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## COOK ISLANDS

The Cook Islands lie between 8° South and 23° South and 156° West and 167° West. The islands fall roughly into two groups, the northern group of scattered islands including the atolls of Penrhyn, Manihiki, Rakahanga and Suvarrow and the lower group including the capital, Rarotonga, Mangaia and Aitutaki. The total land area is 240 sq. km. The Cook Islands were proclaimed a British protectorate in 1888 and on 11 June 1901 were annexed and proclaimed part of New Zealand. Under the Constitution of 1965 the Cook Islands is a fully self-governing state in free association with New Zealand. The Parliament of Cook Islands has exclusive power to make laws for Cook Islands. The government of New Zealand, in conjunction with the government of Cook Islands has certain responsibilities with regard to foreign affairs and defence. The Head of State is Queen Elizabeth II and her representative in Cook Islands, called the Queen's Representative, is appointed on the advice of the Cook Islands Cabinet. The Prime Minister is the head of the executive and laws are made by a Parliament of 24 members elected by universal suffrage. A house of *Ariki* comprising up to 15 hereditary chiefs acts in an advisory capacity in relation to certain customary matters. The total resident population of Cook Islands is approximately 19,561 (1997).

### **Limits of National Jurisdiction**

The Territorial Sea and Exclusive Economic Zone Act 1977 established a twelve nautical mile territorial sea and a 200 nautical mile exclusive economic zone. The Act entered into force on 1 October 1979. The Continental Shelf Act 1964, an Act of Parliament of New Zealand extending to Cook Islands, and amended in 1977, defines the continental shelf and empowers the High Commissioner by Order in Executive Council to delineate the boundaries of the continental shelf. No Order has been made delineating a continental shelf. The Marine Resources Act defines the fishery waters of Cook Islands as the internal waters, territorial sea and exclusive economic zone of Cook Islands. The total size of the EEZ is some 1.83 million sq. km.

Cook Islands shares maritime boundaries with five other countries, Kiribati, Niue, New Zealand (in respect of Tokelau), USA (in respect of American Samoa) and France (in respect of French Polynesia). To date, final delimitation agreements have been reached only in respect of the boundaries with the USA and France.

### **Fisheries Legislation**

The Territorial Sea and Exclusive Economic Zone Act required the Minister to determine a total allowable catch (TAC) for each fishery within the EEZ. The surplus TAC, that could not be harvested by Cook Islands fishing craft, constituted the allowable catch for foreign fishing craft.

The mechanism of the total allowable catch as the principal management measure for offshore fisheries was abolished by the Marine Resources Act 1989, which establishes a comprehensive framework for fisheries management. Under the Act the Minister may designate any fishery which is considered important to the national interest or which requires management and conservation measures for effective conservation and optimum utilisation. A fisheries plan is to be prepared and kept under review in respect of each designated fishery. The Act is administered in the Ministry of Marine Resources established by the Ministry of Marine Resources Act 1984.

A novel feature of the Marine Resources Act is the power to devolve certain functions and responsibilities relating to designated fisheries to Local Government Councils (established under the Outer Islands Local Government Act 1987). The Secretary for Marine Resources may appoint a Local Fisheries Committee in any island to advise on the management and development of fisheries in that island. In respect of designated fisheries Island Councils may recommend the promulgation

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of by-laws consistent with the Act and the fisheries plan and, in respect of all fisheries on that island, declare seasons for fishing by publicly notified resolution. In addition, the Island Council may, in accordance with its by-laws, issue licences for fishing or other specified operations relating to the cultivation of fish in any designated fishery of the island.

Designated fisheries have been declared under s.3 of the Act in respect of Aitutaki and Manihiki islands. In respect of Manihiki island the black-lipped pearl shell (*Pinctada margaritifera*) fishery in the Manihiki lagoon and the milk fish (*Chanos chanos*) fishery in Lake Porea were designated by order dated 21 August 1991. In respect of Aitutaki all fish stocks naturally occurring in the lagoon were made a designated fishery by notice dated 7 November 1990.

Following the designation of the respective fisheries, by-laws under s. 15 and 16 of the Outer Islands Local Government Act and s.5 of the Marine Resources Act were promulgated upon the recommendation of the Aitutaki Local Government Council and, in respect of pearl shell cultivation, upon the recommendation of the Manihiki Local Government Council.

### **Licensing Requirements**

The Act provides for licensing of the following categories of fishing vessels: local fishing vessels (over 10 metres in length), sport fishing vessels, foreign fishing vessels and locally based foreign fishing vessels. Licences are also required to operate fish processing establishments. Subject to limited exceptions, no licence may be issued to a foreign fishing vessel unless there is in force an access agreement entered into pursuant to the Act to which the Government of Cook Islands is a party. The Act requires that every access agreement shall include a provision establishing the responsibility of the foreign party to ensure compliance by its vessels with the terms and conditions of the access agreement and with all applicable laws.

The Marine Resources (Licensing and Regulation of Fishing Vessels) Regulations 1995 which came into effect on 1 January 1995 by virtue of s.60 of the Marine Resources Act 1989, set out the licensing procedures for the various vessels as described above as well as the grounds for licence refusal in each case. For example, an application for a foreign fishing licence may be denied where the vessel in respect of which the application is made is not in good standing on the Regional Register of foreign fishing vessels maintained by the Forum Fisheries Agency. The Regulations also cover transshipment and other authorisations, fish processing establishment licences, fish aggregating devices and miscellaneous provisions dealing with matters such as aquarium fish.

Foreign fishing also continues to be regulated by the Exclusive Economic Zone (Foreign Fishing) Regulations 1979 made under s.19 of the Territorial Sea and Exclusive Economic Zone Act 1977.

### **Conservation**

The Marine Resources Act prohibits the use of explosives, poisons and noxious substances for the purpose of catching fish. The Act also prohibits driftnet fishing activities in accordance with the provisions of the Wellington Convention. The Queen's Representative, by Order in Executive Council, may make regulations under the Marine Resources Act for, inter alia, the purpose of regulating or prohibiting the taking of certain species including coral and shells, aquarium fish, protecting trochus, green snails, pearl and pearl shell, turtles, clams and lobsters, and prescribing closed seasons and prohibited or regulated fishing methods. To date no regulations have been made.

On the outer islands, traditional management measures are still important and operate effectively in many areas.

In addition the Territorial Sea and Exclusive Economic Zone Act includes provision for the regulations to be promulgated for protection and preservation of the marine environment. The Conservation Act 1986-87, designed to promote the establishment of nature reserves and conserve natural resources, has not been used to any great extent.

### **Regional and International Agreements relating to Fisheries**

Cook Islands is a member of the Pacific Islands Forum, the Forum Fisheries Agency, the Pacific Community and FAO. It is a party to the United Nations Convention on the Law of the Sea and 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 29 November 1989 and 24 January 1990 respectively and the Niue Treaty on Cooperation in Fisheries Surveillance and Law Enforcement in the South Pacific Region on 9 July 1992 and 3 March 1993 respectively. Cook Islands has ratified on 1 April 1999 the Agreement for the Implementation of the provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks.

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