



## **A FOURTH ARRANGEMENT IMPLEMENTING THE NAURU AGREEMENT RELATING TO FISH AGGREGATING DEVICE (FAD) TRACKING AND FAD BUOY REGISTRATION**

**(As Amended September 2023)**

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**

#### ***Definitions***

In this Implementing Arrangement:

- a) *“Activate”* means enable satellite communication services for a FAD Buoy by the FAD Buoy Service Provider.
- b) *“Deactivate”* means stop or terminate satellite communications services for a FAD Buoy by the FAD Buoy Service Provider.
- c) *“FAD”* means Fish Aggregating Device.
- d) *“FAD Buoy Operator”* means the entity listed on the PNA FAD Buoy Register responsible for a FAD Buoy.
- e) *“FAD Buoy Service Provider”* means a business that provides FAD Buoys and associated services to FAD Buoy Operators related to FAD tracking.
- f) *“Party”* means a State party to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, 1982 and *“Parties”* means all such States.

- g) “*PNA*” means the Parties to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, 1982.
- h) “*Switch off*” means manually turn off a FAD Buoy to stop the FAD Buoy being able to send or receive satellite transmissions of position and any other available information.
- i) “*Switch on*” means manually turn on a FAD buoy to enable the FAD Buoy to send or receive satellite transmissions of position and any other available information.

## **ARTICLE II**

### ***PNA FAD Buoy Register***

1. The Parties agree to establish a PNA FAD Buoy Register, administered by the PNA Office Chief Executive Officer, as directed by the Parties.
2. Procedures for the operation of the PNA FAD Buoy Register are set out in Annex A.
3. Only FAD Buoys of a make and model approved by PNA in accordance with Annex B and from a FAD Buoy Service Provider approved by PNA in accordance with Annex B may be registered.

## **ARTICLE III**

### ***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 and Article I of A Third 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 requirements in applicable national laws, regulations, fishing agreements and/or licensing requirements for fishing on the common stocks of fish within the Fisheries Zones:

#### *Prohibitions*

1. There shall be no deployment of, or fishing on, FAD Buoys in the waters of a Party or in the high seas of the Western and Central Pacific Fisheries Commission (WCPFC) Convention Area east of 130 degrees East and between 20 degrees North and 20 degrees South, unless the FAD Buoy is registered, on the PNA FAD Buoy Register.
2. No FAD Buoy shall be in the waters<sup>1</sup> of any of the Parties unless the FAD Buoy is registered on the PNA FAD Buoy Register.

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<sup>1</sup> For this clause, ‘in the waters’ means physically in the water

### *FAD Buoy Registration*

3. FAD Buoy Operators shall ensure that all FAD Buoys are registered on the PNA FAD Buoy Register before they are deployed in the waters of a Party, or in the high seas of the WCPFC Convention Area east of 130 degrees East and between 20 degrees North and 20 degrees South.
4. FAD Buoy Operators remain legally responsible for FAD Buoys during a period for which they are listed as the Operator on the Register.

### *FAD Buoy Communications*

5. FAD Buoy Operators shall;
  - a) Ensure that all FAD Buoys are activated and are reporting normally, consistently and automatically and in near real time to the PNA Information Management System at least once in each 12 hour period when in the waters of the WCPFC Convention Area east of 130 degrees East and between 20 degrees North and 20 degrees South except that a FAD Buoy that has drifted onto a reef or beach and is stationary may be deactivated after one month.
  - b) Ensure that for each transmission sent to the FAD Buoy Operator, the following data will be sent to the PNA Fisheries Information Management System automatically in near real time:
    - i. FAD Buoy Unique Identification Number (Manufacturer's ID No.);
    - ii. Position fixes latitude and longitude;
    - iii. Date and time (expressed in Universal Time Constant [UTC]) of the fixing of the position.
  - c) Report to the PNA Fisheries Information Management System within 24 hours when:
    - i. A FAD Buoy has been switched off following retrieval from the water;
    - ii. A FAD Buoy has been deactivated; or
    - iii. A Communication with a FAD Buoy has been lost<sup>2</sup> for any other reasons;
    - iv. A FAD Buoy has been stationary near shore for 72 hours and is believed to have drifted onto the reef or beach or similar area.

### *Anchored FADs*

6. Paragraphs 1 to 5 above do not apply to FAD Buoys attached to anchored FADs in Archipelagic Waters or Territorial Seas.

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<sup>2</sup>Lost means any FAD Buoy failing to transmit for 72 hours.

## **ARTICLE IV**

### ***Review and Implementation***

#### *Review*

1. The Parties shall review the implementation of these measures at the annual meeting of the Parties.

#### *Implementation*

2. These measures shall be implemented in accordance with a programme adopted by the Parties.
3. The Parties may adopt appropriate additional procedures for the implementation of these measures.

## **ARTICLE V**

### ***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 all eight Parties to the Nauru Agreement.
3. This Arrangement shall be deposited with the Government of the Solomon Islands.
4. Reservations to this Arrangement shall not be permitted.

## **ARTICLE VI**

### ***Amendment and Withdrawal***

1. Any Party may withdraw from this Arrangement by giving written notice to the Depository. 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 VII**

***The Nauru Agreement***

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

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

DONE at ....., this.....day of November 2020

Federated States of Micronesia

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Republic of Kiribati

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Republic of the Marshall Islands

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Republic of Nauru

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Republic of Palau

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Papua New Guinea

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Solomon Islands

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Tuvalu

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**Annex A: Procedures for the Operation of the PNA FAD Buoy Register**

1. A FAD Buoy Operator is responsible for registering all FAD Buoys on the PNA FAD Buoy Register (hereinafter called the Register).
2. A FAD Buoy Operator shall be:
  - a) the registered owner of a purse seine vessel on the VDS Register; or
  - b) an entity authorised by the registered owner of a purse seine vessel on the VDS Register; or
  - c) any other entity approved by the Parties.
3. The FAD Buoy Operator shall provide the information required to register a FAD Buoy.
4. The registration of a FAD Buoy may be changed from one FAD Buoy Operator to another. The change of FAD Buoy Operator shall not take effect until the PNA has been notified by both.
5. The PNA Office Chief Executive Officer shall suspend<sup>3</sup> the registration of a FAD Buoy when:
  - a) A FAD Buoy, while activated, has not reported for 72 hours without acceptable advice; or
  - b) Information provided is not true, complete and correct; or
  - c) The FAD Buoy Operator interferes with the required reporting; or
  - d) There is a failure to meet any other reporting conditions (or any other stipulated requirements); or
  - e) There is a failure to make payments for registration; or
  - f) Requested by a Party or Parties, subject to due consultation with other Parties.
6. The PNA Office Chief Executive Officer may uplift the suspension of the registration of a FAD Buoy under paragraph 5 upon the completion of any required corrective action and, in the case of suspensions under paragraph 5.f)), with the agreement of the relevant Party or Parties.
7. A FAD Buoy for which the registration has been suspended by the PNAO CEO and not uplifted, shall not be transferred to another FAD Buoy Operator.
8. The PNA Office Chief Executive Officer may establish additional procedures for the Register, including setting fees for registration, in accordance with such guidance as the Parties, from time to time, might provide.

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<sup>3</sup>Suspension shall not remove the legal responsibility of the FAD Buoy Operator for the FAD Buoy

### **Annex B: Type Approval**

1. This Annex sets out minimum standards for FAD Buoy Service Providers and FAD Buoys.
2. The minimum standards may be revised over time to meet changing requirements for management of the purse seine fishery. Additional requirements may be applied by Parties for national management purposes.
3. Lists of approved FAD Buoy Service Providers and approved makes and models of FAD Buoys shall be posted on the PNA website.
4. The PNA Office Chief Executive Officer may suspend the approval of a FAD Buoy Service Provider or the approval of a make and model of a FAD Buoy if:
  - a) Information submitted for the Type Approval is no longer accurate;
  - b) The requirements below are not complied with.

#### **FAD Buoy Service Provider Requirements**

5. The FAD Buoy Service Provider must:
  - a) Provide a sample FAD Buoy and associated manuals for type approval;
  - b) Advise the PNA Office Chief Executive Officer (PNAO CEO) if there are changes in the specifications for any make and model or service that might affect the capability of the FAD Buoy in relation to the requirements set out in paragraphs 6 to 9 below;
  - c) Have proven ability to forward all required transmissions from the FAD Buoy in the required format;
  - d) Provide details of the Manufacturer's Unique Identification Numbering System of FAD Buoys identifying make, model and number sequence;
  - e) Undertake to forward a complete copy of all required data fields for each transmission for all type approved FAD buoys in the WCPFC waters east of 130 degrees East and between 20 degrees North and 20 degrees South to the PNA without geo fencing, at near real time with provision of the information to the FAD Buoy Operator, and comply with this undertaking.
  - f) Ensure that communications between the FAD Buoy Services Provider and the PNA are secure from interference, including from the FAD Buoy Operator.
  - g) Provide reports in the form determined by the PNAO CEO on:
    - i) Change of FAD Buoy Operator;
    - ii) Failure of FAD Buoy to transmit, when required, for 72 hours;
    - iii) Voluntary or involuntary deactivation or loss of satellite transmissions of a FAD Buoy (including reason for deactivation or loss);
    - iv) Any other information as required, including summary reports.

#### **FAD Buoy Requirements**

6. The Manufacturer's Unique Identification Number for the FAD Buoy must be visible.
7. The FAD Buoy must transmit automatically the following information:
  - a) FAD Buoy Unique Identification Number (Manufacturer's Identification No.);



- b) Position fixes latitude and longitude;
  - c) Date and time (expressed in Universal Time Constant [UTC]) of the fixing of the position.
8. Required data must be provided:
- a) at least once in each 24 hour period until 31 December 2022; and
  - b) at least once in each 12 hour period thereafter
9. Communications between the FAD Buoy and the FAD Buoy Service Provider must be secure from interference.