

## **APPENDIX 1                      An example of an agreement with a fishery observer agency**

The following agreement was developed for an observer programme to be managed by an agency. The agreement is between the government's Ministry of Fisheries and the agency. As a model it can be adapted for any observer programme that will be managed by a private company or semi-private body such as a government agency.

### **1.                PRELIMINARY PROVISIONS**

#### **1.1            Preamble**

- a) This Agreement is between the Fisheries Observer Agency (hereafter referred to as the Agency) established under Section [III] of the Marine Resources Act of the Ministry of Fisheries (hereafter referred to as the Ministry). This document contains details of the services to be provided by the Agency to the Ministry and describes the policy, operational and resource framework within which the Agency will operate.
- b) This Agreement contains several annexes\* providing detailed information and elaborations of provisions in the Agreement, which shall have the same status as if they were part of the main body of the Agreement. In the event that a conflict arises between the terms of the Agreement and the terms of the annexes, the annexes shall be subordinate to the Agreement.

#### **1.2            Definitions**

In this Agreement, unless the context indicates otherwise

"Act" means the Marine Resources Act;

"Agency" means the Fisheries Observer Agency established under the Act, Section 5;

"Agreement" means this Agreement and as referred to in Section 7 of the Act;

"annual plan" means a plan prepared by the Agency on an annual basis setting out the Agency's activities for the coming year and the resources required to carry out those activities;

"board" means the management board of the Agency as contemplated in Section 11 of the Act;

"bycatch" means any marine resource harvested in an attempt to harvest a different marine resource;

"chief executive officer" means the chief executive officer of the Agency;

"CEO" means the chief executive officer of the Agency;

"fisheries inspector" means a person designated as a fisheries inspector under the Act, Section 3;

"fisheries observer" means a person appointed by the Agency to carry out the functions specified in the Agreement and as appointed under Section 7 of the Act;

"Fisheries Observer Fund" means the Fisheries Observer Fund established under the Act, Section 346;

"Fisheries Observer Management Unit" shall mean the fisheries observer management unit established by the Agency;

"Minister" means the Minister responsible for fisheries;

"Ministry" means the Ministry responsible for fisheries;

"National waters" means the internal waters, the territorial sea, the contiguous zone and the exclusive economic zone of the country of this agreement and includes the sea bed up to the high water mark;

"Permanent Secretary" means the Permanent Secretary of the Ministry;

"staff member" means a staff member as defined in the Public Service Act;

"strategic plan" means a plan prepared by the Agency, setting out the Agency's long term plans and objectives;

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\* Annexes are not included in this example, but references are left to the type of annexes that may be useful.

## **2. STATUS AND LEGAL FRAMEWORK**

### **2.1 Formal status**

- a) The Fisheries Observer Agency (Agency) has been established under the Ministry of Fisheries Marine Resources Act (the Act).

### **2.2 Legal framework**

- a) The Agency is an organization established by the Minister of Ministry of Fisheries ("the Minister") as a juristic person.
- b) The Agency shall operate to the Ministry in accordance with the Act and this Agreement.
- c) The Agreement will be reviewed annually, and subject to the agreement between the Minister and the Management Board of the Agency (the Board).

## **3. FUNCTIONS, SERVICES AND LOCATION**

### **3.1 Functions of the Agency**

The functions of the Agency are to:

- a) provide fisheries observers to perform the tasks enumerated in Section 6(1) of the Act and listed in Annex 1 to this Agreement for the benefit of the Ministry;
- b) provide appropriate expertise and facilities to train observers; and

### **3.2 Services to be provided by the Agency**

The Agency shall:

- a) undertake independent observations of the harvesting of marine biological resources in National waters as required by the Ministry;
- b) complement the Ministry's monitoring, control, surveillance and scientific activities through the provision of prompt and accurate information;
- c) provide appropriate expertise, facilities and logistical support to recruit, employ, deploy, supervise, train and discipline fisheries observers; and
- d) deliver observer services on a commercial basis to organizations managing marine biological resources outside National waters and established by an agreement to which the country is a party.

### **3.3 Performance Standards for the Agency**

The Agency shall:

- a) provide observations of the harvest of marine biological resources in an economical, effective and efficient manner, and maintain or improve the quality of service to customers;
- b) assure the highest standards for observer activities and information quality and implement and maintain appropriate rigorous quality control procedures; and
- c) achieve annual performance and financial targets as set by the Minister.

## **4. STRUCTURE OF THE AGENCY**

### **4.1 General structure**

The Agency shall be composed of three entities: a governing body known as the Management Board, the Fisheries Observer Management Unit (FOMU) and the Ministry Liaison Group.

### **4.2 The Management Board**

- a) The function of the Management Board shall be to monitor the performance of the Agency and identify and act upon the need for any corrective action.
- b) The Management Board shall consist of six persons appointed by the Minister in accordance the Act.

### **4.3 The Fisheries Observer Management Unit (FOMU)**

- a) The function of the FOMU shall be to perform the day-to day tasks required to fulfil the function of the Agency, including:
  - i. the recruitment, selection, employment, supervision, training, outfitting, deployment and remuneration of all sea-going personnel;

- ii. the collection, collation, management, storage and retrieval of data and information resulting from at-sea observations by fisheries observers, including violations, and
  - iii. the maintenance of personnel records for the management and administration of observer deployments and payroll, and the monitoring of coverage levels of individual vessels and the fishery.
- a) There shall be a chief executive officer (CEO) of the Agency who shall be responsible to the Management Board for the management, function and development of the FOMU.
  - b) The CEO shall be appointed by the Board in consultation with the Minister, through open competition.

#### **4.4 The Ministry Liaison Group**

- a) The Minister shall form a Liaison Group represented by Ministry staff in the fields of both compliance control and resource management.
- b) The function of the Liaison Group shall be to have regular contact with the FOMU to receive data and information as specified in the annual plan and to assist the FOMU in any technical areas where assistance is needed.

### **5. HUMAN RESOURCES OF THE FOMU**

#### **5.1 The Chief Executive Officer of the Agency**

- a) The CEO of the Agency:
  - i. shall provide such services as may be specified in the Agreement;
  - ii. shall ensure the achievement of the key performance and financial targets;
  - iii. is responsible for the development, achievement and reporting of annual and strategic plans;
  - iv. is responsible for the development and operation of accounting and management information systems;
  - v. is responsible for the maintenance of records, preparation and circulation of agendas, and all other arrangements required for meetings of the Management Board;
  - vi. may, with the approval of the Board, implement such changes to the organisation of the Agency as he or she may consider necessary to maintain and improve its operating efficiency and overall performance;
- b) The CEO has full responsibility in matters relating to decisions on individual employees of the FOMU (whether matters relating to the appointment, promotion, demotion, transfer, disciplining, or the cessation of the employment of any employee, or other matters). In such matters the final line of appeal shall be to the Management Board.
- c) Discharges require ratification by the Management Board.
- d) The CEO must act in accordance with the Labour Act.
- e) The CEO shall ensure required and appropriate agreements, rules and arrangements exist with Agency to ensure discipline is maintained within an environment conducive to good and harmonious human relations.
- f) The CEO shall negotiate with individuals and organised labour organizations within the terms of reference specified from time to time by the Management Board.
- g) The CEO shall ensure that the pay and grading systems of FOMU staff and fisheries observers meet the needs of the business and are in line with both commercial practice and the capacity of Agency to pay.
- h) The CEO shall seek the effective management and development of staff.
- i) The CEO shall maintain such personnel records as required by the Management Board and Ministry. Such records shall remain confidential apart from statistical requirements needed by the Ministry and agreed by the Board.

## **5.2 Accounting Officer**

- a) The CEO is designated as the Accounting Officer (AO) for the Agency and is responsible to the Board for the Agency's financial actions and operations.
- b) The AO must provide adequate financial systems and procedures to promote the efficient and economical conduct of the Agency business and to safeguard financial propriety and regularity.
- c) The AO is responsible for the timely production of data required by the Ministry, the Ministry of Finance and the Auditor General for the budget estimates, appropriation accounts and audit purposes. The AO shall expect reasonable notice of such requirements.

## **5.3 Other staff**

- a) The CEO shall be supported by a management team of technical, administrative, financial, scientific and clerical staff that shall collectively make up the FOMU.
- b) Fisheries observers form the sea going work force of the Agency.

## **5.4 Training of fisheries observers**

- a) The Ministry Liaison Group will approve all training courses for fisheries observers.
- b) Annual plans for training courses will be provided in the Annual Plan.
- c) The Agency will cover all costs related to observer salaries and insurances for the duration of training courses.
- d) The Agency will cover all costs related to training equipment.
- e) The Agency will cover all costs related to their management unit staff when involved in the training of observers.

# **6. AUTHORITY AND ACCOUNTABILITY**

## **6.1 The Minister**

The Minister shall, in accordance with the Act:

- a) determine the overall policy within which the Agency shall operate;
- b) approve the Agency's annual budget by the 30th September of each year for the coming financial year;
- c) review the Agreement on an annual basis;
- d) approve the annual plan, the annual report, the annual budget and the strategic plan submitted to him or her by the board in accordance with the Act; and
- e) review the report on the auditing of financial statements of the Agency.

## **6.2 The Management Board**

- a) The Management Board shall be accountable to the Minister for ensuring implementation of the Agreement.
- b) Meetings of the Board shall be held at least every three months.
- c) The Management Board shall approve and submit an annual report, an annual plan and a strategic plan to the Minister in accordance with Section 5 of this Agreement.
- d) The Management Board is the final point of appeal in any disciplinary matter or point of dispute in matters relating to Agency personnel.

## **6.3 The CEO**

- a) The CEO shall, subject to the directions of the Board and to the Agreement, be responsible to the Board for the efficient, effective, and economical management of the activities of the FOMU.
- b) As part of the responsibility outlined in (a) above, the CEO shall ensure maintenance of the following Standards of Service, particularly with respect to the members of the fishing industry, on whose vessels the Agency's observers shall be deployed:

- i. The aim of the Agency will be to provide the Ministry with the most effective and efficient services for observing and harvesting of marine biological resources under the provisions of the Act.
  - ii. The conduct of all parties on board the vessel during the period of deployment of an Agency observer shall be covered by a Letter of Agreement between the observer and the master of the vessel. The Letter shall have the effect of a legal contract between the Master of the fishing vessel, the owner/operator of the fishing vessel and the Agency.
  - iii. All scientific and fishery data obtained by the Agency observer on board a vessel will remain secure and confidential and will not be identifiable to the vessel once entered and stored in the relevant databases kept by the Ministry.
  - iv. The observer shall not divulge any fishery information which may be regarded as commercially confidential, such as might give a competing vessel an advantage, unless he or she is specifically requested to do so by an Inspector, and then the information shall only be given to the Inspector or similarly designated office of the Ministry.
  - v. As far as possible, the language used for any communication between the master of the vessel and the observer or between observers or the observer and shore shall be English. In the case of doubt as to the exact meaning in translation to any other language, then the common meaning in English shall prevail.
  - vi. All questions and concerns raised by fishing industry representatives relating to the work of the Agency and the Observer Programme shall be addressed in the first instance to the CEO of the Agency. The CEO shall establish a response procedure for addressing grievances raised by the industry representatives that is acceptable to both the Agency and the fishing industry. Details of this grievance procedure shall be included in the protocol to be established by the CEO between the Fisheries Observer Agency and the vessel owners/operators on which the Agency observers are deployed.
- c) Maintenance of the Standards of Service listed in (b) above, shall be mediated through the Protocol between the Fisheries Observer Agency and the vessel owners/operators on which the Agency observers are deployed.

#### **6.4 The Ministry Liaison Group**

- a) The Liaison Group shall be the Agency's first point of contact with the Ministry on day-to day queries or issues related to the operations of the FOMU.

### **7. FINANCIAL PLANNING AND CONTROL**

#### **7.1 Financial year**

- a) The Agency Financial Year shall commence on 1 April and end on 31 March of the ensuing year.

#### **7.2 Financial Provision and Principles**

- a) The finance for the operation of the Agency will be from monies paid into the Fisheries Observer Fund, as established under the Act.
- b) Direct appropriation support will be paid into the Fisheries Observer Fund on 1<sup>st</sup> April each year.
- c) The CEO will be responsible for the management of the Fisheries Observer Fund.
- d) The CEO is authorised to access overdraft facilities to a limit defined and agreed to in the Annual Plan. Management Board or Ministerial approval is not required to access this facility but the CEO will address the use of this facility in his routine reports to the Management Board.
- e) Long term borrowing commitments (exceeding the limit above) may not be entered into without approval of the Minister and the Minister of Finance.
- f) The CEO is free to conduct the Agency financial affairs within the annual and strategic plans, as approved by the Minister.
- g) The CEO, may delegate his or her authorities under this provision in writing to appropriate named individual staff.
- h) The CEO may authorise current expenditure of an unlimited amount within the agreed parameters in the approved Annual Plan.
- i) The CEO may authorise capital expenditure of any amount that has been formally authorised by the Management Board.

### **7.3 Internal Audit and Management Inspection**

- a) The CEO shall be responsible to the Management Board for ensuring that prudent and correct financial management is practised so that the Agency's financial and operational future is secured.
- b) The CEO shall be responsible for commissioning the internal audit and management inspection services required to ensure the proper and efficient conduct of the Agency's affairs and to discharge his or her responsibilities as Agency Accounting Officer. These services shall comply with the objectives, standard and practices laid down by the State Finance Act.
- c) The audited Annual Accounts will be prepared by 1<sup>st</sup> June following the end of the Financial Year and submitted to the Minister.

### **7.4 Financial accounting and statements**

- a) The Agency shall keep proper accounts and records of all moneys received or expended by it, and of all assets, liabilities and financial transactions.
- b) The accounts and records of the Agency shall:
  - i. be audited annually by a person registered as an auditor in terms of the Public Accountants' and Auditors' Act and approved by the Auditor-General; and
  - ii. be approved by the Agency at its annual general meeting.
- c) The CEO shall present the previous quarters management accounts to the Board at each of its meetings held.

## **8. MEETINGS, REPORTING AND PLANNING**

### **8.1 Meetings**

- a) There will be two meetings per year between the Minister, the Management Board and the CEO, the dates for these meetings will be agreed by all parties at the previous meeting within the constraints identified below:
  - i. **The Planning Meeting** to approve the annual plan and budget shall be held between 1 January and 31 March annually; and
  - ii. **The Reporting Meeting**, at which the Minister will discuss and approve the Annual Report and review the Agreement with the CEO and Management Board, shall be held annually within 30 days of the receipt of the Annual Report by the Minister.

### **8.2 The Strategic Plan**

- a) The Management Board shall approve and submit annually to the Minister a five-year rolling strategic plan that sets out the strategic goals and plans of the Agency for the following five years.
- b) The strategic plan shall be rolled forward and updated each year and will form the agreed basis for Agency's detailed planning. It will also provide a framework for monitoring progress against longer-term objectives and targets.
- c) The strategic plan shall be submitted on or before the 31<sup>st</sup> December each year and include the following:
  - i. the strategic goals and objectives of the Agency with reference to the fulfilment of the role of the Agency as provided for in this Agreement;
  - ii. reference to the strategy for training and career development plans for observers and other staff; and
  - iii. reference to the strategy for capacity building.

### **8.3 The Annual Plan**

- a) The Management Board shall approve and submit an annual plan to the Minister that sets out the work that the Agency will do in the coming year and the resources it will need to do that work. This plan shall be submitted on or before 31 December each year and shall include the following:
  - i. key annual performance and financial targets as set by the Minister;
  - ii. further targets for the year related to the requirements of this Agreement;
  - iii. an annual work plan describing how the Agency plans to meet these targets;

- iv. the annual budget stating the resources required to achieve these targets, including the scale of remuneration, allowances, and benefits for the observers and other staff;
- v. a review of the level of charges payable

#### **8.4 The Annual Report**

- a) The Management Board shall approve and submit an annual report to the Minister on the functioning of the Agency.
- b) The Annual Report shall be submitted to the Minister as soon as possible, but not later than three months after the end of each financial year.
- c) The Annual Report shall include audited financial statements of the Agency and a report of the auditor on those statements and a report on its activities during that financial year.
- d) The report of the Agency's activities during the financial year shall include:
  - i. reporting on the overall progress related to the approved strategic plan;
  - ii. reporting on the specific progress related to the approved key annual performance and financial targets; and
  - iii. reporting on the outputs related to the approved annual workplan;

### **9. TERM, REVIEW AND AMENDMENT OF THE AGREEMENT**

#### **9.1 Term of the Agreement and termination**

- a) This Agreement shall be effective as of the date of its execution by the Ministry and the Agency, and shall have a fixed term of five years from the effective date.
- b) This Agreement shall terminate prior to the fixed term upon the occurrence of any of the events listed below:
  - i. the Minister and the Board agree in writing to terminate this Agreement;

#### **9.2 Review of the Agreement**

- a) The Minister, in consultation with the Board and the CEO, will review this Agreement annually in the Reporting Meeting.
- b) Subject to agreement between the Minister and the Board, the Agreement may be renewed after five years for a further period of five years.

#### **9.3 Amendment**

- a) All amendments to this Agreement shall be subject to agreement between the Minister and the Board.
- b) Amendments to the annexes attached to this Agreement shall be subject to agreement between the CEO and the Management Board.
- c) The Minister shall be advised of all amendments to the annexes attached to this Agreement.

### **10. ANNEXES**

The following annexes are not attached to this agreement but they give examples of the types of annexes that should be considered in an agreement such as this:

- Code of Conduct for Observers
- Operational and performance criteria for the Agency
- Staffing structure, staff responsibilities and service conditions
- Health and safety of observers
- Guidelines for training fisheries observers
- Financial procedures and funding of the Agency

## **APPENDIX 2                      An example of training and performance standards for observers**

The following training and performance standards have been developed for an observer programme with four levels of observers, namely: training observers, observers, senior observers and chief observers.

### **Observers accepted as trainee observers**

- a) Observers accepted as trainee observers following initial screening of candidate applications and qualifications shall perform at a minimum to the following standard. Trainee observers shall:
  - i. be able to review the vessel's Fishing License and other documentation upon boarding, and understand all sections thereof that are relevant to his or her work;
  - ii. be able to check the validity and accuracy of the data contained in the fishing log at least daily and countersign the fishing log to confirm that this has been done;
  - iii. understand navigational and position information with respect to each fishing operation or transit between operations;
  - iv. be able to identify target species and more common by-catch species accurately;
  - v. understand the definitions and regulations in place regarding discarding and high-grading of fish and the application of those regulations aboard a fishing vessel;
  - vi. be familiar with the type and construction of fishing gear used and measure and otherwise take note of any special meshes or attachments to the gear which may affect its performance in use;
  - vii. be able to bring any issue or discrepancy to the attention of the Master or Officer on Watch in simple language and if necessary report the issue or discrepancy to the observer programme;
  - viii. accurately record data from observations of the fishing log, the fishing operation and processing activities on a timely basis throughout the observed trip and record important features of the vessel's operation on the appropriate forms; and
  - ix. complete the Observer Daily Report as required.

### **Observers attaining the rank of observer**

- a) In addition to the performance standards for trainee observers, observers shall:
  - i. understand the basic biological and economic reasons behind fisheries management and the requirement for Monitoring, Control and Surveillance (MCS);
  - ii. understand the role of observers in the fisheries management process;
  - iii. be familiar with the Law and relevant sections of the Act and regulations as they affect the fishing operation;
  - iv. understand how the licensing arrangements are made;
  - v. record accurately catch and effort data from observations of the fishing log, the fishing operation and processing activities on a timely basis throughout the trip;
  - vi. be able to take length measurements from random samples of designated species and record the data correctly as required;
  - vii. understand the importance and relevance of commercial sampling;
  - viii. be able to complete appropriate forms correctly as required;
  - ix. observe at least 70% of the stations if working alone, except under extraordinary circumstances of injury or illness; and
  - x. observe at least 90% if two observers are working together, except under extraordinary circumstances of injury or illness.

### **Observers attaining the rank of senior observer**

- a) In addition to the performance standards for observers, senior observers shall:
  - i. be able to collect more advanced biological data and samples in up to 50% of the sets observed;
  - ii. determine the sex of commercial species and collect data on fish sex;
  - iii. collect otoliths and/or other hard parts for aging studies from designated species, and correctly store and label these;
  - iv. estimate more accurately the whole catch composition by weight and percentage as hauled on board for a variety of fishing vessels;
  - v. estimate composition of bycatch;
  - vi. estimate discards;
  - vii. take samples from crustacean species for size and sex and maturity data;
  - viii. take length/weight measurements, as required;
  - ix. store samples and data, as required;
  - x. complete sampling forms as appropriate;
  - xi. record environmental data, as required; and
  - xii. be more familiar with the instruments used for navigation, communication and fish-finding on a typical fishing vessel, as required.

### **Observers attaining the rank of chief observer**

- a) In addition to the performance standards for senior observers, chief observers shall:
  - i. be able to take more advanced biological samples and data, including fish maturity stages, fish gonadosomatic-index (GSI), stomach samples or parasite collection and/or counts and sampling for special research projects.

## APPENDIX 3

### Occupational standards – example of an occupational unit

This is an example from an observer-training course to show how an occupational standard is developed.

#### UNIT 1: COLLECT RESEARCH SAMPLES AND DATA

##### Element 1.1: Collect research samples of commercial harvest.

###### Performance Criteria:

- Sampling strategies are correctly applied for different commercial species in different situations.
- Random sampling is used to collect research samples that are representative of the harvest.

##### Element 1.2: Determine length/weight relationships for different fish species.

###### Performance Criteria:

- Selective sampling is used to collect representative samples to determine length/weight relationships.
- Total and/or caudal length and weight of individual fish are determined accurately.
- Length and weight data are used to determine length/weight relationships.
- Harvest data for each sample are recorded accurately.

##### Element 1.3: Determine sex ratio's of various marine organisms.

###### Performance Criteria:

- Random sampling is used to determine sex ratios of various marine organisms.
- Organisms are sexed using appropriate methods.
- Harvest data for each sample are recorded accurately.

##### Element 1.4: Classify the gonad development of fish.

###### Performance Criteria:

- Random samples of various species are collected.
- Gonads are identified correctly.
- Gonads are classified as immature, ripe or spent.
- Harvest data for each sample are recorded accurately.

## APPENDIX 4 Pages for a Fishery Observer Record Book

The following pages are examples from a Fishery Observer Record Book:

PERSONAL DETAILS	
Surname:	ATTACH PHOTOGRAPH
First Name:	
Title:	
Sex:	
Date of Birth:	
Identity No:	
Passport No:	
Residential Address:	
Telephone No:	
Next of Kin:	
Relationship:	
Observer No:	
Date Started As Observer:	
Date Record Book Issued:	
By Whom:	
Signature of Issuing Officer:	Authorising Stamp:
Signature of Observer:	

TRIP RECORD	
VESSEL DETAILS:	
Name:	
BOC:	License No:
Nationality:	Port:
Captain's Name:	
Company Name:	
TRIP DETAILS:	
Trip Number:	No of Days at Sea:
Embarkation Date:	Time:
Embarkation Port:	
Disembarkation Date:	Time:
Disembarkation Port:	
SAMPLING:	
Grade of Observer:	No of Stations Sampled:
Species Sampled:	
SIGNATURES:	
Signature of Issued Captain:	Signature of Supervisor:
Vessel Stamp:	Observer Programme Stamp:

LEAVE	
ALL PERIODS OF LEAVE SHOULD BE RECORDED ON THESE PAGES AND SIGNED FOR BY THE OBSERVER PROGRAMME SUPERVISOR	
Leave From:	Leave To:
Reason for Leave:	
Supervisor's Signature:	
Leave From:	Leave To:
Reason for Leave:	
Supervisor's Signature:	
Leave From:	Leave To:
Reason for Leave:	
Supervisor's Signature:	

OBSERVER TRAINING RECORD	
Name and content of Training Course:	
Dates of Course:	
Place of Course:	
Supervisor's Signature:	
Comments:	Authorising Stamp:
Name and content of Training Course:	
Dates of Course:	
Place of Course:	
Supervisor's Signature:	
Comments:	Authorising Stamp: