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On 29 July 2009 Cabinet made the following regulations:

- Tobacco Control Regulations 2009
- Fishing Licence (FAD Closure) Regulations 2009
- Fisheries (PNA Third Implementing Arrangement) Regulations 2009

The regulations commence on the dates specified in the respective commencement provisions within each set of regulations.

Pursuant to section 26 of the *Interpretation Act 1971*, the regulations are published below in G.N. Numbers 288, 289 and 290.

G.N.No. 288 / 2009

TOBACCO CONTROL REGULATIONS 2009

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TOBACCO CONTROL REGULATIONS 2009

In exercise of the powers conferred upon it by section 30 of the *Tobacco Control Act 2009*, Cabinet hereby makes the following regulations—

Part I - PRELIMINARY

1. Citation

These Regulations are the *Tobacco Control Regulations 2009*.

2. Commencement

These Regulations come into force on 1 August 2009, subject to the commencement provisions of the Act.

3. Interpretation

In these Regulations, unless the contrary intention appears -

“cigar” means a roll of cut tobacco for smoking enclosed in a tobacco leaf or the leaf of another plant;

“retail place” includes a kiosk, cart or any other structure if a tobacco product is offered for retail sale to the public from that kiosk, cart or any other structure;

“the Act” means the *Tobacco Control Act 2009*;

“the Regulations” means any regulations made under the Act and includes these Regulations;

“word” includes an abbreviation, an initial and a number.

Part II - CONDITIONS FOR DISPLAY OF TOBACCO PRODUCT ADVERTISEMENTS IN SHOPS AND RETAIL PLACES

4. Point of sale advertising - shops and retail places

For the purposes of subsection 3(3) of the Act a tobacco product advertisement in a shop or other retail place —

- (a) must be within 1 metre of the point of sale;
- (b) if placed on or near a window, must face the inside of the shop or other retail place;
- (c) must not be affixed to the outer side of any outside wall or outer window or door; and
- (d) must not be larger than 500 square centimetres.

Part III - DISPLAY OF PRESCRIBED SIGNAGE

5. No-sales-to-children signage

(1) For the purposes of subsection 9(3) of the Act, the prescribed signs relating to the prohibition of the sale of tobacco products to persons under the age of 18 years are the signs set out in Schedule 1, and every retailer of tobacco products shall post within the retail premises or place from which he sells tobacco products at least one copy of each of the two prescribed signs.

(2) The prescribed signs must be-

- (a) a minimum A3 in size (420 millimetres in width and 297 millimetres in height); and
- (b) displayed in a manner that ensures that they are clearly visible-
 - (i) at an entrance to the premises; or
 - (ii) at a point of sale on the premises or retail place.

(3) Nothing in this regulation prohibits the use of a sign, in addition to the prescribed signs, that conveys by way of graphics, pictures, symbols or text a message about the prohibition of the sale of tobacco products to persons under the age of 18 years.

6. No smoking signs in schools, hospitals, enclosed public places and enclosed workplaces

(1) For the purposes of section 13 of the Act, the prescribed requirements for the no-smoking signs to be displayed within a school, a hospital, an enclosed public place or an enclosed workplace are-

- (a) that the signs contain-
 - (i) a no smoking symbol, in the form of a red circle and diagonal line printed over a depiction of a cigarette and smoke, the outer diameter of which is at least 70 millimetres; and
 - (ii) the phrase “No Smoking” or “Smoking Prohibited” in letters of at least 15 millimetres in height; and
 - (iii) the statement “It is an offence to smoke in a school, a hospital, an enclosed public place or an enclosed workplace”; and

(b) that the signs are displayed in such manner as to ensure that a person is reasonably likely to see one or more of them either on entering the school, hospital, enclosed public place or workplace or from within the enclosed public place or enclosed workplace.

(2) Nothing in sub-regulation (1) prohibits the use of signs, in addition to those referred to in sub-regulation (1), that convey by way of graphics, pictures, symbols or text a no smoking message.

(3) For the purposes of paragraph (d) of subsection (1) of section 17 of the Act, the prescribed requirements for health warning signs to be displayed in designated smoking areas are-

- (a) that the signs contain the words “Health Warning” at the top, followed by the health warnings listed in column 2 of items 1, 4 and 6 of Schedule 2; and
- (b) that the signs are a minimum of A3 in size (420 millimetres in width and 297 millimetres in height; and
- (c) that the text on the signs is black on a white background or white on a red background, and printed in type that is of such a size that the text as nearly as possible fills the background on which it is printed; and
- (d) that the signs are affixed securely to a wall or fixture so that they cannot be easily removed, and positioned inside the designated smoking area in such manner as to ensure that the signs are clearly visible and legible to a person using the designated smoking area.

Part IV - INFORMATION TO BE PRINTED ON TOBACCO PRODUCT PACKAGES

Division 1 - General

7. Interpretation in relation to packaging

(1) In this Part, unless the contrary intention appears:

“corresponding explanatory message”, in relation to a warning message, means the explanatory message that appears in the same item in Schedule 2 as the warning message;

“explanatory message” means a message set out in Column 3 of Schedule 2;

“face”, in relation to retail package of which the outer surface includes 2 or more flat areas that are bounded by edges of the package, means any of those flat areas;

“flip-top pack” means a retail package of the kind commonly called a flip-top pack or hinge-top pack;

“pouch” means a retail package that is:

(a) made from flexible material; and

(b) takes the form of a rectangular pocket with a flap that covers the opening;

“retail package” -

(a) means a package in which a tobacco product is sold at retail;

(b) subject to paragraph (c) hereof, if several packages are contained inside a larger package (for example, packets of cigarettes in a carton) and the whole is offered for retail sale as one unit - includes the larger package and each smaller package therein;

(c) does not include-

(i) a display case that is sold with the tobacco product displayed in it;

(ii) a wrapper on, or a package containing, a single cigar; or

(iii) a larger package which is formed by an outer wrapper of cellophane or other transparent material;

“soft pack” means a retail package of the kind commonly called a soft pack or soft cup;

“warning message” means a message set out in Column 2 of Schedule 2.

(2) For the purposes of these Regulations, unless the contrary intention appears:

(a) openings, gaps or edges that are created in a face of a retail package when the package is opened are to be disregarded;

(b) an area of a surface that bears decorative ridges, embossing, bulges or other irregularities but is otherwise flat is taken to be a flat area;

(c) a soft pack is taken to be a solid that has all its faces rectangular and that has edges equal in length to the edges of the smallest rectangular solid inside which the pack will fit when it is not compressed;

(d) a face that has rounded corners but is otherwise square or rectangular is taken to be square or rectangular, as the case requires;

(e) the surface area of a retail package is the area that would be covered by the outer layer of the package if it were opened out and pressed flat;

(f) a cylindrical package includes a package that is, in one plane, elliptical, rather than circular, in cross-section.

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8. Retail package must bear warning message and, in certain cases, explanatory message

Subject to this Division, a retail package of tobacco must bear:

- (a) a warning message and the corresponding explanatory message; or
- (b) if permitted or required by another provision of these Regulations:
 - (i) a warning message, the same warning message repeated and the corresponding explanatory message; or
 - (ii) a warning message and the same warning message repeated.

9. Messages on certain smaller packages

(1) If the largest face of a retail package (other than a retail package of a kind described in item 8 of Schedule 3) has an area of 40 square centimetres or less and would, but for this subregulation, be required to bear an explanatory message; then—

- (a) an explanatory message need not be printed on that face; and
- (b) both that face and the face on which the warning message is to be printed, must bear the same warning message.

(2) A retail package of a kind described in item 8 of Schedule 3:

- (a) is not required to bear an explanatory message; and
- (b) must bear a warning message printed on the package twice.

10. Format of warning message and explanatory message

Warning message of an explanatory message must be in the following format:

- (a) the text must be printed:
 - (i) within a black rectangular or square border of which the lines are no wider than the upper case letter “I” in the 18 point type size of the type face prescribed in paragraph (b); and
 - (ii) on a white background within the border referred to in sub-paragraph (i);
- (b) the text must be printed in the type face known as Helvetica, in upper case and lower case letters as the text of the message is set out in Schedule 2, in type that is:
 - (i) clear and legible; and
 - (ii) subject to paragraph (c), of the same height throughout the message; and
 - (iii) black; and
 - (iv) of normal weight; and
 - (v) of such a size that the text as nearly as possible fills the background on which it is printed; and
- (c) the headings in the explanatory messages, being a repetition of the corresponding health warnings, must be in type of a point size not greater than 3 points larger than the type used for the remainder of the explanatory message.

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11. Position of warning message and explanatory message

- (1) For a retail package of a kind described in item 1 or 2 of Schedule 3:
 - (a) the warning message is to be printed:
 - (i) on the face of the package specified in the relevant item; and
 - (ii) so that the upper edge of the background is no further than 3 millimetres below the upper edge of the face on which the message is printed; and
 - (b) the explanatory message is to be printed:
 - (i) on the face of the package that is opposite to the face on which the warning message is to be printed; and
 - (ii) so that the upper edge of the background is no further than 3 millimetres below the upper edge of the face on which the message is printed.
- (2) For a retail package of the kind described in item 3, 5, 6, or 7 of Schedule 3:
 - (a) the warning message is to be printed on the face of the package specified in the relevant item; and
 - (b) the explanatory message is to be printed on the face of the package that is opposite to the face on which the warning message is to be printed.
- (3) For a pouch described in item 4 of Schedule 3, the warning message is to be printed on the face of the pouch specified in the item.
- (4) If the flap of a pouch described in item 4 of Schedule 3 is, in area, less than 33.33% of the area of the face on which the warning message is to be printed, the explanatory message is to be printed:
 - (a) on the face that is partly covered by the flap when the package is closed; and
 - (b) not in the area that is covered by the flap when the package is closed.
- (5) If the flap of a pouch described in item 4 of Schedule 3 is, in area, at least 33.33% of the area of the face on which the warning message is to be printed, the explanatory message is to be printed on the outside of the flap.
- (6) For a retail package of a kind described in item 8 of Schedule 3, the two warning messages are to be printed on the package as far apart as possible.
- (7) For a retail package of a kind described in item 9 of Schedule 3:
 - (a) the warning message is to be printed on the face of the package specified in the item; and
 - (b) the explanatory message is to be printed as far as possible from the warning message on the package.

12. Area to be covered by warning message and explanatory message

- (1) A warning message that is printed on a retail package of a kind described in items 1 to 7 (inclusive) of Schedule 3 must cover at least 30% of the area of the face on which it is printed.
- (2) An explanatory message that is printed on a retail package of a kind described in items 1 to 7 (inclusive) of Schedule 3 must cover at least 30% of the area of the face on which it is printed.
- (3) A warning message that is printed on a retail package of a kind described in item 8 or 9 of Schedule 3 must cover at least 15% of the total surface area of the package.
- (4) An explanatory message that is printed on a retail package of a kind described in item 9 of Schedule 3 must cover at least 20% of the total surface area of the package.

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13. Orientation of message

The text of a warning message or an explanatory message must be oriented as follows:

- (a) if the face on which the message is to be printed has other text printed on it, and all, or the majority of, that other text is oriented in one direction – the text must be oriented in that direction; or
- (b) if paragraph (a) does not apply, the text may be oriented in any direction.

14. Messages not to be obscured etc.

- (1) If a message that is required by these Regulations to be printed on a retail package is likely to be obscured or obliterated by a wrapper on the package, the message must be printed on both the wrapper and the package.
- (2) A message (other than a message on a carton) must not be likely to be obliterated, removed or rendered permanently unreadable when the retail package on which it is printed is opened in the normal way.

15. Use of adhesive labels

- (1) A message that is required by these Regulations to be printed on a retail package may be printed on an adhesive label that is affixed to the retail package.
- (2) Subregulation (1) does not apply to a flip-top pack or a soft pack after 20 April 2010.
- (3) An adhesive label referred to in subregulation (1) must:
 - (a) comply with these Regulations in all respects other than as specifically set out in this regulation; and
 - (b) be affixed to the face of the package on which the message that it bears is required to be printed, but may be affixed anywhere on that face; and
 - (c) be fastened firmly to the retail package so as not to be easily removable.
- (4) An adhesive label referred to in subregulation (1) may be affixed in any orientation.

16. Messages to appear in rotation

- (1) Each warning message and (where required by these Regulations) the corresponding explanatory message must be printed in rotation on retail packages of tobacco, so that, during the period of 12 months beginning on 1 January in each year, each message appears as nearly as possible on an equal number of retail packages of each kind of tobacco.
- (2) Tobacco is of different kinds for the purposes of subregulation (1) if:
 - (a) it is sold under different brand names; or
 - (b) it is sold under one brand name but is distinguished in one or more of the following ways:
 - (i) containing or not containing menthol;
 - (ii) being differently flavoured;
 - (iii) having different contents of tar;
 - (iv) allegedly differing in “mildness”;
 - (v) having or not having filter tips or cork tips;
 - (vi) being sold in retail packages containing different numbers of pieces;
 - (vii) being of different length or mass.

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17. Minister may approve variation

- (1) If, upon receipt and consideration of a written application from a person who imports tobacco or from a manufacturer of tobacco products for permission to sell tobacco products the packaging of which contains messages that do not fulfil all of the requirements prescribed by these Regulations, the Minister determines that the messages on the relevant packaging vary only slightly from the prescribed requirements and are substantially to the same effect as the prescribed requirements, the Minister may approve such variation in packaging.
- (2) A written application made under subregulation (1) shall include all details of the manner in which the proposed packaging varies from the requirements prescribed by these Regulations, and shall include a full scale illustration of all relevant faces and surfaces of the proposed packaging.
- (3) Any approval by the Minister under subregulation (1) of variation in packaging shall be made in writing and published in the Gazette, giving details of the manner in which the approved variation differs from the prescribed requirements.
- (4) Any packaging approved under this regulation shall be deemed to comply with the requirements prescribed by these Regulations.
- (5) An approval by the Minister under subregulation (1) shall be valid in respect of the import and sale of the relevant tobacco products by any person, not only by the person who made the application, and, subject to subregulation (6), shall remain valid unless and until it is revoked by the Minister by notice in the Gazette.
- (6) Any revocation of approval under subregulation (5) shall take effect sixty days after it is published in the Gazette.

Division 2 - Retail packages containing cigarettes

18. Message to be printed on the side of a retail package of cigarettes

- (l) For the purposes of this regulation, a reference to the sides of a retail package containing cigarettes is a reference;
- (a) in the case of a cylindrical retail package - to those parts of the curved surface of the package that, if the vertical centre-line of the largest brand-name on the curved surface of the package is taken to be at 0 degrees, extend:
- (i) from 60 degrees to 120 degrees; and
- (ii) from 240 degrees to 300 degrees;
- around the circumference of a flat face of the package; and
- (b) in the case of a package that has 2 faces that are hexagonal or octagonal, and of which all the other faces are square or rectangular - to the square or rectangular faces of the package, other than the front and the back; and
- (c) in the case of a carton - to the larger 2 of the 4 faces other than the front and the back; and
- (d) in any other case - to the surfaces of the package, other than the back and the front, that are vertical when the package is held so that the axis of the cigarettes within it is vertical.

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- (2) For the purposes of subregulation (1);
- (a) the front of a retail package (other than a retail package of a kind described in item 8 or 9 of Schedule 3) is that face of the package on which the warning message is required to be printed; and
 - (b) the back of a retail package (other than a retail package of a kind described in item 8 or 9 of Schedule 3) is the face:
 - (i) on which the explanatory message is required to be printed; or
 - (ii) on which the explanatory message would, but for subregulation 9(1), be required to be printed.
- (3) The following message must be printed on a retail package of cigarettes:
- Smoking exposes you to more than 40 harmful chemicals.
 - These chemicals damage blood vessels, body cells and the immune system.
 - QUIT NOW to reduce your risk of chronic illness or premature death.
- (4) The message required by subregulation (3);
- (a) in the case of a retail package other than a retail package of a kind described in item 8 or 9 of Schedule 3 - must be printed:
 - (i) if both or all of the sides of the package are the same in area - on one side of the package; or
 - (ii) if one side of the package is larger than the other or others - on the larger or largest side; or
 - (iii) if 2 or more sides of the package are larger than the other or others - on one of those larger sides; or
 - (b) in the case of a retail package of a kind described in item 8 or 9 of Schedule 3- may be printed anywhere on the package.
- (5) The message required by sub-regulation (3) must be printed:
- (a) in the type face known as Helvetica, in type that is:
 - (i) clear and legible; and
 - (ii) black; and
 - (iii) of normal weight; and
 - (iv) of such a size that the text as nearly as possible fills the background on which it is printed; and
 - (b) in upper and lower case, as the text of the message is set out in subregulation (3); and
 - (c) if the message is required to appear on the side of the package, oriented so that the lines of type making up the message are parallel to the longest edges of the face on which the message is printed; and
 - (d) on a rectangular or square background of the kind set out in subregulation (6).
- (6) The background referred to in paragraph (d) of subregulation (5):
- (a) must be white; and
 - (b) must occupy:
 - (i) in the case of a retail package other than a flip-top pack, a carton or a package of a kind described in item 8 or 9 of Schedule 3, the whole of one side; or
 - (ii) in the case of a carton, at least 25% of the side on which the message is printed; or
 - (iii) in the case of a flip-top pack, the whole of one side except the part of that side that forms the top; or
 - (iv) in the case of a retail package of a kind described in item 8 or 9 of Schedule 3, at least 9% of the total surface area of the package.

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Division 3 - Cigars

19. Packages of cigars must bear certain messages

A retail package containing cigars must bear:

- (a) a warning message, and the corresponding explanatory message, in accordance with Division 1; or
- (b) a warning message, the warning message repeated, and the corresponding explanatory message, in accordance with regulation 20; or
- (c) a warning message and the corresponding explanatory message, in accordance with regulation 21.

20. Messages on package with hinged lid

(1) A warning message and explanatory message may be printed on a retail package in accordance with this regulation if and only if the package has a hinged lid formed by one face of the package.

(2) A retail package containing cigars bears a warning message and the corresponding explanatory message in accordance with this sub-regulation if:

- (a) the warning message is printed on both the outside of the lid and the base of the package; and
- (b) each warning message occupies at least 25% of the area of the face on which it is printed; and
- (c) the explanatory message is printed on the inside surface of the lid; and
- (d) the explanatory message occupies at least 33% of the area of the inside surface of the lid; and
- (e) the warning message and the explanatory message are otherwise in accordance with Division 1.

21. Messages on other packages of cigars

A retail package containing cigars bears a warning message and the corresponding explanatory message in accordance with this regulation if:

- (a) the warning message is printed on the face of the package that is specified in schedule 3 for a package of that kind; and
- (b) the corresponding explanatory message is printed on the face of the package that is opposite to the face on which the warning message is, under paragraph (a), to be printed; and
- (c) the areas occupied by the warning message and the explanatory message are as set out in the item of Schedule 4 that applies to that package; and
- (d) the warning message and the explanatory message are otherwise in accordance with Division 1.

Part V – TESTING AND REPORTING ON TAR, NICOTINE AND CARBON MONOXIDE CONTENT OF CIGARETTES

22. Reports on average tar, nicotine and carbon monoxide content of cigarettes

(1) Any person who imports cigarettes to Nauru shall, at least once in each calendar year, submit to the Minister responsible for health a report which, in respect of each different kind of cigarette product that person has imported to Nauru in the preceding year, provides the following details:

- (a) the average amounts of tar, nicotine and carbon monoxide, respectively, produced by a cigarette, when cigarettes of that kind are tested according to the testing methods specified in regulation 23; or

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(b) if, when cigarettes of that kind are tested according to the testing methods specified in regulation 23;

- (i) the average amount of tar produced by a cigarette does not exceed 15 milligrams; and
- (ii) the average amount of nicotine produced by a cigarette does not exceed 1.5 milligrams; and

(iii) the average amount of carbon monoxide produced by a cigarette does not exceed 20 milligrams;

figures worked out by taking from the columns of Schedule 5 that relate respectively to tar, nicotine, and carbon monoxide the lowest figures that are greater than or equal to the average amount of tar, nicotine, and carbon monoxide, respectively, produced by a cigarette of that kind.

(2) A person who imports cigarettes to Nauru shall be deemed to have fulfilled their reporting obligation under subregulation (1) if each manufacturer of tobacco products whose products the person imports submits to the Minister responsible for health a report that complies with the requirements of subregulation (1) and regulation 23.

23. Testing methods

(1) The testing methods to be used for the purposes of sub-regulation 22(1) to determine the average amount of tar, nicotine and carbon monoxide produced by a cigarette are the following standard methods published by the International Standards Organisation;

- (a) tar-ISO 4387 (Determination of total and nicotine-free dry particulate matter using a routine analytical smoking machine); .
- (b) nicotine-ISO 10315 (Cigarettes-determination of nicotine in smoke condensates-gas chromatographic method);
- (c) carbon monoxide-ISO 8454 (Cigarettes-determination of carbon monoxide in the vapour phase of smoke (NDIR method)).

(2) The testing methods specified in subregulation (1) are to be used in accordance with the following standards published by the International Standards Organisation:

- (a) ISO 3308 (Routine analytical cigarette-smoking machine-definitions and standard conditions);
- (b) ISO 8243 (Cigarettes-sampling);
- (c) ISO 3402 (Tobacco and tobacco products-atmosphere for conditioning and testing).

24. Minister may request testing

The Minister responsible for health may at any time submit any kind of cigarette to testing in accordance with the testing methods prescribed in regulation 23, and may send samples of cigarettes to a place outside Nauru for the purpose of such testing.

25. Cigarettes that exceed prescribed limits of tar or nicotine

(1) If the results of tests reported to the Minister under regulation 22 or regulation 24 show that any of the tested products exceed the limits of tar or nicotine levels prescribed under section 7 of the Act, cigarettes of that kind shall not be sold.

(2) A person commits an offence under section 7 of the Act if he sells cigarettes that he knows or can reasonably be expected to know exceed the prescribed limits of tar or nicotine levels, notwithstanding that he has not yet submitted a report under regulation 22 or that the cigarettes have not been tested under regulation 24.

SCHEDULE 1

Regulation 5

PROHIBITION OF THE SALE OF TOBACCO PRODUCTS TO MINORS SIGNS

**IT IS ILLEGAL
TO SELL OR SUPPLY A
TOBACCO PRODUCT
TO A PERSON
UNDER 18 YEARS
(Maximum penalty: \$5,000)**

Under 18 No Tobacco	I CAN'T SELL
	YOU CAN'T BUY

SCHEDULE 2

Regulation 8

WARNING MESSAGES AND EXPLANATORY MESSAGES

Column 1	Column 2	Column 3
Item	Warning message	Explanatory message
1	SMOKING CAUSES LUNG CANCER	<p>SMOKING CAUSES LUNG CANCER Tobacco smoke contains many cancer-causing chemicals including tar. When you breathe the smoke in, these chemicals can damage the lungs, and can cause cancer. Lung cancer is the most common cancer caused by smoking. Lung cancer can grow and spread before it is noticed. It can kill rapidly.</p>
2	SMOKING IS ADDICTIVE	<p>SMOKING IS ADDICTIVE Nicotine, a drug in tobacco, makes smokers feel they need to smoke. The more you smoke, the more your body will depend on getting nicotine and you may find yourself hooked. It may be difficult to give up smoking once you are hooked on nicotine.</p>
3	SMOKING KILLS	<p>SMOKING KILLS Smoking is one of the greatest preventable causes of death. Tobacco use kills more than five million people world wide each year. In Australia, tobacco smoking causes more than four times the number of deaths caused by car accidents.</p>
4	SMOKING CAUSES HEART DISEASE	<p>SMOKING CAUSES HEART DISEASE Tobacco smoking is a major cause of heart disease. It can cause blockages in the body's arteries. These blockages can lead to chest pain and heart attacks. In Australia, heart attack is the most common cause of death. Smokers run a far greater risk of having a heart attack than people who don't smoke.</p>
5	SMOKING WHEN PREGNANT HARMS YOUR BABY	<p>SMOKING WHEN PREGNANT HARMS YOUR BABY Poisons in tobacco smoke reach your baby through the bloodstream. If you smoke when you are pregnant, you greatly increase the chance of having a baby with a low birth-weight. Smoking may lead to serious complications which could harm your baby.</p>
6	YOUR SMOKING CAN HARM OTHERS	<p>YOUR SMOKING CAN HARM OTHERS Tobacco smoke causes cancer and poisons people. People who breathe in your tobacco smoke can be seriously harmed. Your smoking can increase the risk of lung cancer and heart disease. Children who breathe your smoke may suffer asthma attacks and chest illnesses.</p>

SCHEDULE 3

Regulation 11

POSITIONS ON RETAIL PACKAGES WHERE WARNING MESSAGE IS TO BE PRINTED

Column 1	Column 2	Column 3
Item	Type of retail package	Face of the package on which warning message is to be printed
1	Flip-top pack	That face that includes the front face of the flip-top
2	Soft pack	If the brand name is printed on only one of the largest faces, or is printed on larger type on one of those faces, that face; otherwise, either of the largest faces
3	Any other retail package (except a pouch) all the faces of which are rectangular or square	(a) If one of the largest faces of the package forms, or forms part of, a lid – that face. (b) In the case of a carton referred to in the definition of ‘retail package’ in subregulation 7(1), any of the largest faces of the carton. (c) In any other case, that one of the largest faces of the package that is towards a person who holds the package correctly for the purpose of removing its contents.
4	Pouch	That one of the largest faces of the folded package that is not overlapped by the flap of the package.
5	Cylindrical package containing cigarettes or cigars	That part of the curved surface of the package that extends one-twelfth of the circumference of the package each side of the vertical centre line of the brand name label on that surface (or, if that label appears more than once on that surface, the larger or largest or those labels).
6	Cylindrical package containing tobacco	That one of the circular faces that forms, or forms part of, the lid.
7	Package in the shape of a hexagonal or octagonal prism, containing cigarettes or cigars	That one of the rectangular faces of the package that bears the brand name label; or, if that label appears on more than one of those faces, the face on which the larger or largest of those labels appears.
8	A retail package: (a) the shape of which is not described in items 1 to 7 (inclusive); and (b) the total surface area of which is less than 145 square centimetres	The package must bear 2 warning messages, printed as far apart as possible. The messages must be printed on the face, or faces, of the package that allow this result to be achieved.
9	A retail package: (a) the shape of which is not described in items 1 to 7 (inclusive); and (b) the total surface area of which is at least 145 square centimetres	Any face of the package

SCHEDULE 4

Regulation 21

**AREAS TO BE OCCUPIED BY MESSAGES
ON CERTAIN PACKAGES OF CIGARS**

Column 1	Column 2	Column 3	Column 4
Item	Area of front and back face of package (cm ²)	Area to be occupied by warning message (cm ²)	Area to be occupied by explanatory message (cm ²)
1	Less than 70	15	20
2	Not less than 70 but less than 90	20	27
3	Not less than 90 but less than 110	25	33
4	Not less than 110 but less than 130	30	40
5	Not less than 130 but less than 150	35	46
6	Not less than 150 but less than 170	40	53
7	Not less than 170 but less than 250	53	70
8	250 or greater	73	96

SCHEDULE 5

Regulation 22

FIGURES FOR DESCRIBING AVERAGE AMOUNTS OF TAR, NICOTINE AND CARBON MONOXIDE

Tar (milligrams)	Nicotine (milligrams)	Carbon monoxide (milligrams)
1	0.2	2
2	0.3	3
4	0.4	5
8	0.8	10
12	1.2	15
16	1.5	20

Tobacco Control Regulations 2009

Explanatory Memorandum

Objectives and rationale

The Tobacco Control Act, which commenced on 20 July 2009, creates a number of offences in relation to the promotion and sale of tobacco products. Many of the provisions of the Act make reference to matters that are to be prescribed by regulation. Under section 30 of the Act Cabinet has power to make regulations prescribing matters necessary or convenient to give effect to the Act.

The principal purpose of the proposed Regulations is to give effect to particular provisions of the Tobacco Control Act, by making the detailed prescriptions in relation to signs and labelling and related matters that are alluded to in the Act.

Overview of content

The Tobacco Control Regulations 2009 are divided into five parts. The headings of the Parts provide a clear overview of the main matters covered by the Regulations:

- I. Preliminary: this part specifies the name of the Regulations, the day on which they commence (1 August 2010, although some parts come into effect later because the corresponding provision of the Act has a later commencement date, for example, package labelling requirements do not take effect until 20 October 2010), and some matters of interpretation.
- II. Conditions for display of tobacco product advertisements in shops and retail places (see subsection 3(3) of the Act requiring advertisements to comply with the regulations): This part contains rules about where tobacco product advertisements can be placed within retail premises, and the maximum size of such advertisements.
- III. Display of prescribed signage (see subsection 9(3) and section 14 of the Act requiring signs to be posted in accordance with regulations): this part prescribes the size and content of signs relating to the prohibition of the sale of tobacco products to people under 18, and the size and content of no smoking signs that must be placed in schools, hospital, enclosed public places and enclosed workplaces. The signs that are prescribed by the Regulations will be distributed free of charge by Public Health.
- IV. Information to be printed on tobacco product packages (see section 6 of the Act making it an offence to sell cigarettes in packages that are not labelled in accordance with the regulations): This Part contains detailed rules about the content, size, format and position of warnings that must be printed on packaging of tobacco products. These rules do not take effect until 20 October 2009.
- V. Testing and reporting on tar, nicotine and carbon monoxide content of cigarettes (see subsection 7(2) of the Act making it an offence to sell cigarettes that contain tar or nicotine in excess of the level prescribed by subsection 7(1)). These rules do not take effect until 1 January 2010.

FISHERIES ACT 1997
FISHING LICENCE (FAD CLOSURE) REGULATIONS 2009

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

1. Citation
2. Objective
3. Commencement and duration
4. Interpretation

PART II – MEASURES

5. Fishing licences not valid unless specific terms complied with
6. Use of Fish Aggregating Devices prohibited
7. Requirement for use of observers

PART III – OFFENCES AND PENALTIES

8. Penalties

FISHERIES ACT 1997

FISHING LICENCE (FAD CLOSURE) REGULATIONS 2009

In exercise of the powers conferred on it by section 42 of the Fisheries Act 1997 the Cabinet has made the following regulations –

PART I – PRELIMINARY

Citation

1. These Regulations may be cited as the Fishing Licence (FAD closure) Regulations 2009.

Objective

2. These Regulations are intended to give domestic legislative effect to paragraphs 11-14 of Conservation and Management Measure 2008-01 of the Western and Central Pacific Fisheries Commission and shall be interpreted and applied in the context of and in a manner consistent with the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

Commencement and duration

3. These Regulations shall commence on 1 August 2009 and shall be repealed on 1 October 2009.

Interpretation

4. In these Regulations, unless the contrary intention requires:-

“Associated electronic equipment” means any device or system that can be used to locate, track or otherwise monitor a Fish Aggregating Device;

“Boat” does not include a small boat;

“Deployment” means the introduction into the sea of a FAD or associated electronic equipment;

“CEO” means the Chief Executive Officer of the Nauru Fisheries and Marine Resources Authority appointed under the Nauru Fisheries and Marine Resources Authority Act 1997;

“Exclusive Economic Zone” means the zone defined by the Sea Boundaries Act 1997;

G.N.No. 289 / 2009 (cont'd)

“Fish Aggregating Device” or “FAD” means any object or group of objects of any size floating on or near the surface of the water or semi-submerged in the water or moving slowly near the surface of the water, whether living or non-living, that has been deployed for the purpose of aggregating fish, or that has not been so deployed but which has or is likely to have the effect of aggregating fish, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and large sea animals;

“High seas” means all parts of the sea that are not included in the exclusive economic zone, territorial sea, and internal waters of Nauru defined in the Sea Boundaries Act and are not part of the recognized exclusive economic zone of any other State;

“Licence” means a licence, permit or authorisation issued by the CEO, or by a regional authority pursuant to a Regional Licensing Arrangement, in accordance with section 12 of the Fisheries Act 1997;

“Licensed boat” means a boat licensed or deemed to be licensed under section 12 of the Act;

“Minister” means the Minister responsible for fisheries;

“Nauru Agreement” means the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest;

“Operator” means the owner, charterer, master and any other person who is in charge of, responsible for the operations of, directs or controls a boat, but does not include a pilot;

“Party” means a Party to the Nauru Agreement;

“Prohibition period” means the period of time between 0001 hours GMT on 1 August 2009 and 2359 hours GMT on 30 September 2009.

“Regional authority” means the Administrator of the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America and the Administrator of the Federated States of Micronesia Arrangement for Regional Fisheries Access;

“Retrieval” or “retrieved” in relation to fish aggregating devices or associated electronic equipment means the collection or removal from the water of any fish aggregating device or associated electronic equipment;

“Servicing” means the cleaning, maintenance, repair, enhancement, movement and any other related activity, of fish aggregating devices or associated electronic equipment;

“Sub-regional observer programme” means an observer programme established pursuant to the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America, the Federated States of Micronesia Arrangement for Regional Fisheries Access and other observer programmes agreed to by the Parties to the Nauru Agreement from time to time;

PART II – MEASURES

Fishing Licences not valid unless specific terms complied with

5. In addition to any general terms and conditions that the CEO may impose on any boat licensed to fish in the exclusive economic zone pursuant to Section 12 of the Act, and notwithstanding any written permission previously granted by the CEO under regulation 42 of the Fisheries Regulations 1998, no fishing licence issued pursuant to the Act shall be valid unless the additional conditions prescribed in these Regulations are imposed by the CEO and complied with by the operator.

Use of Fish Aggregating Devices prohibited

6. (1.) The deployment or servicing of a Fish Aggregating Device or any associated electronic equipment within the exclusive economic zone and the high seas between 20°N and 20°S latitude is prohibited during the prohibition period.
- (2.) A Fish Aggregating Device or associated electronic equipment shall not be retrieved by a licensed boat during the prohibition period unless:-
 - (a) the Fish Aggregating Device or associated electronic equipment are retrieved and kept on board the boat until landed or until the end of the prohibition; and
 - (b) the boat does not conduct any set either for a period of seven (7) days after retrieval or within a fifty (50) mile radius of the point of retrieval.
- (3.) No purse seine fishing boat shall conduct any set during the prohibition period within one (1) nautical mile of a FAD or of a point where a FAD has been retrieved by another boat within twenty four (24) hours immediately preceding the start of the set.
- (4.) The operator of a boat shall not allow the boat to be used to aggregate fish.

G.N.No. 289 / 2009 (cont'd)

Requirement for use of observers

7. (1.) A purse seine fishing boat licensed pursuant to the Act shall carry at all times during the prohibition period provided for under Regulation 6 an observer from either the national observer programme of a Party or an existing regional or sub-regional observer programme whilst within the exclusive economic zone or the high seas between 20°N and 20°S latitude in accordance with all requirements of such observer programmes.
- (2.) The Minister may vary or exempt any boat from the conditions prescribed in sub-Regulation 1 if all reasonable attempts to obtain an observer from a national observer programme of a Party or a regional or sub-regional observer programme have been made and have failed, or if the boat is not licensed to fish in the waters of any coastal state other than Nauru.
- (3.) Unless exempted under sub-Regulation (2), a purse seine boat licensed pursuant to the Act without an observer from either the national observer programme of a Party or an existing regional or sub-regional observer programme on board, shall at the commencement of the prohibition period cease fishing and return directly to port.
- (4.) All variations or exemptions granted under sub-Regulation 2 shall be published in the Gazette.

PART III – OFFENCES AND PENALTIES

Penalties

8. A licensed boat that contravenes regulation 6 or 7 commits an offence and shall have its licence cancelled and shall be liable to the penalties provided for under section 23 of the Act.

FISHERIES ACT 1997

**FISHERIES (PNA THIRD IMPLEMENTING ARRANGEMENT)
REGULATIONS 2009**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

1. Citation
2. Objective
3. Commencement
4. Interpretation

PART II – MEASURES

5. Fishing Licences not valid unless specific terms complied with
6. Requirement for catch retention
7. Use of Fish Aggregating Devices prohibited
8. Fishing in certain areas of the high seas prohibited
9. Requirement for use of observers
10. Use of automatic location communicators required

PART III – OFFENCES AND PENALTIES

11. Penalties

SCHEDULE 1

SCHEDULE 2

G.N.No. 290 / 2009 (cont'd)

**FISHERIES (PNA THIRD IMPLEMENTING ARRANGEMENT)
REGULATIONS 2009**

In exercise of the powers conferred on it by section 42 of the Fisheries Act 1997 the Cabinet has made the following regulations –

PART I – PRELIMINARY

Citation

1. These Regulations may be cited as the Fisheries (PNA Third Implementing Arrangement) Regulations 2009.

Objective

2. These Regulations are intended to give domestic legislative effect to the Third Implementing Arrangement and shall be interpreted and applied in the context of and in a manner consistent with the Nauru Agreement.

Commencement

3. These Regulations shall commence on 1 January 2010.

Interpretation

4. In these Regulations, unless the contrary intention requires:-

“the Act” means the Fisheries Act 1997;

“Arrangement Area” means the fisheries zones of the PNA and adjacent high seas areas described in the Third Implementing Arrangement;

“Associated electronic equipment” means any device or system that can be used by any boat to locate, track or otherwise monitor a Fish Aggregating Device;

“Automatic location communicator” means a Forum Fisheries Agency (FFA) approved machine or a system of machines which when installed on a boat is wholly or partially capable in itself of determining the boat's position, course, speed or any of these and similar matters, and of transmitting this information by means of a vessel monitoring system to persons not on or in sight of the boat;

“Boat” does not include a small boat;

G.N.No. 290 / 2009 (cont'd)

“CEO” means the Chief Executive Officer of the Nauru Fisheries and Marine Resources Authority appointed under the Nauru Fisheries and Marine Resources Authority Act 1997;

“Deployment” means the introduction into the sea of a FAD or associated electronic equipment;

“Exclusive Economic Zone” means the zone defined by the Sea Boundaries Act 1997;

“Fisheries zone” has the same meaning as “exclusive economic zone”;

“Fish Aggregating Device” or “FAD” means any object or group of objects of any size floating on or near the surface of the water or semi-submerged in the water or moving slowly near the surface of the water, whether living or non-living, that has been deployed for the purpose of aggregating fish, or that has not been so deployed but which has or is likely to have the effect of aggregating fish, including but not limited to buoys, floats, netting, webbing, plastics, bamboo, logs and large sea animals;

“High Seas” means all parts of the sea that are not included in the exclusive economic zone, territorial sea, and internal waters of Nauru defined in the Sea Boundaries Act and are not part of the recognized exclusive economic zone of any other State;

“Licence” means a licence, permit or authorisation issued by the CEO, or by a regional authority pursuant to a Regional Licensing Arrangement, in accordance with section 12 of the Act;

“Licensed boat” means a boat licensed or deemed to be licensed under section 12 of the Act;

“Minister” means the Minister responsible for fisheries;

“Mobile Transceiver Unit” has the same meaning as “automatic location communicator”;

“Nauru Agreement” means the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest;

“Operator” means the owner, master or charterer and any other person who is in charge of, responsible for the operations of, directs or controls a fishing boat, but does not include a pilot;

“Party” means a Party to the Nauru Agreement;

“PNA” means the Parties to the Nauru Agreement;

“Prohibition period” means the period of time between 0001 hours GMT on 1 July and 2359 hours GMT on 30 September each year.

“Regional authority” means the Administrator of the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America and the Administrator of the Federated States of Micronesia Arrangement for Regional Fisheries Access;

G.N.No. 290 / 2009 (cont'd)

“Related activities” in relation to fishing means:

- i. refuelling or supplying fishing boats, selling or supplying fishing equipment or performing other activities in support of fishing including the deployment and servicing of FADs; or
- ii. storing, buying, transshipping, processing or transporting fish or fish products taken from the Arrangement Area up to the time such fish or fish products are first landed;

“Retrieval” or “retrieved” in relation to Fish Aggregating Devices or associated electronic equipment means the collection or removal from the water of any Fish Aggregating Device or associated electronic equipment;

“Servicing” means the cleaning, maintenance, repair, enhancement, movement and any other related activity, of Fish Aggregating Devices or associated electronic equipment;

“Sub-regional observer programme” means an observer programme established pursuant to the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America, the Federated States of Micronesia Arrangement for Regional Fisheries Access and other observer programmes agreed to by the PNA from time to time;

“Taken” in relation to catch retention means the capture of fish but does not include the release or discard of fish;

“Third Implementing Arrangement” means the Third Arrangement Implementing the Nauru Agreement Setting Forth Additional Terms and Conditions of Access to the Fisheries Zones of the Parties, done at Koror, Republic of Palau on 16 May 2008, as set out in Schedule 2;

“Transshipment” means the transfer of any or all of the fish on board a boat onto another boat, either directly or by off-loading the fish from the boat onto the shore and thence immediately onto another boat.

PART II – MEASURES

Fishing Licences not valid unless specific terms complied with

5. In addition to any general terms and conditions that the CEO may impose on any boat licensed to fish in the exclusive economic zone pursuant to section 12 of the Act, and notwithstanding any written permission previously granted by the CEO under regulation 42 of the Fisheries Regulations 1998, no fishing licence issued pursuant to the Act shall be valid unless the additional conditions prescribed in these Regulations are imposed by the CEO and complied with by the operator.

Requirement for catch retention

6. (1.) (a) All bigeye, skipjack and yellowfin tuna taken by any purse seine boat licensed to fish in the exclusive economic zone pursuant to the Act shall be retained on board and then landed or transshipped.
- (b) Where the operator of a purse seine boat licensed to fish pursuant to the Act determines that fish should not be retained on board for reasons related to the size, marketability, or species composition, the said fish shall only be released before the net is fully pursed and one half of the net has been retrieved.
- (2.) Subject to sub-regulations (3), (4) and (5) of this regulation, the requirement specified in sub-regulation (1)(a) of this regulation shall not apply to:
- (a) fish clearly and demonstrably unfit for human consumption; and
- (b) fish caught during the final set of a trip when there may be insufficient well space to accommodate all fish caught in that set.
- (3.) For the purposes of sub-regulation (2)(a), fish clearly and demonstrably unfit for human consumption:-
- (a) includes, but is not limited to fish that:
- i. is meshed or crushed in the purse seine net; or
 - ii. is damaged due to shark or whale depredation; or
 - iii. has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch and efforts to release the fish alive; and
- (b) does not include fish that:
- i. is considered undesirable in terms of size, marketability, or species composition; or
 - ii. is spoiled or contaminated as the result of an act or omission of the crew of the fishing boat.

G.N.No. 290 / 2009 (cont'd)

- (4.) Where the operator of a licensed boat determines that fish is clearly and demonstrably unfit for human consumption in accordance with sub-regulation (3), the said fish shall not be discarded from the boat until after an observer has estimated the species composition of the fish to be discarded.
- (5.) For the purposes of sub-regulation (2)(b), any excess fish that cannot be accommodated in the fishing boat may only be discarded if:
 - (a) the boat master and crew attempt to release the fish alive as soon as possible;
 - (b) an observer has estimated the species composition of the fish to be discarded; and
 - (c) no further fishing is undertaken after the discard until the fish on board the boat has been landed or transshipped.
- (6.) The operator of the boat shall submit a report in the form set out in Schedule 1 to these Regulations to the CEO within 48 hours after any discard.

Use of Fish Aggregating Devices prohibited

7. (1.) The deployment or servicing of a Fish Aggregating Device or any associated electronic equipment within the exclusive economic zone and the high seas between 20°N and 20°S latitude is prohibited during the prohibition period.
- (2.) A Fish Aggregating Device or associated electronic equipment shall not be retrieved by a boat licensed to fish pursuant to the Act during the prohibition period unless:-
 - (a) the Fish Aggregating Device or associated electronic equipment are retrieved and kept on board the boat until landed or until the end of the prohibition; and
 - (b) the boat does not conduct any set either for a period of seven (7) days after retrieval or within a fifty (50) mile radius of the point of retrieval.
- (3.) No purse seine fishing boat shall conduct any set during the prohibition period within one (1) nautical mile of a FAD or of a point where a FAD has been retrieved by another boat within twenty four (24) hours immediately preceding the start of the set.
- (4.) The operator of a boat shall not allow the boat to be used to aggregate fish.

G.N.No. 290 / 2009 (cont'd)

Fishing in certain areas of the high seas prohibited

8. (1.) No fishing boat licensed pursuant to the Act to fish in the exclusive economic zone shall, whilst the licence is in force, undertake any fishing or, subject to sub-regulation (3), any related activities, in the following high seas areas:-
- (a) the high seas area bounded by the exclusive economic zones of the Federated States of Micronesia, Indonesia, Palau and Papua New Guinea; and
 - (b) the high seas area bounded by the exclusive economic zones of the Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Papua New Guinea, Solomon Islands and Tuvalu
- (2.) At all times when a fishing boat licensed pursuant to the Act is on high seas areas specified in sub-regulation (1), the operator shall ensure that all gear on board is stowed or secured in such a manner that it is not readily available for fishing.
- (3.) A Fish Aggregating Device or associated electronic equipment shall not be retrieved or removed from the water in the high seas areas specified in sub-regulation (1) by a licensed boat unless:-
- (a) the Fish Aggregating Device or associated electronic equipment was deployed or serviced in accordance with these Regulations; and
 - (b) the Fish Aggregating Device or associated electronic equipment is kept on board the boat until landed or (subject to regulation 7) until the boat is outside the high seas areas specified in sub-regulation (1); and
 - (c) the boat does not conduct any set either for a period of seven days after retrieval or within a fifty mile radius of the point of retrieval or removal from the water.

G.N.No. 290 / 2009 (cont'd)

Requirement for use of observers

9. (1.) A foreign purse seine fishing boat licensed pursuant to the Act shall carry at all times an observer from either the national observer programme of a Party or an existing regional or sub-regional observer programme whilst within the exclusive economic zone or the high seas between 20°N and 20°S latitude in accordance with all requirements of such observer programmes.
- (2.) The Minister may vary or exempt any boat from the conditions prescribed in sub-regulation (1) if all reasonable attempts to obtain an observer from a national observer programme of a Party or a regional or subregional observer programme have been made and have failed, or if the boat is not licensed to fish in the waters of any coastal state other than Nauru.
- (3.) All variations or exemptions granted under sub-regulation (2) shall be published in the Gazette.

Use of Automatic Location Communicators Required

10. No fishing licence shall be issued pursuant to the Act unless the operator has installed on the boat, an automatic location communicator or mobile transceiver unit in accordance with the specifications and procedures issued by the Pacific Islands Forum Fisheries Agency and that the said automatic location communicator or mobile transceiver unit is switched on and is operating properly at all times.

PART III – OFFENCES AND PENALTIES

Penalties

11. A licensed boat that contravenes these Regulations commits an offence and shall have its licence cancelled and shall be liable to the penalties provided for under section 23 of the Act.

No. 76

30th July, 2009

Nauru

G.N.No. 290 / 2009 (cont'd)

SCHEDULE 1

3IA DISCARD REPORTING FORM

Name of Boat		
Flag of Boat		
Boat WCPFC Identification No.		
Name and nationality of master		
Licence number		
Name of observer on board		
Date, time and location (lat/long) of discard		
Date, time, location (lat/long) and type of the shot (drifting FAD, anchored FAD, free school, etc)		
Reason that fish were discarded (including statement of retrieval status if fish were discarded according to Reg 6, sub-reg (1.)(b)		
Estimated tonnage and species of discarded fish	Species	Tonnage
Estimated tonnage and species of retained fish from that set	Species	Tonnage
If fish were discard according to regulation 6 sub-reg (2.)(b), a statement that no further fishing will be undertaken until the catch on board has been unloaded	Signed by master	
Any other information deemed relevant by the boat master		
Any other information deemed relevant by the observer		

SCHEDULE 2

A THIRD ARRANGEMENT IMPLEMENTING THE NAURU AGREEMENT SETTING FORTH ADDITIONAL TERMS AND CONDITIONS OF ACCESS TO THE FISHERIES ZONES OF THE PARTIES

Pursuant to Articles I, II, III, and IX of the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, hereafter referred to as the "Nauru Agreement", wherein the Parties thereto agreed to conclude arrangements to facilitate the implementation of the Nauru Agreement, the Federated States of Micronesia, the Republic of Kiribati, the Republic of the Marshall Islands, the Republic of Nauru, the Republic of Palau, Papua New Guinea, Solomon Islands and Tuvalu,

HAVE AGREED AS FOLLOWS:

ARTICLE I

Licensing Terms and Conditions

In addition to those terms and conditions provided in Article II of An Arrangement Implementing the Nauru Agreement Setting Forth Minimum Terms and Conditions of Access to the Fisheries Zones of the Parties, and Article I of A Second Arrangement Implementing The Nauru Agreement Setting Forth Additional Terms and Conditions of Access to the Fisheries Zones of the Parties, the Parties shall establish the following minimum terms and conditions in all of their subsequent foreign fishing agreements and their licensing requirements for vessels fishing the common stocks of fish within the Fisheries Zones and shall not issue licences unless the minimum terms and conditions are accepted and observed:

1. *Catch Retention*

All bigeye, skipjack and yellowfin tuna taken by a purse seine vessel shall be retained on board and then landed or transhipped, except for:

- (a) fish clearly and demonstrably unfit for human consumption; and
- (b) the final set of a trip when there may be insufficient wellspace to accommodate all fish caught in that set.

The Parties shall adopt appropriate procedures for the implementation of this measure, including reporting.

2. *FAD Closure*

There shall be no deployment or servicing of Fish Aggregating Devices and associated electronic equipment, or fishing by purse seine vessels on floating objects, between 0001 hours GMT on 1 July and 2359 hours GMT on 30 September each year, except that:

G.N.No. 290 / 2009 (cont'd)

- (a) a Party may exclude all or part of its Fisheries Zone from the closure if it determines that it has suffered a disproportionate burden from application of the closure and advises the depositary accordingly; and
- (b) a Party may apply appropriate arrangements set out in a Management Plan to meet the requirements of domestic vessels that are highly dependent on fishing on floating objects within the Fisheries Zone.

3. *Closure of High Seas Areas*

A vessel shall not fish in the areas listed below during the period of validity of a licence issued by a Party:

- (a) the area of high seas bounded by the national waters of the Federated States of Micronesia, Indonesia, Palau and Papua New Guinea; and
- (b) the area of high seas bounded by the national waters of the Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Papua New Guinea, Solomon Islands and Tuvalu.

4. *Monitoring*

- (a) In order to monitor compliance with the catch retention and FAD closure requirements, all foreign purse seine vessels shall carry at all times an observer from either the national observer programme of a Party or an existing sub-regional observer programme; and
- (b) The owner, charterer, operator, master or any other person responsible for the operation of a licensed vessel shall ensure that the Automatic Location Communicator¹ of the vessel is switched on and is operating properly at all times during the period of validity of a licence issued by a Party.

ARTICLE II ***Review and Implementation***

Review

1. The Parties shall review the implementation of these measures at the annual meeting of the Parties, and decide on the future application of these measures, taking into account:

- (a) the effectiveness of the measures in reducing fishing mortality, especially on juvenile bigeye and yellowfin tuna; and
- (b) the extent to which compatible measures are being applied on the high seas and in the waters of other Members of the Western and Central Pacific Fisheries Commission.

Implementation

2. These measures shall be implemented in accordance with a programme adopted by the Parties.

¹ Automatic Location Communicator is also known as Mobile Transmitting Unit.

ARTICLE III
Signature and Effect

1. This Arrangement shall be open for signature by the Parties to the Nauru Agreement.
2. This Arrangement shall take effect 30 days following the signing of the Arrangement by at least five of the Parties to the Nauru Agreement. Thereafter, it shall take effect for any signing Party 30 days after its signature of the Arrangement.
3. This Arrangement shall be deposited with the Government of the Solomon Islands.
4. Reservations to this Arrangement shall not be permitted.

ARTICLE IV
Amendment and Withdrawal

1. Any Party may withdraw from this Arrangement by giving written notice to the Depositary. Withdrawal shall take effect one year after receipt of such notice.
2. Any amendment to this Arrangement proposed by a Party shall be adopted only by unanimous decision of the Parties to this Arrangement.

ARTICLE V
The Nauru Agreement

This Arrangement is subordinate to and governed by the Nauru Agreement.

No. 76

30th July, 2009

Nauru

G.N.No. 290 / 2009 (cont'd)

IN WITNESS WHEREOF the undersigned, being duly authorised by their respective Governments have signed this Agreement.

DONE at Koror, Palau this 16th day of May 2008

Federated States of Micronesia

Republic of Kiribati

Republic of the Marshall Islands

Republic of Nauru

Republic of Palau

Papua New Guinea

Solomon Islands

Tuvalu