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**CUSTOMARY OWNERSHIP OF SEA AREAS AND RESOURCES
WITH RESPECT TO THE MANAGEMENT OF BAITFISHERIES
IN SOLOMON ISLANDS AND FIJI**

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Customary Ownership of Sea Areas and Resources with respect to the Management of Baitfisheries in Solomon Islands and Fiji

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The pole-and-line fisheries for skipjack (*Katsuwonus pelamis*) and yellowfin (*Thunnus albacares*) tuna are important commercial industries in both Solomon Islands and Fiji. For the success of this method a regular supply of baitfish is required by the pole-and-line vessels. In both countries, baitfish has been caught using the well documented 'bouke-ami' technique (Kearney, Lewis and Smith, 1972; Evans and Nichols, 1984).

Baitfishing takes place from inshore areas to which both Solomon Islanders and Fijians have traditional rights. The situations in each country are different:-

Solomon Islands

Customary ownership or tenure over sea areas in Solomon Islands still exists as a perceived and inviolable right of coastal people. Ownership is a complex concept and Solomon Islanders have strong attitudes towards sea areas especially those close to shore or associated with recognisable physical structures such as reef areas. Access to areas where traditional rights of tenure, or usage of natural resources have become 'custom', can only be maintained through negotiation of an agreement and the payment of 'compensation' or royalty payments.

Baitgrounds in Solomon Islands are located in inshore areas which brings them within the customary jurisdiction of reef-owners. Agreements have been reached between the reef-owners and representatives of the pole-and-line fishing companies, Solomon Taiyo Limited (STL) and National Fisheries Developments Limited (NFD), to allow baitfishing operations in particular baitgrounds. The written agreement which is signed by both parties includes a reference to the baitground and the rates of payment for each vessel size class, as well as the names of the trustees who will be signatories for the bank deposit account into which royalty payments are made. During negotiations, the boundaries of the baitground are defined. Generally there is an understanding between separate groups of reef owners as to the limits of jurisdiction between baitgrounds. The boundaries are marked on a reference set of maps and the trustees/reef-owners are asked to sign the map as a declaration of rights of jurisdiction.

During the initial development of the baitfishery in Solomon Islands, discussions with reef owners was on an ad hoc basis. However since 1980, it is usual for industrial relations officers to tour the major baitgrounds prior to the start of a new pole-and-line fishing season in order to discuss any problems that may have arisen during the previous year, to recompense any under-payments of royalties, and to negotiate the opening of new baitgrounds, or re-evaluate the boundaries of existing ones. This has reduced the number of grievances between the reef-owners and industry.

Royalty payments are paid for each night of fishing by a pole-and-line vessel in a particular baitground, and not on catch as this would lead to under-reporting of important data. The rate that has to be paid is dependent on the size class of the vessel, which effects the maximum baitfish holding capacity. There are three size classes: small, medium and large. In 1989, the rates were SI\$19, SI\$28 and SI\$36 for small, medium and large vessels respectively. The nightly fishing activities of each vessel is recorded by an officer on the vessel. This data is summarised on a monthly basis by the fishing companies. The number of nights fished by small, medium and large vessels are

multiplied by the appropriate royalty rate to calculate the total payment due to each baitground account. The transfer of the funds was then transferred directly into the baitground accounts by each company.

The owners of most of the baitgrounds formed themselves into an association which negotiated directly with the fishing companies. Claims by the association members that they were being underpaid led to substantial increases in royalty payments. However claims that the system of reporting of baitfish catch and effort was inaccurate and that baitfishing was having detrimental effects on local fish stocks, also needed to be addressed. These claims required independent assessment of the situation by the Solomon Islands Fisheries Department.

The principal point of contention was the accuracy of the reported fishing locations. The Fisheries Department and Solomon Taiyo Limited received many complaints of under-payment of royalties. Baitground owners recorded observations of vessel activities often did not tally with the payments that they received.

This led at the beginning of the 1981 fishing season to a completely new set of management methods for regulating, recording and reporting catch and effort for the baitfishery. This contained alterations in the regulations under the Fisheries Act (1972) controlling baitfishing operations as distinct from skipjack fishing. A new system for defining each individual baitground was initiated which included the production of Baitground Map books. New baitfish record sheets were produced and recorders were identified on each vessel and were trained in their use.

In Solomon Islands the control of near-shore fishing activities was implemented through the Fisheries (Amendment) Regulations of 1977, which stated that 'the vessel shall not be used for fishing operations in any waters within five hundred yards of low water mark or within one nautical mile of any village; Provided that the Principal Licensing Officer may if he thinks fit waive this condition by endorsing the licence to this effect'. However this regulation was considered to be too vague, so further regulations were introduced. The Fishing (Local Fishing Vessels) Regulations of 1981 maintained a similar limitation with the exception of baitfishing. This was the first time that baitfishing had been directly referred to in any legislation.

In addition to 'the 500 metre rule' other aspects of Government requirements were introduced: The Fishing (Local Fishing Vessel) (Amendment) Regulations, 1983 stated that:-

'(f) vessels must not, save for baitfishing, fish within five hundred metres of the low water mark or within one nautical mile of any village or fish within any local fishing area specified by the Principal Licensing Officer until an agreement in writing, between the licensee and the person or persons who have, over those waters, customary ownership, trusteeship recognised by the responsible area council or councils or jurisdiction recognised under the Provincial Government Act (1981), has been signed by or on behalf of the parties, verified by the Provincial Government and received by the Principal Licensing Officer', and

'(g) if licensed for pole-and-line fishing -

- (i) not baitfish in any area unless such an area is shown in the current set of baitground maps approved by the Principal Licensing Officer and is the subject of an agreement between the customary baitground owners and the owner of the vessel, or its charterers;
- (ii) carry on board at all times the latest set of baitground maps approved by the Principal Licensing Officer; and
- (iii) keep a daily record of baitfishing operations in a form approved by the Principal Licensing Officer;

(h) carry on board at all times the current set of local fishing area maps approved by the Principal Licensing Officer;

(i) keep a daily record of all other fishing operations in a form approved by the Principal Licensing Officer;

(j) submit a copy of each daily record of baitfishing and other fishing operations, or with the agreement of the Principal Licensing Officer a summary total thereof, to the Principal Licensing Officer as often as he shall require';

The main aim of the regulations was not to hamper the activities of the pole-and-line fleet, but to protect the interests of the rural communities and satisfy the requirements of the Fisheries Department.

Since the introduction of a new baitfishing logsheet in 1981, the system has worked reasonably well. Complaints sometimes arise in cases of abuse of funds by baitground trustees but this is an area in which both the Solomon Islands Government and the commercial fishing companies do not get involved.

For a more detailed summary of the development and the management of the baitfishery in Solomon Islands, see Nichols and Rawlinson, 1991.

Fiji

In Fiji, the land under the sea is Crown property (Sharma and Adams, 1990). However there is legislation to protect customary fishing rights which guarantees the mataqalis (the Fijian land owning family group) their customary supply of food from the sea. The law also allows mataqalis to have an input into the management of commercial (licensed) fishing activity on the reefs and shellfish beds within areas subject to customary fishing rights, though the law differs from customary concepts. The law refers to usage rights, which can not be compensated, but certain areas claim ownership rights to certain fish resources which has led to claims for compensation for baitfish taken by pole-and-line boats.

When considering customary rights in Fiji in relation to the capture of baitfish it is relevant to note that many of the baitfish species do not possess Fijian names and are not targeted by traditional fishers.

In Fiji, commercial fishers must normally obtain a permit to fish in customary fishing right areas, and it has become common practice (but not a legal requirement) to charge a 'goodwill' fee for this permission. Pole-and-line vessels were not required to obtain such a permit for baitfishing but complaints and closures of some baitgrounds has meant that the concept of 'goodwill' payments for these operations has now been introduced. At the beginning of 1992, after the closure of some of the most valuable baitfishing grounds to the pole-and-line industry in Fiji eg Vanua Balavu, a royalty payment system was introduced to compensate traditional fishing-right owners for the removal of baitfish and the operation of the pole-and-line vessels in their areas (Sharma, 1993). An initial rate of FJ\$10 per vessel per night was set. The number of nights fishing in a particular area was calculated from the records supplied to Fisheries Division by each vessel. The royalty payments were then allocated to the rightful fishing ground owners as detailed by the boundaries held by the Native Lands and Trust Board. The money for each area was transferred to the Fijian Treasury.

New bait site map books were being produced in 1994 to ensure the most recent boundaries, as agreed by the fishing-right owners and the Native Land and Trust Board, were available. Each vessel will be issued with a map book to ensure that the skipper knows exactly which baitground should be recorded in the logbooks.

The payment of a 'goodwill' fee has not been sufficient on its own to compensate for the operations of pole-and-line vessels in all areas and so some baitgrounds have still been closed to commercial vessels.

Conclusion

The situations in Solomon Islands and Fiji are different in that in one country, decisions had to take into consideration ownership of the custom fishing area and in the other, Fiji, had to consider the ownership of the resource. However similar management measures were adopted in both countries as a means to satisfy traditional owners and still enable to the operations of the important pole-and-line industries in each country to continue.

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