OF FISHING BOAT LICENCES.

(1) Subject to this Regulation, fishing boat licences for each fishery shall be granted in the following descending order of priority -

- (a) a Papua New Guinea boat owned by a -
 - (i) citizen enterprise;
 - (ii) national enterprise;
 - (iii) foreign enterprise;
- (b) a Papua New Guinea boat chartered by a -
 - (i) citizen enterprise;
 - (ii) national enterprise;
 - (iii) foreign enterprise;
- (c) a foreign boat owned by a -
 - (i) citizen enterprise;
 - (ii) national enterprise;
 - (iii) foreign enterprise;
- (d) in the tuna fishery, a foreign boat chartered by a -
 - (i) citizen enterprise;
 - (ii) national enterprise;
 - (iii) foreign enterprise;
- (e) a boat owned or chartered by an offshore enterprise, and in accordance with any priorities established by any international agreement to which Papua New Guinea is a party.

22. RESTRICTION ON FISHING BOAT LICENCES.

(1) No licence shall be issued in respect of a chartered foreign boat except -

- (a) in the tuna fishery; or
- (b) where, in the opinion of the Board, the fishery in respect of which the licence application is made is new and previously untried.

(2) No licence shall be issued in respect of a distant water boat except under and in accordance with an access agreement.

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23. CONDITIONS OF FISHING BOAT LICENCES.

(1) A licensed boat shall, at all times while in fisheries waters -
 (a) fly its national flag; and
 (b) display markings in accordance with Schedule 3,
and failure to comply with this condition or any part of it may result in suspension or cancellation of the licence in accordance with this Regulation, in addition to any penalty that may be imposed.

(2) A licensed boat may carry the original copy of the licence on board the boat at all times during the licence period and produce it to an officer upon request, and failure to comply with this condition or any part of it on more than two occasions may result in forfeiture of the boat in accordance with Section 67(1) or (2) of the Act, in addition to any penalty that may be imposed.

(3) A licensed distant water boat shall not tranship fish at sea, and failure to comply with this condition shall result in forfeiture of the boat in accordance with Section 67(2) of the Act, in addition to any penalty that may be imposed.

24. OPERATIONS OF LICENSED BOATS.

- (1) The operator of a licensed boat shall ensure -
- (a) the continuous monitoring of the international distress and calling frequency 2182 khz (HF), and the international safety and calling frequency 156.8 Mhz (channel 16, VHF-FM) to facilitate communication with the Authority; and
 - (b) that a recent and up-to-date copy of the International Code of Signals (INTERCO) is carried on board and accessible at all times; and
 - (c) that an up-to-date set of charts showing Papua New Guinea fisheries waters is carried on board at all times; and
 - (d) that all relevant provisions of national law relating to navigational standards and the safety of vessels at sea are complied with.

(2) For the purposes of Section 36 of the Act, a licensed boat shall be operated in such a way that traditional fishing activities are not disrupted or in any other way adversely affected.

25. REPORTING REQUIREMENTS.

(1) The master or other operator of a licensed boat which takes fish shall -

- (a) complete daily in the English language a catch report of all fishing activities, whether within fisheries waters or elsewhere; and
- (b) certify that the information in the catch report is true, complete and accurate; and
- (c) produce the catch report on demand to an officer.

- (2) A catch report referred to in Subsection (1) shall include details of -
- (a) position (to one minute of arc); and
 - (b) seas conditions; and
 - (c) catch, including by catch of all non-target species, whether fish or otherwise; and
 - (d) any other information required by the Licensing Guidelines, the Executive Director or the terms of the licence.

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(3) The master or other operator of a licensed boat which takes fish shall provide to the Authority, in a form and by a means approved by the Executive Director -

- (a) a preliminary trip report, together with true copies of catch reports, landing slips or dock receipts, within fourteen days; and
- (b) a final trip report -
 - (i) in the case of a domestic boat, within 21 days; and
 - (ii) in the case of a distant water boat, within 45 days,of the completion of a fishing trip.

(4) The operator of a licensed domestic boat shall provide to the Authority each Wednesday that the boat is at sea, in a form and by a means approved by the Executive Director, information in Schedule 4 each Wednesday while the boat is at sea.

(5) The operator of a licensed domestic boat shall provide to the Authority, by a means approved by the Executive Director, information in Schedule 4 -

- (a) each Wednesday while the boat is in fisheries waters; and
- (b) within a reasonable time of entry into and departure from fisheries waters; and
- (c) within a reasonable time before the estimated time of entry into a port in the country.

(6) Where there has been more than one failure to provide a report as required by this section, the licence may be suspended in accordance with Section 15.

(7) Where there have been more than two consecutive failures to provide a report as required by this section, the licence may be cancelled in accordance with Section 18.

26. PORT CALLS.

(1) A licensed boat shall make an inspection port call at a designated port at the commencement of each licence period.

- (2) A port call referred to in Subsection (1) shall be -
 - (a) made for the purpose of inspection by an officer; and
 - (b) certified in writing by an officer.

(3) A licensed distant water boat, other than -

- (a) a boat licensed under the Treaty on Fisheries between the Governments of certain Pacific Islands States and the United States of America; or
 - (b) a boat licensed under any access agreement which specifically excludes the provisions of this section,
- shall make not less than one port call per year at a designated port.

(4) A port call referred to in Subsection (3) shall -

- (a) be made in addition to the inspection port call referred to in Subsection (1); and
- (b) be certified in writing by an officer; and
- (c) include refuelling and other provisioning to the satisfaction of the certifying officer.

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27. TRANSHIPMENT OF FISH.

(1) For the purposes of Division IV.2 of the Act, no fish may be transhipped in fisheries waters other than in accordance with this Regulation.

(2) No foreign boat shall tranship tuna in fisheries waters except at a designated port.

28. TRANSHIPMENT REPORTS.

(1) Subject to Subsection (2), a person who intends to tranship fish in fisheries waters shall -

(a) at least 48 hours before the proposed transhipment, lodge with the Authority a notice; and

(b) upon completion of the transhipment, provide to the Authority a transhipment report,
in accordance with Schedule 4.

(2) The terms of a domestic boat licence may provide that the provisions of this section do not apply to transhipment from the boat.

29. TRANSHIPMENT BY DISTANT WATER BOATS.

(1) A licensed distant water boat, other than -

(a) a boat licensed under the Treaty on Fisheries between the Governments of certain Pacific Islands States and the United States of America; or

(b) a boat licensed under any access agreement which specifically excludes the provisions of this section,
shall make not less than one transhipment of tuna per year at a designated port

(2) A transhipment under Subsection (3) may be carried out in conjunction with a port call referred to in Section 26(3).

(3) For the purposes of Section 7(2)(g), a person transshipping tuna from a distant water boat in accordance with this Regulation may, upon completion of the transhipment, apply to an officer to certify the transhipment, and where the officer is satisfied that the transhipment has been carried out in accordance with this Regulation, he shall certify the transhipment report accordingly.

30. TRIAL FISHING PERMITS.

(1) A person who intends to use a boat for trial fishing may apply for a trial fishing permit in Form 4 of Schedule 1.

(2) A trial fishing permit -

(a) shall be in Form 5 of Schedule 1; and

(b) shall be issued for a specified area of fisheries waters; and

(c) shall specify the species of fish targetted for research, the maximum quantities of the fish to be taken and the manner of disposal of any fish taken; and

(d) shall specify the period of duration; and

(e) is not renewable; and

(f) shall specify the fishing method and sampling strategy to be used; and

(g) may require that a specified type of vessel monitoring system be installed and maintained in good working order on the boat during the permit period; and

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- (h) shall specify the time within which the exploratory report, including all raw data, is to be presented to the Authority; and
- (i) shall be subject to such further terms and conditions as are specified in it.

(3) The period of duration of a trial fishing permit shall be as specified in the permit, but in any case shall not exceed one year.

(4) A boat the subject of a trial fishing permit shall carry an observer on board at all times during fishing.

(5) Unless the terms of the permit specify otherwise, the conditions and restrictions applicable to licensed under this Part shall apply to a trial fishing boat as if it were a licensed boat.

PART IV. - OTHER FISHING.

31. FISH FARMING.

(1) An application for a fish farm licence shall be in Form 6 of Schedule 1.

- (2) A fish farm licence -
 - (a) shall be in Form 7 of Schedule 1; and
 - (b) shall be issued for a specified type, class or species of fishstock; and
 - (c) shall be issued in respect of a specified area of fisheries waters or a specified place; and
 - (d) may require a boat used in conjunction with the fish farm -
 - (i) to be licensed; or
 - (ii) to be subject to such terms and conditions as are specified in the licence; and
 - (e) may require reports to be made to the Authority in a form approved by the Executive Director; and
 - (f) shall be subject to such further terms and conditions as are specified in it.

32. GAME FISHING OPERATIONS.

(1) An application for a game fishing licence shall be in Form 8 of Schedule 1.

- (2) A game fishing licence -
 - (a) shall be in Form 9 of Schedule 1; and
 - (b) may be issued in respect of a specified area of fisheries waters; and
 - (c) shall specify the number of boats involved in the operation; and
 - (d) shall be subject to such further terms and conditions as are specified in it.

PART V. - BUYERS AND AGENTS.

33. FISH BUYERS.

(1) A natural person who is a citizen may apply for a fish buyer's licence in Form 10 of Schedule 1.

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(2) A fish buyer's licence -

- (a) shall be in Form 11 of Schedule 1; and
- (b) shall be issued for buying a specified type, class or species of fishstock; and
- (c) may be issued in respect of a specified place or area; and
- (d) shall entitle the holder, but not any other person acting on his behalf or as his agent or employee or otherwise, to buy fish from persons engaged in artisanal fishing in accordance with its terms; and
- (e) shall be subject to such further terms and conditions as are specified in it.

(3) It shall be a condition of a fish buyer's licence that the holder shall carry the licence at all times whilst engaged in buying fish, and shall produce it on reasonable demand by any person from whom he is buying or offering to buy fish, or by an officer.

(4) A fish buyer shall provide to the Authority, in a form and by a means approved by the Executive Director, the following information in respect of each calendar month -

- (a) fish bought or otherwise acquired, by type by quantity by source by method of acquisition;
- (b) fish disposed of, by type by quantity by destination by method of disposal;
- (c) fish held in stock at the end of each month, by type by quantity by location by method of holding by estimated value;
- (d) any other information as required from time to time by the Licensing Guidelines, the Executive Director or the terms of the licence.

34. BOAT AGENTS.

(1) The owner or charterer of a licensed foreign boat, or a foreign boat which is or is intended to be the subject of an application for a licence, may, by written authorization, and subject to any access agreement made in relation to the boat, appoint a person licensed as a boat agent under this section to perform agency functions in respect of the boat.

(2) A boat agent is responsible for the operations of any boat for which he is appointed to perform agency functions in accordance with Subsection (1), and has and may exercise all or any of the powers and functions under and in accordance with the Act and this Regulation and any access agreement made in relation to the boat of the owner, charterer or master of the boat.

(3) A citizen who is involved in the fishing industry may apply for a boat agent's licence in Form 12 of Schedule 1.

(4) A boat agent's licence -

- (a) shall be in Form 13 of Schedule 1; and
- (b) shall be subject to such further terms and conditions as are specified in it.

(5) For the purposes of this section, "involved in the fishing industry" means involvement by the applicant in commercial fishing or a related activity, or research into fishing or a related activity, to the extent that, in the opinion of the Authority, not less than 80% of the applicant's income is so generated.

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PART VI. - STORAGE, PROCESSING AND EXPORT.

35. APPLICATION OF PART VI.

The provisions of this Part apply to -

- (a) fish taken in fisheries waters; and
- (b) fish that are imported into the country and are not held in bond,

which are stored, prepared or processed for commercial purposes including export, other than -

- (c) tuna which is taken by a distant water boat and not offloaded into the country; and
- (d) ship's stores brought to or shipped in Papua New Guinea.

36. APPLICATION OF OTHER ACTS.

(1) For the purposes of the *Customs Act* (Chapter 101) -

- (a) a fish storage facility or a fish factory licensed as a fish export facility is a prescribed place for export; and
- (b) fish to which this Part applies which is exported otherwise than in accordance with this Regulation is a prohibited export,

but -

- (c) a breach or contravention of the provisions of that Act relating to prescribed places for export or prohibited exports may be punished as if it were an offence against the Act and this Regulation; and
- (d) the provisions of Section 41 of that Act shall not apply to fish exported in accordance with this Regulation.

(2) Fish exported under this Regulation are prescribed goods for the purposes of the *Commerce (Trade Descriptions) Act* (Chapter 284).

37. FISH STORAGE FACILITIES.

(1) Premises used for the commercial storage or processing of fish, other than -

- (a) commercial premises which in the opinion of the Executive Director are not used exclusively or predominantly for the storage or processing of fish; and

(b) premises licensed as a fish factory under Section 38, shall be licensed as a fish storage facility in accordance with this section.

(2) The owner or occupier of premises referred to in Subsection (1) may apply in Form 14 of Schedule 1 for a fish storage facility licence in respect of the premises.

(3) A fish storage facility licence -

- (a) shall be in Form 15 of Schedule 1; and
- (b) shall specify the premises to which it relates; and
- (c) shall be issued for a specified type, class or species of fishstock; and
- (d) shall specify the number of any storing; and
- (e) shall specify the method of any processing; and
- (f) may specify other matters in relation to any storing, processing and packaging; and
- (g) shall be subject to such further terms and conditions as are specified in it.

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(4) Premises on land the subject of a residence lease within the meaning of the *Land Act* (Chapter 185) shall not be licensed as a fish storage facility

38. FISH FACTORIES.

(1) Where a person has entered into an agreement with the State to occupy or erect and occupy premises in the country that are used or proposed to be used for the processing of raw fish, those premises may be licensed as a fish factory in accordance with this section.

(2) Premises licensed as a fish factory may be used for processing fish, and for packaging and storing fish so processed, according to the agreement referred to in Subsection (1) and the terms of the licence.

(3) An application for a fish factory licence shall be in Form 16 of Schedule 1.

(4) A fish factory licence -

- (a) shall be in Form 17 of Schedule 1; and
- (b) shall specify the minimum daily processing capacity of the premises; and
- (c) shall specify the persons from whom and the conditions under which the holder of a fish factory licence may purchase raw fish or a person may sell raw fish to the holder of a fish factory licence, in accordance with Subsection (2)(b); and
- (d) may specify other matters in relation to the buying and processing; and
- (e) shall be subject to such further terms and conditions as are specified in it.

39. STORAGE REPORTS.

A fish storage facility and a fish factory shall provide to the Authority, in a form and by a means approved by the Executive Director, the following information in respect of each calendar month:-

- (a) fish bought in or otherwise acquired, by type by quantity by source by method of acquisition;
- (b) fish sold out or otherwise disposed of, by type by quantity by destination by method of disposal;
- (c) fish held in stock at the end of each month, by type by quantity by estimated value;
- (d) any other information as required from time to time by the Licensing Guidelines, the Executive Director or the terms of the licence.

40. STORAGE AND PROCESSING OF FISH.

(1) A fish storage facility or fish factory in which fish intended for human consumption is prepared, processed or stored shall -

- (a) comply with all relevant provisions of the Licensing Guidelines and of any other law relating to food for human consumption; and
- (b) be constructed so as to be capable of being maintained, and be maintained, in a clean and hygienic condition; and
- (c) be equipped only with equipment and fittings which are capable of being sterilized and are maintained in a clean and hygienic condition,

to the satisfaction of the Executive Director.

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(2) Freezing or chilling of fish shall be carried out as rapidly as possible and in such a way as to minimize undesirable physical, biochemical and microbiological changes, and in accordance with any relevant provisions of the Licensing Guidelines and of any other law relating to food for human consumption.

(3) The Licensing Guidelines may make further provision for the temperatures, storage and processing conditions and any other relevant provisions in relation to the preparation, storage and processing of fish in a fish storage facility or fish factory.

1. EXAMINATION OR ANALYSIS.

(1) An officer may inspect fish, including fish intended for export, at any stage during the storage, processing, loading, packing or transporting of the fish, and may take samples of the fish for analysis by an analyst.

(2) Where he has reasonable grounds to suspect that any fish for human consumption which he is inspecting does not comply with the requirements of this Regulation or of any other law relating to food for human consumption, the officer may prohibit the further dealing with the consignment to which the fish belongs, or any part of the consignment, pending the results of analysis.

12. TRADE DESCRIPTIONS.

(1) Fish to which this Part applies -

- (a) may, where the fish are not to be exported; and
- (b) shall, where the fish are to be exported,

have affixed to them a trade description in accordance with this Regulation, the *Commerce (Trade Descriptions) Act* (Chapter 284) and any relevant provisions of any other law relating to food for human consumption.

(2) A trade description under Subsection (1) -

- (a) shall be printed or written directly on the container or wrapper of the fish without the use of adhesive labels, in a prominent position and in a conspicuous and reasonably permanent manner; and
- (b) shall contain, in prominent and legible characters, a true description of the variety and type of the fish and the method of processing used for the fish, and contain such other information in relation to the fish as may be necessary to give a clear indication of the nature of the fish described, or as may be required by the Licensing Guidelines; and
- (c) shall specify the net weight of the fish, and in the case of frozen fish, the actual weight in a container shall exceed the marked net weight by not less than 2.5% of the marked net weight; and
- (d) shall describe the condition of the fish as at the time of shipment or, in the case of fish which are not to be exported, at the time of delivery for retail sale; and
- (e) shall, subject to Subsections (3) and (4), include -
 - (i) the name; or
 - (ii) the registered trade mark,or both, of the producer; and
- (f) in the case of fish intended for export, shall include the words "Papua New Guinea"; and
- (g) may also include the name of the part of the country in which the fish was produced, prepared or processed.

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(3) The Executive Director may, subject to such conditions as he thinks proper, permit the consignee's registered trade mark to be included in the trade description instead of the registered trade mark of the producer or exporter.

(4) In the case of fish intended for export, where the producer is not the exporter, the trade description shall also include the name or the registered trade mark of the producer.

(5) In this section, "producer" means the manufacturer, processor or producer of the goods or the person by whom they were selected, packed or prepared in any way for the market.

43. FISH EXPORT FACILITIES.

(1) A -

(a) fish storage facility; or

(b) fish factory; or

(c) licensed boat,

may be licensed as a fish export facility.

(2) An application for a fish export facility licence shall be in Form 18 of Schedule 1.

(3) A fish export facility shall not be granted in respect of a facility intended for the preparation, processing or storage of fish for human consumption unless, in the opinion of the Executive Director, the facility is capable of that preparation, processing or storage to internationally acceptable standards for the type, class or species of fish for which the licence is being sought in accordance with any relevant provisions of the Licensing Guidelines.

(4) A fish export facility licence -

(a) shall be in Form 19 of Schedule 1; and

(b) shall specify the premises or boat to which it relates; and

(c) shall specify the type, class or species of fish to be processed under the licence; and

(d) may specify other matters in relation to the processing and export of fish; and

(e) shall be subject to the condition that all fish processed in the facility shall be exported in accordance with this Regulation; and

(f) shall be subject to such further terms and conditions as are specified in it.

(5) A fish export facility in which fish intended for human consumption is prepared, processed or stored shall -

(a) comply with all relevant provisions of the Licensing Guidelines and of any other law relating to food for human consumption; and

(b) be constructed so as to be capable of being maintained, and be maintained, in a clean and hygienic condition; and

(c) be equipped only with equipment and fittings which are capable of being sterilized and are maintained in a clean and hygienic condition,

to the satisfaction of the Executive Director.

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(6) It shall be a condition of a fish export facility licence that an officer may, at all reasonable times, enter the facility for the purpose of -

- (a) inspection of the condition of the facility; and
- (b) examination of any fish held in the facility; and
- (c) where he considers it necessary or desirable - taking samples for analysis of any fish in the facility.

(7) A fish export facility shall provide to the Authority, in respect of each calendar month, the following information -

- (a) fish exported by type by quantity by destination by carrier by date;
- (b) fish acquired each month, by type by quantity by source by type by method of acquisition;
- (c) fish held in stock at the end of each month, by quantity by estimated value;
- (d) fish disposed of, by type by quantity by destination by method of disposal;
- (e) any other information as required from time to time by the Licensing Guidelines, the Executive Director or the terms of the licence.

44. RESTRICTIONS ON EXPORT.

The export of fish to which this Part applies is prohibited unless -

- (a) the Executive Director is satisfied that the fish has been prepared or processed in a fish export facility; and
- (b) the fish or the container of the fish has been marked in accordance with this Regulation and any applicable provisions of the Licensing Guidelines; and
- (c) a certified notice of export or amendment to notice of export has been obtained in respect of the fish in accordance with Section 45; and
- (d) the provisions of the Act and this Regulation and any other relevant law have been complied with.

45. NOTICE OF EXPORT.

(1) A person who intends to export fish shall, within a reasonable time before the proposed date of shipment, provide to the Authority a notice of export in Form 20 of Schedule 1.

(2) The time referred to in Subsection (1) shall be at least 48 hours or such lesser time as may be permitted by the Licensing Guidelines or the Executive Director in respect of a specified type of fish, processing of fish or method of export, or specified shipment of fish.

(3) An officer may -

- (a) where he is satisfied as to the particulars in a notice of intention to export, certify the notice in writing; or
- (b) where he considers that particulars given in the notice of export are incomplete or otherwise defective, require the person exporting the fish to provide an amendment to notice of export.

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(4) Where -

- (a) any particular of fish being exported varies from that declared in the notice of export; or
 - (b) information given in a notice of export is incomplete; or
 - (c) an officer has required it under Subsection (3)(b),
- the person exporting the fish shall, as soon as possible and in any case prior to the commencement of movement of the fish to the place of loading, provide to the Authority an amendment to notice of export in Form 21 of Schedule 1.

(5) Where an officer is satisfied as to the particulars in an amendment to notice of export, he shall certify the amendment in writing.

46. LOADING FOR EXPORT.

(1) Where fish is being loaded for export, whether into a container system unit, the hold of a ship or an aircraft, or otherwise, an officer shall be afforded a reasonable opportunity to inspect the loading of the fish.

(2) An officer who has inspected the loading of fish in a container system unit may, upon completion of the loading, seal the unit by a means approved by the Executive Director.

PART VII. - MISCELLANEOUS.

47. OFFENCES.

A person who -

- (a) knowingly makes a statement that is false or incorrect in any particular in relation to an application for the purposes of the Act or this Regulation; or
- (b) knowingly furnishes a false or incorrect statement in relation to any fish taken, bought, sold, processed, exported or otherwise dealt with by the person or by an agent or employee of the person; or
- (c) knowingly makes or causes to be made any entry or writing that is false in any material particular, in any book, log, record, return, declaration or statement required by the Act or this Regulation to be kept, made or given; or
- (d) falsely represents himself to be a person lawfully licensed under this Regulation; or
- (e) knowingly interferes with or alters any radio or other electronic transmission made or given as required or permitted under the Act or this Regulation; or
- (f) knowingly divulges information transmitted in connection with vessel monitoring system, except in the course of his duty and to a person who is authorized in the course of his duty to receive the information; or
- (g) anywhere in fisheries waters or in the country, transships, offloads or imports, or permits the transshipment, offloading or import of, any fish, fish product or other catch which he knows or reasonably suspects has been taken with the use of a driftnet; or
- (h) stores, processes, sells, displays for sale or exports fish intended for human consumption which is adulterated, contaminated with or contains a poisonous or harmful substance or pathogenic micro-organisms, or is otherwise injurious to human health; or

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- (i) except with the authority of an officer, removes, alters or interferes with a trade description, seal, stamp or other mark applied to fish, a container of fish or a container system unit containing fish that has been inspected by an officer; or
- (j) refuses or knowingly fails to provide any information, particulars, report or return required by the Act or this Regulation; or
- (k) otherwise contravenes or fails to comply with a provision of this Regulation,

is guilty of an offence.

Penalty: In the case of a natural person - a fine not exceeding K50,000.00; and
In the case of a corporation - a fine not exceeding K100,000.00.

Default penalty: K2,000.00.

48. GENERAL PENALTY.

A person who is guilty of an offence against the Act or this Regulation for which no other penalty is provided is liable to a penalty -

- (a) in the case of a natural person - a fine not exceeding K10,000.00; and
- (b) in the case of a corporation - a fine not exceeding K20,000.00.

Default penalty: K500.00.

49. MARKING OF EQUIPMENT.

(1) Where the Licensing Guidelines or the terms of a licence require it, fishing equipment shall be marked so as to identify -

- (a) its ownership; or
- (b) the boat in conjunction with which it is used; or
- (c) its location,

or any combination of these, according to the terms of the requirement.

(2) A fish aggregating device used in fisheries waters shall be clearly marked -

- (a) where the device is used in conjunction with a licensed boat - with the licence number of the boat; or
- (b) in any other case - sufficiently to identify the owner of the person placing and using the device.

(3) A fish aggregating device or other equipment deployed independently of a boat shall be placed so that it is well clear of navigational routes.

50. MARKINGS OF SUPPORT CRAFT.

A support craft used in conjunction with a licensed boat shall be marked in accordance with the Licensing Guidelines or in a manner approved by the Executive Director.

51. CERTIFICATES BY MINISTER.

For the purposes of Section 71(1) of the Act, a certificate may be given regarding all or any of the following matters:-

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- (a) a specified area of waters is or was, at a specified time, part of fisheries waters, the territorial sea, waters the subject of a notice under Section 52 of the Act, or any other waters subject to any specified conditions;
- (b) an appended chart shows the boundaries on a specified date or dates of fisheries waters, the territorial sea, waters the subject of a notice under Section 52 of the Act, or any other waters subject to any specified conditions;
- (c) an appended document is a true copy of an access agreement or an international agreement or arrangement;
- (d) a specified boat was, or was not, at a specified time, a Papua New Guinea boat;
- (e) an appended document is a true copy of a certificate of registration of a boat;
- (f) a specified person was, or was not, or no person was, at a specified time, the holder of a specified class of licence;
- (g) a specified boat was, or was not, or no boat was, the subject of a specified class of licence;
- (h) an appended document is a true copy of a licence issued under the Act and this Regulation and specified conditions were those of the licence;
- (i) a call sign, name or number is that of a particular boat, or is allotted to a particular boat under any system of naming or numbering fishing boats;
- (j) a specified boat does or does not have good standing, and a certificate to that effect received from the Director of the South Pacific Forum Fisheries Agency shall be appended to any such certificate;
- (k) a particular position report, catch report or other report was given in respect of a specified boat, and a copy of the report shall be appended;
- (l) a particular item or piece of equipment is equipment used for fishing;
- (m) the cause and manner of death of or injury to a fish;
- (n) a certification as to the condition of fish given under Section 43(3) was made in accordance with this Regulation and was made by the person by whom it purports to have been made.

52. CERTIFICATES BY OFFICER.

For the purposes of Section 71(2) of the Act -

- (a) an officer may give a certificate -
 - (i) that a specified boat was or was not, at a specified date and time or during a specified period of time, in a particular place or area; and
 - (ii) where he has examined fish in accordance with this Regulation - as to the condition of the fish at the time and place at which he examined the fish; and
- (b) a analyst may give a certificate of the result of an analysis of fish.

53. FEES FOR ANALYSTS' CERTIFICATES.

A copy of a certificate of analysis relating to fish may be supplied by the Authority to the exporter of the fish on payment of a sum as determined from time to time by the Executive Director.

Fisheries

54. FEES FOR OFFICERS' SERVICES.

(1) Where, the services of an officer for the purposes of this Regulation are made available to a person exporting fish outside his normal hours of duty, on a Sunday or on a public holiday declared by or under the *Public Services (Management) Act* 1986, a charge shall be made for the services being the total of -

- (a) the amount per hour or part of an hour for work performed by an officer calculated in accordance with the rate prescribed under the General Orders made under the *Public Services (Management) Act* 1986; and
- (b) an amount of 10% of the sum calculated under Paragraph (a).

(2) The time in respect of which a fee shall be charged under Subsection (1) shall include the time reasonably taken by the officer in going to and returning from the place where his attendance is required.

(3) Where an officer is required to proceed on duty away from his ordinary station, the rate of charge under this section to be made in respect of his services is as fixed by the Executive Director.

S C H E D U L E S

SCHEDULE 1 .

FORMS

Form 1	-	Form of Register
Form 2	-	Application for Fishing Boat Licence
Form 3	-	Fishing Boat Licence
Form 4	-	Application for Trial Fishing Permit
Form 5	-	Trial Fishing Permit
Form 6	-	Application for Fish Farm Licence
Form 7	-	Fish Farm Licence
Form 8	-	Application for Game Fishing Licence
Form 9	-	Game Fishing Licence
Form 10	-	Application for Fish Buyer's Licence
Form 11	-	Fish Buyer's Licence
Form 12	-	Application for Boat Agent's Licence
Form 13	-	Boat Agent's Licence
Form 14	-	Application for Fish Storage Facility Licence
Form 15	-	Fish Storage Facility Licence
Form 16	-	Application for Fish Factory Licence
Form 17	-	Fish Factory Licence
Form 18	-	Application for Fish Export Facility Licence
Form 19	-	Fish Export Facility Licence
Form 20	-	Notice of Export
Form 21	-	Amendment to Notice of Export

FORM OF REGISTER

Form 1

[illegible]

Fisheries Act, 1994

Reg., Sec. 20(1)

Form 2

APPLICATION FOR A FISHING BOAT LICENCE

To the Executive Director, National Fisheries Authority;

I, of

hereby apply for a licence to use a boat for fishing in the following areas of Papua New Guinea fisheries waters:-

Particulars of boat:-

Name:	Type:
Length in metres (LOA):	Gross tonnage:
Built of:	At:
Port of registry:	Country Registration No:
International Radio Call Sign:	Regional Registration No:
Total Number of Crew:	Distant Water Boat (Yes or No):

Particulars of support craft:-

Registration No. and Make of Helicopter:

Number, type and function of any support craft used in association with the boat:

Particulars of owner, Boat Agent, Charterer, and Legal representative:-

Registered Owner:	Boat Agent (if any):
Charterer:	Legal Representative (for Distant Water Boat):

(state name and address of owner, boat agent, charterer, legal representative and whether resident of or company incorporated in Papua New Guinea).

Particulars for Endorsement:-

Targetted fishstock:	Type of fishing activity:
Other related activity:	Designated Port (if any):
No. of Citizen crew:	

(provide as attachment to this application documentary evidence regarding the above information, such as an excerpt from register of companies, boat survey certificates, gear specifications, marketing arrangements, cash flow projections, etc).

Signature of applicant:.....

Date:

Application Fee: K.....

For office use only

Licence No.:..... Issued at on

This Application received: by: Sign:



Fisheries Act, 1994

Reg., Sec. 20(2)

Form 3

FISHING BOAT LICENCE

Licence Number:.....

Issued at _____ on _____, 19__

Part 1 - Description of Boat

Name of Boat:	Type:
Length in Metres (LOA):	Gross Tonnage:
Port of Registry:	No. of Crew:
Country Registration No:	International Radio Call Sign:
Distant Water Boat: YES/NO	Regional Registration No:

Part 2 - Registration number and make of Helicopter if any to be carried on the boat

Registration number: _____ Make: _____

Part 3 - Number, type and function of any support craft used in association with the boat

No. of craft: _____ Type: _____ Function: _____

Part 4 - Registered Owner

Name:

Address:

Part 5 - Boat Agent (if any)

Name:

Address:

Part 6 - Charterer

Name:

Address:

Part 7 - Legal Representative (for Distant Water Boat)

Name:

Address:

Type of Charter:

Part 8 - Endorsement

This licence authorises the use of the boat specified in Part 1 to carry out the following fishing or related activities in PNG fisheries waters;

Area of fisheries waters:

Targetted fishstock:

Type of fishing activity:

Other related activity:

Designated Port (if any):

No. of Citizen crew:

Part 9 - Conditions (see over)

This licence is issued subject to the Fisheries Act, 1994 and the terms and conditions specified on the back of this licence form.

This licence remains in force until _____, unless sooner cancelled or suspended under the provisions of the Fisheries Act, 1994.

Date: _____ day of _____, 19__

Fee paid: K

(Executive Director - National Fisheries Authority)

Fisheries Act, 1994

Reg., Sec. 30(1)

Form 4

APPLICATION FOR TRIAL FISHING PERMIT

To the Executive Director, National Fisheries Authority;

I, of
hereby apply for a trial fishing permit to use a boat for fishing in the following areas of Papua New Guinea waters:-
.....

Particulars of boat:-

Name:	Type:
Length in metres (LOA):	Gross tonnage:
Built of:	At:
Port of registry:	Home Port:
Country Registration No:	International Radio Call Sign:
Regional Registration No:	Total Number of Crew:

Particulars of support craft:-

Registration No. and Make of Helicopter:

Number, type and function of any support craft used in association with the boat:

Particulars of owner, Boat Agent, Charterer, and Vessel Operator:-

Registered Owner: Vessel Operator:

(state name and address of owner, charterer, vessel operator and whether resident of or company incorporated in Papua New Guinea).

Particulars of Operation:-

Targetted fishstock:	Type of trial fishing activity:
Sampling strategy:	Sampling and Catch recording procedure:

(provide as attachment to this application a survey/trial fishing plan specifying objectives, survey area, choice of gear, survey design, stratification, estimated number of hauls, data recording, deck sampling and recording procedures, and other relevant information).

Signature of applicant:.....

Date:

Application Fee: K_____

For office use only

Licence No.:..... Issued at on

Date Application received: by: Sign:



Fisheries Act, 1994

Reg., Sec. 30(2)

Form 5

TRIAL FISHING PERMIT

Permit Number:

Issued at _____ on _____, 19__

Part 1 - Licence Details

Permit Holder/Licensee:

Address of Licensee:

Part 2 - Description of Boat

Name of Boat:

Type:

Length in metres (LOA):

Gross Tonnage:

Port of Registry:

Home Port:

Country Registration No:

International Radio Call Sign:

Regional Registration No:

Total Number of Crew:

Part 3 - Particulars of support craft

No. Of craft:

Type:

Function:

Part 4 - Registered Owner

Name:

Part 5 - Vessel Operator

Name:

Address:

Address:

Part 6 - Endorsement

This licence authorises the use of the boat specified in Part 2 to carry out the following trial fishing or related activities in PNG waters:

Targetted fishstock:

Type of trial fishing activity:

Maximum quantity of fish to be taken:

Sampling strategy:

Manner of disposal of fish taken:

Area of Operation:

Part 7 - Conditions

This licence is issued subject to the Fisheries Act, 1994 and the terms and conditions specified on the back of this licence form.

Exploratory report to be submitted to the Licensing Authority by:.....

This permit remains in force until _____, 19__, unless sooner cancelled or suspended under the provisions of the Fisheries Act, 1994.

Dated this _____ day of _____, 19__

Fee paid: K

(Executive Director, National Fisheries Authority)

Fisheries Act, 1994

Reg., Sec. 31(1)

Form 6

APPLICATION FOR A FISH FARM LICENCE

To the Executive Director, National Fisheries Authority;

I, of
hereby apply for a fish farm licence to culture fishstock located at

Particulars of the farm:-

Type of Farm:

Size of Farm:

Cultured Fishstock:

Capacity:

No. of fish hold tanks (in Closed-System):

Number, type and function of any support craft used in association with the farm:

Other Activities associated with the farm:

Particulars of owner:-

Name:

Address:

(state name address of owner and legal representative, and whether resident of or company incorporated in Papua New Guinea. Also provide as attachment to this application documentary evidence regarding the above information, such as an excerpt from the register of companies, marketing arrangements, gear used, etc).

Signature of applicant:.....

Date:

Application Fee: K_____

For office use only

Licence No..... Issued at on

Date Application received: by: Sign:



Fisheries Act 1994

Reg., Sec. 31(2)

Form 7

FISH FARM LICENCE

Licence No:

Part 1 - Licence Details

Name of Licensee:

Address of Licensee:

Cultured fishstock:

Type of farm:

Location:

Size of farm:

Support craft (if any): Number:..... Type:.....

Licence Fee paid: K Place of Issue:.....

Licence Valid From: Licence Valid To:.....

Part 2 - Endorsement

Subject to the conditions specified in Part 3 of this licence, the Fish Farm located at is hereby registered in the name of the licensee to carryout the following activity:-

.....
.....
.....
.....
.....

Part 3 - Conditions

This licence is issued subject to the Fisheries Act, 1994 and the terms and conditions specified in this licence.

Dated this _____ day of _____, 19____

.....

(Executive Director - National Fisheries Authority)

Fisheries Act, 1994

Reg., Sec. 32(1)

Form 8

APPLICATION FOR GAME FISHING LICENCE

To the Executive Director, National Fisheries Authority;

I, of

hereby apply under the Fisheries Act, 1994 for game fishing licence to engage in the game fishing activities in association with the registered activity of the company under the IPA Act 1992.

Particulars of the operation:-

Name of Company/Operator:

Address:

Number of boats operated:

Type of fishing activity:

Targetted fishstock:

Base/Home port:

Areas of fisheries waters:

Other related activity:

(state name address of owner and legal representative, and whether resident of or company incorporated in Papua New Guinea. Also provide as attachment to this application documentary evidence regarding the above information, such as an excerpt from the register of companies, marketing arrangements, gear used, etc).

Signature of applicant:.....

Date:

Application Fee: K_____

For office use only

Licence No.:..... Issued at on

Date Application received: by: Sign:



Fisheries Act, 1994

Reg., Sec. 32(2)

Form 9

GAME FISHING LICENCE

Licence No:

Part 1 - Licence Details

Name of Licensee:

Address of Licensee:

Licence Fee paid: K Place of Issue:

Licence Valid From: Licence Valid To:

Part 2 - Endorsement

Type of fishing activity:

Targetted fishstock:

Number of boats operated:

Base/Home port:

Areas of fisheries waters:

Other related activity:

Part 3 - Conditions

This licence is issued subject to the Fisheries Act, 1994 and the terms and conditions specified in this licence.

Dated this _____ day of _____, 19 _____

.....
(Executive Director - National Fisheries Authority)

Fisheries Act, 1994

Reg., Sec. 33(1)

Form 10

APPLICATION FOR FISH BUYER'S LICENCE

To the Executive Director, National Fisheries Authority;

I, of

hereby apply for a boat agent's licence to engage as a Distant Water Fishing Boat Agent and supply the following particulars:-

1. General Information on Applicant:-

Name of Applicant:

Address of Applicant:

Place of Birth:

Date of Birth:

Occupation:

2. Activity Information:-

Targetted classes of fishstock:

Specific area of operation:

Full time or partial operation:

Storage location/Base:

Other fisheries related activity engaged in:

(Please attach documentary evidence regarding the above information, such as an excerpt from the register of companies or similar evidence. Also provide supportive information of the activity in areas such as marketing arrangements, technology, etc. Also enclose a passport size photo).

Signature of applicant:.....

Date:

Application Fee: K_____

For office use only

Licence No.:..... Issued at on

Date Application received: by: Sign:



Fisheries Act, 1994

Reg., Sec. 33(2)

Form 11

FISH BUYER'S LICENCE

Licence No:

Name of Licensee:

Address of Licensee:

Place of Birth: Date of Birth:

Signature:

Licence Fee paid: K Place of Issue:

Licence Valid From: Licence Valid To:

Part 1 - Endorsement

Targetted classes of fishstock:

Specific area of operation:

Storage location and base:

Other related activity:

Part 2 - Conditions

This licence is subject to the Fisheries Act, 1994 and the terms and conditions specified on this licence form.

Dated this _____ day of _____, 19____

.....

Executive Director, National Fisheries Authority

Fisheries Act, 1994

Reg., Sec. 34(3)

Form 12

APPLICATION FOR BOAT AGENT'S LICENCE

To the Executive Director, National Fisheries Authority;

I, of

hereby apply for a boat agent's licence to engage as a Distant Water Fishing Boat Agent and supply the following particulars:-

1. General Information on Applicant:-

Name of Applicant:

Address of Applicant:

Telephone number:

Facsimile number:

Telex number:

Number and Date of Incorporation, Registration or other form of identification of the company's activities:

Ownership structure (list names of owners, their nationalities and their respective ownership shares):

2. Activity Information:-

Type of fisheries related activity engaged in:

Full time or partial:

Location/Site of Activity:

Total Estimated Investment Cost (including Working Capital) in the activity:

Areas of usual operation:

Number of years operated in the activity:

Estimated annual sales:

Estimated annual exports:

(Please attach documentary evidence regarding the above information, such as an excerpt from the register of companies or similar evidence. Also provide supportive information of the activity in areas such as marketing arrangements, technology, etc).

Signature of applicant:.....

Date:

Application Fee: K_____

For office use only

Licence No.:..... Issued at on

Date Application received: by: Sign:



Fisheries Act, 1994

Reg., Sec. 34(4)

Form 13

BOAT AGENT'S LICENCE

Licence No:

Part 1 - Licence Details

Name of Licensee:

Address of Licensee:

Licence Fee paid: K **Place of Issue:**.....

Licence Valid From: **Licence Valid To:**.....

Part 2 - Endorsement

Type of fishing related activity:

Operation Base:

Areas of usual operation:

Other activity:

Part 3 - Condition

This licence is issued subject to the Fisheries Act, 1994 and the terms and conditions specified on this licence form.

Dated this _____ **day of** _____, 19____

.....
Executive Director, National Fisheries Authority

Fisheries Act, 1994

Reg., Sec. 37(2)

Form 14

APPLICATION FOR FISH STORAGE FACILITY LICENCE

To the Executive Director, National Fisheries Authority;

I, of

hereby apply for a fish storage facility licence for the purpose of storing of fishery products in accordance with the requirements of the Fisheries Act, 1994.

1. General Information on Applicant:-

Name of Applicant:

Address of Applicant:

Number and Date of Incorporation:

Ownership structure (list names of owners, their nationalities and their respective ownership shares):

2. Information on the Facility/Premises:-

Location/Site of Facility:

Type of Facility:

Description of Facilities:

Type of fishery products stored:

Storage capacity:

Registered Owner (if different from licensee):

Kind of occupancy agreement (attach copy):

Method of storage, processing and packaging:

3. Declaration:-

I hereby declare that the premises specified above is constructed, equipped and operated in an efficient and hygienic manner.

(Please attach documentary evidence regarding the above information, such as an excerpt from the register of companies or similar evidence. Also provide supportive information of the activity in areas such as occupancy arrangements, marketing, technology, etc).

Signature of applicant:.....

Date:

Application Fee: K

For office use only

Licence No.: Issued at on

Date Application received: by: Sign:

(Executive Director - National Fisheries Authority)

Fisheries Act, 1994

Reg., Sec. 38(3)

Form 16

APPLICATION FOR A FISH FACTORY LICENCE

To the Executive Director, National Fisheries Authority;

I, of

hereby apply for a fish factory licence for the purpose of processing fishery products in accordance with the requirements of the Fisheries Act, 1994.

1. General Information on Applicant:-

Name of Applicant:

Address of Applicant:

Number and Date of Incorporation:

Ownership structure (list names of owners, their nationalities and their respective ownership shares):

2. Information on the Premises:-

Location/Site of fish factory:

Description of the factory:

Registered Owner (if different from licensee):

Kind of occupancy agreement (attach copy):

3. Information on Activity:-

Type of fishery products processed:

Minimum daily processing capacity:

Raw fish purchase and supplying arrangements:

Method of processing (attach flow chart):

Method of packaging:

Other related activity:

4. Declaration:-

I hereby declare that the premises specified above is constructed, equipped and operated in an efficient and hygienic manner.

(Please attach documentary evidence regarding the above information, such as an excerpt from the register of companies or similar evidence. Also provide supportive information of the activity in areas such as occupancy arrangements, marketing, technology, etc).

Signature of applicant:.....

Date:

Application Fee: K.....

For office use only

Licence No.:..... Issued at on

Date Application received: by: Sign:



Fisheries Act, 1994

Reg., Sec. 38(4)

Form 17

FISH FACTORY LICENCE

Licence No:

Part 1 - Licence details

Name of Licensee:

Address of Licensee:

Premises of licensed boat:.....

Description of Premises:.....

Location:

Registered owner (if different from licensee):.....

Licence Fee paid: K Place of Issue:.....

Licence Valid From: Licence Valid To:.....

Part 2 - Endorsement

Subject to the conditions specified in Part 3 of this licence, the premises situated at Section..... Lot....., in or the licensed boat namely is hereby registered in the name of the licensee as a Fish Factory in which the following operations may be conducted:-

Types of fishstock processed:

Minimum daily processing capacity:

Raw fish purchasing arrangement:

Method of processing:

Method of packaging:

Method of storing:

Other related activity:

Part 3 - Conditions

This licence is issued subject to the Fisheries Act, 1994 and the terms and conditions specified on this licence form.

Dated this _____ day of _____, 19____

.....
Executive Director, National Fisheries Authority

Fisheries Act, 1994

Reg., Sec. 43(2)

Form 18

APPLICATION FOR FISH EXPORT FACILITY LICENCE

To the Executive Director, National Fisheries Authority;

I, of

hereby apply for a fish export facility licence for the purpose of exporting fishery and other marine products in accordance with the requirements of the Fisheries Act, 1994.

1. General Information on Applicant:-

Name of Applicant:

Address of Applicant:

Number and Date of Incorporation:

Ownership structure (list names of owners, their nationalities and their respective ownership shares):

2. Information on the Premises:-

Location/Site of fish export facility:

Premises or Boat licensed:

Registered Owner (if different from licensee):

Kind of occupancy agreement (attach copy):

Registered trade mark:

3. Information on Activity:-

Type of fishery products:

Type of processing:

Fish purchase and supplying arrangements:

Method of packaging:

Minimum daily processing capacity:

Other related activity:

4. Declaration:-

I hereby declare that the premises specified above is constructed, equipped and operated in an efficient and hygienic manner.

(Please attach documentary evidence regarding the above information, such as an excerpt from the register of companies or similar evidence. Also provide supportive information of the activity in areas such as occupancy arrangements, marketing, technology, etc).

Signature of applicant:.....

Date:

Application Fee: K.....

For office use only

Licence No.: Issued at on

Date Application received: by: Sign:



Fisheries Act, 1994

Form 19

Reg., Sec. 43(4)

FISH EXPORT FACILITY LICENCE

Licence No:

Part 1 - Licence Details

Name of Licensee:

Address of Licensee:

Type of facility:

Premises or Boat licensed:

Location:

Registered owner (If different from licensee):

Licence Fee paid: K Place of Issue:

Licence Valid From: Licence Valid To:

Part 2 - Endorsement

Subject to the conditions specified in Part 3 of this licence, the premises situated at Section..... Lot....., or the licensed boat namely, is hereby registered in the name of the licensee as a Fish Export Facility in which the following operations may be conducted:-

Type of fish processed:

Type of processing:

Method of packaging:

Registered trade mark:

Minimum daily processing capacity:

Other related activity:

Part 3 - Conditions

This licence is issued subject to the Fisheries Act, 1994 and the terms and conditions specified on this licence form.

Dated this _____ day of _____, 19 _____

.....
(Executive Director - National Fisheries Authority)



Fisheries Act, 1994

Sec. 45(1)

Form 20

NOTICE OF EXPORT

To: The Executive Director,
National Fisheries Authority
Port Moresby, Papua New Guinea.

Notice is hereby given that we intend to export fish as set out hereunder. The product is being held at the licensed establishment located at
and may be inspected on/...../19..... at

I hereby declare: (a) that I am the Agent/Owner duly authorised by the Owner of the Fish specified hereunder,
(b) that the conditions and restrictions applicable in respect of the fish under the Fisheries Act 1994 have been complied with; and
(c) that the fish is marked in the prescribed manner with the prescribed trade description,

STATEMENT OF FISH TO BE EXPORTED

PRODUCT (Specify type of fish)	PROCESSED TYPE OF PRODUCT (frozen, chilled, smoked, cooked, dried)	SIZE OF PACKAGES	NO. OF PACKAGES	NET WEIGHT AND BREAKDOWN BY SPECIES	F.O.B. VALUE KG. MT. TOTAL	EXPORT SHIP	METHOD OF EXPORT (Sea or Air)

PORT OF EXPORT	DESTINATION	DATE OF SAILING

.....
Witness to Signature of Agent of Owner