

COMPONENT 2A - PROJECT 2A1

Knowledge, management, rehabilitation and
beneficial use of coral ecosystems

CRISP



Coral Reef InitiativeS for the Pacific
Initiatives Corail pour le Pacifique

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FINAL REPORT

ADAPTATION OF FIJI'S LEGISLATIVE FRAMEWORK FOR THE TRADE IN AQUARIUM FISH

-PART 2-

Proposals for improvement



The University
of the South Pacific



CENTRE NATIONAL
DE LA RECHERCHE
SCIENTIFIQUE

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CRISP



Coral Reef Initiatives for the Pacific
Initiatives Corail pour le Pacifique



The CRISP programme is implemented as part of the policy developed by the Secretariat of the Pacific Regional Environment Programme for a contribution to conservation and sustainable development of coral reefs in the Pacific

The Initiative for the Protection and Management of Coral Reefs in the Pacific (CRISP), sponsored by France and prepared by the French Development Agency (AFD) as part of an inter-ministerial project from 2002 onwards, aims to develop a vision for the future of these unique ecosystems and the communities that depend on them and to introduce strategies and projects to conserve their biodiversity, while developing the economic and environmental services that they provide both locally and globally. Also, it is designed as a factor for integration between developed countries (Australia, New Zealand, Japan, USA), French overseas territories and Pacific Island developing countries.

The CRISP Programme comprises three major components, which are:

Component 1A: Integrated Coastal Management and Watershed Management

- 1A1: Marine biodiversity conservation planning
- 1A2: Marine Protected Areas
- 1A3: Institutional strengthening and networking
- 1A4: Integrated coastal reef zone and watershed management

Component 2: Development of Coral Ecosystems

- 2A: Knowledge, monitoring and management of coral reef ecosystems
- 2B: Reef rehabilitation
- 2C: Development of Active Marine Substances
- 2D: Development of regional data base (ReefBase Pacific)

Component 3: Programme Coordination and Development

- 3A: Capitalisation, value-adding and extension of CRISP Programme activities
- 3B: Coordination, promotion and development of CRISP Programme

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COMPONENT 2A

Knowledge, monitoring and management of coral reef ecosystems

■ **PROJECT 2A-1:**

Postlarvae (fish and crustacean) capture and culture for aquarium trade and restocking

■ **PROJECT 2A-2:**

Improvement of knowledge and capacity for a better management of reef ecosystems

■ **PROJECT 2A-3:**

Synopsis and extension work on indicators for monitoring the health of coral ecosystems and developing a remote sensing tool

■ **PROJECT 2A-4:**

Testing of novel information feedback methods for local communities and users of reef and lagoon resources

■ **PROJECT 2A-5:**

Specific studies on i) the effects on the increase in atmospheric CO₂ on the health of coral formation and ii) the development of ecotourism

Funding :



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ACKNOWLEDGEMENTS

ABBREVIATIONS

CAMP	Conservation Area Management Plan
CITES	<i>Convention on the International Trade of Endangered Species of Wild Fauna and Flora</i>
CRISP	Initiative for the Protection and Sustainable Development of Coral Reefs in the South Pacific
WTO	Wildlife Trade Operation (Australia)

1.0 INTRODUCTION

This proposal for the strengthening of Fiji's legislative framework governing the trade in aquarium fish is the second of two activities designed to improve knowledge of the legislative framework needed to support the trade in post-larval fish¹. While the first activity assessed the current institutional and legislative framework and identified challenges, this second activity assesses options and proposes new legislation tailored to the sector.

The Initiative for the Protection and Sustainable Development of Coral Reefs in the South Pacific (CRISP) was initially designed by the *Agence française de développement* (French Development Agency) as part of an inter-ministerial effort beginning in 2002.² Among other aims, the Initiative works to:

- combine the contributions of different scientific disciplines, including biology, ecology, geography, economics, sociology, law and anthropology;
- combine cross-cutting networking activities, local field projects and conservation and economic development objectives;
- combine research, management and development; and
- be active in all areas - land and marine—that have a bearing on the reefs, including watershed management and land tenure arrangements.

The cross-cutting approach employed by the Initiative is intended to promote greater interaction between disciplines and ensure that decision-makers gain more understanding of the biodiversity, status and functions of coral ecosystems. This assessment supports coral ecosystem protection and management objectives and provides insight into the legislative framework required to develop the economic potential of coral ecosystems. In addition this information adds to existing knowledge and is envisaged to build capacity at the local, national and regional levels.

1.1 TERMS OF REFERENCE

This second activity aimed at strengthening legislation is part of Component 2A of the Initiative. Component 2 is designed to support “Knowledge, Management, Rehabilitation and Development of Coral Ecosystems”. In turn, Component 2A hosts a range of projects aimed at studying the status of coral reefs and use of their resources.

¹ In this report the “post-larval fish trade” is considered a part of the aquarium fish fishery. This needs to be distinguished from the “marine aquarium fishery” which encompasses the trade in coral, live rock and live sand.

² For further information, visit: <http://www.crisponline.net/Home/tabid/36/Default.aspx> [Accessed 21st August 2007].

The Goal of Component 2A is: To improve knowledge, monitoring, management capacity and development of the resources of these ecosystems to ensure sustainable development of coral reefs.

The relevant project under Component 2A for this legislative review is Project 2A-1: Post larvae (fish and crustacean) capture and culture for aquarium trade and restocking. This assessment is described as Activity 2A14 – Preliminary Assessment of Fiji’s Fisheries Legislation in relation to trade in Post-Larval fish.

The objective of Activity 2A14 is:

To conduct a preliminary assessment of Fiji’s legislation and determine its appropriateness in supporting the trade in Post-Larval fish.

In assessing of existing framework and proposing new regulations, the author consulted with local companies and individuals engaged in the trade in post-larval fish and individuals engaged in the aquarium trade. Discussions were held with officials in Fiji’s Ministry of Fisheries and Forests and various academics and researchers with the University of the South Pacific were also consulted on aspects of regulation. As well, specialists from the *Service de la Pêche* (Fisheries Agency) of French Polynesia were interviewed to determine and compare regulatory frameworks in place within the region.

Since there is no collection of larval fish for the aquarium trade, the assessment of existing legislative framework and this analysis of options to strengthen legislation take a wider approach. Instead of only focusing on the trade in post-larval fish, both account for the ornamental fish trade as a whole. Although there is a wider focus, references will be made to additional measures relating specifically to the management and trade of post-larval fish.

2.0 LEGISLATIVE FRAMEWORK FOR FISHERIES

Before discussing the framework for fisheries law-making, there is a need to provide a summary of Fiji's legal system and ways in which laws are made. An overview of Fiji's legal system will first be presented. After the overview, options for introducing legislative provisions for the aquarium fishery are examined.

2.1 OVERVIEW OF LEGAL SYSTEM AND LAW-MAKING

Fiji's modern legal system was introduced by the British government at the time Fiji was ceded to Britain. The legal system has grown since independence in 1970 and continues to evolve today. Laws are sourced from:

- The 1997 Constitution and the laws of Parliament;
- The laws of the pre-independence Legislative Council and the Colony of Fiji;
- The common law, rules of equity and statutes of general application in force in England on 2 January 1875, only so far as the circumstances of Fiji and its inhabitants permit; and
- The customs of the indigenous people of Fiji relating to the holding of customary land (85% of total) and aspects of chiefly authority and provincial government.

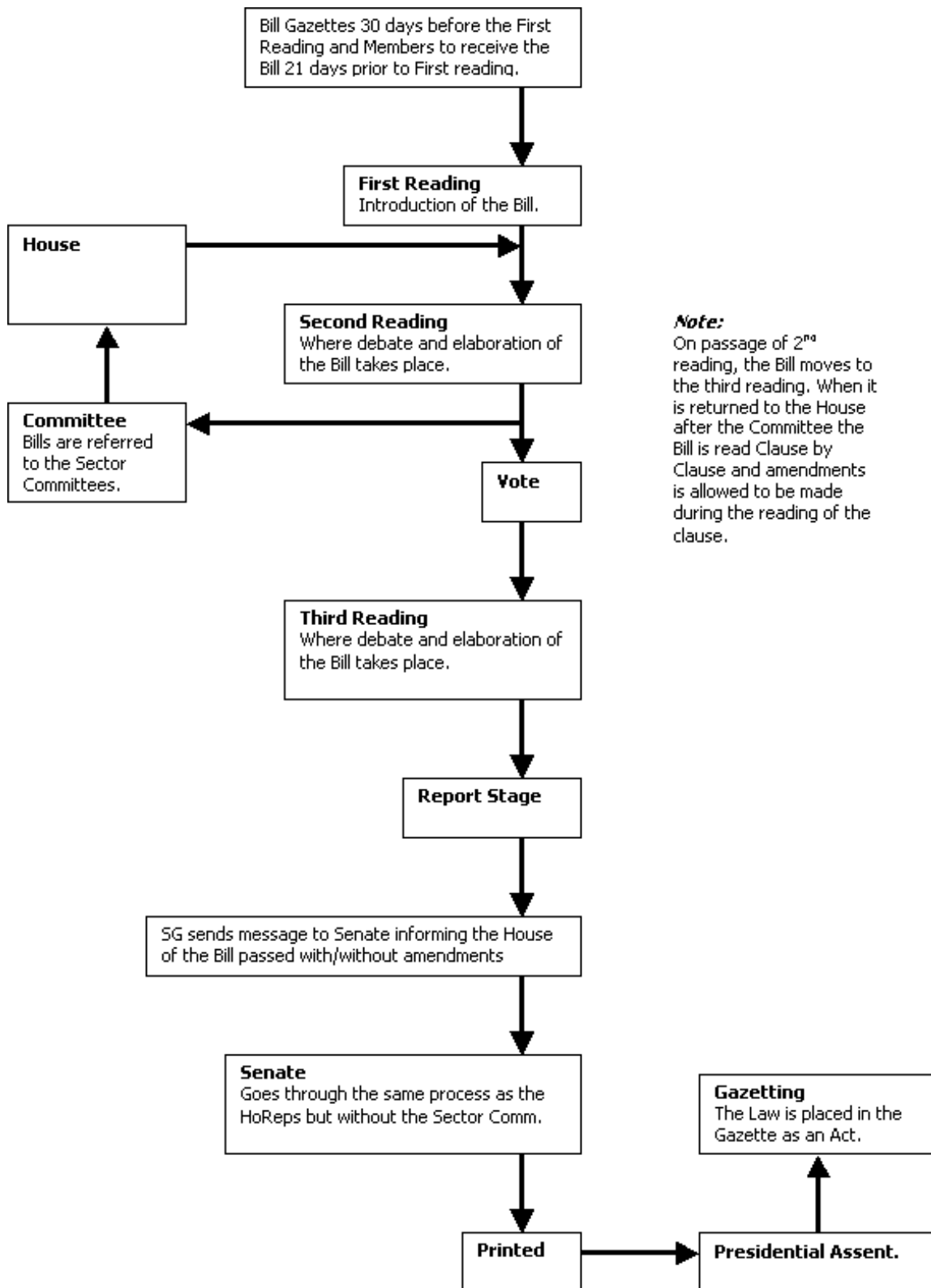
The Law Making Process

Section 45 of the 1997 Constitution provides that: "the power to make laws for the State vests in a Parliament consisting of the President, the House of Representatives and the Senate". A Bill enacted must be passed by both Houses (i.e. Senate and the House of Representatives) and assented to by the President before it can become law.

All Bills start in the House of Representatives and are then sent to the Senate. The Senate has the discretion to pass the Bill with or without changes or reject it entirely. From the Senate, the Bill is then sent back to the House of Representatives. Where amendments have been made by the Senate, the House of Representatives can accept, amend or reject the amendments.³ Where alterations are made by the House of Representatives, the Bill will need to go back again to the Senate. Once both Houses are satisfied, the Bill may be presented to the President for assent (see Figure 1).

³ Note that there are limitations on the powers of Senate with respect to Bills imposing taxation or appropriate revenue of moneys (s.49, 1997 Constitution).

Figure 1. The Legislative Process (Source: Fiji Parliament website⁴)



⁴ <http://www.parliament.gov.fj/main/index.aspx>.

Aside from the enactment of laws by Parliament, decrees may also be promulgated by the President. Decrees in force are promulgated during times when Parliament has been dissolved. Ministerial power in the making of subsidiary legislation is also found in the majority of legislation.

2.2 LAW-MAKING FOR FISHERIES

The two main pieces of fisheries legislation are the *Fisheries Act Cap. 158* and the *Marine Spaces Act Cap.158A*. The former was first enacted in 1941 and has undergone amendments, albeit minor, since,⁵ while the latter was introduced in 1977. The *Fisheries Act* primarily aims to make provision for the regulation of fish and introduces basic powers and general offences. On the other hand, the *Marine Spaces Act* was enacted to allow Fiji to claim its marine spaces and provide for the regulation of foreign fishing vessels particularly in Fiji's exclusive economic zone.

Since the *Fisheries Act* provides for the regulation of fishing in customary fishing areas, it is particularly relevant for the marine aquarium fishery. While Parliament has amended the Act several times, fisheries regulations have been introduced to supplement provisions under the Act.

The Minister's power to make regulations is found in section 9:

9. The Minister may make regulations:-

- (a) prohibiting any practices or methods, or employment of equipment or devices or materials, which are likely to be injurious to the maintenance and development of a stock of fish;
- (b) prescribing areas and seasons within which the taking of fish is prohibited or restricted, either entirely or with reference to a named species;
- (c) prescribing limits to the size and weight of fish of named species which may be taken;
- (d) prescribing limits to the size of nets or the mesh of nets which may be employed in taking fish either in Fiji fisheries waters or in any specified part thereof;

⁵ Ordinances No 4 of 1941, 14 of 1943, 2 of 1945, 20 of 1949, 8 of 1951, 16 of 1958, 34 of 1959, 26 of 1964, 7 of 1966, 37 of 1966 Act No 34 of 1976, 22 of 1977, Legal Notice No 87 of 1979, Decree No. 46 of 1991.

- (e) regulating the procedure relating to the issue of and cancellation of licences and the registration of fishing boats and prescribing the forms of applications and licences therefore and the conditions to be attached thereto;
- (f) prescribing the fees to be charged upon the issue of licences and the registration of fishing vessels which fees may differ as between British subjects and others;
- (g) regulating any other matter relating to the conservation, protection and maintenance of a stock of fish which may be deemed requisite.

This ministerial power is broad and can include any other conservation and management measure required. The analysis of legislative options below elaborates on proposed law-making for the aquarium fishery.

3.0 MARINE AQUARIUM FISHERY – RATIONALE FOR LEGISLATIVE STRENGTHENING

3.1 IMPORTANCE OF THE FISHERY

The importance of the fishery has been discussed in the assessment of the legislative framework. While economic and employment benefits to the national economy were highlighted in that assessment, the social and environmental implications of the fishery needs to be studied comprehensively. The export of aquarium fish contributes about FJ\$1.5 million annually to the Fiji economy.

Common families of aquarium fish exported by Fiji are: Pomacentridae—damselfish and anemone fish; Chaetodontidae—butterflyfish; Pomacanthidae—angelfish; Labridae—wrasses; and Gobiidae—gobies. A more comprehensive list is appended in the earlier assessment of the legislative framework.

3.2 CHALLENGES IN THE EXISTING LEGISLATIVE FRAMEWORK

As noted in the assessment of the legislative framework, the aquarium fishery needs to be addressed adequately in law. Existing provisions are general and address fishers targeting food fish stocks and oceanic fishers targeting pelagic stocks. As a consequence, existing provisions are not suitable for the aquarium fish fishery.

For example, the size and limits of fish that may be collected only apply to edible fish species listed in Schedule Six of the regulation. Further the mesh limitations of various types of nets are not appropriate. The ‘catch-all’ provision in the regulation states that “the meshes of wading nets and of all nets not specifically mentioned...shall in no part be less than 50mm, wet and stretched”.⁶ This mesh limitation does not cover actual mesh size of barrier and scoop nets used in the collection of juvenile aquarium fish. In addition, it cannot be applied to nets used in the collection of post-larval fish.

Specific legislative challenges include:

- a) The need for more specific terms and conditions for fishing access. The condition for fishing access as in the permit and licence only provide for the take of small fish for aquarium purposes and no other conditions are attached.
- b) The inclusion of criteria to be satisfied before fishing is authorised. There are no criteria provided to guide potential entrants into the fishery.
- c) Gear restriction specifications are not suitable for the industry. Gear restrictions were designed mainly for the harvesting of edible fish and are not

⁶ Part IV, regulation 16.

suitable for gear currently employed or gear that may be used in the collection of post-larval fish.

- d) The absence of a monitoring, control and surveillance programme for the fishery. Apart from the submission of packing lists when applying for an export permit, there does not appear to be a MCS programme in place. Such a programme needs to be supported within the regulations.
- e) The absence of any output controls for the aquarium fish fishery. While industry representatives suggest otherwise, there is a need to study the impacts of the collection of fish at various sites including the impact on specific target populations. Output controls will need to be introduced to ensure that populations of vulnerable species are maintained.

Taking into account the above discussion and the observations in the assessment of the legislative framework, there is a need to provide, at the very least, basic provisions to support access, collection methods and trade in aquarium fish. In the next part legislative options available are discussed.

4.0 LEGAL OPTIONS

4.1 PRACTICE IN SELECT JURISDICTIONS

A number of jurisdictions in the region provide broad legal provisions for the management and trade of the aquarium fish fishery. Others rely on general fisheries provisions and French Polynesia is believed to be developing new laws. While an attempt was made to assess legislative developments in French Polynesia, at the time of writing no information on the proposed text could be obtained.

The practice in Australia is noteworthy. Unlike Fiji, Australia is a federation operating under the Commonwealth government and State and territory governments. The legislative framework comprises legislation at the Commonwealth level and State and territory levels. Although the contents of legislation on management in the various States may differ slightly, the procedure for trade and ecological safeguards is the same.

4.1.1 Australia

At the Commonwealth level the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and the *Guidelines for the Ecologically Sustainable Management of Fisheries* are relevant. Under Part 13A of the EPBC Act, the respective State or territory applies for a Wildlife Trade Operation (WTO) approval from the Commonwealth. The application is assessed in accordance with the guidelines and approval is granted if it is determined that the fishery is being managed in an ecologically sustainable manner and allows the continued export of product caught in the fishery.

For an application under the EPBC Act, the applying State or territory has to furnish information on management arrangements and other information relevant to the aquarium fishery. In Queensland for instance the marine aquarium fishery is managed through a range of output and input controls including:⁷

- ✚ bag limits (authorisations are restricted to 10 individual fish comprising not more than two fish of any one species);
- ✚ effort restrictions – no more than 3 persons may take fish at the same time under each authority and only two boats may be used under each authority;
- ✚ gear restrictions;
- ✚ limited entry (49 endorsements); and
- ✚ closed waters.

⁷ *Status Report Marine Aquarium Fish Fishery*, March 2007. Available at: http://www2.dpi.qld.gov.au/extra/pdf/fishweb/StatusReport_MarineAquariumFishFishery_March2007.pdf. Accessed 4/10/07. See also Department of Environment & Heritage. 2005. *Assessment of the Queensland Marine Aquarium Fish Fishery*. October 2005.

Recreational harvesters are not permitted to use SCUBA or Hookah equipment and are subject to bag limits. Appendix B provides a list of restricted aquarium fish species contained in the Greater Barrier Reef Marine Park Regulations.

A similar regulatory regime is in place in Western Australia.⁸ Its fishery's management plan establishes, among other things, the legislative controls for the total number of licences issued, the permitted means of capture and fishing gear that can be employed. Other legislation imposes constraints on the areas in which commercial collecting of marine aquarium species can be undertaken.

4.1.2 Tonga

The *Aquaculture Management Act 2003* provides the framework for aquaculture in Tonga. According to this legislation, "aquaculture" means "any operation involving the husbandry, cultivation, propagation or farming of fish, during the whole or part of its life cycle and includes any operation in preparation for any aquaculture or other related activity". This definition would include the storage and handling of aquarium fish before they are exported. The legislation also provides licence conditions and other broad controls. There are however no specific provisions relating to the marine aquarium fishery.

4.1.3 Vanuatu

The Vanuatu *Fisheries Act 2005*⁹ empowers the Minister to make regulations for the implementation of fisheries conservation and management.¹⁰ Unlike the equivalent provision in the Fiji *Fisheries Act*, there is a specific reference to the making of regulating supporting the trade in fish and fish products¹¹ as well as the collection of aquarium fish¹². However, 'aquarium fish' is not defined in the 2005 Act.

4.2 LEGAL OPTIONS FOR FIJI

There are three options discussed below. The first is the enactment of a specific legislation relating to the marine aquarium fishery as a whole rather than the aquarium fish fishery only. The second proposes amendments to the *Fisheries Act* and the third provides for regulations that supplement that Act. Unlike the first option, the second and

⁸ Western Australia Statewide Fisheries Annual Report. Available at: <http://www.fish.wa.gov.au/docs/sof/2005/sof20052006-08.pdf>. Accessed 4/10/07.

⁹ Act No. 5 of 2005.

¹⁰ Section 79.

¹¹ S.79(g)

¹² S.79(v)(iii).

third options are specific to the aquarium fish fishery but may be expanded to encompass the marine aquarium fishery.

4.3 ENACTMENT OF A SPECIFIC ACT

A specific Act of Parliament dealing with the marine aquarium fishery may be introduced. The Act would need to work together and be consistent with relevant fisheries legislation. A new Act would provide a comprehensive framework that would govern all aspects of the marine aquarium trade including the export, import and marketing of coral, live rock, aquarium fish, invertebrates and other marine products. The new Act could also stipulate criteria for access, including terms and conditions attached to permits and licences, and the requirement of management plans for collection sites.

Having laid out obvious benefits, the disadvantage of a separate Act is the potential for overlaps with existing and proposed fisheries laws. The introduction of a new Act for the aquarium fishery would require the overhaul of existing fisheries laws to ensure that duplication is avoided. The Department of Fisheries has also been developing a draft fisheries management bill. Although intended primarily for the oceanic fishery, the draft bill includes general principles for conservation and management. These principles such as the application of the precautionary approach and the reduction of waste may be included in a new aquarium fishery Act because they are vital for any fishery.

The development of a new piece of legislation for the fishery demands expertise, time and money which would need to be provided by the Department of Fisheries. More staff would need to be involved in the management and control of the fishery. But as the industry is still small, the need for a separate Act may not be appropriate at this time.

Advantage

- Comprehensive framework legislation for the marine aquarium fishery

Disadvantages

- Potential for duplication and overlaps between this new legislation and existing legislation
- An Act generally provides broad provisions and the specifics are placed in corresponding regulations
- More time involved in development and consultations
- More cost involved

4.4 AMENDMENTS TO THE *FISHERIES ACT*

The second option proposes changes to the *Fisheries Act* so that basic provisions applicable to the aquarium fishery are included. Amendments may require, *inter alia*, the insertion of definitions applicable to the fishery, internationally recognised principles for

fisheries conservation and management, terms and conditions for permits and licences, and additional offences.

The major benefit of this option would be the inclusion of specific provisions for the fishery in existing legislation. There may be a need to consider the adequacy of laws relating to the import, export, sale, marketing and distribution of fish and fish products generally. Regulations supporting specific provisions may then be introduced at a later time.

However, the amendment to existing legislation may also be seen as a backward step. This is because the *Fisheries Act* is considered to be archaic in its scope and application and amendments would need to conform to the existing structure. The ability to better regulate the aquarium fishery would therefore be restrictive.

Another hurdle is the ability to make amendments to Acts of Parliament. As discussed earlier, Parliament would need to endorse the relevant amendments to the *Fisheries Act*. Since Parliament would not be convened in the immediate future, amendments cannot be made.

Advantages

- Incorporation of aquarium fishery provisions in the main fisheries legislation
- Introduction of fisheries conservation and management principles
- Consideration of rules relating to the import, export, sale and marketing of fish and fish products

Disadvantages

- Amendments to the *Fisheries Act* would need to conform to the existing structure unless a complete overhaul is undertaken
- Need to await Parliament for endorsement of amendments

4.5 REGULATIONS

The third option proposes the making of aquarium fishery regulations pursuant to section 9 of the *Fisheries Act*. This is believed to be the best option at this time because it only needs the endorsement of the Minister responsible for Fisheries to become subsidiary legislation.

The advantages of this option include the ability to produce appropriate and detailed provisions under the main fisheries legislation and compared to introducing new Act altogether, there is less time and costs involved in developing and adopting the regulation.

The obvious disadvantage is based on the rule that a regulation must complement and not be inconsistent with its corresponding Act. This may be restrictive. For example, the

penalties that may be imposed for an offence in the regulation cannot exceed that allowed for in the *Fisheries Act*.

Advantages

- Regulation may be made by the Minister responsible for Fisheries rather than Parliament
- Detailed provisions for the regulation of the aquarium fish fishery can be introduced (as opposed to a general framework in an Act)
- Less cost and time involved so the regulations may be put in place at the earliest opportunity
- The Regulation may be amended by the Minister as and when necessary

Disadvantages

- The Regulation must be consistent with the *Fisheries Act*

As the third option is the preferred option at this time, a draft Regulation for the marine aquarium fishery is provided in the next section for further consideration by the Department of Fisheries and stakeholders.

5.0 PROPOSED FISHERIES (MARINE AQUARIUM FISHERY) REGULATION

FISHERIES ACT (CAP. 158)

FISHERIES (MARINE AQUARIUM FISHERY) REGULATIONS 200[]

IN exercise of the powers conferred upon me by section 9 of the Fisheries Act, I make these Regulations —

Short title

These Regulations may be cited as the Fisheries (Marine Aquarium Fish) Regulations 200[].

Commencement

These Regulations shall come into force on [insert date].

3. The Fisheries Regulation is amended by inserting the following definitions in regulation 2 (Interpretation) -
 - (a) “aquarium fish” means any marine or freshwater fish that is used for the aquarium fish trade;
 - (b) “aquarium fishery purpose” has the same meaning as “aquarium fish trade”;
 - (c) “aquarium fish trade” means and includes the sale, import, export, marketing and distribution of aquarium fish and any related activity;
 - (d) “collector” means a person authorised to collect aquarium fish from a designated area;
 - (e) “designated area” means an area where the collection of aquarium fish is permitted;
 - (f) “fish” has the same meaning assigned to it under the *Fisheries Act*;
 - (g) “licence”
 - (h) “licensing officer” has the same meaning assigned to it under the *Fisheries Act*;
 - (i) “management plan” means a collection area management plan required under regulation [11B];

- (j) “operator” in relation to the aquarium fishery means any person who is in charge of, directs or controls the collection of aquarium fish or aquarium fish trade, including the collector, master or owner;
 - (k) “permit” means a permit granted in accordance with section 13 of the *Fisheries Act*;
 - (l) “processing” in relation to aquarium fish —means any activity involved in preparing aquarium fish for the aquarium fish trade;
 - (m) “protected species” means a species declared by the *Endangered and Protected Species Act* to be an endangered, protected or endemic species;
4. The Fisheries Regulation is amended by inserting after Part I – Preliminary, the follow new Part -

“PART IA – MANAGEMENT PRINCIPLES AND PLANS

Management Principles

- 2A. (1) In order to conserve and manage fish stocks in Fiji fisheries waters, the following conservation and management principles shall be applied:
- (a) adopt measures to ensure long-term sustainability of fish stocks in Fiji fisheries waters and to promote the objective of their optimum utilization;
 - (b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, and taking into account fishing patterns, and the interdependence of stocks;
 - (c) apply the precautionary approach in accordance with relevant internationally agreed standards and recommended practices and procedures;
 - (d) assess the impacts of fishing, other human activities and environmental factors on target stocks, non-target species, and species belonging to the same ecosystem or dependent upon or associated with the target stocks;
 - (e) adopt measures to minimize waste, discards, catch by lost or abandoned gear, pollution originating from fishing vessels, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species and promote the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
 - (f) protect biodiversity in the marine environment;

- (g) take measures to prevent or eliminate over-fishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;
- (h) take into account the interests of artisanal and subsistence fishers;
- (i) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, *inter alia*, vessel position, catch of target and non-target species and fishing effort; and
- (j) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Collection Area Management Plans

- 2B. (1) Subject to subsection (3), the applicant for an aquarium fishery licence issued under Section 5 of the *Fisheries Act* shall be required to submit a Collection Area Management Plan in accordance with the requirements set out in [] together with [or at least one month before?] a corresponding licence application.
- (2) The Collection Area Management Plan may be endorsed or amended by a licensing officer and the endorsed or amended Plan shall be an integral part of the licence conditions.
- (3) The licensing officer may waive the requirement of a Collection Area Management Plan if:
- (a) the licence applicant has been taking aquarium fish from the area in the preceding licence period; and
 - (b) there is an existing Collection Area Management Plan for the such area.

Management Guidelines

- 2C. (1) The Minister may make guidelines in relation to, *inter alia*,
- (a) the collection, storage, and handling of aquarium fish and aquarium fish products; and
 - (b) access and benefit sharing arrangements with mataqali or other division or subdivision of the Fijian people that hold Native Customary Fishing Rights.

- (2) The power to make guidelines under subregulation (1) includes the power to make periodic review of the guidelines.”
5. The Fisheries Regulation is amended by inserting after regulation 4B the following regulations -

Aquarium Fishery Licence and Permit

- 4C. (1) No person shall take aquarium fish for the aquarium fish trade or as an employee or agent of a person carrying on a business for the aquarium fish trade unless such person is authorised by a licence to take aquarium fish from a designated area.
- (2) An aquarium fishery licence issued under Section 5 of the *Fisheries Act* shall not permit the licence holder to kill or take any species listed in the [Twelfth] Schedule unless fishing vessel is duly registered and carries on board at all times an aquarium fishery licence.
- (3) A licensing officer may, in accordance with guidelines laid down by the Minister responsible for Fisheries, grant aquarium licences in the form described by the [Eleventh] Schedule.
- (4) A licensing officer shall not grant an aquarium fishery licence unless the applicant holds a valid permit to take aquarium fish granted by a Commissioner of a Division over an area in respect of which the rights of any mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the Register of Native Customary Fishing Rights.
- (5) Every aquarium fishery licence granted under this regulation shall be specific to a single Fiji fishing vessel, shall not be transferable to another vessel and shall have no monetary value.
- (6) Every aquarium fishery licence granted in accordance with this regulation shall terminate on the 31st December next after the day of issue.
- (7) No person shall take aquarium fish from any area in respect of which the rights of any mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the Register of Native Customary Fishing Rights unless the said person shall first have obtained a permit to do so from the Commissioner of the Division in which such area is situated.

- (8) Every permit for an aquarium fishery purpose granted by a Commissioner shall be specific to a single Fiji fishing vessel, shall not be transferable to another vessel and shall have no monetary value.
- (9) Every permit for aquarium fishery purpose granted by a Commissioner may be granted for any period not exceeding three years, but every such permit shall expire on the 31st December in any one of such years.

Conditions for aquarium fishery licence and permit

- 4D.
- (1) An aquarium fishery licence holder shall comply with the terms and conditions of such licence.
 - (2) The Director of Fisheries or nominee shall be given free access to vessel logbooks and catch records duly maintained by the aquarium fishery licence holder.
 - (3) Details of each species caught at each geographical location on each day of fishing, and any other details requested by the Director of Fisheries, shall be returned monthly to the Fisheries Division by the aquarium fishery licence holder.
 - (4) The Minister shall, from time to time, determine on the basis of the best available information, the total allowable catch of each aquarium fish species listed in the [Twelfth] Schedule within Fiji fisheries waters and may allocate maximum allowable catch quotas accordingly to individual aquarium fish licence holders.
 - (5) The Minister may prohibit fishing for species listed under the [Twelfth] Schedule in certain areas. Any such areas where fishing is prohibited shall be endorsed upon the aquarium fishery licence pertaining to respective fishing vessels.
 - (6) Infringement of any of the provisions of this Regulation and the *Fisheries Act* by an aquarium fishery licence holder may lead to cancellation of that aquarium fishery licence or a reduction in any quota for that, or the following, year.
 - (7) A holder of a permit for an aquarium fishery purpose shall comply with the terms and conditions of such permit.
 - (8) The terms and conditions applicable to an aquarium fishery licence shall apply *mutatis mutandis* to a permit granted for an aquarium fishery purpose.

6. Part III of the Fisheries Regulation is amended by inserting after regulation 11, the following new regulation –

“Restricted Aquarium Fishery Area

- 11A. (1) The Minister may from time to time declare an area to be a restricted aquarium fishery area. Restricted areas so declared shall be listed under the Restricted Aquarium Fishery category in the Fifth Schedule (Restricted Area).
- (2) Any area that is not declared to be a restricted aquarium fishery area shall be construed as a designated area.
- (3) Regulation 11 shall not apply to any area declared to be a restricted aquarium fishery area.
- (4) No person shall take any aquarium fish or a product of any kind whatsoever for the aquarium fishery trade from a restricted aquarium fishery area.
- (5) The Minister shall review declared restricted aquarium fishery areas on an annual basis and determine, on the best information available, whether the restrictions be varied or maintained.

Restricted Aquarium Fishery Methods

- 11B. (1) Subject to subregulation (3), the use of crest nets by an operator to take aquarium fish for the aquarium fish trade is prohibited.
- (2) Subject to subregulation (3), the use of light traps by an operator to take aquarium fish for the aquarium fish trade is prohibited.
- (3) The Minister or any person appointed by the Minister in writing, may upon a written request by an operator, exempt that operator in writing, from the provisions of regulation 11B(1) and 11B(2) if, that operator holds a valid permit and aquarium fishery licence.” [additional criteria?]

7. PART IV of the Fisheries Regulation is amended by inserting after regulation 16 the following regulation –

- Meshes of Aquarium Fishery Nets*
- “16A. (1) The meshes of barrier nets used in the collection of aquarium fish shall be in no part less than [] mm [[] inches], wet and stretched.
- (2) The mesh of scoop nets used in the collection of aquarium fish [may be of any size].
- (3) The mesh of crest nets used in the collection of aquarium fish shall be in no part less than [] mm [[] inches], wet and stretched [may be of any size].
- (4) The mesh of nets in light traps used in the collection of aquarium fish shall be in no part less than [] mm [[] inches], wet and stretched [may be of any size].”

8. PART V of the Fisheries Regulation is amended by inserting after regulation 18 the following regulation –

“Aquarium Fish

- 18A. (1) No person shall take, sell or offer or expose for sale for the aquarium fish trade, any fish listed in the [Twelfth] Schedule that is a restricted species.
- (2) Subject to subregulation (3), no person shall take, sell or offer or expose for sale for the aquarium fish trade any fish listed in the Sixth Schedule and any edible fish and any protected species.
- (3) The Minister or any person appointed by the Minister in writing, may upon a written request by an operator, exempt that operator in writing, from the provisions of regulation 18A(1) and 18A(2) if, that operator holds a valid permit and aquarium fishery licence.” [additional criteria?]

9. The Fisheries Regulation is amended by inserting after Part VI the following new Part –

“PART VIA – MISCELLANEOUS OFFENCES

Aquarium Fishery Offences

31. (1) Any person who contravenes regulations 4C, 4D, 11A, 11B, 16A, 18A(1) or 18A(2) commits an offence and is liable to a fine of [\$] and [] months imprisonment.
- (2) Any person who contravenes or fails to comply with the provisions of any of these regulations for which no special penalty is provided shall be liable to imprisonment for three months or to a fine of five hundred dollars or to both such penalties.”

Made at Suva this day of 200[].

[Insert Name of Minister]

Minister for Fisheries and Forests

FISHERIES (MARINE AQUARIUM FISHERY) REGULATIONS 200[]

EXPLANATORY NOTE

[This note is not part of the Regulation and is only intended to indicate its general effect]

1.0 INTRODUCTION

The Regulation seeks to strengthen the legal framework for the marine aquarium fishery in Fiji and particularly the collection and trade in aquarium fish.

2.0 REGULATIONS PROPOSED

- Amendments to Interpretation:

New definitions specific to the aquarium fishery are proposed.

- New Part IA – Management Principles and Plans:

This new Part supports the application of management principles in fisheries management. They are broad and encompassing principles which are recognised internationally.

Provisions relating to Collection Area Management Plans are found in 2B. CAMPs are required under the draft national aquarium trade policy guidelines. Regulation 2B supports the non-binding requirement in the draft guidelines.

In addition, the Minister is empowered to make management guidelines. This provision is intended to supplement areas in which guidelines are needed. Parts of the existing draft national guidelines may be included here.

- Specific regulations on licensing and permitting and related conditions:

Given that the *Fisheries Act* provides broad licence provisions, specific provisions on aquarium fishery licences and permits are proposed (4C). As well conditions that are attached to such licences and permits are mentioned in proposed regulation 4D.

- Regulations on restricted aquarium fishery areas and methods:

Areas considered to be restricted for the collection of aquarium fish are supported by this proposed regulation. Areas not restricted are referred to as designated areas. Designated areas may be existing and potential collection areas while restricted areas may refer to all other collection areas.

Since the collection of post larval fish is conducted on an experimental basis, the proposed regulation on restricted methods, restricts the commercial use of gear such as crest nets and light traps. However, an exemption may be sought in writing from the Minister for the use of such gear. The Minister would need to apply management principles proposed in making a decision.

- Specific regulation on aquarium meshes:

Given that the existing Act and regulations does not refer to nets used in the aquarium fishery, a new regulation (16A) is proposed. The regulation is intended to state the mesh limits of each net used in the collection of aquarium fish. The net limits need to be discussed and inserted.

- Aquarium fish:

Proposed regulation 18A prohibits the take, sale and trade of restricted species. A new Schedule would need to be included that lists the names of restricted species. The list would include protected species and species of food fishes. It is envisaged that the list would be similar in intent to that used in the Great Barrier Reef Marine Park Regulations (Appendix B).

- Aquarium fish offences:

A new regulation (31) is proposed to create specific offences relating to the aquarium fishery.

RESPONSIBILITY

The Minister for Fisheries is responsible for the making of regulations under section 9 of the *Fisheries Act*.

PEM/051107

6.0 ADDITIONAL CONSIDERATIONS

The proposed regulation places an emphasis on the collection and trade in juvenile aquarium fish as opposed to the collection of post-larval fish. The reason is simply that there is no commercial collection of post-larval fish at this time. There are likely to be significant differences between the collection, storage and handling of juvenile – adult aquarium fish compared to post-larval fish that would attract a more appropriate regulatory framework.

The legislative framework supporting the commercial collection of post-larval fish for the aquarium fish trade may need to take into account the following:

- Permitted percentage range of post larval fish that is killed, damaged, or not used for the aquarium fish trade;
- Areas at which the collection of post larval fish can take place and whether there should be rotational harvesting;
- Times at which the collection of post larval fish is permitted;
- Monitoring that accompanies collection;
- Suitability of proposed gear restrictions;
- Research requirements and the responsibility of the operator;
- Environment impact assessments including social impacts of proposed collection activities; and
- Other restrictions on the frequency of collection by an operator.

7.0 CONCLUDING COMMENTS

This proposal for the strengthening of Fiji's legislative framework for the trade in aquarium fish has discussed three options. The first option is the enactment of a new Act for the fishery, the second proposes amendments to the *Fisheries Act*, and the third proposes a new regulation to be made under the *Fisheries Act*. For reasons discussed above, the third option is recommended.

The new draft regulation is included. The draft regulation supplements and provides specific provisions for the management of the aquarium fishery. The regulation also introduces overarching management principles which apply throughout all fisheries. The Minister or the Minister's nominee, is given power to provide certain exemptions and to make management guidelines. The making of guidelines is intended to support the existing draft national aquarium trade guidelines and provide an avenue for their legal application to the fishery. Further comments on the draft regulation are made in the explanatory note.

Finally, the draft regulation is intended to support areas that need to be strengthened in law. The draft regulation should ideally be used as a starting point in discussions between the Fisheries Department and stakeholders to improve the regulatory framework.

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APPENDICES

APPENDIX A: LIST OF LEGISLATION REFERRED TO

APPENDIX B: GREAT BARRIER REEF MARINE PARK
REGULATIONS

APPENDIX C: FIJI FISHERIES REGULATION WITH PROPOSED
AMENDMENTS HIGHLIGHTED

APPENDIX A: List of Legislation

AUSTRALIA

Commonwealth

Environment Protection and Biodiversity Conservation Act 1999

Guidelines for the Ecologically Sustainable Management of Fisheries

Declaration of an Approved Wildlife Trade Operation

Great Barrier Reef Marine Park Act 1975

Great Barrier Reef Marine Park Regulations 1983

Northern Territory

Fisheries Act 1988

Fisheries Regulations 1993

Queensland

Marine Parks Act 1982

Queensland Fisheries Regulation 1995

South Australia

Aquaculture Act 2001

Fisheries Management Act 2007

Fisheries Act 1982 (repealed)

Fisheries (Exotic Fish, Fish Farming and Fish Diseases) Regulations 2000

Western Australia

Fish Resources Management Act 1994

Fish Resources Management Regulations 1995

Marine Aquarium Fish Management Plan 1995

FIJI

Constitution Amendment Act 1997

Fisheries Act Cap. 158

Endangered and Protected Species Act 2002

Environment Management Act 2005

Marine Spaces Act Cap. 158A

TONGA

Fisheries Management Act 2002

Aquaculture Management Act 2003 (No. 15 of 2003)

VANUATU

Fisheries Act 2005

APPENDIX B: GREAT BARRIER REEF MARINE PARK REGULATIONS

Table 15 Restricted species for fishing or collecting

Item	Species	Common names
Part 1 — No specimens to be taken or possessed at any time		
1	Classes Anthozoa and Hydrozoa (all species)	Corals (hard, soft and black), anemones, zoanthids, seafans, corallimorpharians, hydroids and fire corals
Part 2 — No more than 5 specimens to be taken or possessed at a time		
1	<i>Chlorurus microrhinos</i>	Steephead parrotfish
2	Class Ascidiacea (all species)	Sea squirts
3	Class Gastropoda (all species except <i>Cassia cornuta</i> and <i>Charonia tritonis</i>)	Snails, whelks, slugs, limpets, cowries including trochus, bailer shell, volutes, murex shells, nudibranchs (except helmet shell and triton shell)
4	Family Anomalopidae (all species)	Flashlightfishes
5	Family Antennariidae (all species)	Anglerfishes and frogfishes
6	Family Aploactinidae (all species)	Velvetfishes
7	Family Apogonidae (all species)	Cardinalfishes and siphonfishes
8	Family Aulostomidae (all species)	Trumpetfishes
9	Family Balistidae (all species)	Triggerfishes
10	Family Batrachoididae (all species)	Toadfishes
11	Family Blenniidae (all species)	Blennies
12	Family Callionymidae (all species)	Dragonets
13	Family Caracanthidae (all species)	Crouchers and orbicular velvetfishes
14	Family Centriscidae (all species)	Razorfishes and shrimpfishes
15	Family Chaetodontidae (all species)	Butterflyfishes
16	Family Cirrhitidae (all species)	Hawkfishes
17	Family Clinidae (all species)	Scaled blennies, armoured blennies and weedfishes
18	Family Congridae (all species)	Conger eels
19	Family Diodontidae (all species)	Porcupinefishes
20	Family Ehippidae (all species)	Batfishes

Item	Species	Common names
21	Family Fistulariidae (all species)	Flutemouths
22	Family Gobiidae (all species)	Gobies
23	Family Holocentridae (all species)	Squirrelfishes and soldierfishes
24	Family Labridae (all species except <i>Choerodon anchorago</i> , <i>C. hoenleini</i> , <i>C. anodus</i> , <i>C. phalotes</i> , <i>C. nustus</i> , <i>Bodianus spp.</i> , <i>Cheilinus undulatus</i> , <i>Ch. fasciatus</i> and <i>Ch. lobatus</i>)	Wrasses and tuskfishes (except anchor tuskfish, blackspot tuskfish, blue tuskfish, grass tuskfish (purple tuskfish), hogfish, humphead Maori wrasse, redbreasted Maori wrasse, tripletail Maori wrasse and Venus tuskfish)
25	Family Malacanthidae (all species)	Sand tilefishes
26	Family Microdesmidae (all species)	Wormfishes and dartfishes
27	Family Monacanthidae (all species)	Leatherjackets
28	Family Monocentridae (all species)	Pineapplefishes
29	Family Muraenidae (all species)	Moray eels
30	Family Ophichthidae (all species)	Snake eels
31	Family Ostraciidae (all species)	Boxfishes
32	Family Pegasidae (all species)	Seamoths
33	Family Plesiopidae (all species)	Longfins
34	Family Pomacanthidae (all species)	Angelfishes
35	Family Pomacentridae (all species)	Damsel-fishes
36	Family Priacanthidae (all species)	Bigeyes
37	Family Pseudochromidae (all species)	Dottybacks and eel blennies
38	Family Scorpaenidae (all species)	Firefishes, scorpionfishes, lionfishes
39	Family Siganidae (all species)	Rabbitfish
40	Family Tetraodontidae (all species)	Pufferfishes
41	Family Tripterygiidae (all species)	Triplefins
42	Family Zanclidae (all species)	Moorish idol
43	Genus <i>Nautilus</i> (all species)	Nautilus
44	Genus <i>Pinctada</i> (all species)	Pearl oysters
45	Phylum Echinodermata (all species except those of the class Holothuroidea)	Sea stars, crinoids, brittle stars, sea urchins, but not sea cucumbers
46	Phylum Porifera (all species)	Sponges

Item	Species	Common names
47	Sub-families Anthiinae and Grammistinae (all species)	Anthias and soapfishes

**APPENDIX C: FIJI FISHERIES REGULATION WITH
PROPOSED AMENDMENTS HIGHLIGHTED**

Subsidiary Legislation

CHAPTER 158

FISHERIES

SECTION 2:-LICENSING OFFICERS

Legal Notice 115 of 1976

The following officers shall be licensing officers:-

Permanent Secretary for Agriculture and Fisheries
Chief Fisheries Officer
Principal Fisheries Officer
Senior Fisheries officer
Fisheries Officer.

SECTION 9:-FISHERIES REGULATIONS

*Regulations 6th Feb, 1965 (in force 26th Feb, 1965)
30th April, 1965, 10th Jan., 1966, 8th June, 1966,
22nd July, 1968, 4th Feb., 1970, 17th Jan., 1972,
87 of 1979, 9th Feb., 1990, 7th December, 1990, 19th July, 1991.*

Made by the Government in Council

PART I. - PRELIMINARY

Short title

1. These regulations may be cited as the Fisheries Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires-

"estuary" means that portion of an estuary specified by the Fisheries Officer by notice in the gazette.

"Fiji fishing vessel" means any fishing vessel which is registered in Fiji or the operations of which are based on a place in Fiji and which is wholly owned by a natural person who is a citizen of, or a company, which is at least 30% owned by Fiji citizens, incorporated in, Fiji. For the purpose of avoiding doubt, any fishing vessel which is not a Fiji fishing vessel by this definition shall be considered for licensing under the provisions of the Marine Spaces Act.

(Inserted by Regulations 9th February, 1990)

"Fishing gear" means all equipment used or intended for the purpose of catching fish and includes fishing lines, hooks, nets, spears, reels and line or net haulers, whether they be manually, hydraulically, or otherwise assisted by mechanical or electrical means.

(Inserted by Regulations 9th February, 1990)

"Minister" means the Minister responsible for fisheries matters.

(Inserted by Regulations 9th February, 1990)

"Set net" includes a gillnet, driftnet, trammel net or any other sort of net which acts by enmeshing or entangling any fish.

(Inserted by Regulations 9th February, 1990)

“aquarium fish” means any marine or freshwater fish that is used for the aquarium fish trade;

“aquarium fishery purpose” has the same meaning as “aquarium fish trade”;

“aquarium fish trade” means and includes the sale, import, export, marketing and distribution of aquarium fish and any related activity;

“collector” means a person authorised to collect aquarium fish from a designated area;

“designated area” means an area where the collection of aquarium fish is permitted;

“fish” has the same meaning assigned to it under the *Fisheries Act*;

“licence”

“licensing officer” has the same meaning assigned to it under the *Fisheries Act*;

“management plan” means a collection area management plan required under regulation [11B];

“operator” in relation to the aquarium fishery means any person who is in charge of, directs or controls the collection of aquarium fish or aquarium fish trade, including the collector, master or owner;

“permit” means a permit granted in accordance with section 13 of the *Fisheries Act*;

“processing” in relation to aquarium fish —means any activity involved in preparing aquarium fish for the aquarium fish trade;

“protected species” means a species declared by the *Endangered and Protected Species Act* to be an endangered, protected or endemic species;

“PART IA – MANAGEMENT PRINCIPLES AND PLANS

Management Principles

- 2A. (1) In order to conserve and manage fish stocks in Fiji fisheries waters, the following conservation and management principles shall be applied:
- (a) adopt measures to ensure long-term sustainability of fish stocks in Fiji fisheries waters and to promote the objective of their optimum utilization;
 - (b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, and taking into account fishing patterns, and the interdependence of stocks;
 - (c) apply the precautionary approach in accordance with relevant internationally agreed standards and recommended practices and procedures;
 - (d) assess the impacts of fishing, other human activities and environmental factors on target stocks, non-target species, and species belonging to the same ecosystem or dependent upon or associated with the target stocks;
 - (e) adopt measures to minimize waste, discards, catch by lost or abandoned gear, pollution originating from fishing vessels, catch of non-target species, both fish and non-fish species, and impacts on associated or dependent species, in particular endangered species and promote the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
 - (f) protect biodiversity in the marine environment;
 - (g) take measures to prevent or eliminate over-fishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;
 - (h) take into account the interests of artisanal and subsistence fishers;
 - (i) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, *inter alia*, vessel position, catch of target and non-target species and fishing effort; and
 - (j) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Collection Area Management Plans

- 2B. (1) Subject to subsection (3), the applicant for an aquarium fishery licence issued under Section 5 of the *Fisheries Act* shall be required to submit a Collection Area Management Plan in accordance with the requirements set out in [] together with [or at least one month before?] a corresponding licence application.
- (2) The Collection Area Management Plan may be endorsed or amended by a licensing officer and the endorsed or amended Plan shall be an integral part of the licence conditions.
- (3) The licensing officer may waive the requirement of a Collection Area Management Plan if:
- (a) the licence applicant has been taking aquarium fish from the area in the preceding licence period; and
 - (b) there is an existing Collection Area Management Plan for the such area.

Management Guidelines

- 2C. (1) The Minister may make guidelines in relation to, *inter alia*,
- (a) the collection, storage, and handling of aquarium fish and aquarium fish products; and
 - (b) access and benefit sharing arrangements with mataqali or other division or subdivision of the Fijian people that hold Native Customary Fishing Rights.
- (2) The power to make guidelines under subregulation (1) includes the power to make periodic review of the guidelines.”

PART II. - LICENCES AND REGISTRATION

Fees

3. The fees to be charged for persons taking fish by way of trade or business or as employees thereof, and for registration of fishing vessels shall be as follows:-

- (a) (i) for the captain of every fishing vessel, a fee of four dollars per annum;

- (ii) for each member of the crew other than the captain and for each person taking fish as an employee of a person carrying on the trade or business of a fisherman, a fee of one dollar per annum;
- (iii) for each person who takes crustaceans or shellfish by net or hand net for sale, no fee: Provided that no further license shall be required in respect of the wife or husband, and not more than two children under the age of twenty-one years, of the licensee who assist the licensee and, where applicable, use his hand nets;
(Inserted by Regulations 22nd July, 1968)
- (iv) for any other person carrying on the trade of business of a fisherman, a fee of four dollars per annum;
- (b) (i) for each fishing vessel propelled by an engine or sail, an annual fee of four dollars;
(ii) for each fishing vessel propelled by oars, paddles or poles, whether such hand-propelled vessel is worked independently or in conjunction with a power or sail-driven mother vessel, an annual fee of one dollar.

Licences

4. (1) for the purpose of avoiding doubt, it is hereby declared that a license under regulation 3 does not permit the holder to take fish on any reef or on any kai (cockle) or other shellfish bed in any area in respect of which the rights of any mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the Register of Native Customary Fishing Rights, unless he shall have first obtained a permit to do so under section 13 of the Act from the Commissioner of the Division in which such area is situated. The holder of any such permit shall produce it to the licensing officer at the time of application for a licence under regulation 3 in order that the particulars thereon may be included in the application and recorded on the licence.

(2) Every licence granted under these Regulations shall expire on the 31st December next following the date of issue and shall be renewable at the discretion of the licensing officer upon payment of the prescribed fee.

Offshore licences

4A. (1) A fishing licence issued under Section 5 of the [Fisheries Act](#) shall not permit the licence holder to kill or take any species listed in the Seventh Schedule outside the limit of Internal Waters as defined by the Marine Spaces Act unless the Fiji fishing vessel which he is operating shall have on board an offshore licence pertaining to the fishery category under which that species is listed.

(2) A licensing officer may, in accordance with guidelines laid down by the Minister for Primary Industries, grant offshore licences for each fishery category listed in the Seventh Schedule in the form described by the Ninth Schedule.

(3) If any single Fiji fishing vessel intends to fish for several species listed under more than one fishery category described by the Seventh Schedule a separate offshore licence must be obtained for each relevant category.

(4) Every offshore licence granted under this regulation shall be specific to a single Fiji fishing vessel, shall not be transferable to another vessel and shall have no monetary value.

(5) Every offshore licence granted under this regulation shall terminate on the 31st December next after the day of issue.

(6) The fee to be charged for persons obtaining an offshore licence shall be as follows:-

(a) for the owner of a Fiji fishing vessel of length less than 12 metres, a fee of five dollars per annum per offshore licence;

(b) for the owner of a Fiji fishing vessel of length greater than 12 metres, a fee of fifty dollars per annum per offshore licence;

(4A Inserted by Regulations 9th February, 1990)

Conditions of offshore licences

4B. (1) The Minister shall, from time to time, determine on the basis of the best available information, the total allowable catch of every fishery category listed in the Seventh Schedule within Fiji fisheries waters and may allocate maximum allowable catch quotas accordingly to individual offshore licence holders.

(2) The Minister may prohibit fishing for species listed under a fishery category described by the Seventh Schedule in certain areas by certain classes of Fiji fishing vessel. Any such areas prohibited to a Fiji fishing vessel shall be endorsed upon the offshore licence pertaining to that vessel.

(3) Set nets shall not be used for the taking or killing of any species listed under Fishery Categories 1 and 2 in the Seventh Schedule except for the purposes of scientific research as permitted, in writing, by the Director of Fisheries.

(4) Details of the weight of each species caught at each geographical location on each day of fishing, and any other details requested by the Director of Fisheries, shall be returned monthly to the Fisheries Division by the offshore licence holder.

(5) Persons nominated by the Director of Fisheries shall be allowed on board during fishing trips by offshore fishing vessels for the purpose of scientific observation without charge to the Fisheries Division. Such persons shall be given free access to vessel logbooks and catch records and shall be given reasonable opportunity to make non-destructive measurements of the fish caught.

(6) Infringement of any of the provisions of this Regulation by an offshore licence holder may lead to cancellation of that offshore licence or a reduction in any quota for that, or the following, year.

(4B Inserted by Regulations 9th February, 1990)

Aquarium Fishery Licence and Permit

- 4C. (1) No person shall take aquarium fish for the aquarium fish trade or as an employee or agent of a person carrying on a business for the aquarium fish trade unless such person is authorised by a licence to take aquarium fish from a designated area.
- (2) An aquarium fishery licence issued under Section 5 of the *Fisheries Act* shall not permit the licence holder to kill or take any species listed in the [*insert*] Schedule unless fishing vessel is duly registered and carries on board an aquarium fishery licence.
- (3) A licensing officer may, in accordance with guidelines laid down by the Minister responsible for Fisheries, grant aquarium licences in the form described by the [Eleventh] Schedule.
- (4) A licensing officer shall not grant an aquarium fishery licence unless the applicant holds a valid permit to take aquarium fish granted by a Commissioner of a Division over an area in respect of which the rights of any mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the Register of Native Customary Fishing Rights.
- (5) Every aquarium fishery licence granted under this regulation shall be specific to a single Fiji fishing vessel, shall not be transferable to another vessel and shall have no monetary value.
- (6) Every aquarium fishery licence granted in accordance with this regulation shall terminate on the 31st December next after the day of issue.
- (7) No person shall take aquarium fish from any area in respect of which the rights of any mataqali or other division or subdivision of the Fijian people have been registered by the Native Fisheries Commission in the Register of Native Customary Fishing Rights unless the said person shall first have obtained a permit to do so from the Commissioner of the Division in which such area is situated.

- (8) Every permit for an aquarium fishery purpose granted by a Commissioner shall be specific to a single Fiji fishing vessel, shall not be transferable to another vessel and shall have no monetary value.
- (9) Every permit for aquarium fishery purpose granted by a Commissioner may be granted for any period not exceeding three years, but every such permit shall expire on the 31st December in any one of such years.

Conditions for aquarium fishery licence and permit

- 4D.
- (1) An aquarium fishery licence holder shall comply with the terms and conditions of such licence.
 - (2) The Director of Fisheries or nominee shall be given free access to vessel logbooks and catch records duly maintained by the aquarium fishery licence holder.
 - (3) Details of each species caught at each geographical location on each day of fishing, and any other details requested by the Director of Fisheries, shall be returned monthly to the Fisheries Division by the aquarium fishery licence holder.
 - (4) The Minister shall, from time to time, determine on the basis of the best available information, the total allowable catch of each aquarium fish species listed in the [Twelfth] Schedule within Fiji fisheries waters and may allocate maximum allowable catch quotas accordingly to individual aquarium fish licence holders.
 - (5) The Minister may prohibit fishing for species listed under the [Twelfth] Schedule in certain areas. Any such areas where fishing is prohibited shall be endorsed upon the aquarium fishery licence pertaining to respective fishing vessels.
 - (6) Infringement of any of the provisions of this Regulation and the *Fisheries Act* by an aquarium fishery licence holder may lead to cancellation of that aquarium fishery licence or a reduction in any quota for that, or the following, year.
 - (7) A holder of a permit for an aquarium fishery purpose shall comply with the terms and conditions of such permit.
 - (8) The terms and conditions applicable to an aquarium fishery licence shall apply *mutatis mutandis* to a permit granted for an aquarium fishery purpose.

Applications for registration of vessels and for fishing licenses

5. (1) Applications for the registration of a fishing vessel shall be made on the form set out in the First Schedule.

(2) The form of licence to be issued to the owner of a registered fishing vessel shall be that set out in the Second Schedule.

(3) Applications for a fishing licence shall be made on the form set out in the Third Schedule.

(4) A fishing license shall be issued in the form set out in the Fourth Schedule.

(5) Every applicant for a fishing licence shall submit with his application two copies of his photograph, approximately 90 mm [3.5 inches] long by 60 mm [2.5 inches] wide.
(Amended by 87 of 1979)

Restrictions on Fiji fishing vessels

5A. (1) A Fiji fishing vessel registered under Section 6 of the [Fisheries Act](#) shall not be permitted to land, kill or take any species listed in the Seventh Schedule unless the owner of such vessel shall possess a valid offshore licence.

(2) A valid offshore licence shall be carried on board at all times when a registered Fiji fishing vessel is engaged in fishing for, or carrying, any of the species listed in the Seventh Schedule unless such vessel is employed as a carrier vessel and has no fishing gear on board.

(3) Any person owning, or operating a Fiji fishing vessel who fails to comply with any of the provisions of this Regulation shall be liable for prosecution under the [Fisheries Act](#).
(5A Inserted by Regulations 9th February, 19SI)

PART III - PROHIBITED METHODS AND AREAS

Fish fences

6. It shall be competent for the Fisheries Officer:-

- (a) to determine the location and distance between fish fences or other similar obstructive devices of a permanent or semi-permanent nature;
- (b) to order the removal of a fish fence or other similar obstructive fishing device.

Use of nets in estuaries

7. No net other than hand nets, wading nets and cast nets shall be permitted for the purpose of taking fish in the estuary of any river or stream or in the sea within 100m [100 yards] of the mouth of a river or stream.

(Amended by 87 of 1979)

Use of poison

8. No person shall take, stupefy or kill any fish in any lake, pool, pond, river, stream or in the sea by the use of any of the following substances or plants:-

(a) any chemical or chemical compound;

(b) any substance containing derris;

(c) any substance containing the active principal of derris, namely, rotenone;

(d) any plant or extract of or derivative from any plant, belonging to the genera *Barringtonia*, *Derris*, *Euphorbia*, *Pittosporum* or *Tephrosia*,

or place any of such substances or plants in any water for the purpose of taking, stupefying or killing any fish.

Spearing of turtle

9. No person shall harpoon any turtle unless the harpoon is armed with at least one barb of which the point projects not less than 9.5 mm [3/8 inch] from the surface of the shaft, measured at right angles to the long axis of the shaft.

(Amended by 87 of 1979)

Fishing in fresh water

10. No person shall kill or take fish of any kind (excluding shellfish) in fresh water in any manner other than by means of a hand net, portable fish trap, spear, line and hook.

Restricted area

11. No person, unless he is authorised in writing under the hand of the Commissioner of the Division in which the area described in the Fifth Schedule is situated shall, within such area, kill or take fish of any kind whatsoever, except by hand net, wading net, spear or line and hook.

“Restricted Aquarium Fishery Area

- 11A.
- (1) The Minister may from time to time declare an area to be a restricted aquarium fishery area. Restricted areas so declared shall be listed under the Restricted Aquarium Fishery category in the Fifth Schedule (Restricted Area).
 - (2) Any area that is not declared to be a restricted aquarium fishery area shall be construed as a designated area.
 - (3) Regulation 11 shall not apply to any area declared to be a restricted aquarium fishery area.
 - (4) No person shall take any aquarium fish or a product of any kind whatsoever for the aquarium fishery trade from a restricted aquarium fishery area.
 - (5) The Minister shall review declared restricted aquarium fishery areas on an annual basis and determine, on the best information available, whether the restrictions be varied or maintained.

Restricted Aquarium Fishery Methods

- 11B.
- (1) Subject to subregulation (3), the use of crest nets by an operator to take aquarium fish for the aquarium fish trade is prohibited.
 - (2) Subject to subregulation (3), the use of light traps by an operator to take aquarium fish for the aquarium fish trade is prohibited.
 - (3) The Minister or any person appointed by the Minister in writing, may upon a written request by an operator, exempt that operator in writing, from the provisions of regulation 11B(1) and 11B(2) if, that operator holds a valid permit and aquarium fishery licence.” [additional criteria?]

PART IV - MESH LIMITATIONS

Stretched measurement for nets

12. For the purposes of these Regulations, stretched mesh shall be measured by taking two diagonally opposing knots of the mesh of the net and drawing them apart until the remaining two knots of the mesh just touch each other.

Mesh of hand nets

13. The mesh of a hand net may be of any size.

Mesh of cast nets

14. The mesh of cast nets shall not be less than 30 mm [1.25 inches], wet and stretched.
(Amended by 87. of 1979)

Nets for sardines and whitebait

15. Nets for taking sardines and whitebait may have a mesh size of not less than 30 mm [1.25 inches], wet and stretched, but their overall dimensions shall not exceed 10.5 m [35 feet] measured along the cork line and 1.5 m [5 feet] from the cork line to the ground rope. It is prohibited to join two such nets together. Such nets may not be used to take fish other than sardines or whitebait.
(Amended by 87 of 1979)

Meshes of other nets

16. The meshes of wading nets and of all other nets not specifically mentioned in these Regulations shall be in no part less than 50 mm [2 inches], wet and stretched.
(Amended by 87 of 1979)

Meshes of Aquarium Fishery Nets

- “16A.
- (1) The meshes of barrier nets used in the collection of aquarium fish shall be in no part less than [] mm [[] inches], wet and stretched.
 - (2) The mesh of scoop nets used in the collection of aquarium fish [may be of any size].
 - (3) The mesh of crest nets used in the collection of aquarium fish shall be in no part less than [] mm [[] inches], wet and stretched [may be of any size].

- (4) The mesh of nets in light traps used in the collection of aquarium fish shall be in no part less than [] mm [[] inches], wet and stretched [may be of any size].”

Fish fences

17. In every fish fence constructed with cane or reed screens there shall be at the inmost point in each terminal trap or pan a section not less than 1 m [3 feet] in length, and of the full height of the fence wherein the can or reeds shall be placed not less than 50 mm [2 inches] apart, or wherein the cane or reed screen shall be replaced by netting or cord, galvanised wire or expanded metal, the mesh of which shall measure not less than 50 mm [2 inches] across the smallest diameter, In fences constructed entirely of wire netting or of expanded metal, the mesh of the netting in the traps or pans shall measure not less than 50 mm [2 inches] along the shortest diameter.

(Amended by 87 of 1979)

PART V -- SIZE AND LIMITS OF FISH AND PROHIBITIONS

Fish

18. No person shall kill, take, sell or offer or expose for sale, any fish listed in the Sixth Schedule of less than the lengths therein set out, measured in each case from the point of the snout to the middle of the tailfin when the fish is laid flat:

Provided that this regulation shall not apply to fish caught by children under the age of sixteen years when fishing with hook and line from the shore or wading near the shore and not offered or exposed for sale.

“Aquarium Fish

- 18A. (1) No person shall take, sell or offer or expose for sale for the aquarium fish trade, any fish listed in the [Twelfth] Schedule that is a restricted species.
- (4) Subject to subregulation (3), no person shall take, sell or offer or expose for sale for the aquarium fish trade any fish listed in the Sixth Schedule and any edible fish and any protected species.
- (5) The Minister or any person appointed by the Minister in writing, may upon a written request by an operator, exempt that operator in writing, from the provisions of regulation 18A(1) and 18A(2) if, that operator holds a valid permit and aquarium fishery licence.” [additional criteria?]

Crabs

19. No person shall kill, take, sell or offer or expose for sale any crab of the species *Scylla serrata* (Swimming Crab or Qari Dina) of less than 125 mm [5 inches] measured across the widest part of the carapace or shell.

(Amended by 87 of 1979)

Turtle

20. (1) No person shall at any time dig up, use, take, sell, offer or expose for sale, or destroy turtle eggs of any species or in any way molest, take, sell, offer or expose for sale, or kill any turtle the shell of which is less than 455 mm [18 inches] in length. No person during the months of January, February, November or December in any year shall in any way molest, take, sell, offer or expose for sale, or kill any turtle of any size.

(Amended by Regulations 19th July, 1991)

(2) No person shall be in possession of, sell, offer or expose for sale or export any turtle shell the length of which is less than 455 mm [eighteen inches].

(Inserted by Regulations 8th June, 1966)

(Amended by 87 of 1979)

Trocas

21. No person shall take, be in possession of, sell, offer or expose for sale or export any shell:

(a) of the species *Trochus niloticus* (sici) (trocas shell) measuring less than 90 mm [3.5 inches] across the whorl;

(b) of the species *Pinctada margaritifera* (civa) (pearl oyster shell) of which the nacre or mother-of-pearl measures less than 100 mm [4 inches] from the butt or hinge to the opposite edge or lip.

(Amended by Regulations 8th June, 1966)

(Amended by 87 of 1979)

Davui

22. No person shall take, sell, offer or expose for sale or export any shell of the species *Charonia tritonis* (davui).

(Inserted by Regulations 4th February, 1970)

Giant helmet shell

23. No person shall take, sell, offer or expose for sale or export any shell of the species *Cassis cornuta* (giant helmet shell).
(Inserted by Regulations 4th February, 1970)

[Application of regulations 22 and 23 **]
** This application since deleted

24. (1) The prohibition on taking shells contained in each of the regulations 22 and 23 shall come into force on the 13th day of February, 1970.

(2) The prohibition on selling, offering or exposing for sale or exporting shells contained in each of the regulations 22 and 23 shall come into force on the 13th day of April, 1970.1 (Spent)

Porpoises and dolphins

25. No person shall kill, take, sell or offer or expose for sale any porpoise or dolphin of the genera *Phocaena* or *Delphis* (babale). For the purpose of avoiding doubt, the expression "dolphin" used in this regulation shall not be deemed to refer to the fish commonly known as a dolphin but of the genus *Coryphaena*.
(Inserted by Regulations 8th June, 1966)

Export of giant clam meat

25A. No person shall export from Fiji tridacnid clam (giant clam) (*vasua*) flesh, including adductor muscle or mantle tissue, of the following species:-

- (a) *Tridacna derasa* (*vasua dina*);
 - (b) *Tridacna squamosa* (*cega*);
 - (c) *Tridacna maxima* (*katavatu*);
- (Inserted by Regulations 16th December, 1988)

Bêche-de-mer

25B. No person shall export, either in a natural or processed form, holothurians (*bêche-de-mer*) of the species *Metriatyla scabra* (*Holothuria scabra*) (*dairo*) (sandfish) or shall take, be in possession of, sell, offer or expose for sale or export holothurians, either in a natural or processed form, of any other species whatsoever of a length less than 7.6

centimetres [3 inches].
(Inserted by Regulations 16th December, 1988)
(Amended by Regulations 7th December 1990)

Export of fish

26. No person shall export from Fiji-

- (a) live fish of any kind whatsoever;
 - (b) turtle flesh;
 - (c) turtle shell unless worked into jewellery or otherwise processed into a form approved by the Permanent Secretary for Primary Industries and Cooperatives."
- ((c)Inserted by Regulations 19th July, 1991)

PART VI. - EXEMPTIONS

Exemptions by public officers

27. The Permanent Secretary for Agriculture and Fisheries or any person appointed by him may exempt any person, in writing, from any of the provisions of regulations 8, 10, 14, 15, 16, 18, 19, 20, 21, 25, 25A, 25B and 26.
(Amended by Regulations 16th December, 1988)

Exemption relating to Fijians

28. Any Fijian assisting a licensed fisherman in a traditional or customary fish drive shall not require a licence to take fish by way of trade or business by reason of the fact that such assistance is given, whether free of charge or on payment.

Exemption relating to punts or skiffs

29. (1) Where open unpowered punts or skiffs, each not exceeding 7.3 m [24 feet] in length, are employed in fishing by way of trade or business in conjunction with and under the immediate overall control of the captain of a power-driven or sailing fishing vessel, neither the persons in charge nor the crew of such punts or skiffs shall require licenses to carry on the trade or business of a fisherman when employed solely as foreshaid [sic].
(Amended by 87 of 1979)

(2) For the purposes of this regulation, the expression "sailing vessel" shall mean a vessel propelled solely or mainly by sail whether or not such vessel possesses an engine.

Exemptions for aquaculture

30. The Director of Fisheries or any person appointed by him may exempt any person, in writing, from any of the provisions of regulations 25(A) and 25(B) if evidence is supplied demonstrating that the fish covered by such regulations originated from artificial spawning methods (aquaculture or mariculture).
(Inserted by Regulations 16th December, 1988)

“PART VIA – MISCELLANEOUS OFFENCES

Aquarium Fishery Offences

31. (1) Any person who contravenes regulations 4C, 4D, 11A, 11B, 16A, 18A(1) or 18A(2) commits an offence and is liable to a fine of [\$] and [] months imprisonment.
- (2) Any person who contravenes or fails to comply with the provisions of any of these regulations for which no special penalty is provided shall be liable to imprisonment for three months or to a fine of five hundred dollars or to both such penalties.”

FIRST SCHEDULE

(Regulation 5)

APPLICATION FOR REGISTRATION OF A FISHING VESSEL

SECOND SCHEDULE

(Regulation 5)

LICENCE / RENEWAL OF LICENCE FOR FISHING VESSEL

THIRD SCHEDULE

(Regulation 5)

APPLICATION FOR (RENEWAL OF) FISHING LICENCE

FOURTH SCHEDULE

(Regulation 5)

FISHING LICENCE

FIFTH SCHEDULE

(Regulation 11)

RESTRICTED AREA

SIXTH SCHEDULE
(Regulation 18)
(Minimum size limits for fish)

Common Name	Fijian	Family	Genus	Maximum Length (mm)
Barracuda	Ogo	<i>Sphyranidae</i>	<i>Sphyrona</i>	300
Crevally, Trevally, Pompano	Saqa (Excluding vilu/Saqa)	<i>Carangidae</i>	<i>Caranx</i>	300
Grey Mullet	Kanace	<i>Mugilidae</i>	<i>Mugil</i>	200
Glassperch, Aholehole	Ika Droka	<i>Duclidae</i>	<i>Dules</i>	150
Ketang, Spinefoot Rabbitfish	Nuqa	<i>Siganidae</i>	<i>Siganus</i>	200
Long-jawed Mackerel	Salala	<i>Scombridae</i>	<i>Rastrelliger</i>	200
Longtom, Garfish, Greengar	Saku Busa	<i>Belonidae</i>	<i>Belone</i>	300
Milk Fish	Yawa	<i>Chanidae</i>	<i>Chaos</i>	300
Mojarra	Matu	<i>Gerridae</i>	<i>Gerres</i>	100
Parrotfish	Ulavi	<i>Callyodontidae</i>	<i>Scarichthys</i>	250
Pouter, Slimy, Soapy, Peperek	Kaikai	<i>Leignathidae</i>	<i>Gazza</i>	100
Rock Cod, Grouper, Salmon Cod	Donu, Kawakawa, Kavu (Excluding small red Spotted cod)	<i>Serranidae</i>	<i>serranus</i>	250
Sea Bream, Pig- faced Bream	Kawago, Dokonivudi, Musubi	<i>Lethrinidae</i>	<i>Lethrinus</i>	250
Small Sea Bream	Kabatia, Kake	<i>Lethrinidae</i>	<i>Lethrinus</i>	150
Small Sea Bream	Sabutu	<i>Lethrinidae</i>	<i>Lethrinus</i>	200
Surgeon Fish	Balagi	<i>Hepatidae</i>	<i>Hepatus</i>	200

Surmullet, Goatfish, Whiskercod	Ki, Ose	<i>Mullidae</i>	<i>Mulloidichthys</i> <i>Pseudopeneus</i> <i>Upeneus</i>	150
Snapper	Damu	<i>Lutjanidae</i>	<i>Lutjanus</i>	300
Unicorn-Fish, Leather jacket	Ta	<i>Hepatidae</i>	<i>Naso</i>	300

**SEVENTH SCHEDULE
FISHERIES REGULATIONS
(Regulations 4A, 4B & 5A)**

Fishery Categories for which a offshore licence is required-

Fishery Category 1:-

"DEEPWATER SNAPPER"; meaning benthic or demersal deep-bottom fishes of the family Lutjanidae or Serranidae having a natural habitat between 100 and 450 metres depth, including Red Snapper (*Etelis carbunculus*), Longtail Snapper (*E. coruscans*), Smalltooth Snapper (*E. radiosus*), Purplecheek Opakapaka (*Pristipomoides multidens*), Yellowfinned Opakapaka (*P. flavipinnis*), Redfinned Opakapaka (*P. filamentosus*), Flower Snapper (*P. zonatus*), Redtailed Opakapaka (*P. typus*), Red Jobfish (*Aphareus rutilans*), Large-eye Bream (*wattsia mossambica*), Kusakar's Snapper (*Paracaesio kusakarii*), Stone's Snapper (*Paracaesio stonei*), Scarlet Seaperch (*Lutjanus timorensis* and *L. malabaricus*) and Deepwater Rockcods and Groupers (*Epinephelus magniscuttus*, *E. miliaris*, *E. morrhua* and *E. septemfasciens*).

Fishery Category 2:-

"TUNA"; meaning pelagic fishes of the family Scombridae, excluding the mackerels but including Skipjack (*Katsuwonis pelamis*), Yellowfin tuna (*Thunnus albacures*), Bigeye tuna (*Thunnus obesus*), Southern bluefin tuna (*Thunnus mucchoyii*), Albacore tuna (*Thunnus alalunga*), Little tuna (*Euthunnus alletteratus*) and Frigate tuna (*Auxis* species) (Inserted by Regulations 9th February, 1990)

**EIGHTH SCHEDULE
(Regulations 4A, 4B & 5A)
(APPLICATION FOR AN OFFSHORE LICENCE)**

**NINTH SCHEDULE
(Regulations 4A, 4B & 5A)
(OFFSHORE LICENCE)**

TENTH SCHEDULE

ELEVENTH SCHEDULE
FISHERIES REGULATIONS
(AQUARIUM FISHERY LICENCE)

TWELFTH SCHEDULE
FISHERIES REGULATIONS
(AQUARIUM FISH SPECIES)

SECTION 15.-NATIVE FISHERIES COMMISSION
(INQUIRIES) RULES

Rules in force 9th May, 1947, 29th Nov., 1977

Made by the Native Fisheries Commission and approved by the Governor in Council

Short title

1. These rules may be cited as the Native Fisheries Commission (Inquiries) Rules.

Interpretation

2. In these rules, unless the context otherwise requires -

"claimant" means any Fijian or Fijians claiming an interest in customary fishing rights of which the ownership is being inquired into.

Notice of inquiry

3. When the Commission is about to institute inquiries into the ownership of any fishing right, notice of the time and place at which the first sitting of the Commission for that purpose will be held shall be given to the Roko of the province in which the fishing right is situated.

Delivery of notice

4. The notice shall be delivered to the Roko not less than thirty days before the sitting of the Commission.

Publication of meeting

5. A general notice of the intention to hold a meeting of the Commission giving the time and place of the meeting shall be published in a newspaper published in the Fijian language and published in Fiji and in the Gazette, and also broadcast in Fijian by wireless.

(Amended by Rules 29th November 1977)

Mode of publication

6. The Roko shall cause the time and place of the sitting of the Commission to be publicly proclaimed in each Tikina.

Witnesses

7. Any member of a social unit claiming to have customary fishing rights shall be allowed to give evidence of such a claim before the Commission.

Claimant's deputy

8. Any claimant who, by reason of illness or other cause which the Commission may consider sufficient, is unable to attend the sittings of the Commission, may depute any male member of his mataqali to act as his representative and such representative shall be entitled to all privileges which might have been exercised by the claimant if present in person at the sitting.

Adjournment

9. The Commission may at its discretion from time to time adjourn the sitting either sine die or to a fixed time and place. All claimants to the fishing rights within the province in which the Commission is sitting at the time of adjournment shall be deemed to have notice of the adjournment.

Languages

10. All proceedings before the Commission shall be conducted in the Fijian language.

Forms

11. The Forms set out in First and Second Schedules shall be used in recording the boundaries and owners of fishing rights.

FIRST SCHEDULE
(Rule 11)

FIJI

REGISTER OF NATIVE CUSTOMARY FISHING RIGHTS

<i>Vol.</i>	<i>Folio.</i>
recorded as the proprietary unit owning the Fishing Rights situated _____ and contained within the following boundaries commencing at:-	

Approved at the Native Fisheries Commission inquiry held at _____ on the _____ day of _____, 19_____.

Native Fisheries Commissioner

[English form for recording boundaries and owners of fishing rights: original to Registrar of Titles;
duplicate kept by Commission]

SECOND SCHEDULE
(Rule 11)

LEGAL NOTICE NO. 17

FISHERIES ACT
(Chapter 158)

FISHERIES (REGISTRATION ON USE OF UNDERWATER
BREATHING APPARATUS) REGULATIONS, 1997
(Section 9)

In exercise of the power conferred on me under paragraph (a) of section 9 of the [Fisheries Act](#), I have made the following Regulations

Short title

1. These Regulations may be cited as the Fisheries (Restrictions on Use of Breathing Apparatus) Regulations, 1997.

Commencement

2. These regulations shall come into force on 1 March 1997.

Interpretation

3. In these Regulations –

- (a) "fish" has the same meaning assigned to it under the [Fisheries Act](#), and;
- (b) "underwater breathing apparatus" means and includes scuba gear, compressors and other mechanical and robotical means in the collection, catching and diving for fish.

Restriction of use of underwater breathing apparatus

4. (1) Subject to regulation 5, no person shall:

- (a) in any way collect, take, or dive for fish using underwater breathing apparatus;
- (b) be in possession of underwater breathing apparatus for the purpose of collecting, catching and diving for fish.

(2) Any person who contravenes the provision of this regulation shall be liable to a fine of four hundred dollars or imprisonment for a term of six months or to both fine and imprisonment.

Exemptions

5. (1) The Permanent Secretary or any person appointed by him in writing, may upon a written request by any person, exempt that person by writing under his hand, from the provisions of regulation 4(1) if, that person holds a valid licence to fish issued by the Fisheries Department and in addition, the person has satisfied the Permanent Secretary or the person appointed by him in that behalf that the person –

- (a) holds a valid licence issued by the Fisheries Department to operate underwater breathing apparatus;
- (b) holds a certificate of safety in regulation to the underwater breathing apparatus to be used, issued by the Ministry of Labour and Industrial Relations;
- (c) is a certified being diving operator being so certified by a reputable diving instructor, and
- (d) fish stock and traditional fishing rights in the area of operation will not be adversely affected.

Made this 7th day of February 1997.

M LEWEMQMA
Minister for Agriculture, Fisheries, Forests &
Agricultural Landlord and Tenant Act

[Fiji Republic Gazette Supplement No. 7 of 14 February 1997]

FIJI REPUBLIC GAZETTE SUPPLEMENT
No. 25 FRIDAY, 20th June 1997

FISHERIES ACT
(CHAPTER 158)

FISHERIES (PROTECTION OF TURTLES) (AMENDMENT)
REGULATIONS 2004

IN exercise of the powers conferred on me by section 9(g) of the *Fisheries Act*, I make these Regulations –

Citation

1. These Regulations may be cited as the Fisheries (Protection of Turtles) (Amendments) Regulations 2004.

Fisheries Regulations are amended

2. The Fisheries Regulations are amended by inserting the following regulations immediately after regulation 20 -

"Moratorium on molesting, taking or killing of turtles

- 20.A. – (1) Notwithstanding regulation 20, no person shall –
 - (a) in any way molest, or take or kill turtles of any species;
 - (b) sell, offer, or expose for sale or export any turtle shell or flesh; or
 - (c) dig up, use, take or destroy turtle eggs of any species.

that

(2) The Minister may, upon a written request by any person, exempt person by writing under his hand, from subregulation (1).

(3) This regulation expires on 31st December 2008.

(4) Subject to subregulation (2), any person who contravenes subregulation (1) commits an offence and is liable on conviction to the penalty set out in section 10(2)(c) of the Act."

Made this 1st day of February 2004.

K. T. YABAKI

Ministers for Fisheries and Forests