



Queensland

# **Torres Strait Fisheries Act 1984**

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## Queensland

# Torres Strait Fisheries Act 1984

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# Torres Strait Fisheries Act 1984

**An Act to promote the good order, management, development and welfare of the fishing industry, to provide for the protection, conservation and management of the fisheries resources and to implement the provisions of the Torres Strait Treaty in the Torres Strait area and for related purposes**

## Part 1 Preliminary

### 1 Short title

This Act may be cited as the *Torres Strait Fisheries Act 1984*.

### 2 Commencement

- (1) Section 1 and this section shall commence on the day this Act is assented to for and on behalf of Her Majesty.
- (2) Except as prescribed in subsection (1), the provisions of this Act shall commence on the date on which the *Torres Strait Fisheries Act 1984* (Cwlth) comes into operation.

### 4 Application of Act

- (1) The provisions of this Act apply, to the extent prescribed in this section, only in the following areas—
  - (a) in connection with activities within the Protected Zone;
  - (b) within an area adjacent to the Protected Zone in relation to which there is in force at any time a proclamation under section 15(1) or (2) of the Commonwealth Act in connection with activities specified in the proclamation.

- (2) The areas of application are in this Act collectively referred to as the *Torres Strait area*.

## 5 Fisheries Act 1994 does not apply

The *Fisheries Act 1994* does not apply to the taking (as defined in that Act) of fish for purposes of a fishery within the Torres Strait area managed in accordance with Commonwealth law under an arrangement under Part 3.

## 6 Interpretation

- (1) In this Act—

*commercial fishing* means fishing for commercial purposes, but does not include traditional fishing.

*Commonwealth Act* means the *Torres Strait Fisheries Act 1984* (Cwlth).

*community fishing* means commercial fishing carried on by—

- (a) a person who is, or 2 or more persons each of whom is—
- (i) both a traditional inhabitant and an Australian citizen; and
  - (ii) not, in the course of that fishing, under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of another person who is not both an Australian citizen and a traditional inhabitant; or
- (b) a person or persons of the description prescribed by paragraph (a) and another person or other persons in the service of—
- (i) the first mentioned person or persons; or
  - (ii) the State, the Commonwealth, or an authority of the State or the Commonwealth, to provide the first

mentioned person or persons with training or advice in relation to fishing techniques.

***inspector*** means an inspector under the *Fisheries Act 1994*.

***Protected Zone*** means the area the boundaries of which are described in Annex 9 of the Torres Strait Treaty, and includes—

- (a) for anything done for the purposes of commercial fishing—any area that is—
  - (i) adjacent to the first mentioned area; and
  - (ii) to the north of the line described in Annex 5 to the Torres Strait Treaty; and
  - (iii) under the laws of Papua New Guinea, declared to be an area that is outside but near the Protected Zone for the purposes of commercial fishing; and
- (b) for anything done for the purposes of traditional fishing—any other area that is—
  - (i) adjacent to the first mentioned area; and
  - (ii) to the north of the line described in Annex 5 to the Torres Strait Treaty; and
  - (iii) under the laws of Papua New Guinea, declared to be an area that is in the vicinity of the Protected Zone for the purposes of traditional fishing.

***Torres Strait Treaty*** means the Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the 2 countries, including the area known as the Torres Strait, and related matters that was signed at Sydney on 18 December 1978, being the treaty a copy of which is set out in the Schedule.

***traditional fishing*** has the same meaning as in the Torres Strait Treaty, but does not include fishing by a method, or with the use of equipment or a vessel, of a kind specified in a notice in force under section 3(2) of the Commonwealth Act.

*traditional inhabitants* has, subject to subsection (2), the same meaning as in the Torres Strait Treaty.

- (2) For the purposes of this Act—
  - (a) the reference in the definition *traditional inhabitants* in Article 1 of the Torres Strait Treaty to the adjacent coastal area of Australia shall be read as a reference to any areas adjacent to the Protected Zone and to the south of the line described in Annex 5 to the Torres Strait Treaty that is declared pursuant to section 3(3) of the Commonwealth Act to be part of the adjacent coastal area of Australia; and
  - (b) the reference in that definition in that Article to the adjacent coastal area of Papua New Guinea shall be read as a reference to any area adjacent to the Protected Zone and to the north of the line description in Annex 5 to the Torres Strait Treaty that is declared pursuant to section 3(3) of the Commonwealth Act to be part of the adjacent coastal area of Papua New Guinea.
- (3) For the purposes of this Act, the Protected Zone coastal waters of Queensland are—
  - (a) the parts of the territorial sea of Australia that are adjacent to Queensland and are—
    - (i) in the Protected Zone; or
    - (ii) in an area in respect of which a proclamation is in force under section 15(1) or (2) of the Commonwealth Act;other than any part referred to in subsection (4); and
  - (b) any marine or tidal waters that are on the landward side of any part of the territorial sea of Australia referred to in paragraph (a) but are not within the limits of Queensland.
- (4) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, the Protected Zone coastal waters of Queensland do not include, for the purposes of this Act, any part of the territorial sea of



Australia that would not be within the limits of that territorial sea if that territorial sea had continued to be 3 nautical miles.

## Part 2 Administration

### 7 Objectives to be pursued

In the administration of this Act, the Minister shall have regard to the rights and obligations conferred on Australia by the Torres Strait Treaty and in particular to the traditional way of life and livelihood of traditional inhabitants, including their rights in relation to traditional fishing.

### 8 Endorsements of licences

Where a person holds a licence which bears a current endorsement pursuant to the provisions of section 20 of the Commonwealth Act the person shall, for the purposes of this Act and the *Fisheries Act 1994* be deemed to hold a licence of a similar kind under the law of the State.

## Part 3 Commonwealth–State management of fisheries

### 10 Definitions

(1) In this Part—

**arrangement** means an arrangement made by the State with the Commonwealth under this Part.

**Australian boat** has the same meaning as in the Commonwealth Act.

*boat* has the same meaning as in the Commonwealth Act.

*Commonwealth Minister* means the Minister for the time being administering the Commonwealth Act and any other Minister exercising powers and performing functions pursuant to section 29 of the Commonwealth Act.

*fishery* has the meaning given by section 10A.

*foreign boat* has the same meaning as in the Commonwealth Act.

*Protected Zone Joint Authority* or the *Joint Authority* in relation to the State has the same meaning as in the Commonwealth Act.

*Protected Zone Joint Authority fishery* means a fishery in respect of which there is in force an arrangement by which the fishery is to be under the management of the Protected Zone Joint Authority.

*waters adjacent to Queensland* has the same meaning as in the Commonwealth Act.

## 10A Meaning of *fishery*

*Fishery* includes activities by way of fishing—

- (a) identified in an arrangement under this Part as a fishery to which the arrangement applies; and
- (b) specified by reference to all or any of the following—
  - (i) a species or type of fish;
  - (ii) a description of fish by reference to sex or another characteristic;
  - (iii) an area of waters or seabed;
  - (iv) a way of fishing;
  - (v) a type of boat;
  - (vi) a class of person;
  - (vii) the purpose of an activity.

## **11 Powers and functions of Minister**

- (1) The Minister may exercise any power and perform any function conferred on the Minister by Part 5 of the Commonwealth Act, including any power or function of the Minister as a member of the Joint Authority.
- (2) Where, in the exercise of the power conferred on the Minister by Part 5 of the Commonwealth Act, the Minister appoints a deputy, the deputy may exercise the powers and perform the functions conferred by that Act on the deputy of a member of a Joint Authority other than the Commonwealth Minister.

## **12 Judicial notice**

All courts and persons acting judicially shall take judicial notice of the signature of a person who is or has been a member of the Joint Authority or a deputy of a member of the Joint Authority and of the fact that the person is, or was at a particular time, such a member or deputy.

## **13 Functions of Joint Authority**

The Joint Authority has such functions in relation to a fishery in respect of which an arrangement is in force as are conferred on it by the law in accordance with which, pursuant to the arrangement, the fishery is to be managed.

## **14 Delegation**

- (1) The Joint Authority may delegate its powers to—
  - (a) the chief executive, a local government or an entity prescribed under a regulation (a *prescribed entity*); or
  - (b) an officer or employee of the public service; or
  - (c) an officer, employee or member of a local government or prescribed entity; or
  - (d) an officer or employee of the Commonwealth.

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- (2) A delegation of a power to the chief executive, a local government, a prescribed entity, or an officer or employee of the Commonwealth, may permit the subdelegation of the power.
- (3) In this section—  
*entity* includes an entity established under the law of the Commonwealth.

## **15 Procedure of Joint Authority**

- (1) The provisions of section 40(1) to (8) of the Commonwealth Act apply to and in relation to the performance by a Joint Authority of its functions under this Act.
- (2) A written record of a decision of a Joint Authority, if signed by the Commonwealth Minister, or the Commonwealth Minister's deputy, who took part in or made the decision is evidence that the decision, as recorded, was duly made.
- (3) In proceedings in any court, an instrument or other document signed on behalf of the Joint Authority by a member of the Joint Authority shall be deemed to have been duly executed by the Joint Authority and, unless the contrary is proved, shall be deemed to be in accordance with a decision of the Joint Authority.

## **16 Report of Joint Authority**

The Minister shall cause a copy of a report of the Joint Authority prepared under section 41 of the Commonwealth Act to be laid before the Legislative Assembly as soon as is practicable after preparation of the report.

## **17 Arrangement for management of certain fisheries**

- (1) The State may, in accordance with section 32 of the Commonwealth Act, make an arrangement referred to in section 31 of that Act for the management of a particular fishery.

- (2) An arrangement may be terminated as provided by the Commonwealth Act.
- (3) After an arrangement has been made but before the arrangement takes effect, licences, endorsements and other instruments may be issued, renewed, made or executed, and regulations may be made, for the purposes of the operation of this Act as affected by the arrangement, as if the arrangement has taken effect, but such a licence, endorsement, instrument or regulation does not have effect before the arrangement takes effect.
- (4) Upon the termination of an arrangement, licences, endorsements and other instruments issued, renewed, made or executed, and regulations made for the purposes of the operation of this Act as affected by the arrangement cease to have effect.
- (5) After action for the purpose of the termination of an arrangement has been taken, but before the termination takes effect, licences, endorsements and other instruments may be issued, renewed, made or executed, and regulations may be made, for the purposes of the operation of this Act and the *Fisheries Act 1994* as affected by the termination of the arrangement, as if the arrangement had been terminated, but such a licence, endorsement, instrument or regulation does not have effect before the termination of the arrangement takes effect.

## **18 Application of this Act to fisheries in accordance with arrangements**

Where there is in force an arrangement under this Part that provides that a particular fishery is to be managed in accordance with the law of Queensland, then in waters that are beyond the outer limits of the Protected Zone coastal waters of Queensland, the *Fisheries Act 1994* does not apply to such a fishery—

- (a) in a case where the fishery is to be managed by the Protected Zone Joint Authority—in relation to foreign

boats, operations on and from foreign boats and matters that occurred before the arrangement took effect; or

- (b) in a case where the fishery is to be managed by Queensland—in relation to boats (other than Australian boats), operations on and from boats of that kind and matters that occurred before the arrangement took effect.

## **19 Further functions of Joint Authority**

Where, in respect of a fishery, there is in force an arrangement under which the Joint Authority has the management of the fishery and the fishery is to be managed in accordance with the law of the State, the Joint Authority has the functions of keeping constantly under consideration the condition of the fishery, formulating policies and plans for the good management of the fishery and, for the purposes of the management of the fishery, exercising the powers conferred on it by this Act and cooperating and consulting with other authorities in matters of common concern.

## **20 Joint Authority to exercise certain powers instead of Minister etc.**

- (1) Save as provided in this section, an authority issued, amended, endorsed or renewed under the *Fisheries Act 1994* otherwise than by virtue of this section does not authorise the doing of any act or thing in or in relation to a Protected Zone Joint Authority fishery.
- (2) In respect of a Protected Zone Joint Authority fishery that is to be managed in accordance with the law of the State, the powers conferred on the Minister or any other person by or under the *Fisheries Act 1994* (including powers with respect to the issue, renewal, cancellation and suspension of authorities) are exercisable by the Joint Authority instead of the Minister or such other person and are so exercisable as if references in the relevant provisions to the Minister, and to

any person authorised to exercise a power, were references to the Joint Authority.

- (3) An authority issued by the Joint Authority shall be so limited that it applies only in relation to a Joint Authority fishery, or Joint Authority fisheries.
- (4) The Joint Authority may, by endorsement on the authority concerned, designate an authority issued under the *Fisheries Act 1994* (including an authority issued by the Joint Authority) to extend the operation of the authority to matters to which the licensing powers of the Joint Authority under this Act are applicable and where such a designation is made—
  - (a) the designation ceases to have effect if the authority ceases to have effect; and
  - (b) the Joint Authority may suspend or cancel the designation as if it were an authority issued by the Joint Authority.
- (5) Subject to the Governor in Council exercising a power conferred on the Governor in Council by section 22(1)(b) or (c) in respect thereof, where, at a time a fishery becomes a Joint Authority fishery, a regulation or other instrument made or issued under the *Fisheries Act 1994*, would, apart from this subsection, apply to the fishery, the regulation or other instrument ceases to apply to the fishery.
- (6) This section does not empower the Joint Authority to issue, or to take other action in respect of, a authority in respect of a foreign boat or to designate such a authority pursuant to subsection (4).

## **21 Presumption relating to certain statements**

A statement in an arrangement to the effect that specified waters are waters adjacent to the State shall, for the purposes of this Act, be conclusively presumed to be correct.

## **22 Regulations and notices**

- (1) Where the Joint Authority is to manage a fishery in accordance with the law of the State, the Governor in Council may, for the purpose of giving effect to a decision of the Joint Authority—
  - (a) make regulations for the management of the fishery; or
  - (b) make a regulation applying to the fishery a regulation made otherwise than pursuant to this section; or
  - (c) amend a regulation made otherwise than pursuant to this section so that it is expressed to apply to the fishery, whether or not it also applies to any other fishery.
- (2) The power conferred by an enactment other than subsection (1) on the Governor in Council to make a regulation in respect of any fishery does not extend to making a regulation in respect of a fishery managed or to be managed by the Joint Authority or to amend a regulation so that it applies to such a fishery.
- (3) Where a regulation affecting a fishery that is to be managed by the Joint Authority is expressed to be made pursuant to this section, it shall be conclusively presumed that it was made for the purpose of giving effect to a decision of the Joint Authority.

## **Part 4 Miscellaneous**

### **23 Authority to State officials to enforce Commonwealth law**

Where pursuant to an arrangement made under Part 3 a Joint Authority fishery in waters adjacent to Queensland is to be managed in accordance with the law of the Commonwealth, the chief executive and every inspector is hereby authorised to discharge and exercise, in respect of the fishery to which the arrangement relates, the functions, duties and powers which are conferred on them by the Commonwealth Act.



**24 Regulation making power**

The Governor in Council may make regulations under this Act, including a regulation to implement the provisions of the Torres Strait Treaty in the Torres Strait area.

## **Schedule                      Torres Strait Treaty**

section 6 of the Act

### **Treaty between Australia and the Independent State of Papua New Guinea concerning sovereignty and maritime boundaries in the area between the two countries, including the area known as Torres Strait, and related matters**

AUSTRALIA and PAPUA NEW GUINEA,

DESIRING to set down their agreed position as to their respective sovereignty over certain islands, to establish maritime boundaries and to provide for certain other related matters, in the area between the two countries including the area known as Torres Strait;

RECOGNISING the importance of protecting the traditional way of life and livelihood of Australians who are Torres Strait Islanders and of Papua New Guineans who live in the coastal area of Papua New Guinea in and adjacent to the Torres Strait;

RECOGNISING ALSO the importance of protecting the marine environment and ensuring freedom of navigation and overflight for each other's vessels and aircraft in the Torres Strait area;

DESIRING ALSO to cooperate with one another in that area in the conservation, management and sharing of fisheries resources and in regulating the exploration and exploitation of seabed mineral resources;

As good neighbours and in a spirit of cooperation, friendship and goodwill;

HAVE AGREED as follows:—

## **Part 1                      Definitions**

### **Article 1                      Definitions**

1 In this Treaty—

- (a) “adjacent coastal area” means, in relation to Australia, the coastal area of the Australian mainland, and the Australian islands, near the Protected Zone; and, in relation to Papua New Guinea, the coastal area of the Papua New Guinea mainland, and the Papua New Guinea islands, near the Protected Zone;
- (b) “fisheries jurisdiction” means sovereign rights for the purpose of exploring and exploiting, conserving and managing fisheries resources other than sedentary species;
- (c) “fisheries resources” means all living natural resources of the sea and seabed, including all swimming and sedentary species;
- (d) “free movement” means movement by the traditional inhabitants for or in the course of traditional activities;
- (e) “indigenous fauna and flora” includes migratory fauna;
- (f) “mile” means an international nautical mile being 1,852 metres in length;
- (g) “Protected Zone” means the zone established under Article 10;
- (h) “Protected Zone commercial fisheries” means the fisheries resources of present or potential commercial significance within the Protected Zone and, where a stock of such resources belongs substantially to the Protected Zone but extends into an area outside but near it, the part of that stock found in that area within such limits as are agreed from time to time by the responsible authorities of the Parties;

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- (i) “seabed jurisdiction” means sovereign rights over the continental shelf in accordance with international law, and includes jurisdiction over low-tide elevations, and the right to exercise such jurisdiction in respect of those elevations, in accordance with international law;
- (j) “sedentary species” means living organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil;
- (k) “traditional activities” means activities performed by the traditional inhabitants in accordance with local tradition, and includes, when so performed—
  - (i) activities on land, including gardening, collection of food and hunting;
  - (ii) activities on water, including traditional fishing;
  - (iii) religious and secular ceremonies or gatherings for social purposes, for example, marriage celebrations and settlement of disputes; and
  - (iv) barter and market trade.

In the application of this definition, except in relation to activities of a commercial nature, “traditional” shall be interpreted liberally and in the light of prevailing custom;

- (l) “traditional fishing” means the taking, by traditional inhabitants for their own or their dependants’ consumption or for use in the course of other traditional activities, of the living natural resources of the sea, seabed, estuaries and coastal tidal areas, including dugong and turtle;
- (m) “traditional inhabitants” means, in relation to Australia, persons who—
  - (i) are Torres Strait Islanders who live in the Protected Zone or the adjacent coastal area of Australia,
  - (ii) are citizens of Australia, and

- (iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities; and

in relation to Papua New Guinea, persons who—

- (i) live in the Protected Zone or the adjacent coastal area of Papua New Guinea,
  - (ii) are citizens of Papua New Guinea, and
  - (iii) maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone in relation to their subsistence or livelihood or social, cultural or religious activities.
- 2 Where for the purposes of this Treaty it is necessary to determine the position on the surface of the Earth of a point, line or area, that position shall be determined by reference to the Australian Geodetic Datum, that is to say, by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6,378,160 metres and a flattening of  $\frac{100}{29825}$  and by reference to the position of the Johnston Geodetic Station in the Northern Territory of Australia. That station shall be taken to be situated at Latitude 25°56'54.5515" South and at Longitude 133°12'30.0771" East and to have a ground level of 571.2 metres above the spheroid referred to above.
- 3 In this Treaty, the expression “in and in the vicinity of the Protected Zone” describes an area the outer limits of which might vary according to the context in which the expression is used.



- (d) any island, rock or low-tide elevation that may lie within its territorial sea.

## Article 3                      Territorial Seas

- 1 The territorial sea boundaries between the islands of Aubusi, Boigu and Moimi and Papua New Guinea and the islands of Dauan, Kaumag and Saibai and Papua New Guinea shall be the lines described in Annex 1 to this Treaty, which are shown on the map annexed to this Treaty as Annex 2, together with such other portion of the outer limit of the territorial sea of Saibai described in Annex 3 to this Treaty that may abut the territorial sea of Papua New Guinea.
- 2 The territorial seas of the islands specified in sub-paragraph 1(a) of Article 2 of this Treaty shall not extend beyond three miles from the baselines from which the breadth of the territorial sea around each island is measured. Those territorial seas shall not be enlarged or reduced, even if there were to be any change in the configuration of a coastline or a different result from any further survey.
- 3 The provisions of paragraph 2 of this Article shall not apply to that part of the territorial sea of Pearce Cay which lies south of the line referred to in paragraph 1 of Article 4 of this Treaty.
- 4 The outer limits of the territorial seas of the islands specified in sub-paragraph 1(a) of Article 2 of this Treaty, except in respect of that part of the territorial sea of Pearce Cay which lies south of the line referred to in paragraph 1 of Article 4 of this Treaty, shall be as described in Annex 3 to this Treaty. The limits so described are shown on the maps annexed to this Treaty as Annexes 2 and 4.
- 5 Australia shall not extend its territorial sea northwards across the line referred to in paragraph 1 of Article 4 of this Treaty.
- 6 Papua New Guinea shall not—
  - (a) extend its territorial sea off its southern coastline between the meridians of Longitude 142°03'30" East and of Longitude 142°51'00" East, beyond three miles

from the baselines from which the breadth of the territorial sea is measured;

- (b) extend its territorial sea of archipelagic waters into the area bounded by that portion of the line referred to in paragraph 2 of Article 4 of this Treaty running from the point of Latitude 9°45'24" South, Longitude 142°03'30" East to the point of Latitude 9°40'30" South, Longitude 142°51'00" East and that portion of the line referred to in paragraph 1 of Article 4 of this Treaty which runs between those two points;
- (c) establish an archipelagic baseline running in or through the area referred to in sub-paragraph (b) of this paragraph; or
- (d) extend its territorial sea southwards across the line referred to in paragraph 1 of Article 4 of this Treaty.

## **Article 4                      Maritime Jurisdiction**

- 1 Subject to the provisions of Article 2 of this Treaty, the boundary between the area of seabed and subsoil that is adjacent to and appertains to Australia and the area of seabed and subsoil that is adjacent to and appertains to Papua New Guinea, and over which Australia and Papua New Guinea respectively shall have seabed jurisdiction, shall be the line described in Annex 5 to this Treaty. The line so described is shown on the map annexed to this Treaty as Annex 6 and, in part, on the map annexed to this Treaty as Annex 7.
- 2 Subject to the provisions of Article 2 of this Treaty, the boundary between the area of sea that is adjacent to and appertains to Australia and the area of sea that is adjacent to and appertains to Papua New Guinea, and in which Australia and Papua New Guinea respectively shall have fisheries jurisdiction, shall be the line described in Annex 8 to this Treaty. The line so described is shown on the map annexed to this Treaty as Annex 6 and, in part, on the maps annexed to this Treaty as Annexes 2 and 7.



- 3 In relation to the area bounded by the portion of the line referred to in paragraph 2 of this Article running from the point of Latitude 9°45'24" South, Longitude 142°03'30" East to the point of Latitude 9°40'30" South, Longitude 142°51'00" East and that portion of the line referred to in paragraph 1 of this Article which runs between those two points, exclusive of the territorial seas of the islands of Aubusi, Boigu, Dauan, Kaumag, Moimi, Saibai and Turnagain—
- (a) neither Party shall exercise residual jurisdiction without the concurrence of the other Party; and
  - (b) the Parties shall consult with a view to reaching agreement on the most effective method of application of measures involving the exercise of residual jurisdiction.
- 4 In paragraph 3 of this Article, “residual jurisdiction” means—
- (a) jurisdiction over the area other than seabed jurisdiction or fisheries jurisdiction, including jurisdiction other than seabed jurisdiction or fisheries jurisdiction insofar as it relates to *inter alia*:
    - (i) the preservation of the marine environment;
    - (ii) marine scientific research; and
    - (iii) the production of energy from the water, currents and winds; and
  - (b) seabed and fisheries jurisdiction to the extent that the exercise of such jurisdiction is not directly related to the exploration or exploitation of resources or to the prohibition of, or refusal to authorise, activities subject to that jurisdiction.

## **Part 3                      Sovereignty and jurisdiction-related matters**

### **Article 5                      Existing Petroleum Permit**

- 1 Where prior to 16 September 1975 Australia has granted an exploration permit for petroleum under Australian law in respect of a part of the seabed over which it ceases by virtue of this Treaty to exercise sovereign rights, and a permittee retains rights in respect of that permit immediately prior to the entry into force of this Treaty, Papua New Guinea, upon application by that permittee, shall offer to that permittee a petroleum prospecting licence or licences under Papua New Guinea law in respect of the same part of the seabed on terms that are not less favourable than those provided under Papua New Guinea law to any other holder of a seabed petroleum prospecting licence.
- 2 An application for a licence under paragraph 1 of this Article shall be made—
  - (a) in respect of a part of the seabed lying outside the Protected Zone, within six months after the date of entry into force of this Treaty;
  - (b) in respect of a part of the seabed lying within the Protected Zone, during the period referred to in Article 15 and any extension of that period to which the Parties may agree.

### **Article 6                      Exploitation of Certain Seabed Deposits**

If any single accumulation of liquid hydrocarbons or natural gas, or if any other mineral deposit beneath the seabed, extends across any line defining the limits of seabed jurisdiction of the Parties, and if the part of such accumulation or deposit that is situated on one side of such a line is

recoverable in fluid form wholly or in part from the other side, the Parties shall consult with a view to reaching agreement on the manner in which the accumulation or deposit may be most effectively exploited and on the equitable sharing of the benefits from such exploitation.

## **Article 7                      Freedoms of Navigation and Overflight**

- 1 On and over the waters of the Protected Zone that lie—
  - (a) north of the line referred to in paragraph 1 of Article 4 of this Treaty and seaward of the low water lines of the land territory of either Party, and
  - (b) south of that line and beyond the outer limits of the territorial sea,

each Party shall accord to the vessels and aircraft of the other Party, subject to paragraphs 2 and 3 of this Article, the freedoms of navigation and overflight associated with the operation of vessels and aircraft on or over the high seas.

- 2 Each Party shall take all necessary measures to ensure that, in the exercise of the freedoms of navigation and overflight accorded to its vessels and aircraft under paragraph 1 of this Article—
  - (a) those vessels observe generally accepted international regulations, procedures and practices for safety at sea and for the prevention, reduction and control of pollution from ships;
  - (b) those civil aircraft observe the Rules of the Air established by the International Civil Aviation Organization as they apply to civil aircraft, and State aircraft normally comply with such of those rules as relate to safety and at all times operate with due regard for the safety of navigation;
  - (c) those vessels and aircraft north of the line referred to in paragraph 1 of Article 4 of this Treaty do not engage in

- the embarking or disembarking of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the other Party, provided that the relevant laws and regulations of that Party do not have the practical effect of denying, hampering or impairing the freedoms of navigation and overflight accorded under paragraph 1 of this Article; and
- (d) those vessels and aircraft, north of the line referred to in paragraph 1 of Article 4 of this Treaty, do not act in a manner prejudicial to the peace, good order or security of the other Party.
- 3 Vessels of a Party engaged in the exploration or exploitation of resources in an area of jurisdiction of the other Party shall remain subject to the laws and regulations of the other Party made in the exercise of its resources jurisdiction consistently with this Treaty and with international law, including the provisions of those laws and regulations concerning the boarding, inspection and apprehension of vessels.
- 4 In those areas of the Protected Zone north of the line referred to in paragraph 1 of Article 4 of this Treaty to which paragraph 1 of this Article does not apply, civil aircraft of a Party engaged in scheduled or non-scheduled air services shall have the right of overflight, and the right to make stops for non-traffic purposes, without the need to obtain prior permission from the other Party, subject to compliance with any applicable laws or regulations made for the safety of air navigation.
- 5 In areas of the Protected Zone to which paragraph 1 of this Article does not apply, the vessels of a Party shall enjoy the right of innocent passage. There shall be no suspension of that right, and neither Party shall adopt laws or regulations applying to those areas that might impede or hamper the normal passage of vessels between two points both of which are in the territory of one Party.
- 6 In cases where the provisions of neither paragraph 1 nor paragraph 5 of this Article apply, a regime of passage over routes used for international navigation in the area between

the two countries, including the area known as Torres Strait, shall apply in respect of vessels that is no more restrictive of passage than the regime of transit passage through straits used for international navigation described in Articles 34 to 44 inclusive of Document A/Conf. 62/WP.10 of the Third United Nations Conference on the Law of the Sea, provided that, before a Party adopts a law or regulation that might impede or hamper the passage over those routes of vessels proceeding to or from the territory of the other Party, it shall consult with the other Party. If the provisions of those Articles are revised, are not included in any Law of the Sea Convention or fail to become generally accepted principles of international law, the Parties shall consult with a view to agreeing upon another regime of passage that is in accordance with international practice to replace the regime of passage applying under this paragraph.

- 7 The rights of navigation and overflight provided for in this Article are in addition to, and not in derogation of, rights of navigation and overflight in the area concerned under other treaties or general principles of international law.

## **Article 8                      Navigational Aids**

With a view to maintaining and improving the safety of navigation through the waters in the area between the two countries, the Parties shall cooperate and, with due regard to the technical and other means available to each of them, shall, where appropriate and as may be agreed between them, provide mutual assistance in the provision and maintenance of navigational aids and in the preparation of charts and maps.

## **Article 9                      Wrecks**

- 1 Wrecks of vessels and aircraft which lie on, in or under the seabed in an area of seabed jurisdiction of a Party shall be subject to the jurisdiction of that Party.

- 2 If a wreck of historical or special significance to a Party is located or found in an area between the two countries under the jurisdiction of the other Party, the Parties shall consult with a view to reaching agreement on the action, if any, to be taken with respect to that wreck.
- 3 The provisions of this Article shall be without prejudice to the competence of the courts of a Party, for the purposes of the laws of that Party, in relation to maritime causes of action in respect of wrecks coming within the provisions of this Article.
- 4 This Article shall not apply to any military vessel or aircraft of either Party wrecked after the date of entry into force of this Treaty.

## **Part 4                      The Protected Zone**

### **Article 10                      Establishment and Purposes of the Protected Zone**

- 1 A Protected Zone in the Torres Strait is hereby established comprising all the land, sea, airspace, seabed and subsoil within the area bounded by the line described in Annex 9 to this Treaty. The line so described is shown on the maps annexed to this Treaty as Annexes 6 and 7 and, in part, on the map annexed to this Treaty as Annex 2.
- 2 The Parties shall adopt and apply measures in relation to the Protected Zone in accordance with the provisions of this Treaty.
- 3 The principal purpose of the Parties in establishing the Protected Zone, and in determining its northern, southern, eastern and western boundaries, is to acknowledge and protect the traditional way of life and livelihood of the traditional inhabitants including their traditional fishing and free movement.

- 4 A further purpose of the Parties in establishing the Protected Zone is to protect and preserve the marine environment and indigenous fauna and flora in and in the vicinity of the Protected Zone.

## **Article 11                      Free Movement and Traditional Activities Including Traditional Fishing**

- 1 Subject to the other provisions of this Treaty, each Party shall continue to permit free movement and the performance of lawful traditional activities in and in the vicinity of the Protected Zone by the traditional inhabitants of the other Party.
- 2 Paragraph 1 of this Article shall not be interpreted as sanctioning the expansion of traditional fishing by the traditional inhabitants of one Party into areas outside the Protected Zone under the jurisdiction of the other Party not traditionally fished by them prior to the date of entry into force of this Treaty.
- 3 The provisions of this Article and the other provisions of this Treaty concerning traditional fishing are subject to Article 14 and paragraph 2 of Article 20 of this Treaty.

## **Article 12                      Traditional Customary Rights**

Where the traditional inhabitants of one Party enjoy traditional customary rights of access to and usage of areas of land, seabed, seas, estuaries and coastal tidal areas that are in or in the vicinity of the Protected Zone and that are under the jurisdiction of the other Party, and those rights are acknowledged by the traditional inhabitants living in or in proximity to those areas to be in accordance with local tradition, the other Party shall permit the continued exercise of those rights on conditions not less favourable than those applying to like rights of its own traditional inhabitants.

## **Article 13                      Protection of the Marine Environment**

- 1 Each Party shall take legislative and other measures necessary to protect and preserve the marine environment in and in the vicinity of the Protected Zone. In formulating those measures each Party shall take into account internationally agreed rules, standards and recommended practices which have been adopted by diplomatic conferences or by relevant international organisations.
- 2 The measures that each Party shall take in accordance with paragraph 1 of this Article shall include measures for the prevention and control of pollution or other damage to the marine environment from all sources and activities under its jurisdiction or control and shall include, in particular, measures to minimise to the fullest practicable extent—
  - (a) the release of toxic, harmful or noxious substances from land-based sources, from rivers, from or through the atmosphere, or by dumping at sea;
  - (b) pollution or other damage from vessels; and
  - (c) pollution or other damage from installations and devices used in the exploration and exploitation of the natural resources of the seabed and subsoil thereof.
- 3 The measures taken by each Party in accordance with paragraph 1 of this Article shall be consistent with its obligations under international law, including obligations not to prejudice the rights of foreign ships and aircraft, and shall be subject to the provisions of Article 7 of this Treaty.
- 4 The Parties shall consult, at the request of either, for the purpose of—
  - (a) harmonising their policies with respect to the measures that each shall take pursuant to this Article; and
  - (b) ensuring the effective and coordinated implementation of those measures.



- 5 If either Party has reasonable grounds for believing that any planned activity under its jurisdiction or control may cause pollution or other damage to the marine environment in or in the vicinity of the Protected Zone, that Party shall, after due investigation, communicate to the other Party its assessment of the potential impact of that activity on the marine environment.
- 6 If either Party has reasonable grounds for believing that any existing or planned activity under the jurisdiction or control of the other Party is causing or may cause pollution or other damage to the marine environment in or in the vicinity of the Protected Zone, it may request consultations with the other Party, and the Parties shall then consult as soon as possible with a view to adopting measures to prevent or control any pollution or other damage to that environment from that activity.

## **Article 14                      Protection of Fauna and Flora**

- 1 Each Party shall, in and in the vicinity of the Protected Zone, use its best endeavours to—
  - (a) identify and protect species of indigenous fauna and flora that are or may become threatened with extinction;
  - (b) prevent the introduction of species of fauna and flora that may be harmful to indigenous fauna and flora; and
  - (c) control noxious species of fauna and flora.
- 2 Notwithstanding any other provision of this Treaty except paragraph 4 of this Article, a Party may implement within its area of jurisdiction measures to protect species of indigenous fauna and flora which are or may become threatened with extinction or which either Party has an obligation to protect under international law.
- 3 The Parties shall as appropriate and necessary exchange information concerning species of indigenous fauna and flora that are or may become threatened with extinction and shall consult, at the request of either of them, for the purpose of—

- (a) harmonising their policies with respect to the measures that each may take to give effect to paragraphs 1 and 2 of this Article; and
  - (b) ensuring the effective and coordinated implementation of those measures.
- 4 In giving effect to the provisions of this Article, each Party shall use its best endeavours to minimise any restrictive effects on the traditional activities of the traditional inhabitants.

## **Article 15                      Prohibition of Mining and Drilling of the Seabed**

Neither Party shall undertake or permit within the Protected Zone mining or drilling of the seabed or the subsoil thereof for the purpose of exploration for or exploitation of liquid hydrocarbons, natural gas or other mineral resources during a period of ten years from the date of entry into force of this Treaty. The Parties may agree to extend that period.

## **Article 16                      Immigration, Customs, Quarantine and Health**

- 1 Except as otherwise provided in this Treaty, each Party shall apply immigration, customs, quarantine and health procedures in such a way as not to prevent or hinder free movement or the performance of traditional activities in and in the vicinity of the Protected Zone by the traditional inhabitants of the other Party.
- 2 Each Party, in administering its laws and policies relating to the entry and departure of persons and the importation and exportation of goods into and from areas under its jurisdiction in and in the vicinity of the Protected Zone, shall act in a spirit of mutual friendship and good neighbourliness, bearing in mind relevant principles of international law and established

international practices and the importance of discouraging the occurrence, under the guise of free movement or performance of traditional activities, of illegal entry, evasion of justice and practices prejudicial to effective immigration, customs, health and quarantine protection and control.

- 3 Notwithstanding the provisions of paragraph 1 of this Article—
- (a) traditional inhabitants of one Party who wish to enter the other country, except for temporary stay for the performance of traditional activities, shall be subject to the same immigration, customs, health and quarantine requirements and procedures as citizens of that Party who are not traditional inhabitants;
  - (b) each Party reserves its right to limit free movement to the extent necessary to control abuses involving illegal entry or evasion of justice; and
  - (c) each Party reserves its right to apply such immigration, customs, health and quarantine measures, temporary or otherwise, as it considers necessary to meet problems which may arise. In particular each Party may apply measures to limit or prevent free movement, or the carriage of goods, plants or animals in the course thereof, in the case of an outbreak or spread of an epidemic, epizootic or epiphytotic in or in the vicinity of the Protected Zone.

## **Article 17                      Implementation and Coordination**

In order to facilitate the implementation of the provisions of this Treaty relating to the Protected Zone, the authorities of each Party shall, at the request of the authorities of the other Party, as may be appropriate and necessary—

- (a) make available to the authorities of the other Party information on the relevant provisions of its laws, regulations and procedures relating to immigration, citizenship, customs, health, quarantine, fisheries, the protection of the environment and other matters; and

- (b) consult with the authorities of the other Party with a view to making appropriate administrative or other arrangements to resolve any problems arising in the implementation of those provisions.

## **Article 18                      Liaison Arrangements**

- 1 Each party shall designate a representative who shall facilitate the implementation at the local level of the provisions of this Treaty.
- 2 The two designated representatives shall—
  - (a) exchange information on relevant developments in and in the vicinity of the Protected Zone;
  - (b) consult together and take such action as is appropriate to their respective functions to facilitate the practical operation at the local level of the provisions of this Treaty and to resolve any problems arising therefrom;
  - (c) keep under review free movement by the traditional inhabitants of one Party into areas under the jurisdiction of the other Party and the local arrangements applying in respect of such free movement; and
  - (d) draw to the attention of their Governments, and make recommendations as appropriate on, any matters affecting the implementation of the provisions of this Treaty or arising therefrom which are not capable of resolution at the local level or which may otherwise require consideration by both Parties.
- 3 In the exercise of his functions, each representative shall—
  - (a) consult closely with representatives of the traditional inhabitants of his country, particularly in relation to any problems which may arise in respect of free movement, traditional activities and the exercise of traditional customary rights as provided for in this Treaty, and convey their views to his Government; and

- (b) maintain close liaison with national, State, Provincial and local authorities of his country on all matters falling within their respective responsibilities.
- 4 Unless a different location is required by the circumstances, the representative of Australia shall be based at Thursday Island and the representative of Papua New Guinea shall be based at Daru.

## **Article 19                      Torres Strait Joint Advisory Council**

- 1 The Parties shall jointly establish and maintain an advisory and consultative body which shall be known as the Torres Strait Joint Advisory Council (called in this Article “the Advisory Council”).
- 2 The functions of the Advisory Council shall be—
  - (a) to seek solutions to problems arising at the local level and not resolved pursuant to Article 18 of this Treaty;
  - (b) to consider and to make recommendations to the Parties on any developments or proposals which might affect the protection of the traditional way of life and livelihood of the traditional inhabitants, their free movement, performance of traditional activities and exercise of traditional customary rights as provided for in this Treaty; and
  - (c) to review from time to time as necessary, and to report and to make recommendations to the Parties on, any matters relevant to the effective implementation of this Treaty including the provisions relating to the protection and preservation of the marine environment, and fauna and flora, in and in the vicinity of the Protected Zone.
- 3 The Advisory Council shall not have or assume responsibilities for management or administration. These responsibilities shall, within the respective areas of jurisdiction of each Party, continue to lie with the relevant national, State, Provincial and local authorities.

Schedule

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- 4 In the exercise of its functions, the Advisory Council shall ensure that the traditional inhabitants are consulted, that they are given full and timely opportunity to comment on matters of concern to them and that their views are conveyed to the Parties in any reports and recommendations made by the Advisory Council to the Parties.
- 5 The Advisory Council shall transmit its reports and recommendations to the Foreign Ministers of the Parties. After consideration by appropriate authorities of the Parties, consultations may be arranged with a view to the resolution of matters to which the Advisory Council has invited attention.
- 6 Unless otherwise agreed by the Parties, the Advisory Council shall consist of eighteen members, that is nine members from each Party who shall include—
  - (a) at least two national representatives;
  - (b) at least one member representing the Government of Queensland in the case of Australia and one representing the Fly River Provincial Government in the case of Papua New Guinea; and
  - (c) at least three members representing the traditional inhabitants,with each Party being free to decide from time to time from which of the aforementioned categories any other of its members will be drawn.
- 7 The Advisory Council shall meet when necessary at the request of either Party. Consecutive meetings of the Advisory Council shall be chaired alternately by a representative of Australia and a representative of Papua New Guinea. Meetings shall be held alternately in Australia and Papua New Guinea or as may from time to time be otherwise arranged.

## **Part 5                      Protected Zone commercial fisheries**

### **Article 20                      Priority of Traditional Fishing and Application of Measures to Traditional Fishing**

- 1 The provisions of this Part shall be administered so as not to prejudice the achievement of the purposes of Part 4 of this Treaty in regard to traditional fishing.
- 2 A Party may adopt a conservation measure consistent with the provisions of this Part which, if necessary for the conservation of a species, may be applied to traditional fishing, provided that that Party shall use its best endeavours to minimise any restrictive effects of that measure on traditional fishing.

### **Article 21                      Conservation, Management and Optimum Utilisation**

The Parties shall cooperate in the conservation management and optimum utilisation of Protected Zone commercial fisheries. To this end, the Parties shall consult at the request of either and shall enter into arrangements for the effective implementation of the provisions of this Part.

### **Article 22                      Conservation and Management of Individual Fisheries**

- 1 The Parties shall, where appropriate, negotiate subsidiary conservation and management arrangements in respect of any individual Protected Zone commercial fishery.
- 2 If either Party notifies the other in writing that it regards one of the Protected Zone commercial fisheries as one to which

common conservation and management arrangements should apply, the Parties shall within ninety days from the date of the notification enter into consultations with a view to concluding arrangements specifying the measures to be applied by them with respect to that fishery.

- 3 The Parties shall, where appropriate, also negotiate supplementary conservation and management arrangements in respect of resources directly related to a fishery referred to in paragraph 1 of this Article, including resources involving stocks occurring in the Protected Zone where such stocks are not otherwise subject to the provisions of this Treaty.

## **Article 23                      Sharing of the Catch of the Protected Zone Commercial Fisheries**

- 1 The Parties shall share the allowable catch of the Protected Zone commercial fisheries in accordance with the provisions of this Article and of Articles 24 and 25 of this Treaty.
- 2 The allowable catch, that is to say the optimum sustainable yield, of a Protected Zone commercial fishery shall be determined jointly by the Parties as part of the subsidiary conservation and management arrangements referred to in paragraph 1 of Article 22 of this Treaty.
- 3 If either Party has reasonable grounds for believing that the commercial exploitation of a species of Protected Zone commercial fisheries would, or has the potential to, cause serious damage to the marine environment, or might endanger another species, that Party may request consultations with the other Party and the Parties shall then consult as soon as possible with a view to reaching agreement on whether such commercial exploitation could be undertaken in a manner which would not result in such damage or endanger another species.
- 4 In respect of any relevant period where the full allowable catch of a particular Protected Zone commercial fishery might be taken, each Party shall be entitled to a share of the



allowable catch apportioned, subject to paragraphs 5, 6 and 8 of this Article and to Articles 24 and 25 of this Treaty, as follows:

- (a) in areas under Australian jurisdiction, except as provided in (b) below:

Papua New Guinea—25%

Australia—75%

- (b) within the territorial seas of Anchor Cay, Black Rocks, Bramble Cay, Deliverance Island, East Cay, Kerr Islet, Pearce Cay and Turu Cay:

Australia—50%

Papua New Guinea—50%

- (c) in areas under Papua New Guinea jurisdiction:

Australia—25%

Papua New Guinea—75%

- 5 Papua New Guinea shall have the sole entitlement to the allowable catch of the commercial barramundi fishery near the Papua New Guinea coast, except within the territorial seas of the islands of Aubusi, Boigu, Dauan, Kaumag, Moimi and Saibai where, in respect of that fishery, the provisions of paragraph 4 (a) of this Article shall not apply.
- 6 In apportioning the allowable catch in relation to an individual fishery, the Parties shall normally consider the allowable catch expressed in terms of weight or volume. In calculating the apportionment of the total allowable catch of the Protected Zone commercial fisheries, the Parties shall have regard to the relative value of individual fisheries and shall, for this purpose, agree on a common value for production from each individual fishery for the period in question, such value being based on the value of the raw product at the processing facility or such other point as may be agreed, but prior to any enhancement of value through processing, including processing at a pearl culture farm, or further transportation or marketing.

- 7 The Parties may agree to vary the apportionment of the allowable catch determined for individual fisheries as part of the subsidiary conservation and management arrangements referred to in paragraph 1 of Article 22 of this Treaty but so as to maintain in respect of the total allowable catch of the Protected Zone commercial fisheries the apportionment specified in paragraph 4 of this Article for each Party.
- 8 In calculating the total allowable catch of the Protected Zone commercial fisheries, the allowable catch of the commercial barramundi fishery referred to in paragraph 5 of this Article shall be disregarded.

## **Article 24                      Transitional Entitlement**

- 1 As part of the subsidiary conservation and management arrangements referred to in paragraph 1 of Article 22 of this Treaty, the level of the catch of each Protected Zone commercial fishery to which each Party is entitled, provided it remains within the allowable catch—
  - (a) shall not, during the period of five years immediately after the entry into force of this Treaty, be reduced below the level of catch of that Party before the entry into force of this Treaty; but
  - (b) may, during the second period of five years after the entry into force of this Treaty, be adjusted progressively so that at the end of that second five-year period it reaches the level of catch apportioned in each case in Article 23 of this Treaty.
- 2 The entitlement of a Party under this Article shall, where the limitation of the allowable catch makes it necessary, take priority over the entitlement of the other Party under Article 23 of this Treaty, but shall be taken into account in calculating the entitlement of the first Party.

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**Article 25****Preferential Entitlement**

If, in any relevant period, a Party does not itself propose to take all the allowable catch of a Protected Zone commercial fishery to which it is entitled, either in its own area of jurisdiction or that of the other Party, the other Party shall have a preferential entitlement to any of the allowable catch of that fishery not taken by the first Party.

**Article 26****Licensing Arrangements**

- 1 In the negotiation and implementation of the conservation and management arrangements referred to in paragraph 1 of Article 22 of this Treaty—
  - (a) the Parties shall consult and cooperate in the issue and endorsement of licences to permit commercial fishing in Protected Zone commercial fisheries;
  - (b) the responsible authorities of the Parties may issue licences to fish in any Protected Zone commercial fishery; and
  - (c) persons or vessels which are licensed by the responsible authorities of one Party to fish in any relevant period in a Protected Zone commercial fishery shall, if nominated by the responsible authorities of that Party, be authorised by the responsible authorities of the other Party, wherever necessary, by the endorsement of licences or otherwise, to fish in those areas under the jurisdiction of the other Party in which the fishery concerned is located.
- 2 The persons or vessels licensed by one Party which have been authorised, or are to be authorised, under the provisions of paragraph 1 of this Article to fish in waters under the jurisdiction of the other Party shall comply with the relevant fisheries laws and regulations of the other Party except that they shall be exempt from licensing fees, levies and other

charges imposed by the other Party in respect of such fishing activities.

- 3 In issuing licences in accordance with paragraph 1 of this Article, the responsible authorities of both Parties shall have regard to the desirability of promoting economic development in the Torres Strait area and employment opportunities for the traditional inhabitants.
- 4 The responsible authorities of both Parties shall ensure that the traditional inhabitants are consulted from time to time on the licensing arrangements in respect of Protected Zone commercial fisheries.

## **Article 27                      Third State Fishing in Protected Zone Commercial Fisheries**

- 1 The responsible authorities of the Parties shall inform one another and shall consult, at the request of either of them, concerning the proposed exploitation of the Protected Zone commercial fisheries—
  - (a) by a joint venture in which there is third-State equity participation; or
  - (b) by a vessel of third-State registration or with a crew substantially of the nationality of a third State.
- 2 Vessels the operations of which are under the control of nationals of a third State shall not be licensed to exploit the Protected Zone commercial fisheries without the concurrence of the responsible authorities of both Parties in a particular case or class of cases.

## **Article 28                      Inspection and Enforcement**

- 1 The Parties shall cooperate, including by exchange of personnel, in inspection and enforcement to prevent violations of the Protected Zone commercial fisheries arrangements and

in taking appropriate enforcement measures in the event of such violations.

- 2 The Parties shall consult from time to time, as necessary, so as to ensure that legislation and regulations adopted by each Party pursuant to paragraph 1 of this Article are, as far as practicable, consistent with the legislation and regulations of the other Party.
- 3 Each Party shall make it an offence under its fisheries laws or regulations for a person to use a vessel of its nationality to fish in Protected Zone commercial fisheries for species of fisheries resources in areas over which the other Party has jurisdiction in respect of those species—
  - (a) without being duly licensed or authorised by that other Party; or
  - (b) in the case of a licensed or authorised vessel, in breach of the fisheries laws or regulations of the other Party applying within those areas.
- 4 Each Party will, in relation to species of fisheries resources in areas where it has jurisdiction in respect of those species—
  - (a) investigate suspected offences against its fisheries laws and regulations; and
  - (b) except as provided in or under this Article, take corrective action when necessary against offenders against those laws or regulations.
- 5 In this Article, “corrective action” means the action normally taken in respect of a suspected offence, after due investigation, and includes, where appropriate, the apprehension of a suspected offender, the prosecution of an alleged offender, or the execution of a penalty imposed by a court or the cancellation or suspension of the licence of an offender.
- 6 In accordance with the provisions of this Article, and in other appropriate cases as may be agreed between the Parties, corrective action in respect of offences or suspected offences against the fisheries laws or regulations of the Parties shall be taken by the authorities of the Party whose nationality is borne by the vessel or person concerned (called in this Article “the first Party”) and not by the Party in whose area of jurisdiction

the offence or suspected offence occurs (called in this Article “the second Party”).

- 7 The Parties acknowledge that the principle stated in paragraph 6 of this Article should not be applied so as to frustrate the enforcement of fisheries laws or regulations or to enable offenders against those laws or regulations to go unpunished.
- 8 Where, in the case of a suspected offence alleged to have been committed in or in the vicinity of the Protected Zone, it appears that the offence was, or might reasonably be considered to have been, committed in the course of traditional fishing, corrective action or other measures shall be taken by the authorities of the first Party and not by the authorities of the second Party and, if being detained by the authorities of the second Party, the alleged offenders and their vessel shall be either released or handed over to the authorities of the first Party, in accordance with arrangements that will avoid undue expense or inconvenience to the authorities of the second Party.
- 9 Where paragraph 8 of this Article applies, the authorities of the second Party may require assurance in a particular case that corrective action or other measures will be taken by the authorities of the first Party that will adequately ensure that the activity complained of will not be repeated.
- 10 Where the provisions of paragraph 8 of this Article do not apply, and the person or vessel alleged to have been involved or used in the commission of a suspected offence in the Protected Zone is licensed to fish in the Protected Zone by the authorities of the first Party, corrective action shall be taken by the authorities of the first Party and not by the authorities of the second Party and, if being detained by the authorities of the second Party, the alleged offenders and their vessel shall be either released or handed over to the authorities of the first Party, in accordance with arrangements that will avoid undue expense or inconvenience to the authorities of the second Party, and the provisions of paragraphs 13 and 14 of this Article shall apply.
- 11 The provisions of paragraph 10 of this Article shall also apply in respect of a suspected offence by a person or vessel of the

first Party in an area of jurisdiction of the second Party outside the Protected Zone where—

- (a) that person or vessel was authorised by the authorities of the second Party to fish in the area where the suspected offence was committed under the arrangements referred to in paragraph 1 of Article 22 of this Treaty; and
- (b) the suspected offence was committed in relation to the fishery the subject of that authorisation and did not involve the taking of other species or potential injury to another fishery.

12 Persons or vessels of the first Party detained by the authorities of the second Party in the circumstances described in paragraphs 8 and 10 of this Article may be detained for as long as necessary to enable those authorities to conduct an expeditious investigation into the offence and to obtain evidence. Thereafter, they shall not be detained other than for the purpose of the handing over of the persons or vessels in accordance with the provisions of those paragraphs unless they are lawfully detained on some other ground.

13 If an alleged offender referred to in paragraph 10 of this Article is, in respect of conduct in waters under the jurisdiction of the second Party—

- (a) convicted of an offence against the fisheries laws or regulations of the first Party; or
- (b) found by the authorities of the first Party, on the basis of sufficient available evidence, to have contravened or failed to comply with a condition of his licence or authorisation or that of his vessel;

the authorities of the first Party shall, where appropriate and having regard to paragraph 7 of this Article, cancel or suspend the licence or authorisation of the person or his vessel so far as it relates to the Protected Zone commercial fisheries.

14 Where a person or vessel involved or used in the commission of the alleged offence referred to in paragraph 10 of this Article is also currently licensed or authorised to fish in the area of the Protected Zone by the second Party, the authorities of the second Party may, after receiving a report and

representations, if any, from the authorities of of the first Party, cancel or suspend that licence or authorisation in accordance with its laws for such period as is warranted by the circumstances of the case.

- 15 Each Party shall provide the other Party with any evidence obtained during investigations carried out in accordance with this Article into a suspected offence involving a person or vessel of the other Party. Each Party shall take appropriate measures to facilitate the admission of such evidence in proceedings taken in respect of the suspected offence.
- 16 In this Article references to persons and vessels of, or of the nationality of, a Party include references to persons or vessels licensed by that Party under sub-paragraph 1(b) of Article 26 of this Treaty, and the crews of vessels so licensed, except where such persons or vessels have a prior current licence from the other Party under that sub-paragraph.

## **Part 6                      Final articles**

### **Article 29                      Settlement of Disputes**

Any dispute between the Parties arising out of the interpretation or implementation of this Treaty shall be settled by consultation or negotiation.

### **Article 30                      Consultations**

The Parties shall consult, at the request of either, on any matters relating to this Treaty.



**Article 31****Annexes**

The Annexes to this Treaty shall have force and effect as integral parts of this Treaty.

**Article 32****Ratification**

This Treaty shall be subject to ratification and shall enter into force on the exchange of the instruments of ratification.

IN WITNESS WHEREOF the undersigned being duly authorised have signed the present Treaty and have affixed thereto their seals.

DONE in duplicate at Sydney on this eighteenth day of December, One thousand nine hundred and seventy-eight.

FOR AUSTRALIA

Signed MALCOLM FRASER,  
Prime Minister

FOR PAPUA NEW GUINEA

Signed MICHAEL SOMARE,  
Prime Minister

Signed ANDREW PEACOCK,

Minister for Foreign  
Affairs

Signed N. EBIA OLEWALE,

Deputy Prime Minister  
and Minister for  
Foreign Affairs and  
Trade

ANNEX 1 TO THE TREATY BETWEEN AUSTRALIA AND THE INDEPENDENT STATE OF PAPUA NEW GUINEA CONCERNING SOVEREIGNTY AND MARITIME BOUNDARIES IN THE AREA BETWEEN THE TWO COUNTRIES, INCLUDING THE AREA KNOWN AS TORRES STRAIT, AND RELATED MATTERS

**TERRITORIAL SEA BOUNDARIES BETWEEN THE ISLANDS OF AUBUSI, BOIGU AND MOIMI AND PAPUA NEW GUINEA AND BETWEEN THE ISLANDS OF DAUAN, KAUMAG AND SAIBAI AND PAPUA NEW GUINEA**

## **Between the islands of Aubusi, Boigu and Moimi and Papua New Guinea**

A line—

commencing at the point of Latitude  $9^{\circ}15'43''$  South, Longitude  $142^{\circ}03'30''$  East (“Point 1”);

running thence north-easterly along the geodesic to the point of Latitude  $9^{\circ}12'50''$  South, Longitude  $142^{\circ}06'25''$  East (“Point 2”);

thence north-easterly along the geodesic to the point of Latitude  $9^{\circ}11'51''$  South, Longitude  $142^{\circ}08'33''$  East (“Point 3”);

thence south-easterly along the geodesic to the point of Latitude  $9^{\circ}11'58''$  South, Longitude  $142^{\circ}10'18''$  East (“Point 4”);

thence north-easterly along the geodesic to the point of Latitude  $9^{\circ}11'22''$  South, Longitude  $142^{\circ}12'54''$  East (“Point 5”);

thence south-easterly along the geodesic to the point of Latitude 9°11'34" South, Longitude 142°14'08" East ("Point 6");

thence south-easterly along the geodesic to the point of Latitude 9°13'53" South, Longitude 142°16'26" East ("Point 7"); and

thence south-easterly along the geodesic to the point of Latitude 9°16'04" South, Longitude 142°20'41" East ("Point 8") where it terminates.

## **Between the islands of Dauan, Kaumag and Saibai and Papua New Guinea**

A line—

commencing at the point of Latitude 9°22'04" South, Longitude 142°29'41" East ("Point 9");

running thence north-easterly along the geodesic to the point of Latitude 9°21'48" South, Longitude 142°31'29" East ("Point 10");

thence south-easterly along the geodesic to the point of Latitude 9°22'33" South, Longitude 142°33'28" East ("Point 11");

thence north-easterly along the geodesic to the point of Latitude 9°21'25" South, Longitude 142°35'29" East ("Point 12");

thence north-easterly along the geodesic to the point of Latitude 9°20'21" South, Longitude 142°41'43" East ("Point 13");

thence north-easterly along the geodesic to the point of Latitude 9°20'16" South, Longitude 142°43'53" East ("Point 14"); and

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thence north-easterly along the geodesic to the point of Latitude 9°19'26" South, Longitude 142°48'18" East ("Point 15") where it terminates.

ANNEX 3 TO THE TREATY BETWEEN AUSTRALIA AND  
THE INDEPENDENT STATE OF PAPUA NEW GUINEA  
CONCERNING SOVEREIGNTY AND MARITIME  
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COUNTRIES, INCLUDING THE AREA KNOWN AS TORRES  
STRAIT, AND RELATED MATTERS

## Outer limits of territorial seas

### Territorial sea of the islands of Aubisi, Boigu and Moimi

The outer limit of the territorial sea of the islands of Aubisi, Boigu and Moimi shall be a continuous line—

- (a) commencing at the point specified as Point 1 in Annex 1 to this Treaty;
- (b) running thence along the geodesics successively joining the points specified as Points 1 to 8 in Annex 1 to this Treaty; and
- (c) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points—

	<i><b>Latitude (South)</b></i>	<i><b>Longitude (East)</b></i>
((i))	9°15'53"	142°17'39"
((ii))	9°16'26"	142°17'36"
((iii))	9°16'28"	142°17'36"
((iv))	9°16'31"	142°17'30"
((v))	9°17'06"	142°17'30"

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	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(vi)	9°17'15"	142°17'30"
(vii)	9°17'26"	142°17'15"
(viii)	9°17'50"	142°16'46"
(ix)	9°17'55"	142°16'39"
(x)	9°17'56"	142°16'30"
(xi)	9°17'53"	142°16'11"
(xii)	9°17'52"	142°16'07"
(xiii)	9°17'44"	142°14'52"
(xiv)	9°17'45"	142°14'49"
(xv)	9°17'44"	142°14'38"
(xvi)	9°17'44"	142°14'30"
(xvii)	9°17'38"	142°14'06"
(xviii)	9°17'38"	142°13'59"
(xix)	9°17'36"	142°13'47"
(xx)	9°17'34"	142°13'31"
(xxi)	9°17'33"	142°13'20"
(xxii)	9°17'32"	142°12'56"
(xxiii)	9°17'32"	142°12'46"
(xxiv)	9°17' 33"	142°12'26"
(xxv)	9°17'38"	142°11'56"
(xxvi)	9°17'39"	142°11'51"
(xxvii)	9°17'38"	142°11'34"
(xxviii)	9°17'37"	142°11'30"
(xxix)	9°17'33"	142°10'20"

	<i><b>Latitude (South)</b></i>	<i><b>Longitude (East)</b></i>
(xxx)	9°17'30"	142°10'13"
(xxxi)	9°17'15"	142°09'08"
(xxxii)	9°17'13"	142°09'00"
(xxxiii)	9°17'02"	142°08'35"
(xxxiv)	9°16'56"	142°08'23"
(xxxv)	9°16'52"	142°08'15"
(xxxvi)	9°16'47"	142°08'01"
(xxxvii)	9°16'46"	142°07'58"
(xxxviii)	9°16'21"	142°06'52"
(xxxix)	9°16'19"	142°06'51"
(xl)	9°15'08"	142°06'28"

to the point of commencement.

## **Territorial sea of the islands of Dauan, Kaumag and Saibai**

The outer limit of the territorial sea of the islands of Dauan, Kaumag and Saibai shall be a continuous line—

- (a) commencing at the point specified as Point 9 in Annex 1 to this Treaty;
- (b) running thence along the geodesics successively joining the points specified as Points 9 to 15 in Annex 1 to this Treaty; and
- (c) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points—

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	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(i)	9°22'24"	142°47'49"
(ii)	9°22'28"	142°47'53"
(iii)	9°22'39"	142°47'57"
(iv)	9°22'48"	142°48'00"
(v)	9°22'58"	142°48'01"
(vi)	9°23'02"	142°48'01"
(vii)	9°23'06"	142°47'59"
(viii)	9°23'12"	142°47'55"
(ix)	9°23'28"	142°47'46"
(x)	9°23'44"	142°47'41"
(xi)	9°25'46"	142°46'36"
(xii)	9°25'48"	142°46'36"
(xiii)	9°25'53"	142°46'29"
(xiv)	9°26'05"	142°46'12"
(xv)	9°26'10"	142°46'03"
(xvi)	9°26'15"	142°45'47"
(xvii)	9°26'15"	142°45'34"
(xviii)	9°26'12"	142°45'25"
(xix)	9°26'09"	142°45'12"
((xx)	9°26'06"	142°45'07"
(xxi)	9°25'57"	142°44'39"
(xxii)	9°25'48"	142°43'07"
(xxiii)	9°25'54"	142°42'42"



	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(xxiv)	9°25'53"	142°42'13"
(xxv)	9°25'52"	142°41'59"
(xxvi)	9°25'51"	142°41'51"
(xxvii)	9°25'48"	142°41'15"
(xxviii)	9°25'47"	142°41'04"
(xxix)	9°25'46"	142°40'55"
(xxx)	9°25'43"	142°40'20"
(xxxi)	9°25'44"	142°40'04"
(xxxii)	9°25'50"	142°39'30"
(xxxiii)	9°25'51"	142°39'22"
(xxxiv)	9°25'50"	142°39'13"
(xxxv)	9°25'48"	142°39'03"
(xxxvi)	9°25'35"	142°38'05"
(xxxvii)	9°25'31"	142°37'46"
(xxxviii)	9°25'28"	142°37'36"
(xxxix)	9°25'23"	142°37'22"
(xl)	9°25'22"	142°37'19"
(xli)	9°25'04"	142°36'35"
(xlii)	9°24'50"	142°36'03"
(xliii)	9°25'25"	142°33'03"
(xliv)	9°25'27"	142°32'58"
(xlv)	9°25'54"	142°32'17"
(xlvi)	9°26'11"	142°33'00"
(xlvii)	9°26'15"	142°31'55"

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	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(xlviii)	9°26'17"	142°31'52"
(xlix)	9°26'17"	142°31'48"
(l)	9°26'15"	142°31'46"
(li)	9°26'06"	142°31'47"
(lii)	9°25'38"	142°31'35"
(liii)	9°25'28"	142°31'34"
(liv)	9°25'24"	142°31'33"
(lv)	9°25'05"	142°31'27"
(lvi)	9°24'39"	142°31'18"
(lvii)	9°24'37"	142°31'17"
(lviii)	9°24'32"	142°31'24"

to the point of commencement.

## Territorial sea of Anchor Cay and East Cay

The outer limit of the territorial sea of Anchor Cay and East Cay shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points—

	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(i)	9°21'27"	144°07'30"
(ii)	9°21'25"	144°07'28"

	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(iii)	9°21'25"	144°07'38"
(iv)	9°21'26"	144°07'44"
(v)	9°21'29"	144°07'50"
(vi)	9°21'31"	144°07'55"
(vii)	9°21'44"	144°08'24"
(viii)	9°21'45"	144°08'27"
(ix)	9°21'49"	144°08'33"
(x)	9°21'54"	144°08'37"
(xi)	9°23'09"	144°12'43"
(xii)	9°23'02"	144°12'55"
(xiii)	9°23'02"	144°13'23"
(xiv)	9°23'04"	144°13'29"
(xv)	9°23'06"	144°13'33"
(xvi)	9°23'09"	144°13'40"
(xvii)	9°23'13"	144°13'44"
(xviii)	9°23'30"	144°13'59"
(xix)	9°23'40"	144°14'11"
(xx)	9°23'44"	144°14'18"
(xxi)	9°23'50"	144°14'25"
(xxii)	9°23'59"	144°14'30"
(xxiii)	9°24'05"	144°14'31"
(xxiv)	9°24'19"	144°14'33"
(xxv)	9°24'29"	144°14'37"
(xxvi)	9°24'40"	144°14'40"

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	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(xxvii)	9°24'44"	144°14'40"
(xxviii)	9°24'49"	144°14'35"
(xxix)	9°24'53"	144°14'33"
(xxx)	9°24'57"	144°14'27"
(xxxi)	9°24'57"	144°14'20"
(xxxii)	9°24'56"	144°14'14"
(xxxiii)	9°24'44"	144°13'19"
(xxxiv)	9°24'40"	144°13'02"
(xxxv)	9°24'36"	144°12'58"
(xxxvi)	9°24'31"	144°12'56"
(xxxvii)	9°23'47"	144°12'34"
(xxxviii)	9°22'06"	144°08'38"
(xxxix)	9°22'07"	144°08'31"
(xl)	9°21'59"	144°07'57"
(xli)	9°21'47"	144°07'32"
(xlii)	9°21'44"	144°07'29"
(xliii)	9°21'40"	144°07'26"
(xliv)	9°21'35"	144°07'24"

## Territorial sea of Black Rocks and Bramble Cay

The outer limit of the territorial sea of Black Rocks and Bramble Cay shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points—

	<i>Latitude</i> (South)	<i>Longitude</i> (East)
(i)	9°10'28"	143°49'59"
(ii)	9°08'40"	143°52'19"
(iii)	9°08'33"	143°52'22"
(iv)	9°08'26"	143°52'32"
(v)	9°08'24"	143°52'41"
(vi)	9°08'23"	143°52'48"
(vii)	9°08'24"	143°52'54"
(viii)	9°08'27"	143°53'06"
(ix)	9°08'32"	143°53'12"
(x)	9°08'43"	143°53'19"
(xi)	9°08'48"	143°53'19"
(xii)	9°08'52"	143°53'17"
(xiii)	9°09'00"	143°53'13"
(xiv)	9°09'04"	143°53'07"
(xv)	9°09'08"	143°53'00"
(xvi)	9°09'07"	143°52'49"

## Territorial sea of Deliverance Island and Kerr Islet

The outer limit of the territorial sea of Deliverance Island and Kerr Islet shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the islands, from the following points—

	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(i)	9°32'39"	141°32'15"
(ii)	9°32'35"	141°32'11"
(iii)	9°32'07"	141°31'50"
(iv)	9°32'02"	141°31'54"
(v)	9°31'56"	141°31'58"
(vi)	9°31'51"	141°32'02"
(vii)	9°31'29"	141°32'17"
(viii)	9°31'79"	141°32'19"
(ix)	9°31'24"	141°32'21"
(x)	9°30'40"	141°33'32"
(xi)	9°30'08"	141°34'01"
(xii)	9°30'01"	141°34'05"
(xiii)	9°29'57"	141°34'08"
(xiv)	9°29'51"	141°34'14"
(xv)	9°29'51"	141°34'19"
(xvi)	9°29'58"	141°36'13"
(xvii)	9°30'04"	141°36'16"

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	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(xviii)	9°30'12"	141°36'16"
(xix)	9°30'28"	141°36'18"
(xx)	9°30'47"	141°36'18"
(xxi)	9°31'00"	141°36'15"
(xxii)	9°31'11"	141°36'10"
(xxiii)	9°31'29"	141°36'02"
(xxiv)	9°31'38"	141°35'55"
(xxv)	9°31'47"	141°35'46"
(xxvi)	9°31'50"	141°35'42"
(xxvii)	9°32'02"	141°35'21"
(xxviii)	9°36'21"	141°34'33"
(xxix)	9°36'24"	141°34'34"
(xxx)	9°36'35"	141°34'33"
(xxxi)	9°36'49"	141°34'26"
(xxxii)	9°36'56"	141°34'21"
(xxxiii)	9°37'05"	141°34'02"
(xxxiv)	9°37'14"	141°33'47"
(xxxv)	9°37'15"	141°33'28"
(xxxvi)	9°37'13"	141°33'25"
(xxxvii)	9°37'09"	141°33'22"
(xxxviii)	9°37'03"	141°33'21"
(xxxix)	9°36'58"	141°33'22"
(xl)	9°36'52"	141°33'27"

## Territorial sea of Pearce Cay

The outer limit of that part of the territorial sea of Pearce Cay which lies north of the line referred to in paragraph 1 of Article 4 of this Treaty shall be a continuous line—

- (a) commencing at the point of Latitude 9°33'00" South, Longitude 143°14'51" East;
- (b) thence along a series of intersecting arcs of circles having a radius of three miles and drawn successively from the following points—

	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(i)	9°30'56"	143°17'03"
(ii)	9°30'53"	143°17'03"
(iii)	9°30'50"	143°17'08"
(iv)	9°30'46"	143°17'19"
(v)	9°30'43"	143°17'26"
(vi)	9°30'42"	143°17'34"
(vii)	9°30'41"	143°17'43"
(viii)	9°30'48"	143°17'42"
(ix)	9°30'50"	143°17'40"

to the point of Latitude 9°33'00" South, Longitude 143°19'46" East; and

- (c) thence along the parallel of Latitude 9°33'00" South to the point of commencement.



## Territorial sea of Turnagain Island

The outer limit of the territorial sea of Turnagain Island shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles, and drawn successively, so as to enclose the island, from the following points—

	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(i)	9°32'54"	142°10'47"
(ii)	9°32'54"	142°10'44"
(iii)	9°32'54"	142°10'40"
(iv)	9°32'52"	142°10'36"
(v)	9°32'49"	142°10'35"
(vi)	9°32'44"	142°10'36"
(vii)	9°32'23"	142°10'54"
(viii)	9°32'11"	142°11'39"
(ix)	9°32'10"	142°11'45"
(x)	9°32'15"	142°11'54"
(xi)	9°32'37"	142°14'59"
(xii)	9°32'36"	142°15'08"
(xiii)	9°32'37"	142°15'14"
(xiv)	9°32'40"	142°15'24"
(xv)	9°32'44"	142°15'40"
(xvi)	9°32'44"	142°15'47"
(xvii)	9°32'45"	142°15'53"
(xviii)	9°32'48"	142°16'04"

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	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(xix)	9°32'51"	142°16'16"
(xx)	9°32'53"	142°16'28"
(xxi)	9°32'54"	142°16'34"
(xxii)	9°32'56"	142°16'39"
(xxiii)	9°32'58"	142°16'49"
(xxiv)	9°33'02"	142°17'01"
(xxv)	9°33'03"	142°17'12"
(xxvi)	9°33'05"	142°17'18"
(xxvii)	9°33'11"	142°17'30"
(xxviii)	9°33'14"	142°17'40"
(xxix)	9°33'16"	142°17'50"
(xxx)	9°33'18"	142°18'00"
(xxxi)	9°33'21"	142°18'09"
(xxxii)	9°33'23"	142°18'16"
(xxxiii)	9°33'28"	142°18'27"
(xxxiv)	9°33'33"	142°18'42"
(xxxv)	9°33'35"	142°18'51"
(xxxvi)	9°33'38"	142°19'03"
(xxxvii)	9°33'41"	142°19'12"
(xxxviii)	9°33'42"	142°19'19"
(xxxix)	9°33'44"	142°19'25"
(xl)	9°33'47"	142°19'38"
(xli)	9°33'49"	142°19'40"
(xlii)	9°34'15"	142°20'11"

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	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(xliii)	9°34'19"	142°20'16"
(xliv)	9°34'23"	142°20'17"
(xlv)	9°34'29"	142°20'14"
(xlvi)	9°34'34"	142°20'10"
(xlvii)	9°34'42"	142°20'03"
(xlviii)	9°34'46"	142°19'58"
(xlix)	9°34'49"	142°19'52"
(l)	9°34'52"	142°19'32"
(li)	9°34'52"	142°19'24"
(lii)	9°34'52"	142°19'15"
(liii)	9°34'50"	142°19'05"
(liv)	9°34'48"	142°18'54"
(lv)	9°34'46"	142°18'39"
(lvi)	9°34'43"	142°18'28"
(lvii)	9°34'40"	142°18'11"
(lviii)	9°34'38"	142°18'05"
(lix)	9°34'35"	142°17'56"
(lx)	9°34'30"	142°17'39"
(lxi)	9°34'23"	142°17'09"
(lxii)	9°34'21"	142°16'55"
(lxiii)	9°34'19"	142°16'39"
(lxiv)	9°34'16"	142°16'29"
(lxv)	9°34'07"	142°15'58"
(lxvi)	9°34'05"	142°15'49"

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Schedule

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	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(lxvii)	9°34'01"	142°15'41"
(lxviii)	9°33'50"	142°15'17"
(lxix)	9°33'48"	142°15'10"
(lxx)	9°33'44"	142°15'00"
(lxxi)	9°33'35"	142°14'48"
(lxxii)	9°33'24"	142°14'31"
(lxxiii)	9°33'09"	142°13'59"
(lxxiv)	9°33'08"	142°13'53"

## Territorial sea of Turu Cay

The outer limit of the territorial sea of Turu Cay shall be a continuous line formed by a series of intersecting arcs of circles having a radius of three miles and drawn successively, so as to enclose the island, from the following points—

	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(i)	9°49'53"	141°24'42"
(ii)	9°49'39"	141°24'44"
(iii)	9°49'31"	141°24'52"
(iv)	9°49'25"	141°25'02"
(v)	9°49'23"	141°25'13"
(vi)	9°49'20"	141°25'25"
(vii)	9°49'19"	141°25'36"

	<b><i>Latitude (South)</i></b>	<b><i>Longitude (East)</i></b>
(viii)	9°49'18"	141°25'43"
(ix)	9°49'18"	141°25'53"
(x)	9°49'17"	141°26'07"
(xi)	9°49'23"	141°26'09"
(xii)	9°49'26"	141°26'06"
(xiii)	9°49'32"	141°25'58"
(xiv)	9°49'38"	141°25'49"
(xv)	9°49'44"	141°25'38"
(xvi)	9°49'47"	141°25'31"
(xvii)	9°49'53"	141°25'19"
(xviii)	9°49'56"	141°25'09"
(xix)	9°49'57"	141°24'54"
(xx)	9°49'56"	141°24'45"

ANNEX 5 TO THE TREATY BETWEEN AUSTRALIA AND  
THE INDEPENDENT STATE OF PAPUA NEW GUINEA  
CONCERNING SOVEREIGNTY AND MARITIME  
BOUNDARIES IN THE AREA BETWEEN THE TWO  
COUNTRIES, INCLUDING THE AREA KNOWN AS TORRES  
STRAIT, AND RELATED MATTERS

## **Seabed jurisdiction line**

A line—

- (a) commencing at the point of Latitude 10°50'00" South, Longitude 139°12'00" East;
- (b) running thence south-easterly along the geodesic to the point of Latitude 11°09'00" South, Longitude 139°23'00" East;
- (c) thence north-easterly along the geodesic to the point of Latitude 10°59'00" South, Longitude 140°00'00" East;
- (d) thence north-easterly along the geodesic to the point of Latitude 9°46'00" South, Longitude 142°00'00" East;
- (e) thence north-easterly along the geodesic to the point of Latitude 9°45'24" South, Longitude 142°03'30" East;
- (f) thence north-easterly along the geodesic to the point of Latitude 9°42'00" South, Longitude 142°23'00" East;
- (g) thence north-easterly along the geodesic to the point of Latitude 9°40'30" South, Longitude 142°51'00" East;
- (h) thence north-easterly along the geodesic to the point of Latitude 9°40'00" South, Longitude 143°00'00" East;
- (i) thence north-easterly along the geodesic to the point of Latitude 9°33'00" South, Longitude 143°05'00" East;
- (j) thence east along the parallel of Latitude 9°33'00" South to its intersection by the meridian of Longitude 143°20'00" East;

- (k) thence north-easterly along the geodesic to the point of Latitude 9°24'00" South, Longitude 143°30'00" East;
- (l) thence north-easterly along the geodesic to the point of Latitude 9°22'00" South, Longitude 143°48'00" East;
- (m) thence south-easterly along the geodesic to the point of Latitude 9°30'00" South, Longitude 144°15'00" East;
- (n) thence south-easterly along the geodesic to the point of Latitude 9°51'00" South, Longitude 144°44'00" East;
- (o) thence south-easterly along the geodesic to the point of Latitude 12°20'00" South, Longitude 146°30'00" East;
- (p) thence south-easterly along the geodesic to the point of Latitude 12°38' 30" South, Longitude 147°08'30" East;
- (q) thence south-easterly along the geodesic to the point of Latitude 13°10'30" South, Longitude 148°05'00" East;
- (r) thence south-easterly along the geodesic to the point of Latitude 14°38'00" South, Longitude 152°07'00" East;
- (s) thence south-easterly along the geodesic to the point of Latitude 14°45'00" South, Longitude 154°15'00" East;
- (t) thence north-easterly along the geodesic to the point of Latitude 14°05'00" South, Longitude 156°37'00" East; and
- (u) thence north-easterly along the geodesic to the point of Latitude 14°04'00" South, Longitude 157°00'00" East where it terminates.

ANNEX 8 TO THE TREATY BETWEEN AUSTRALIA AND  
THE INDEPENDENT STATE OF PAPUA NEW GUINEA  
CONCERNING SOVEREIGNTY AND MARITIME  
BOUNDARIES IN TO AREA BETWEEN THE TWO  
COUNTRIES, INCLUDING THE AREA KNOWN AS TORRES  
STRAIT, AND RELATED MATTERS

## **Fisheries jurisdiction line**

A line—

- (a) commencing at the point of Latitude 10°50'00" South, Longitude 139°12'00" East;
- (b) running thence south-easterly along the geodesic to the point of Latitude 11°09'00" South, Longitude 139°23'00" East;
- (c) thence north-easterly along the geodesic to the point of Latitude 10°59'00" South, Longitude 140°00'00" East;
- (d) thence north-easterly along the geodesic to the point of Latitude 9°46'00" South, Longitude 142°00'00" East;
- (e) thence north-easterly along the geodesic to the point of Latitude 9°45'24" South, Longitude 142°03'30" East;
- (f) thence north along the meridian of Longitude 142°03'30" East to its intersection by the parallel of Latitude 9°15'43" South;
- (g) thence north-easterly along the geodesic to the point of Latitude 9°12'50" South, Longitude 142°06'25" East;
- (h) thence north-easterly along the geodesic to the point of Latitude 9°11'51" South, Longitude 142°08'33" East;
- (i) thence south-easterly along the geodesic to the point of Latitude 9°11'58" South, Longitude 142°10'18" East;
- (j) thence north-easterly along the geodesic to the point of Latitude 9°11'22" South, Longitude 142°12'54" East;



- (k) thence south-easterly along the geodesic to the point of Latitude 9°11'34" South, Longitude 142°14'08" East;
- (l) thence south-easterly along the geodesic to the point of Latitude 9°13'53" South, Longitude 142°16'26" East;
- (m) thence south-easterly along the geodesic to the point of Latitude 9°16'04" South, Longitude 142°20'41" East;
- (n) thence south-easterly along the geodesic to the point of Latitude 9°22'04" South, Longitude 142°29'41" East;
- (o) thence north-easterly along the geodesic to the point of Latitude 9°21'48" South, Longitude 142°31'29" East;
- (p) thence south-easterly along the geodesic to the point of Latitude 9°22'33" South, Longitude 142°33'28" East;
- (q) thence north-easterly along the geodesic to the point of Latitude 9°21'25" South, Longitude 142°35'29" East;
- (r) thence north-easterly along the geodesic to the point of Latitude 9°20'21" South, Longitude 142°41'43" East;
- (s) thence north-easterly along the geodesic to the point of Latitude 9°20'16" South, Longitude 142°43'53" East;
- (t) thence north-easterly along the geodesic to the point of Latitude 9°19'26" South, Longitude 142°48'18" East where it joins the outer limit of the three mile territorial sea of Saibai Island;
- (u) thence along that outer limit so as to pass to the east of Saibai Island to the point of Latitude 9°23'40" South, Longitude 142°51'00" East;
- (v) thence south along the meridian of Longitude 142°51'00" East to its intersection by the parallel of Latitude 9°40'30" South;
- (w) thence north-easterly along the geodesic to the point of Latitude 9°40'00" South, Longitude 143°00'00" East;
- (x) thence north-easterly along the geodesic to the point of Latitude 9°33'00" South, Longitude 143°05'00" East;
- (y) thence east along the parallel of Latitude 9°33'00" South to its intersection by the meridian of Longitude 143°20'00" East;

Schedule

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- (z) thence north-easterly along the geodesic to the point of Latitude 9°24'00" South, Longitude 143°30'00" East;
- (za) thence north-easterly along the geodesic to the point of Latitude 9°22'00" South, Longitude 143°84'00" East;
- (zb) thence south-easterly along the geodesic to the point of Latitude 9°30'00" South, Longitude 144°15'00" East;
- (zc) thence south-easterly along the geodesic to the point of Latitude 9°51'00" South, Longitude 144°44'00" East;
- (zd) thence south-easterly along the geodesic to the point of Latitude 12°20'00" South, Longitude 146°30'00" East;
- (ze) thence south-easterly along the geodesic to the point of Latitude 12°38'30" South, Longitude 147°08'30" East;
- (zf) thence south-easterly along the geodesic to the point of Latitude 13°10'30" South, Longitude 148°05'00" East;
- (zg) thence south-easterly along the geodesic to the point of Latitude 14°38'00" South, Longitude 152°07'00" East;
- (zh) thence south-easterly along the geodesic to the point of Latitude 14°45'00" South, Longitude 154°15'00" East; and
- (zi) thence north-easterly along the geodesic to the point of Latitude 14°05'00" South, Longitude 156°37'00" East where it terminates.

ANNEX 9 TO THE TREATY BETWEEN AUSTRALIA AND  
THE INDEPENDENT STATE OF PAPUA NEW GUINEA  
CONCERNING SOVEREIGNTY AND MARITIME  
BOUNDARIES IN THE AREA BETWEEN THE TWO  
COUNTRIES, INCLUDING THE AREA KNOWN AS TORRES  
STRAIT, AND RELATED MATTERS

## Protected Zone

A line—

- (a) commencing at the point of Latitude 10°28'00" South, Longitude 144°10'00" East;
- (b) running thence west along the parallel of Latitude 10°28'00" South to its intersection by the meridian of Longitude 141°20'00" East;
- (c) thence north along that meridian to its intersection by the parallel of Latitude 9°33'00" South;
- (d) thence north-easterly along the geodesic to the point of Latitude 9°13'00" South, Longitude 141°57'00" East;
- (e) thence north along the meridian of Longitude 141°57'00" East to its intersection by the southern coastline of the island of New Guinea at low water;
- (f) thence generally easterly along the southern coastline of the island of New Guinea, that is along the low water line on that coast and across any river mouth and in the case of the mouth of the Mai Kussa River along the parallel of Latitude 9°09'00" South, thence along the southern coastline of the island of New Guinea, that is along the low water line on that coast and across any river mouth to its intersection by the meridian of Longitude 142°36'00" East;
- (g) thence south along that meridian to its intersection by the parallel of Latitude 9°21'00" South;

Schedule

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- (h) thence north-easterly along the geodesic between that point of intersection and the point of Latitude 9°09'00" South, Longitude 143°47'20" East;
- (i) thence along the outer limit of the three-mile territorial sea of Black Rocks, so as to pass to the north-west of Black Rocks, to the point of intersection of that limit by the outer limit of the three-mile territorial sea of Bramble Cay;
- (j) thence along that outer limit, so as to pass successively to the north and east of Bramble Cay, to the point of Latitude 9°10'50" South, Longitude 143°55'40" East;
- (k) thence south-easterly along the geodesic to the point of Latitude 9°18'40" South, Longitude 144°06'10" East;
- (l) thence along the outer limit of the three-mile territorial sea of Anchor Cay, so as to pass to the north of Anchor Cay, to the point of intersection of that limit by the outer limit of the three-mile territorial sea of East Cay;
- (m) thence along that outer limit, so as to pass successively to the north and east of East Cay, to the point of Latitude 9°26'50" South, Longitude 144°16'50" East;
- (n) thence south-easterly along the geodesic to the point of Latitude 9°35'15" South, Longitude 144°28'00" East;
- (o) thence south along the meridian of Longitude 144°28'00" East to its intersection by the parallel of Latitude 9°54'00" South;
- (p) thence south-westerly along the geodesic to the point of Latitude 10°15'00" South, Longitude 144°12'00" East; and
- (q) thence south-westerly along the geodesic to the point of commencement.

## 1 Index to endnotes

- 2 Date to which amendments incorporated
- 3 Key
- 4 Table of reprints
- 5 Tables in earlier reprints
- 6 List of legislation
- 7 List of annotations

## 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 28 July 2000. Future amendments of the **Torres Strait Fisheries Act 1984** may be made in accordance with this reprint under the Reprints Act 1992, section 49.

## 3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
<b>AIA</b>	= <b>Acts Interpretation Act 1954</b>	<b>(prev)</b>	= <b>previously</b>
<b>amd</b>	= <b>amended</b>	<b>proc</b>	= <b>proclamation</b>
<b>amd</b>	= <b>amendment</b>	<b>prov</b>	= <b>provision</b>
<b>t</b>			
<b>ch</b>	= <b>chapter</b>	<b>pt</b>	= <b>part</b>
<b>def</b>	= <b>definition</b>	<b>pubd</b>	= <b>published</b>
<b>div</b>	= <b>division</b>	<b>R[X]</b>	= <b>Reprint No. [X]</b>
<b>exp</b>	= <b>expires/expired</b>	<b>RA</b>	= <b>Reprints Act 1992</b>
<b>gaz</b>	= <b>gazette</b>	<b>reloc</b>	= <b>relocated</b>

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
<b>hdg</b>	= heading	<b>renu</b>	= renumbered
		<b>m</b>	
<b>ins</b>	= inserted	<b>rep</b>	= repealed
<b>lap</b>	= lapsed	(retro	= retrospectively
		<b>)</b>	
<b>notf</b>	= notified	<b>rv</b>	= revised edition
<b>d</b>			
<b>num</b>	= numbered	<b>s</b>	= section
<b>o in</b>	= order in council	<b>sch</b>	= schedule
<b>c</b>			
<b>om</b>	= omitted	<b>sdiv</b>	= subdivision
<b>orig</b>	= original	<b>SIA</b>	= Statutory Instruments Act 1992
<b>p</b>	= page	<b>SIR</b>	= Statutory Instruments Regulation 2002
<b>para</b>	= paragraph	<b>SL</b>	= subordinate legislation
<b>prec</b>	= preceding	<b>sub</b>	= substituted
<b>pres</b>	= present	<b>unnu</b>	= unnumbered
		<b>m</b>	
<b>prev</b>	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

<b>Reprint No.</b>	<b>Amendments to</b>	<b>Effective</b>	<b>Reprint date</b>
1	1994 Act No. 37	27 January 1995	14 February 1995
1A	2000 Act No. 26	6p.m. on 30 June 2000	28 July 2000

## 5 Tables in earlier reprints

<b>Name of table</b>	<b>Reprint No.</b>
Obsolete and redundant provisions	1

## 6 List of legislation

### **Torres Strait Fisheries Act 1984 No. 101**

date of assent 6 December 1984

ss 1–2 commenced on date of assent

remaining provisions commenced 15 February 1985 (see s 2(2) and proc pubd

Commonwealth of Australia Gazette 14 February 1985 No. S38)

amending legislation—

### **Statute Law (Miscellaneous Provisions) Act 1994 No. 15 s 3 sch 2**

date of assent 10 May 1994

commenced on date of assent

### **Fisheries Act 1994 No. 37 s 244 Sch 2**

date of assent 8 September 1994

commenced 27 January 1995 (1995 SL No. 9)

### **Primary Industries and Natural Resources Legislation Amendment Act 2000 No. 26 ss 1, 2(1), 13 sch 2**

date of assent 27 June 2000

ss 1–2 commenced on date of assent

remaining provisions commenced at 6 p.m. on 30 June 2000 (see s 2(1))

## 7 List of annotations

### **Commencement**

s 2 amd 1994 No. 37 s 244 sch 2

**Arrangement**

s 3 om R1 (see RA s 36)

**Application of Act**

s 4 amd 1994 No. 37 s 244 sch 2

**Fisheries Act 1994 does not apply**

s 5 sub 1994 No. 37 s 244 sch 2

**Interpretation**

s 6 def *community fishing* amd 1994 No. 37 s 244 sch 2

def *Director* om 1994 No. 37 s 244 sch 2

def *inspector* amd 1994 No. 37 s 244 sch 2

def *Minister* om 1994 No. 37 s 244 sch 2

def *Protected Zone* amd 1994 No. 37 s 244 sch 2

**Endorsements of licences**

s 8 amd 1994 No. 37 s 244 sch 2

**Governor in Council may make provision**

s 9 om 1994 No. 15 s 3 sch 2

**Definitions**

prov hdg sub 1994 No. 37 s 244 sch 2

s 10 amd 1994 No. 37 s 244 sch 2

**Meaning of “fishery”**

s 10A ins 1994 No. 37 s 244 sch 2

**Delegation**

s 14 sub 1994 No. 37 s 244 sch 2

amd 2000 No. 26 s 13 sch 2

**Arrangement for management of certain fisheries**

s 17 amd 1994 No. 37 s 244 sch 2

**Application of this Act to fisheries in accordance with arrangements**

s 18 amd 1994 No. 37 s 244 sch 2

**Joint Authority to exercise certain powers instead of Minister etc.**

s 20 amd 1994 No. 37 s 244 sch 2

**Authority to State officials to enforce Commonwealth law**

s 23 amd 1994 No. 37 s 244 sch 2

**Regulation making power**

s 24 sub 1994 No. 37 s 244 sch 2