

FIJI

Fiji comprises over 800 islands and islets of which about 110 are inhabited. The islands lie between 15° South and 22° South and 175° West and 177° West. The largest islands are Viti Levu, area 10,386 sq. km, and Vanua Levu, area 5,534 sq. km. The total land area of Fiji is 18,272 sq. km. The capital, Suva, is situated on Viti Levu. Fiji was ceded to Great Britain in 1874 and was a British Colony between 1874 and 1970. The island of Rotuma at 12° 30' South, 178° East was added to the colony of Fiji in 1881. Fiji is now an independent Republic. The new Constitution, promulgated on 25 July 1990, gives indigenous Fijians the right to hold the prime ministership and a guaranteed 37 out of the 70 available seats in the House of Representatives. Fijian citizens of Indian descent have 27 seats, other races 5 and Rotuma 1. The Upper House has 24 seats for Fijians, 9 for other races and 1 for Rotuma. The Head of State is the President and the Prime Minister is head of the executive. The total population of Fiji is 780,000 (1997).

Limits of National Jurisdiction

The Marine Spaces Act (Cap. 158A) establishes the archipelagic waters of Fiji and a twelve nautical mile territorial sea. The Act also establishes a 200 nautical mile exclusive economic zone over which Fiji has sovereign rights for the purposes of exploring and exploiting, conserving and managing the natural resources of the seabed, subsoil and superjacent waters. The total area of this zone is 1.26 million sq. km. The formal declaration of the archipelagic waters and the exclusive economic zone is contained in the Marine Spaces (Archipelagic Baselines and Exclusive Economic Zone) Order, together with the coordinates for the points between which straight baselines are to be drawn. There is a separate Order for Rotuma and its dependencies.

The Continental Shelf of Fiji is established and defined by the Continental Shelf Act (Cap. 149) in a manner consistent with the definition in the 1958 Continental Shelf Convention. The area between 15° 30' South and 21° 30' South and 176° 30' East and 178° West has been designated as an area to which the provisions of the Continental Shelf Act apply.

Fiji has maritime boundaries with France, the Solomon Islands, Tuvalu, Vanuatu and Tonga. A maritime boundary agreement has been negotiated with France with respect to Wallis and Futuna and New Caledonia.

Fisheries Legislation

The Fisheries Act (Cap. 158) defines the Fiji fisheries waters as all internal waters, archipelagic waters, territorial seas and all waters within the exclusive economic zone. The Act prohibits the taking of fish in Fiji fisheries waters by way of trade or business without a licence issued by a licensing officer under the provisions of the Act. The Act also requires all fishing vessels operated by licensed fishermen to be registered and to be marked with the letter and number allocated by the licensing officer. The provisions of the Fisheries Act relating to the obtaining of licences to take fish and the registration of fishing vessels do not apply to the fishing activities of foreign fishing vessels or their crews in the exclusive economic zone.

The Fisheries Act establishes a Native Fisheries Commission, which is charged with the duty of ascertaining what customary fishing rights in each province of Fiji are the rightful and hereditary property of native owners. The Commission is bound to inquire into the title of all customary fishing rights claimed by *mataqali* or other subdivisions of the Fijian people and the procedures under which the Commission operates are set out in the Native Fisheries Commission (Inquiries) Rules. The description of the boundaries and situation of the fishing rights recorded and settled by the Commission are entered in a register called the Register of Native Customary Fishing Rights. It is an offence for any person to take fish in an area in respect of which the rights of any *mataqali* or

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other subdivision of the Fijian people have been registered unless that person is a member of the *mataqali* or has obtained a permit from the Commissioner of the Division in which the area is situated.

Licensing Requirements

Provisions relating to the licensing and regulation of inshore fisheries and fishing by Fiji fishing vessels are contained in the Fisheries Act and Fisheries Regulations. Fishing licences may be issued by the licensing officer and are valid until 31 December in the year of issue. Licences are personal to the holder and are not transferable. Fishing licences entitle the holder to take fish in Fiji Fisheries waters by way of trade or business. Since 1990, however, such fishing licences no longer permit the holder to take certain listed species of fish, mainly demersal deep bottom fish and tunas, outside the internal waters. Fiji fishing vessels wishing to exploit these resources are required to have an offshore licence issued under the Fisheries Regulations. Offshore licences are specific to a single Fiji fishing vessel and are not transferable.

A new definition of Fiji fishing vessels was inserted in the regulations in 1990. This provides that a Fiji fishing vessels means any fishing vessel which is registered in Fiji or the operations of which are based in Fiji and which is wholly owned by a Fiji citizen or a company, incorporated in Fiji, which is at least 30% owned by Fiji citizens. Fishing vessels other than Fiji fishing vessels may only be licensed under the Marine Spaces Act and in effect, foreign fishing vessels may not be licensed to fish at all in the territorial sea and internal waters.

There is a provision in the regulations whereby the Minister is required to determine the total allowable catch of every offshore fishery category and may allocate maximum allowable catch quotas to individual offshore licence holders. Determinations of the total allowable catch have been made but no quota restrictions have been introduced at the present stage of development of the fisheries.

No licence to take fish anywhere in Fiji waters may be granted to any person owning, operating or manning any fishing vessel registered elsewhere than Fiji except with the prior approval of the Minister or under the Marine Spaces Act. The penalty for illegal fishing is a fine not exceeding \$100,000. Provisions relating to the licensing and regulation of foreign fishing are contained in the Marine Spaces Act and the Marine Spaces (Foreign Fishing Vessels) Regulations, which enable licences to be granted to foreign fishing vessels to fish in the exclusive economic zone. It is important to note, however, that the provisions of the Fisheries Act, with the exception of the licensing provisions themselves, also apply to foreign fishing vessels licensed under the Marine Spaces Act.

Under the Marine Spaces Act the Minister is required to determine the total allowable catch in the EEZ and the portion of that catch which Fiji's fishing vessels have the capacity to harvest. The surplus catch constitutes the allowable catch for foreign fishing vessels and may be allocated among countries other than Fiji in accordance with criteria set out in the Act. The power to issue licences is vested exclusively in the Minister. Under the Marine Spaces (Foreign Fishing Vessels) Regulations, the government of any country in respect of which an apportionment of the TAC has been made is required to nominate a specific individual to be the National Fisheries Representative for that country. The National Fisheries Representative may submit a fishing plan to the Minister outlining the proposals for taking from the fishery the allocation of the TAC.

The regulations also contain measures to control licensed vessels in the EEZ, including reporting conditions, compulsory port inspections on entry and before leaving the zone, flags, markings, lighting, records, communications, interpreters, stowage of gear, regulation of transshipment and provision of data. There are provisions covering the rights and duties of authorised observers,

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including rights of access to equipment, records and to all fish on board.

There is nothing in the Fisheries Act or the Marine Spaces Act to regulate Fijian distant water fishing vessels or Fijian nationals fishing outside Fiji fisheries waters

Conservation and Management

The Fisheries Act prohibits the taking of fish by the use of dynamite, gelignite or other explosive substances except with the prior permission of the Minister. The Fisheries regulations contain more comprehensive provisions relating to prohibited fishing methods and areas, including a prohibition on using poisons or chemicals for fishing and restrictions on the spearing of turtles, fishing in fresh water, and the use of nets in estuaries. Certain areas are closed to fishing and mesh size limitations are in force for different types of nets and fish fences. There are minimum size limits for 19 species of fish, crabs, turtles, trochus, and blacklip pearl-shell. There are absolute prohibitions on the taking of dolphins and the export of live fish, turtle flesh, giant clam flesh, triton and giant helmet shell and raw turtle shell. As regards turtles specifically, no person during 1 March 1997 to 31 December 2000 shall in any way molest, take or kill any turtle of any size; or sell, offer or expose for sale or export any turtle shell or meat.

The Fisheries Act also permits the registered owners of customary fishing rights to recommend the endorsement of any commercial fishing licences issued over customary fishing rights areas, including area, gear and species restrictions, in any combination. Virtually all internal waters are subject to customary fishing rights.

Regional and International Agreements relating to Fisheries

Fiji is a member of the Pacific Islands Forum and is an ACP state of the European Community. Fiji is also a member of the Forum Fisheries Agency, the Pacific Community and FAO. Fiji was the first country to sign and ratify the United Nations Convention on the Law of the Sea on 10 December 1982. It is a party to the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America. It signed and ratified the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific on 11 August 1993 and 18 January 1994 respectively, the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region on 11 August 1993 and 5 March 1996 respectively, and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks on 4 December 1995 and 12 December 1996 respectively.

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