



FISHERIES ACT 2010

(Section 45)

FISH EXPORT REGULATIONS 2012

In exercise of the powers conferred by Section 45 the Fisheries Act 2010, the Beretitenti, acting in accordance with the advice of the Cabinet, hereby make the following Regulations.

PART 1

PRELIMINARY

1. Short Title

- (1) These Regulations may be cited as the Fish Export Regulations 2012 (“the Regulations”)
- (2) These Regulations are to establish the Kiribati Competent Authority under the Fisheries Act and to regulate and control the fish processing establishments and to make provisions for the verification of all seafood exports from Kiribati and for incidental matters connected therewith.

2. Commencement

- (1) These Regulations shall come into force on the date appointed by notice by the Minister.
- (2) Notice of these Regulations must be published for exhibition at the public office of Te Beretitenti.

3. Application

- (1) Subject to sub-regulation (2), these Regulations apply to fish or fish products intended for human consumption:
 - (a) that are intended for or undergoing processing within Kiribati;

- (b) that have been processed or are purported to have been processed in Kiribati;
- (c) that have been caught on Kiribati flagged vessels and discharged in a foreign port; and
- (d) are destined for export.

(2) ~~The following are exempt from these Regulations unless declared otherwise by the Minister by notice published for exhibition at the public office of Te Beretitenti:~~

- (a) fish or fish products intended for non-commercial export;
- (b) fish or fish products produced in Kiribati for sale within Kiribati; or
- (c) fish or fish products intended for consumption within Kiribati.

4. Interpretation

(1) In these Regulations, unless the context otherwise requires:

“Act” means the Fisheries Act 2010;

“agency” means the Kiribati Seafood Verification Agency established under this Regulation pursuant to section 45 of the Fisheries Act;

“approved” means approved by the Director of Fisheries;

“Authorised Officer” shall have the same meaning in the Act and shall include any officer within the Fisheries Division who is authorised or appointed for the purpose of these Regulations;

“brine” means a mixture of potable water or clean seawater and food grade salt;

“chilling” means the process of cooling fishery products to a temperature approaching that of melting ice;

“chiller” means a chamber or room used for reducing the temperature of fish;

“clean water” means clean seawater and fresh water of a similar quality;

“clean water” means natural, artificial or purified seawater or brackish water that does not

contain micro-organisms, harmful substances or toxic marine plankton in quantities capable of directly or indirectly affecting the health quality of food;

“container” means the principal covering in which fish are packed;

“contaminant” means any substance, organism or thing that is harmful or unsuitable, or potentially harmful or unsuitable for human consumption; and **“contaminated”** and **“contamination”** shall have a corresponding meaning;

“department” means the Fisheries Division of the Ministry;

“director” means the person holding the office of Director of Fisheries under the Act from time to time;

“export” means ship or airfreight from Kiribati to any other country;

“factory vessel” means any vessel on board which fishery product undergo one or more of the following operations, followed by wrapping or packaging (filleting, slicing, skinning, shelling, shucking, mincing or processing);

“Fish processing establishment” has the same meaning as in the Act and means land, vessel or other place in which fish are processed for sale in or outside Kiribati;

“fish product” has the same meaning as in the Act and means a product of fish processing;

“fisheries Officer (Verification)” refers to personnel employed by the Agency to complete tasks established under this Regulation and who is authorized or appointed for the purposes of these Regulations;

“fishery product” means all sea water or fresh water animals (except for live bivalve molluscs, live tunicates, and live marine gastropods, and all mammals, reptiles and frogs) whether wild or farmed and including all edible forms, and products of such animals;

“fish processing” means the processing of fish;

“freezer” means a room used for the purpose of reducing fish temperature to -18° C or lower;

“freezing of fish” means the continuous and quick process of reducing the thermal core temperature of fish or fishery products from an ambient temperature to -18° C or lower;

“freezer vessel” means any vessel on board which freezing of fishery products is carried out, where appropriate after preparatory work such as bleeding, heading, gutting and removal of fins and, where necessary, followed by wrapping or packaging;

“frozen products” means products which have undergone a freezing process to reach a core temperature of -18° C or lower after temperature stabilization;

“industry Agreed Standards” means the operational standards for fish processing establishments issued by the Director in writing to give operators an auditable standard to measure their processing activities against, based on the standards outlined in Schedules 1 and 2;

“Kiribati Seafood Verification Agency” (KSVA) means the Competent Authority of Kiribati established under Regulation 5 of these Regulations;

“label” means any wording, tag, brand, symbol, picture, or other descriptive matter written, printed, stencilled, marked, embossed, impressed on, appearing on, attached to, or enclosed within any fish or fish product;

“licensed” means licensed under these Regulations;

“Ministry” means the Ministry of Fisheries and Marine Resources Development;

“operator” means the:

- (a) owner or person in control of a fish processing, packing, handling, storing or transporting business; or
- (b) holder of a license of a fish processing establishment;

“overseas regulatory Agency” means any overseas government Agency or inter-governmental

organization responsible for regulating the standards, quality and important of fish and fish products;

“packaging” means the placing of one or more wrapped fishery products in a second container, and the latter container itself;

“potable water” means water that is fit and intended for human consumption and is complying with the standards laid down in Schedule 2 and 3;

“premises” includes any building, structure, conveyance or area intended or being used for fish processing, packing, handling or storing;

“Principal Fisheries Officer” refers to the person appointed to have overall charge and management of the Competent Authority and therefore act at all times as head of the Competent Authority, exercising all the powers delegated to him or her by the Director;

“processing” includes storing, packaging, filleting, slicing, skinning, mincing, dismembering, cleaning, chilling treating, freezing, drying, smoking, cooking, canning, packing of live fish or other preservation and further processing techniques; and “process” and “processed” shall have a corresponding meaning;

“Quality Management System” (QMS) means the document constituting the Quality System to be used to control the activities of personnel operating under the Competent Authority in the course of performing verification and certification services to industry. This document shall form part of this Regulation;

“refrigerated seawater” means clean seawater cooled by a suitable method;

“seafood” means edible saltwater fish or shellfish;

- (2) Terms and expressions that are not defined in these Regulations have the same meanings as in the Act.

PART II

KIRIBATI SEAFOOD VERIFICATION AGENCY

5. Establishment of the Kiribati Seafood Verification Agency.

- (1) The Kiribati Seafood Verification Agency is hereby established.
- (2) The Agency-
 - (a) is a government entity and established within the approved structure of the Ministry;
 - (b) must have a common seal;
 - (c) may acquire, hold and dispose of property
 - (d) assumes the normal indemnity as provided for all Government offices and officers; and
 - (e) adopts the National Conditions of Service, if it does not have its own, for all matters regarding employment and staffing;
- (3) All Courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Agency affixed to a document and shall presume that it was duly affixed.

6. Delegation of the Powers of Director to the Principal Fisheries Officer of the Agency.

- (1) The Director, may by writing under his hand, delegate to the Principal Fisheries Officer or any other officer any of the powers of functions conferred on or assigned to the Director under the Act. In the exercise of his powers the Officer delegated shall be subject to the directions of the Director.
- (2) For the purposes of establishing the Agency, all the powers contained in section 49 of the Act including any other powers related to the functions of the Agency which are contained in the Act, shall be delegated to the Principal Fisheries Officer or any other officer of the Ministry by the Director.
- (3) Subject to any general or special directions given by the Director, the Principal Fisheries Officer or any other officer may exercise those powers delegated in the same manner and with the effect

if they had been directly conferred on the Principal Fisheries officer or any other officer purporting to act under any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting within the terms of the delegation.

- (4) The Principal Fisheries Officer or any other officer purporting to act under any delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting within the terms of the delegation.
- (5) Any such delegation may at any time be revoked by the Director, in whole or in part, but that revocation shall not affect in any way anything done by the delegated officer.
- (6) No such delegation shall prevent the exercise by the Director himself of any of the powers and functions conferred on the Director by these Regulations.

7 Appointment of persons employed under the Agency as Authorised Officer

- (1) Pursuant to Part 8, section 23 of the Act, and of these Regulations, all persons employed, assigned or engaged to work as a Principal Fisheries Officer or authorised Fisheries Officer (Verification) in the Agency is hereby appointed as an authorised officer for that purpose.
- (2) As an authorised officer under the Act, all persons employed, assigned or engaged to work as a Fisheries Officer (Verification) in the Agency shall assume and exercise any of the powers stipulated in section 23 of the Act for the purpose of carrying out their lawful duties.

8 Object of the Agency

- (1) The objects of the Agency are to-
 - (a) conduct the verifying and certifying of the export of seafood,
 - (b) ensure the application of appropriate quality control measures and seafood production industry standards; and
 - (c) to ensure the facilitation of exports from Kiribati of all categories of seafood for human consumption.

- (2) On the basis of recommendation of the Agency and with the approval of the Director and on such terms and conditions as the Director thinks proper, the Agency may enter into and carry out arrangements, regarding those functions and those of the Agency, with other technical and other competent authorities and such other bodies as the Agency determined for the purposes of the Agency.

9 Functions of the Agency

The functions of the Agency are-

- (a) to verify the operation of licensed seafood processing establishments and any licensed fishing vessels where required;
- (b) to monitor, regulate and control all exports of seafood, fish and their parts and products including fresh, frozen and processed fish to ensure they are fit for purpose;
- (c) to make recommendations to the Minister with regard to licensing in accordance with the Act;
- (d) to certify exports of seafood products originating in Kiribati;
- (e) to certify product discharged from Kiribati-flagged vessels into foreign ports where required by overseas controlling authorities;
- (f) liaison with seafood establishment operators, other government agencies and importing country authorities with regard to seafood safety and market access requirements;
- (g) to provide official assurances to importing country authorities of the safety of seafood products for export;
- (h) to provide permits for fish being taken overseas for personal use;
- (i) to undertake all necessary actions to ensure that the export of seafood, fish and their parts and products are fit for purpose so as to provide quality assurance to meet the export requirements of importing countries;
- (j) to provide verification and inspection information and services to individuals, agencies and other organisations within the country and overseas in respect of seafood and fish product exports;
- (k) to levy fees and charges for any of the purposes of these Regulations and the Act;
- (l) to exercise all functions and powers and perform all duties which, under any other written law, are or may be or become vested in the Agency or are delegated to the Agency; and
- (m) to do such matters and things as may be incidental to or consequential upon the exercise

of its power of the discharge of its functions under these Regulations;

10 **Powers of the Agency.**

The Agency has, in addition to the powers otherwise conferred on it by the Act and any other laws full powers to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

PART III

AUTHORISED OFFICERS

11. **Powers of Authorised Officer**

- (1) For the purposes of enforcing these Regulations or any order or regulations made under it, an Authorised Officer may without any warrant and by identifying himself or herself enter any premises where fish and seafood are being processed, or where fish is being cut up, stored, sold, handled, held or in any way processed-
 - (a) inspect, examine, sample or perform any kind of test or examination on any fish, fish product, seafood or seafood product in any form;
 - (b) cut, remove, detain, seize, recall, or destroy any fish, fish product, seafood or seafood product not fit for human consumption or not suitable for export;
 - (c) indelibly or otherwise mark, brand, dye or label any fish, fish product, seafood or seafood product or package containing any fish, fish product, seafood or seafood product;
 - (d) make or impose any relevant order, instruction, conditions or penalty; or
 - (e) interrupt, suspend or prohibit actions or operations wherever fish is being cut-up, stored, sold or in any way processed;
- (2) Any fish or seafood product seized which is in the opinion of the Authorised Officer unfit for human consumption shall be destroyed.

12 **Enforcement**

The Principal Fisheries Officer or any other officer delegated by the Director is charged with the enforcement of these Regulations and any Notice, Instrument and Official Documents made thereunder.

PART IV

APPROVAL OF FISH PROCESSING ESTABLISHMENTS

13 **Fish processing establishments to be licensed-**

This Part shall apply to all premises required to be licensed under section 13 of the Act, or as otherwise required by these Regulations.

14 **Application for a license**

(1) Every application for a fish processing establishment license shall:

- (a) be made to the Director on an approved form get out in the First Schedule of these Regulations;
- (b) be accompanied by an adequate plan and description of the premises and process;
- (c) be accompanied by a prescribed license fee set by the Director; and
- (d) contain such further or other information in whatever form, including statutory declaration form, as the Director may, at any time, require.

(2) The Director shall consider an application made under sub-regulation (1) and shall make such enquiries and investigations as he thinks fit to ensure that:

- (a) the requirements of these Regulations have been or will be complied with;
- (b) the situation of the premises is appropriate having regard to all the circumstances, and has been constructed so as to comply with these Regulations;
- (c) the applicant is a fit and proper person;
- (d) the applicant has established that satisfactory provision has been made in respect of

- building materials, process flows drainage and sanitation, and the disposal of refuse, effluent and trade wastes;
- (e) the applicant has undertaken that the fish processing establishment complies with these Regulations and shall be operated accordingly; and
 - (f) a physical inspection of the premises is carried out.
- (3) The Director may require that an applicant is liable to pay the costs, any expense, or reimburse costs incurred in relation to the enquiries or investigations required under these Regulation.
- (4) The Director shall issue the license, if he or she is satisfied that the applicant for license has met the requirements of these Regulations.
- (5) Every license for a fish processing establishment being an annual license shall be on an approved form and shall, unless suspended or sooner cancelled or surrendered, continue in force from the date of issue until expiry.
- (6) Following the approval of a fish processing establishment, the Principal Fisheries Officer or any other officer delegated by the Director shall issue to the operating entity of a fish processing establishment a unique approval number or code for that fish processing establishment to be used by the Kiribati Seafood Verification Agency in health marking, exporting, distribution and certification thereafter, if so required.

15 **Renewal of licenses**

- (1) Every application for the renewal of a license to which these Regulations apply shall:
- (a) be made to the Director on an approved form;
 - (b) be accompanied by a prescribed license fee set by the Director; and
 - (c) be given to the Director no later than one (1) month prior to expiry in the year in which the license, if not renewed, would expire.
- (2) The Director shall consider an application made under sub-regulation (1) and shall make such enquiries and investigations as he or she thinks fit to ensure that:
- (a) the requirements of these Regulations have been or will be complied with; and

- (b) the applicant has undertaken that his or her fish processing establishment complies and will continue to comply with these Regulations.

16 Discretionary power of the Director in respect of licenses

- (1) The Director may at his or her discretion issue or renew any license for a fish processing establishment, or may decline to issue or renew any such license.
- (2) The Director may decline to issue or renew any license if he is of the opinion that:
 - (a) the applicant is not a fit and proper person to be the holder of the license;
 - (b) the business of the fish processing establishment has been carried on or is likely to be carried on in a manner contrary to the public interest or the provisions of these Regulations;
 - (c) the Operator has been convicted of an offence against these Regulations in respect of the same or any other fish processing establishment;
 - (d) the Operator has failed in respect of the same or any other fish processing establishment, to comply with any directions, standards or conditions imposed on him in accordance with these Regulations;
 - (e) the Operator is the subject of bankruptcy proceedings under the insolvency laws of any jurisdiction, and satisfactory financial assurance have not been provided;
 - (f) information required to be given or reported under this Regulation is false, incomplete, incorrect, misleading or not provided as and when required;
 - (g) the establishment in respect of which the license or authorization has been issued has been used in contravention of this Regulation or the Act; or
 - (h) payment has not been made and is overdue in relation to any fees, charges, royalties and other payment required under this Regulation, or for any penalty or fine in relation to a breach of this Regulation or Act;
- (3) The Director may issue the license or international authorization to fish on payment of an appropriate performance bond by the applicant; the prescribed fee will be set by the Director.

17 Classes of licenses

The Director may determine that licenses granted under this Part may be classified in

accordance with:

- (a) the location of the fish processing establishment;
- (b) the intended market;
- (c) the type of operations; or
- (d) any other matter or thing which the Director determines; and may determine that certain requirements or standard conditions shall apply to each class of license.

18. **Conditions of licenses**

- (1) Each license for a fish processing establishment shall be subject to the following conditions:
 - (a) that it shall at all times comply with the standards specified in the Schedules to these Regulations;
 - (b) that it shall comply with the approved standards issued by the Director;
 - (c) that it shall be used only for the purposes for which such license has been granted;
 - (d) the prior approval of the Director shall be sought before additions or alterations are made to the fish processing establishment's:
 - (i) structure;
 - (ii) freezing power; and
 - (iii) plant and equipment;
 - (e) any intended change in the use of the fish processing establishment other than for the purposes of its license shall not be made except with the prior approval of the Director;
 - (f) the license shall apply only in respect of the premises or purpose for which it was issued;
 - (g) the fish processing establishment may be inspected at any time by an authorised officer to ensure compliance with these Regulations;
 - (h) the license shall not be transferable; and
 - (i) any other condition imposed by the Minister from time to time.
- (2) A license for a fish processing establishment shall lapse if a fish processing establishment relocates its premises.

19. **Identification of premises**

The Operator shall place in a visible location with the fish processing establishment the license

for such fish processing establishment.

PART V

OBLIGATIONS OF OPERATORS

20 Duties of operators

- (1) Each operator shall, in relation to his or her fish processing establishment:
 - (a) comply with these Regulations and any conditions applying to the license;
 - (b) comply with the approved standards issued by the Director;
 - (c) comply with the standards applying to fish processing establishments stated in the Second Schedule of these Regulations;
 - (d) comply with the operational requirements applying to fish processing establishments stated in the Third Schedule of these Regulations;
 - (e) ensure that the operations of his or her fish processing establishment are suitably implemented and resourced to ensure that fish or fish products are fit for their intended purpose;
 - (f) keep records:
 - (i) to demonstrate compliance with the Schedules to these Regulations;
 - (ii) to enable authorised officers to trace the movement of fish or fish products from their source to consumers and vice-versa; and
 - (iii) of any other particulars as may be required from time to time by the Director;
 - (g) provide at all times reasonable access to an authorised officer to inspect the fish processing establishment and records and related documents in whatever form they may be kept;
 - (h) implement programmes required by the Director to ensure that:
 - (i) regular checks on compliance with the requirements are made;
 - (ii) results of the checks are properly recorded and available for inspection;
 - (iii) corrective action is taken within the required time if a check reveals non-compliance;
 - (i) furnish the Agency and any Authorised Officer with any assistance as may be required at

- any time for the purposes of carrying out the provisions of this Regulation; and/or
- (j) provide for the use of the Agency and any of its Authorised Officer all such accommodation, facilities for inspection, equipment, protective clothing and safety-wear and other reasonable needs for the purposes of carrying out the provisions of this Regulation;
- (2) The Minister may from time to time amend the Schedules of these Regulations by notice published in the Gazette.

PART VI

EXPORT OF SEAFOOD

21. Export of seafood

- (1) Subject to the provisions of subsection (2) of this section, no seafood shall be exported from Kiribati unless –
- (a) it is derived from an approved fish processing establishment or any alternative approved facility;
 - (b) it has been certified by an Authorised Officer of the Agency and has been passed by him or her as fit for the intended purpose;
 - (c) it has been properly preserved by freezing, chilling, salting, canning, drying, dehydrating, or other approved method;
 - (d) it is properly packed and is in good order and condition at the time when it is placed on board the ship or aircraft for export;
 - (e) any conditions imposed in respect of the entry of the fish and seafood into the country to which it is proposed to export it, or in respect of its sale for human consumption in that country, have, so far as they can be complied with in Kiribati, been complied with; and
 - (f) it has certification signed by an Authorised Officer confirming the product has met the requirements of these Regulations and is fit for the intended purpose.

- (2) Any fish or seafood which forms part of a traveller's personal luggage and is intended for personal use shall be exempted from the provisions of subsection (1) where the quantity of the fish or seafood transported does not exceed 10 kilograms per person, regardless of where that fish or seafood comes from.
- (3) The Minister may by Order exempt any person from the provisions of subsection (1) in respect of any fish or seafood being exported to specified countries with whom there exists access agreements or bilateral agreements between Competent Authorities allowing processing, storage or supply in or from non-approved fish processing establishments, subject to the conditions of such agreements.
- (4) The Minister may by Order increase or reduce the quantity of fish and/or seafood allowable under subsection (2) to be transported as part of a traveller's personal luggage and may impose such conditions in respect of the transportation of such fish as he considers necessary.

PART VII

CERTIFICATION

22. Certification

- (1) No person shall export or attempt to export any fish or fish products unless a certificate is issued in respect of that consignment by an authorised officer on an approved certificate form as shown in the Fourth Schedule to these Regulations.
- (2) No certificates may be issued under this regulation for fish or fish products intended for non-commercial export, unless the authorised officer has reasonable cause to suspect that the consignment is for a commercial purpose.
- (3) The certificates issued under this regulation shall:
 - (a) be issued and signed by an authorised officer;
 - (b) have the approved official stamp; and
 - (c) include additional information, where required from an overseas regulatory Agency of an importing country provided such information is consistent with these Regulations.

- (4) No certificate required under this regulation shall be issued:
 - (a) unless a prescribed fee, set by the Director, has been paid;
 - (b) unless the fish or fish products have been processed in a licensed fish processing establishment; or
 - (c) if the authorised officer has reasonable cause to suspect that the fish or fish products are not fit for their intended purpose.

- (5) A certificate issued under this section may be cancelled:
 - (a) if there has been a breach or attempted breach of its conditions; or
 - (b) if it was issued by mistake or in contravention of these Regulations.

- (6) In addition, where overseas controlling authorities require certification of product for health or traceability reasons this activity shall be overseen by the Agency in accordance with individual country requirements.

PART VIII

SETTING OF STANDARDS

23. Right to set standards

- (1) The Director reserves the right to set standards governing the standard and condition of processing in fish processing establishments.

24. Content of Standards

- (1) The Agency has the power under these Regulations to set standards and to issue such standards by way of public notice. Each set of standards issued shall form part of these Regulations and be subject to further operational detail in the form of Industry Agreed Standards.

- (2) The Director may issue additional standards that he or she feels are necessary to adequately control the production and export of seafood from Kiribati.

PART IX

COMPLAINTS, NOTICES & INVESTIGATIONS

25. Dissatisfaction with decision of authorised officer

- (1) Any person who is dissatisfied with any requirement, direction or decision given or made under these Regulations by an authorised officer may deliver notice in writing to the Director within twenty one (21) working days from the date of such requirement, direction or decision requesting the Director to reconsider the requirement, direction or decision. Such a complaint shall be on the approved form get out in the Fifth Schedule of these Regulations.
- (2) The Director may, direct an authorised officer to reconsider such requirement, direction or decision, subject to the requirements and standards established by these Regulations.

26. Precautionary notice

- (1) Where an authorised officer suspects that an activity, matter or thing is in contravention of these Regulations or is in breach of the conditions of a fish processing establishment license, he or she may issue a notice requiring the relevant operator to comply with any requirement specified in these Regulations.
- (2) This notice may require all or any of the following:
 - (a) that information be provided in relation to the activity, matter or thing to satisfy the Director that there is no breach of these Regulations or conditions of the license of a fish processing establishment;
 - (b) that alternative activities or operating techniques be considered and employed to avoid the breach of these Regulations or conditions of the license of a fish processing;
 - (c) that improvements or alterations be made in relation to the activity, matter or thing to the satisfaction of the Director, to avoid the breach of these Regulations or conditions of the license of a fish processing establishment; and
 - (d) any other requirement as determined by the Director, to ensure that the activity, matter or thing will not breach these Regulations or conditions of the license of a fish processing establishment.

- (3) Any person served with a notice under this regulation shall ensure that the requirements stated in the notice are complied with within the time stipulated, and shall satisfy the Director, prior to the expiration to that time, that the activity, matter or thing is not, or is no longer in contravention of these Regulations or conditions of the license of a fish processing establishment.

27. Notice to rectify or cease activity

- (1) A notice may be issued under this regulation whether or a not a precautionary notice has been served under regulation 26.
- (2) Where the Director is of the opinion that there is occurring, or may occur, an act which involves an immediate threat to health, access to markets or national interest arising out of fish or fish products, the Director may request that the Minister issues a notice under this Regulation.
- (3) A notice issued under this section shall:
 - (a) be directed to any person whom it is believed is carrying out the act, or apparently has control over it;
 - (b) specify the act and the nature of its effect to health, access to markets or national interest; and
 - (c) require that the act cease, or not to be done, until the Minister is satisfied that the threat or risk no longer exists.
- (4) A notice may be served under this regulation notwithstanding any approval, license or permit that has been granted in relation to the activity.
- (5) The Minister, Director and the Government shall not be liable in respect of any loss or damage arising from, or in any way connected with, the issuing of a notice under these Regulation.

28. Investigations

- (1) The Director shall have the Agency to conduct investigations into the operations of any fish processing establishment or in respect of any fish or fish products which are in breach or are suspected of being in breach of these Regulations.
- (2) Without affecting any prosecution, the Director may suspend or cancel any license issued under these Regulations if he or she finds that an operator has breached any of these Regulations or condition of license of fish processing establishment.

- (3) The Director may, in his or her discretion, in relation to this Regulation:
 - (a) suspend the license until the matter complained of has been rectified to the satisfaction of the Principal Fisheries Officer; or
 - (b) cancel the license.
- (4) Any person not satisfied with any decision of the Director under this Regulation may appeal such decision to the Magistrate's Court within three (3) months of the making of the Director's decision.

PART X

OFFENCES AND PENALTIES

29. Offences and penalties

- (1) Any operator who fails to comply with any of the duties, standards or obligations under sub-regulation 12 (1) commits an offence.
- (2) Every person commits an offence who:
 - (a) processes or sells fish for human consumption and intended for export in a place, other than an approved fish processing establishment or vessel;
 - (b) does any act or omits to do any act in contravention of or fails to comply with any provision of these Regulations or any condition placed on any license, certificate or approval granted under these Regulations;
 - (c) removes or allows or causes to be removed from any fish processing establishment any fish or fish products before the requirements of these Regulations have been satisfied;
 - (d) defaces, removes or tampers with any label affixed to any fish or fish products pursuant to these Regulations;
 - (e) places upon any fish or fish products any label except in accordance with these Regulations;
 - (f) except as authorised by these Regulations alters or obliterates, or causes to be altered or obliterated, any label used in accordance with these Regulations;
 - (g) hinders or obstructs, or induces or incites any other person to hinder or obstruct, an authorised officer from acting in accordance with these Regulations;
 - (h) by words or conduct falsely represents that he or she is an authorised officer, or who otherwise impersonates an authorised officer;

- (i) provides false or misleading information to an authorised officer when required under these Regulations; or
 - (j) fails or refuses to provide reasonable access to records and related documents required to be kept or provided under these Regulations to be inspected by authorised officers;
- (2) Any person having been served with a notice issued either pursuant to Regulations 15 or 16 who:
- (a) fails to comply with a requirement stated in the notice; or
 - (b) fails to satisfy the Director that an activity, matter or thing is not or is no longer in breach of these Regulations or condition of the license of a fish processing establishment;
 - (c) causes or permits any other person to act in breach of the requirements in the notice; or
 - (d) knowingly acts in breach of the requirements of the notice, whether or not that person has been served with the notice:
commits an offence.
- (3) Every person who commits an offence against these Regulations shall be liable upon conviction to a maximum fine of \$10,000 or to a maximum period of imprisonment of 6 months, or both.
- (4) Where a corporation is guilty of an offence under these Regulations, any officer, director or agent of the corporation who authorised, assented to or participated in, or by his or her neglect or omission contributed to the commission of the offence, is a party to and may be found guilty of the offence, and is liable to the penalty provided for the offence.

30. Compounding of Offences –

- (1) The Director upon consideration of the report sent to him or if he himself establishes the breach, failure, omission or contravention in respect of any offence referred to in section 29, may issue an offender with a compounding notice giving such offender the option of paying a fine or appearing before the Court for a trial.
- (2) The maximum fine to be levied by way of a compounding notice shall not exceed the maximum fines as shall be prescribed under subsection (1), but the Director must also keep in mind the economic circumstances of the offender.

Dated this ^{18th} day of April 2012

Anote Tong

Anote Tong
Beretitenti

Published by exhibition at Public Office of Te Beretitenti



.....

Teekoa Iuta

Secretary to the Cabinet

Dated this 18th day of April 2012

FIRST SCHEDULE

(Regulation 14)

**APPLICATION FOR FISH PROCESSING ESTABLISHMENT LICENCE
REPUBLIC OF KIRIBATI
FISH EXPORT REGULATIONS 2010**

I, hereby apply for a license to operate a Fish Processing Establishment at the place and in the manner described below;

NAME OF BUSINESS APPLYING FOR LICENCE:

OPERATOR OR LESSEE (IF LEASED) OF BUSINESS:

Name:
Postal Address:
Phone:
E-mail:

DETAILS OF APPLICATION:

Physical Location of Premises:

Name of Person with Day-to-Day Responsibility for Compliance with Standards (if not the operator above):

Markets company wishes to export to:

Seafood Product(s) to be processed (if further room required please attach on separate form)

<i>Species</i>	<i>Product Form e.g. whole, gilled and gutted etc.</i>	<i>Preservation Method e.g. frozen, chilled, dried</i>

Statement from Operator:

I hereby verify that I am a fit and proper person to act as an operator of an export fish premise as defined in the Fish Export Regulations Order No. of 2010.

I further confirm that I understand I am required to report any changes in the information contained in this form to the Director of Fisheries, within 7 days of the change.

Signed:

PRINT NAME:

Date:

CHECKLIST OF ATTACHMENTS TO APPLICATION:

- Building plan in accordance with requirements in Section 2.2.2 of IAS's
- Specification Details in accordance with requirements in Section 2.2.3 of IAS's
- HACCP Programme for products to be produced
- License fee of AU1,000
- Completed application form
- Where applicable details of vessels for EU registration in accordance with section 5.5



- Approval of Plans and Specifications
- Approval of HACCP programme
- Confirmation of Application and License Fee Payments
- Issuing of License

ALLOCATION OF RISK CATEGORY:

Low

Medium

High

MARKETS FOR WHICH APPROVAL GRANTED (circle the appropriate category):

General (excludes Europe)

General PLUS Europe

SECOND SCHEDULE
(Regulation 23)

STANDARDS APPLYING TO FISH PROCESSING ESTABLISHMENTS

1. Interpretation – In this Schedule, if not inconsistent with the Regulations:

“**Pest**” includes, without limitation, dogs, cats, birds, rodents, insects, and any other creatures that are likely to transfer contaminants to fish or fish product; but does not include animals used under direct supervision or control for the purpose of maintaining security.

“**Potable water**” means water that is fit for human consumption as prescribed in the current version of the WHO “International Standards for Drinking Water”.

“**Sanitary design**” means a design that is designed, constructed and located to minimise the risk of contamination in relation to any fish processing establishment, internal structure, equipment or conveyance.

“**Sound**” means in a state that will not contribute to the direct or indirect contamination, of fish or fish product.

2. Site and layout

- (1) The plant and equipment of any fish processing establishment shall be of sanitary design, of sound construction and in good repair.
- (2) A fish processing establishment shall be located in a place and designed and constructed in a way that:
 - (a) minimises the risk of contamination;
 - (b) provides adequate working space;
 - (c) permits adequate and easy cleaning;
 - (d) prevents entry and harbourage of pests and contaminants;
 - (e) provides adequate separation to minimise cross contamination;
 - (f) facilitates hygienic production;

- (g) separates receive and storage areas from final product preparation or packing;
 - (h) provides for liquid and solid waste to be disposed of hygienically;
 - (i) ensures adequate potable water supply;
 - (j) provides adequate and safe electrical supply;
 - (k) provides proper drainage and ensures that the removal of effluent does not contaminate the supply of potable water;
 - (l) minimises and manages exposure of product to hazards;
 - (m) provides adequate ventilation to prevent excessive build-up of heat steam and condensation;
 - (n) minimises the risk of contamination and product deterioration at loading docks for reception and dispatch of fish and fish products;
- (3) The floors of the fish processing establishment shall be constructed in a manner that prevents the pooling of water.
- (4) The windows that open are not permitted in areas of the fish processing establishment where processing occurs.
- (5) The windows, doors, hatches, vents and internal walls of the fish processing establishment shall be designed and constructed:
- (a) of smooth impervious materials; and
 - (b) to prevent the entry of pests.
- (6) The fish processing establishment, including but not limited to its floors, stairs, platforms, stands, type of building materials, cleaning and sanitising facilities, hand washing facilities, lighting intensity and fittings, ventilation and storage areas shall be designed and constructed in a manner approved by the Director.
- (7) The fish processing establishment's equipment, utensils and services shall be designed and constructed so as to prevent hygiene hazards and to permit easy and thorough cleaning and sanitising and, where necessary, be accessible for inspection.
- (8) The fish processing establishment's equipment for inedible products shall be controlled so as to avoid contaminating fish and fish products.
- (9) The fish processing establishment's refrigerated storage shall be:
- (a) designed and constructed in a manner approved by the Director; and
 - (b) capable of achieving the required product temperatures under conditions of maximum production.
- (10) The food handling areas of a fish processing establishment shall be designed and constructed in

a way to allow:

- (a) for efficient handling of fish and fish product;
- (b) the separation of operations to minimise contamination;
- (c) the separation of storage of raw material, final product and waste; and
- (d) the protection of raw material and final fish and fish products from the risk of any contamination and deterioration.

3. Amenities and living quarters

- (1) There shall be in a fish processing establishment sufficient and suitably located and maintained amenities such toilets, changing rooms, hand wash facilities and dining rooms for use by its staff.
- (2) The living areas of the staff shall be completely separate from food handling areas and not open onto them.

4. Water

- (1) Water to the fish processing establishment shall be sourced, inspected, tested and where necessary, treated so as to provide a potable water supply.
- (2) The reticulation system shall be designed, constructed and operated using approved means so as to minimise the risk of contamination of the potable water.

THIRD SCHEDULE

(Regulation 20)

OPERATIONAL REQUIREMENTS APPLYING TO FISH PROCESSING ESTABLISHMENTS

1. Interpretation

1. In this Schedule, if not inconsistent with the Regulations:

“**Clean seawater**” means seawater that is free of excess turbidity, colour, offensive odours and other contaminating substances, and which meets other approved requirements.

“**Container**” includes any box, bag, can, carton, crate, jar, wrapper, packaging material or any other thing used for packing fish or fish products but shall not include shipping containers.

“**Control point**” means any point, step or procedures at which biological, chemical or physical factors can be controlled.

“**Corrective Action**” means any action to be taken when the results of monitoring at the Critical Control Point indicate a loss of compliance with criteria established in a HACCP plan, support programme or any other approved programme.

“**Critical Control Point (CCP)**” means a step at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce it to an acceptable level.

“**Critical measurement**” means a parameter that is identified as critical in any standard or HACCP Plan.

“**Food safety**” means assurance that food will not cause harm to the consumer when it is prepared or eaten according to its intended use.

“**HACCP**” means Hazard Analysis Critical Control Point technique, a system that identifies, evaluates, and controls hazards that are significant for food safety.

“**HACCP Plan**” means a document prepared in accordance with the principles of HACCP as defined by Codex Alimentarius Commission to ensure control of hazards that are significant for food safety in the segment of the food chain under consideration.

“**Hazard**” means a biological, chemical or physical agent in, or condition of, food which has the potential to:

- (a) affect food safety; or
- (b) cause an adverse health effect.

“**Hazard Analysis**” means the process of collecting and evaluating information on hazards and conditions leading to their presence to determine food safety and matters to be addressed in the HACCP Plan.

“Ingredient” means any substance (including a food additive) used in the processing of fish that is included in or part of the final fish product.

“Monitor” means the act of conducting a planned sequence of observations or measurements of control parameters to assess whether a CCP or other control point, is under control.

“Packaging” means any material that comes into immediate contact with the product that it is intended to protect, encase, cover, enclose, contain or pack.

“Packing” means the placement of fish or fish products into a container.

“Pest” includes, without limitation, dogs, cats, birds, rodents, insects, and any other creatures that are likely to transfer contaminants to fish or fish product; but does not include animals used under direct supervision or control for the purpose of maintaining security.

“Potable water” means water that is fit for human consumption as prescribed in the current version of the WHO “International Standards for Drinking Water”.

“Product area” means an area where fish and fish products are processed.

“Shipping containers” means those containers used to store or otherwise contain raw materials or finished fish or fish products under conditions that will prevent deterioration.

“Support programme” means a documented system that underpins or supports a recognised HACCP plan or a recognised hazard identification and analysis process (for example a good manufacturing or good hygiene practice (GMP or GHP) programme or schedule relating to cleaning, staff training, document management or other matters); which is also known as a pre-requisite programme, standard operating procedure (SOP), or standard sanitary operating procedure (SSOP).

2. Health of employees

(1) No person shall work where fish or fish products are processed who –

(a) is infected with, or is a carrier of, an infectious disease in communicable form; or

- (b) is suffering from boils, sores, infected wounds or acute respiratory infection or gastroenteritis or any other condition likely to place fish or fish products at risk of contamination.
- (2) No person who is suffering from an open wound, or a bleeding or discharging injury or infection other than those listed in sub-regulation (1), shall work or be permitted to work in an area where fish or fish products are processed unless it was in accordance with approved conditions.
- (3) No person who is suspected by the operator of being infected or suffering as described in sub-regulation (1) above, shall work or be permitted to work where fish or fish product is processed unless he has been examined and certified by a registered medical practitioner as not being infected or as not suffering from any of the conditions referred to.

3. Personal Hygiene

- (1) All employees of and visitors to a fish processing establishment shall comply with the approved code of conduct and dress so that the risk of contamination is minimised.
- (2) Any person whose presence may impact on the fish or fish products must, in accordance with approved procedures and conditions:
 - (a) wear protective clothing;
 - (b) follow hygiene procedures; and
 - (c) behave in a manner that does not contaminate the fish or fish products.

4. Identification, labeling and record-keeping

- (1) The operator shall keep such records as will enable to the operator, Director or authorised officer to readily ascertain the nature, quantity, and source of any fish or fish products handled in the fish processing establishment.
- (2) The fish or fish products shall be labeled by the operator in an approved manner so that the label:
 - (a) clearly relates to the fish or fish products to which it applies; and
 - (b) contains information that accurately describes or differentiates the fish or fish products.
- (3) Records that are required to be kept by the Operator must be:
 - (a) complete;
 - (b) accurate;

- (c) of sufficient quality;
 - (d) appropriately stored and readily accessible;
 - (e) supplied as required to authorised officers or the Director;
 - (f) signed and dated by an approved person; and
 - (g) held by the operator for a period of 2 years from the date they were made.
- (4) The Operator shall not associate any fish or fish product with false or misleading representation in relation to its:
- (a) fitness for purpose;
 - (b) nature;
 - (c) origin;
 - (d) composition;
 - (e) ingredients; or
 - (f) proportion of ingredients.

5. Standards relating to reception of fish – No fish or fish products shall be received into the areas of a fish processing establishment where fish is processed:

- (a) if it is apparent or there are reasonable grounds to suspect that the fish or fish products are unfit for human consumption;
- (b) if, since the time of catching or harvesting, such fish or fish products have not been handled, held and transported in a manner that would prevent deterioration or contamination;
- (c) if the fish or fish product have not been labelled or identified in an approved manner, or
- (d) if the fish processing establishment does not have in place an approved programme to ensure that the requirements of this part of the Regulations are complied with.

6. Disposal of unfit fish and fish products

- (1) Fish or fish products found to be unfit for human consumption shall be disposed of in a manner that:
- (a) minimises the risk of contamination; and
 - (b) ensures that the unfit fish or fish product is rendered inedible or prevented from entering the market for human consumption.
- (2) Any person who sells or attempts to sell any fish or fish product for human consumption that is unfit or that was to be disposed pursuant to sub-regulation (1) commits an offence.

7. Standards Relating to Labeling

- (1) All containers of fish or fish products for human or animal consumption intended to be exported from Kiribati shall be labelled in an approved manner.
- (2) All containers of fish or fish products transferred to, or between fish processing establishments or from fishing vessels to fish processing establishments, shall be labelled in an approved manner.

8. Standards relating to storage and transportation

- (1) Fish and fish products shall be maintained under approved temperature regimes while being transported or stored.
- (2) No fish or fish products shall be transported with any other thing that may contaminate them unless they are packed in an approved manner.
- (3) Fish or fish products intended for use as bait or animal food shall be stored in the same place with fish or fish product that is intended for human consumption only if the risk of contamination is minimised.
- (4) Fish and fish products shall be transported in conveyances or shipping containers constructed and maintained to an approved standard so as to minimise the risk of contamination, deterioration, or decomposition of the fish or fish products.
- (5) Where required, all refrigerated transport units used for transporting fish shall be equipped with approved monitoring and recording devices.

9. Sampling and testing

- (1) Sampling and testing, where required by the Director or an overseas regulatory Agency shall be carried out in an approved manner using approved methodologies.

10. Packaging

Containers shall be designed, made and stored in an approved manner to:

- (a) maintain the status of the fish or fish products as fit for intended purpose; and
- (b) minimise the contamination of the fish or fish products.

11. Managing the risk of contamination

The Operator shall take all steps necessary and in accordance with conditions and manners approved by the Director and any support programme to ensure the following are complied with:

- (a) All risks of contamination are managed;
- (b) The fish processing establishment and its equipment are kept in good repair, tidy and clean;
- (c) All product areas are maintained and operated so that:
 - (i) water from condensation;
 - (ii) water used to clean floors, walls or equipment,
 - (iii) excess water used during processing; or
 - (iv) non-potable water;does not drip or splash so as to cause contamination;
- (d) While processing is in progress, containers, maintenance and cleaning equipment, clothing and effects shall not be present in product areas unless necessary for the purpose of meeting requirements;
- (e) The movement of equipment used in non-product areas into product areas shall be controlled in an approved manner so that the risk of contamination is minimised;
- (f) Excess material and waste are:
 - (i) disposed of as soon as reasonably practicable and in a manner which minimises their risk of contamination; and not
 - (ii) not allowed to accumulate in the fish processing establishment;
- (g) Approved maintenance compounds are used during the operation or maintenance of the fish processing establishment and such compounds may be used only in an approved manner;
- (h) When not in use, maintenance compounds are stored in areas only for that purpose so that the risk of contamination is minimised;
- (i) The fish processing establishment is kept in good condition so as to discourage pests;
- (j) There should be in place a programme to prevent the infestation of pest to ensure the safe use of maintenance compounds used for pest control;
- (k) No pets or animals are allowed on the fish premises but this does not apply to animals used under the direct supervision or control for the purpose of maintaining security but

- no such animal shall be allowed in any product area while processing is in progress;
- (l) There is in place a cleaning and sanitation programme for product areas, equipment, storage areas and support areas so that contamination is minimised;
 - (m) Any necessary or notified alterations, repairs or other maintenance activities are performed:
 - (i) without unnecessary delay or within such time period as may be specified by an authorised officer,
 - (ii) in a manner which minimises the risk of contamination, and
 - (iii) with all product areas being thoroughly cleaned upon completion of such activities;
 - (n) There is in place a programme to ensure that the potable water and, where applicable, clean seawater, are of the standard required by these Regulations;
 - (o) Non-potable water is:
 - (i) used in fish processing establishments only for purposes approved by the Director;
 - (ii) not connected to any pipe conveying potable water other than temporarily for fire fighting purposes, in which case an authorised person shall be notified as soon as possible;
 - (p) Ice that may contact fish and fish products directly, or indirectly, is made from potable water or clean seawater;
 - (q) All fish and fish products are processed in accordance with processes approved by the Director and in accordance with any conditions attached to that approval;
 - (r) All fish and fish products produced for export shall be produced in accordance with an approved and documented HACCP Plan confirmed by an authorised officer and subject to annual review. Where a HACCP plan changes, the fish processing establishment shall adopt these changes and operate in accordance with the amended HACCP Plan;
 - (s) All steps in any process, including packing, shall be performed without unnecessary delay and under conditions (including time and temperature) that minimise the possibility of contamination or deterioration of fish or fish products;
 - (t) There is in place a support programme that provides for education and instruction of product handlers in correct product handling, personal hygiene and sanitary practices;
 - (u) There is in place a support programme that provides for the Operator to notify the Director where –
 - (i) any fish or fish products have been rejected by an overseas regulatory Agency

- after the fish or fish products have left the premises;
- (ii) an overseas regulatory Agency has notified the Operator that any fish or fish products that have left the country do not comply with the requirements of any law in Kiribati or overseas,
- (v) There is in place a support programme that provides for the Operator to:
- (i) investigate cases referred to in the preceding paragraph and later notify the Director of the results of such investigation, and
 - (ii) take steps in the event that such fish or fish products are found to be contaminated or otherwise unfit for human consumption;
- (w) The operator's employees are competent to an approved level and, if required, have the necessary qualifications;
- (x) Any measuring equipment used to carry out critical measurement shall be calibrated and function correctly;
- (y) Only additives and ingredients approved by the Kiribati Competent Agency are used in the processing of fish and fish products;
- (z) All additives and ingredients are stored, handled and transported in a manner to minimise the risk of contamination or deterioration;
- (aa) All containers shall be –
- (i) of a suitable design and manufacture so that the containers do not contaminate any fish or fish product and protects fish or fish product from contamination;
 - (ii) stored prior to use in a manner that protects them from damage and contamination;
 - (iii) at the time of use, clean and undamaged; and
 - (iv) treated in a manner that minimises contamination if they are to be reused.

FOURTH SCHEDULE

(Regulation 24)

~~ADD FISHERIES DEPT LOGO~~

Fisheries Department

~~ADD ADDRESS~~

KIRIBATI

Tel: 23119/23621

Fax: 23641

Government of Kiribati

**MINISTRY OF AGRICULTURE,
QUARANTINE, FISHERIES AND FORESTRY**

**SERIAL
NUMBER**

KIRIBATI COMPETENT AGENCY

Date: _____ Export License No.: _____

Country of Origin: _____

**Consignor
(Name and
Address):**

**Port of
Shipment:**

Vessel/Carrier:

**Consignee
(Name and
Address):**

Common/Scientific Name	Product Description	No. of Fish	Quantity (kg)	F.O.B. Value (\$)

Export Declaration:

The product(s) described above was/were caught or harvested, handled and processed at all times in accordance with the Fisheries Act and other applicable legislation.

Signature of Consignee: _____

KVA Use Only:

The Ministry of Agriculture, Quarantine, Fisheries and Forestry as Competent Agency:

The products described in this form have been audited in accordance with the requirements of the Fisheries Act, and at time of audit, the product(s) is/are: certified as fit for use and approved for export.

FIFTH SCHEDULE

(Regulation 25)

COMPLAINT OR APPEAL FORM

FULL NAME OF COMPLAINANT:.....

COMPANY OR LICENCE NO.:.....

DATE OF COMPLAINT OR APPEAL:.....

DESCRIPTION OF COMPLAINT OR APPEAL:

--

ACTIONS TAKEN TO DATE OVER COMPLAINT OR APPEAL:

--

REASONS FOR COMPLAINT OR APPEAL:

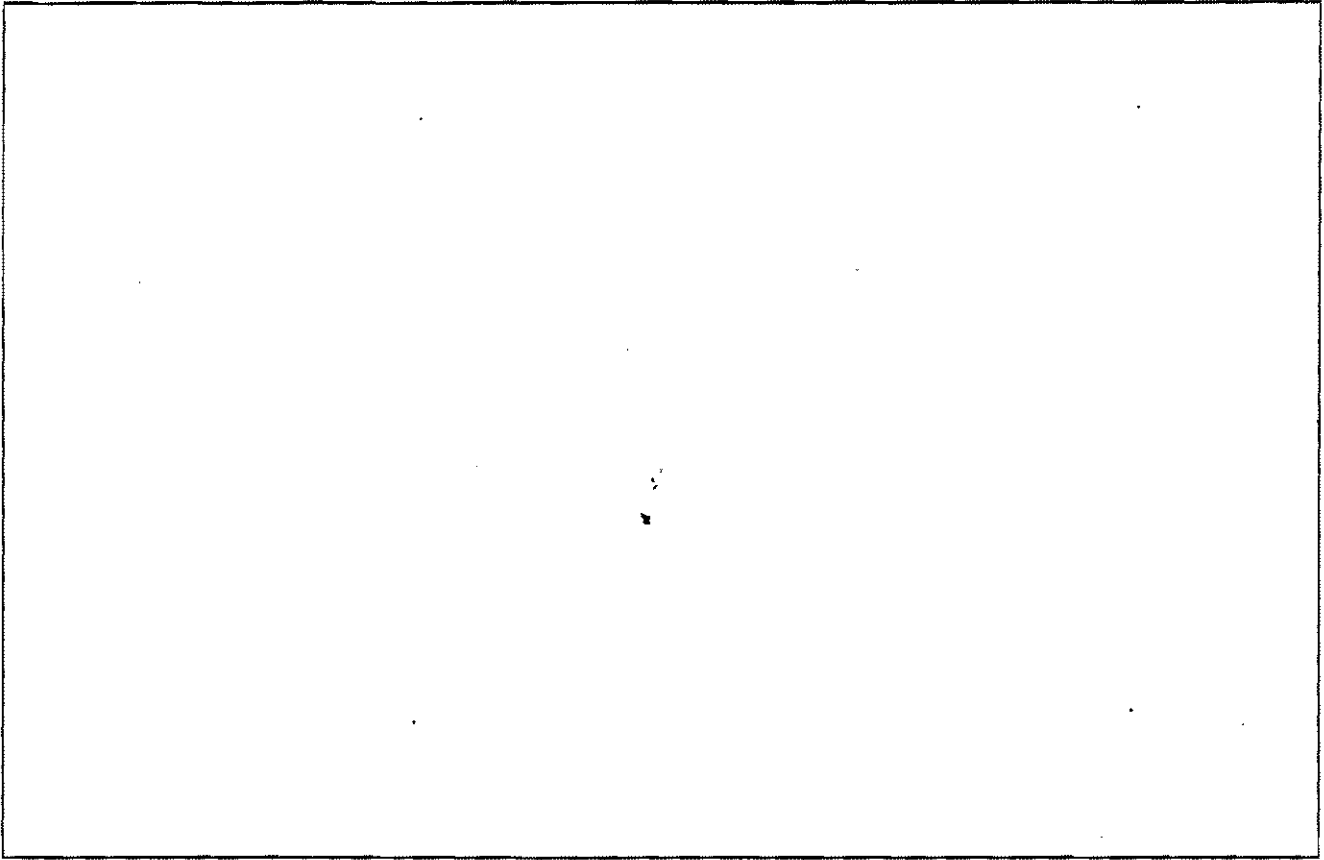
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SUPPORTING INFORMATION OR DOCUMENTATION SUPPLIED:

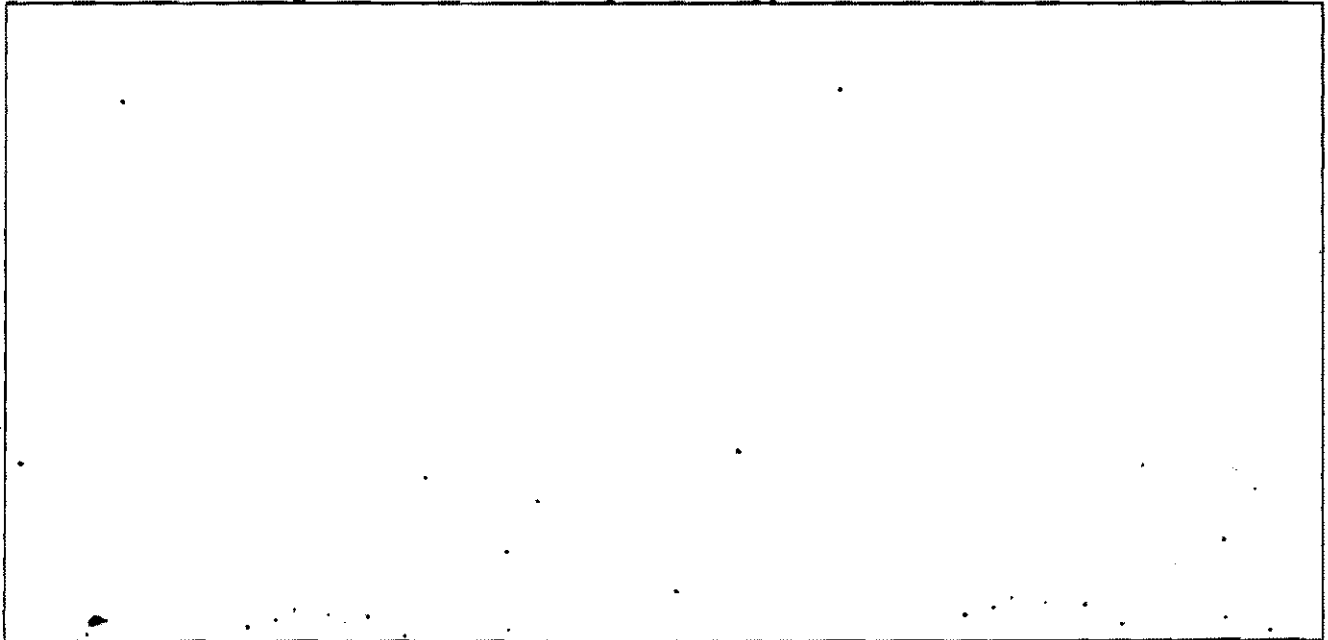
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FOR KVA USE ONLY:

1. Actions taken to resolve complaint or appeal:



2. Agreed Outcome to Complaint or Appeal:



Signed:

Signed:

Complainant Name:

KVA Representative:

Date:

Date: