

AMENDMENTS TO 1987 TREATY ON FISHERIES WITH
PACIFIC ISLAND STATES

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AMENDMENTS TO THE 1987 TREATY ON FISHERIES BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA, WITH ANNEXES AND AGREED STATEMENTS, DONE AT PORT MORESBY, APRIL 2, 1987 (THE "TREATY"), DONE AT KOROR, PALAU, MARCH 30, 1999, AND AT KIRITIMATI, KIRIBATI, MARCH 24, 2002. ALSO TRANSMITTED, RELATED AMENDMENTS TO THE TREATY ANNEXES, AND THE MEMORANDUM OF UNDERSTANDING



FEBRUARY 11, 2003.—Treaty was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *February 11, 2003.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith Amendments to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, with Annexes and agreed statements, done at Port Moresby, April 2, 1987 (the “Treaty”), done at Koror, Palau, March 30, 1999, and at Kiritimati, Kiribati, March 24, 2002. I also transmit, for the information of the Senate, the report of the Secretary of State with respect to these Amendments, related Amendments to the Treaty Annexes, and the Memorandum of Understanding regarding provisional application.

The United States enjoys positive and constructive fisheries relations with the Pacific Island Parties through the implementation and operation of the Treaty, which is one of the cornerstones of our overall foreign relations with the Pacific Island Parties. This Treaty, and the good relationships it has fostered, has provided new opportunities for collaboration between the Pacific Island Parties and the United States on fisheries conservation and management issues. The relationships established as a result of the Treaty have also helped to safeguard U.S. commercial and security interests in the region.

The Amendments to the Treaty will, among other things, allow U.S. longline vessels to fish in high seas portions of the Treaty Area; streamline the way amendments to the Treaty Annexes are agreed; and allow the Parties to consider the issue of capacity in the Treaty Area and, where appropriate, to promote consistency between the Treaty and the relevant fisheries management convention, which is likely to come into force during the duration of the extended operation of the Treaty.

Existing legislation, including the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq. and the South Pacific Tuna Act of 1988, Public Law 100–330, provides sufficient legal authority to implement U.S. obligations under the Treaty. Therefore, no new legislation is necessary in order for the United States to ratify these Amendments. However, minor amendments to section 6 of the South Pacific Tuna Act of 1988, Public Law 100–330 will be necessary to take account of the Amendment to paragraph 2 of Article 3 “Access to the Treaty Area,” which opens the high seas of the Treaty Area to fishing by U.S. longline vessels.

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I recommend that the Senate give favorable consideration to these Amendments and give its advice and consent to their ratification at an early date.

GEORGE W. BUSH.

LETTER OF SUBMITTAL

THE SECRETARY OF STATE,
Washington, December 28, 2002.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to transmission to the Senate for advice and consent to ratification, Amendments to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, with annexes, (“the Treaty”), done at Koror, Palau March 30, 1999 and at Kiritimati, Kiribati March 24, 2002. The Treaty was ratified by the United States on December 21, 1987 and it entered into force on June 15, 1988. The Amendments to the Treaty will, among other things, allow U.S. longline vessels to fish in high-seas portions of the Treaty Area; streamline the way amendments to the Treaty Annexes are agreed; and allow the Parties to consider the issue of fishing capacity in the Treaty Area and ways to promote consistency, where appropriate, between the Treaty and the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the “WCPFC Convention”), done at Honolulu, Hawaii September 4, 2000. The Amendments to the Treaty Text are briefly described below. Related amendments to the Treaty Annexes and the Memorandum of Understanding regarding provisional application are also included for the information of the Senate.

The United States enjoys positive and constructive fisheries relations with the Pacific Island Parties through the implementation and operation of the Treaty. Since it entered into force in 1988, the Treaty has become the cornerstone of the economic and political relationship between the United States and these Pacific Island Parties. This good relationship on fisheries issues, as well as a common desire to conserve and manage fisheries resources in the South Pacific, has carried over into the multilateral effort to establish a conservation and management regime in the Western and Central Pacific. Under the Treaty, the U.S. industry pays an annual license fee of \$4 million per year—a figure which will be reduced to \$3 million under the Treaty extension, due to a decrease in the number of vessels to be licensed to fish in the Treaty Area.

To date, the Treaty has provided considerable economic benefits to the United States. The tuna harvested by U.S. vessels under the Treaty contributes an estimated \$250 to \$400 million annually to the U.S. economy. Nearly all of this fish is landed at the two canneries in American Samoa, one owned by U.S. interests, which are the territory’s largest employers.

Associated with the Treaty is the Economic Assistance Agreement between the United States and the South Pacific Forum Fisheries Agency. Under the current terms of the Agreement, the United States provides \$14 million per year in Economic Support Funds (ESF) to the Pacific Island States to be used solely for economic stability and security. The payments under the associated Agreement are now the only significant source of U.S. economic support for the stability and security of the region outside the assistance provided to the Freely Associated States. The strong economic and political relationship with the Pacific Island States made possible by this Agreement also helps further U.S. Foreign policy goals through support from the Pacific Island States in international fora.

The Agreement expires June 14, 2003. To serve U.S. interests and to maintain the stability of this successful regime, in conjunction with the amendments to the Treaty and Annexes, the Agreement will be amended and extended for a term of 10 years. The United States and the Pacific Island parties have agreed that for the next term of the Agreement, the annual level of economic assistance provided by the U.S. Government under the Economic Assistance Agreement associated with the Treaty would be \$18 million. It is anticipated that the United States and the South Pacific Forum Fisheries Agency will sign the new Economic Assistance Agreement in early 2003.

The amendments to the Treaty are non-controversial and are widely supported by U.S. domestic constituent interests.

The first amendment, which was initially agreed to in 1999, modifies paragraph 2 of Article 3 "Access to the Treaty Area" to allow U.S. longline vessels to fish in high-seas portions of the area covered by the Treaty. The current Treaty excludes U.S. fishing vessels other than purse-seine vessels from operating in the Treaty Area, except for albacore troll vessels that may operate on the high seas within the Treaty Area. At the time the Treaty was negotiated in the late 1980s, the United States did not have a large distant-water longline fleet in the Pacific Ocean and thus no similar exception was included for these vessels. However, in recent years, a large U.S. longline fleet has developed and would like to fish in the high-seas portion of the Treaty Area. This amendment would accomplish that goal and is strongly supported by U.S. fishing interests in Hawaii and elsewhere in the region.

The second amendment adds a new preambular paragraph that notes with satisfaction the successful conclusion of the WCPFC Convention which, once in force, will establish the legal framework and an organization to conserve and manage highly migratory fish stocks in the same region covered by the Treaty. The WCPFC Convention will provide for conservation and management of the fisheries resources in the region, thereby helping to ensure the long-term sustainability of the resource for the U.S. tuna purse-seine fleet. The United States actively participated in negotiation of the WCPFC Convention and signed it on September 9, 2000. The WCPFC Convention is strongly supported by the U.S. tuna industry and the environmental community. Entry into force of the WCPFC Convention for the United States is dependent on Senate advice and consent to ratification, and the Department of State is

preparing for its submission to the President for transmittal to the Senate.

The third amendment adds a new paragraph in Article 1 (“Definitions and Interpretation”) defining the term “Convention” as referring to the WCPFC Convention.

The fourth amendment adds three new paragraphs to Article 7 (“Review of the Treaty”). The first two amendments (the addition of new paragraphs 2 and 3) pertain to linkages between the Treaty and the WCPFC Convention. New paragraph 2 provides that parties to the Treaty shall, where appropriate, consider the extent to which adjustments to the Treaty or any measures adopted pursuant to it may be necessary to promote consistency with measures adopted under the WCPFC Convention. New paragraph 3 provides that parties to the Treaty may cooperate to address matters of common concern under the Convention. The U.S. is supportive of conservation and management of the fish stocks of this region and pushed hard for an effective WCPFC Convention. The Convention will likely come into force within the term of the extended operation of the Treaty. Therefore, these amendments provide for cooperation and, where appropriate, the promotion of consistency between the operation of this Treaty and any management measures to be taken under the WCPFC. They do so, however, without binding the United States to the Convention or any future measures adopted thereunder until the United States becomes a Party to the WCPFC Convention.

The third modification to Article 7 adds a new paragraph 4 providing that the parties to the Treaty shall, where appropriate, consider the issue of capacity in the Treaty Area. The issue of “over-capacity” of the fishing fleets in the region is important for the United States and the U.S. tuna industry, because “over-capacity” can undermine management efforts and affect the economic viability of the fishery for all participants. The inclusion of a provision on fishing capacity was a key goal of the United States in these negotiations.

The fifth and final amendment to the Treaty text concerns Article 9 (“Amendments to the Annexes”). Article 9 would be amended in its entirety to provide for a more streamlined and efficient procedure to amend the annexes of the Treaty. Unlike the United States, where the Congress has authorized the Secretary of State to approve amendments to the Annexes on behalf of the United States Government (South Pacific Tuna Act of 1988, P.L. 100–330), nearly all of the Pacific Island Parties to the Treaty must submit any amendments to the Annexes to their legislative bodies for approval. This reality has resulted in substantial delays in the entry into force of important technical amendments to the Annexes desired by the United States and the U.S. tuna industry. The revisions to Article 9 would allow amendments to the Annexes to take effect more quickly. Specifically, any party may propose amendments by notifying the depositary at least 120 days before the annual meeting. Amendments will be adopted by consensus. After adoption, each party is to act expeditiously to accept the amendment, and parties will, to the extent possible for them, apply adopted amendments provisionally. This establishes a more streamlined procedure, while providing time and opportunity for the United

States to undergo our internal procedures to develop our position on any proposed amendment.

The Amendments to the Treaty text do not have final clauses detailing their entry into force. Article 8 of the Treaty, however, provides for the Parties' consideration and adoption of amendments. Specifically, Article 8(e) provides: "Any amendment to this Treaty shall be adopted by the approval of all the parties, and shall enter into force upon receipt by the depositary of instruments of ratification, acceptance or approval by the parties." Accordingly, these Amendments will enter into force once all the Parties to the Treaty have consented to be bound by them.

Like the Treaty Amendments themselves, the related Amendments to the Treaty Annexes, which will be concluded as executive agreements in accordance with the Treaty and P.L. 100-330, also lack final clauses detailing their entry into force. Article 9 of the Treaty, however, provides for their entry into force upon the date of notification that all Parties have accepted the Annex amendments, unless the Parties agree on a different date. A copy of these amendments is enclosed for the information of the Senate.

The United States and the Parties also agreed on the text of a non-legally binding Memorandum of Understanding (MOU) that will have the effect of provisionally applying from June 15, 2003 (1) the Amendments to the Treaty (except for the amendments to Article 9) agreed in Kiritimati, Kiribati on March 24, 2002; (2) the Amendments to the Annexes agreed in Kiritimati, Kiribati on March 24, 2002; (3) the Treaty Amendment previously agreed in Koror, Palau on March 30, 1999 that opens the high seas of the Treaty Area to U.S. longline vessels; and (4) two Amendments to the Annexes agreed in Koror, Palau on March 30, 1999 that close Papua New Guinea's archipelagic waters and open the waters of the Solomon Islands to U.S. vessels, if these amendments have not yet been approved by all Parties by June 15, 2003. This MOU is an important political commitment that will allow the U.S., among other things, to ensure that as of June, 2003, U.S. longline vessels will be able to fish in the high seas portions of the Treaty Area and that the waters of the Solomon Islands will be open even if every Party has not yet approved those amendments. Both of these issues have long been goals for the U.S. industry. A copy of the Memorandum of Understanding, done at Kiritimati, Kiribati March 24, 2002, is also enclosed for the information of the Senate.

Existing legislation, including the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §1801 et seq. and the South Pacific Tuna Act of 1988, P.L. 100-330, provides sufficient legal authority to implement U.S. obligations under the Treaty. Therefore, no new legislation is necessary in order for the United States to ratify these amendments to the Treaty. However, minor amendments to Section 6 of the South Pacific Tuna Act of 1988, P.L. 100-330 will be necessary to take account of the Amendment to paragraph 2 of Article 3 "Access to the Treaty Area."

IX

The Department of Commerce joins me in supporting ratification of these Amendments.

Accordingly, I recommend that the Amendments to the Treaty text be transmitted to the Senate as soon as possible for its early and favorable advice and consent to ratification.

Respectfully submitted.

COLIN L. POWELL.

Enclosures: as mentioned.

AMENDMENTS TO THE ANNEXES TO THE TREATY ON FISHERIES
BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES
AND THE GOVERNMENT OF THE UNITED STATES

1. Amend Annex 1, Part 5, Paragraph 13 to read in its entirety as follows:

"13. Information relating to vessel position, catch and effort, as described in Part 1 of Schedule 4, shall be provided by telex, vessel monitoring system (VMS) transponder, electronic mail, or any other method of electronic reporting agreed to by the parties to the Administrator at the following times:

- (a) before departure from port for the purpose of beginning a fishing trip in the Licensing Area;
- (b) at least 24 hours before entry into port for the purpose of unloading fish from any trip involving fishing in the Licensing Area."

2. Amend Annex 1, Part 7, Paragraph 24(b) to read in its entirety as follows:

"(b) The fees for the cost of observers shall be provided in a lump sum on an annual basis from 15 June 2003 in accordance with the following formula:

The fixed cost component of US \$55,000 plus the number of vessels licensed multiplied by 5 trips multiplied by 20 percent multiplied by the cost per trip (US \$4,500) equals lump sum payment. The fixed cost component shall consist of the costs to the Administrator for training and management of the Observer and Crewing Programme."

3. Amend Annex 1, Part 7, Paragraph 24(c) to read in its entirety as follows:

"(c) The parties may, as mutually determined at the annual meeting provided for in Article 7.1 of the Treaty adjust the amount of the fees to be paid under subparagraph (b), it being understood that:

- the goal of the observer programme is to provide an effective observer programme for compliance by targeting 20 percent coverage, which may be reviewed from time to time;
- any unused sums are carried forward to the next licensing period; and
- the factor of inflation shall be taken into account."

4. Amend Annex 1, Part 8, Paragraph 30 to read in its entirety as follows:

"30. The vessel shall have its automatic locations communicator (ALC), as approved by the Forum Fisheries Agency (FFA), operational at all times while in the Treaty Area. Data collected through the vessel's ALC shall be transmitted in near real time both to the FFA and to the Government of the United States. While the vessel is in waters within the Treaty Area that are under the jurisdiction of the Government of the United States, viewing of the data transmitted shall be limited to the Government of the United States. All data transmitted in accordance with this provision shall be treated as confidential business information and shall be distributed only to ensure

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that the obligations under this Treaty are fulfilled. Technical matters including financial implications related to the implementation of this Part will be a matter for discussion between the parties."

5. Replace all references to "GMT" in Annex 1, Schedule 4 to read "UTC".
6. Replace all references to "short tonnes" in Annex 1, Schedule 4 and Schedule 5 to read "metric tonnes".

7. Add new subparagraphs 9 and 10 to Annex 1, Schedule 4, Part 1(a)

"(9) estimated date/time of arrival"

"(10) estimated date of departure"

8. Delete paragraph (b) of Annex 1, Schedule 4, Part 1

9. Add new subparagraph 9 to Annex 1, Schedule 4, Part 2(b):

"(9) observer on-board Y/N"

10. Amend Annex II, Schedule 2, Paragraph 1 to read in its entirety as follows:

"1. The following amounts are payable annually for a period of ten (10) years from 15 June 2003 pursuant to paragraph 3 of Annex II --

- (e) an annual industry payment of US \$3 million, which shall cover --
 - (i) license fees for up to 45 vessels as set forth in paragraph 2 below; and
 - (ii) technical assistance;
- (b) costs to be paid by the industry for the observer programme set forth in Part 7 of Annex I; and
- (c) sums pursuant to the related agreement between the South Pacific Forum Fisheries Agency and the Government of the United States."

11. Add new paragraph 2 to Annex II, Schedule 2 to read in its entirety as follows:

"2. The United States industry payment specified in paragraph 1(a) of this Schedule may be made in two separate instalments. One half of the payment shall be paid by June 15 of each year with the balance to be paid by December 15th of the same year. The second instalment will be paid with interest at an agreed rate."

12. Add new paragraph 3 to Annex II, Schedule 2 to read in its entirety as follows:

"3. In order to increase the benefits to the Pacific Island parties under the Treaty, the United States industry will develop with the Pacific Island parties a system for revenue sharing where the ex-vessel price is at or above a mutually agreed level. Payments made under such a system will be made quarterly and will be in addition to the amount specified in paragraph 1(a)."

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13. Amend paragraph 2 to Annex II, Schedule 2 to read in its entirety as follows:

Renumber paragraph 2 as paragraph 4.

"4. During each licensing period, the Administrator shall make available a maximum of 45 licences to fishing vessels of the United States for fishing in the Licensing Area. Any licences issued beyond 40 shall only be available to fishing vessels of the United States engaged in fishing activity designed to advance broader cooperation with the Pacific Island parties as envisaged under Article 2. If the Administrator does not receive applications for the maximum of 45 licences during any of the first three licensing periods under this Schedule, the Pacific Island parties reserve the right at the end of the third licensing period to review the allocation of licences beyond 40 for the remaining licensing periods."

14. Amend paragraph 3 to Annex II, Schedule 2 to read in its entirety as follows:

Renumber paragraph 3 as paragraph 5.

"5. Prior to the beginning of the sixth licensing period under this Schedule, the parties shall review the number of licenses to be issued, the license fees, the potential impact of any existing or pending catch or effort limitations or other measures that may substantially affect the operations of the U.S. fleet and any other issues which may be identified during the preceding Annual Consultation. During such review, the parties shall determine the number of licenses and the license fees for the second five-year period under this Schedule. Any agreed changes in the number of licenses or license fees shall be reflected in the annual industry payment."

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MEMORANDUM OF UNDERSTANDING
BETWEEN THE
GOVERNMENTS OF CERTAIN PACIFIC ISLAND
STATES
AND THE
GOVERNMENT OF THE UNITED STATES OF AMERICA

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**Memorandum of Understanding between
the Governments of Certain Pacific Island States and the
Government of the United States of America**

The Parties, desiring to amend and extend the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (the "Treaty"), intend from 15 June 2003 to apply provisionally any of the following amendments which are not in force by that date:

- (1) the attached amendments to the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America;
- (2) the attached amendments to the Annexes to the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America; and
- (3) the attached amendments to the Treaty regarding
 - (a) longline fishing on the high seas of the Treaty Area;
 - (b) the closing of the archipelagic waters of Papua New Guinea; and
 - (c) the opening of the waters of Solomon Islands

as agreed to at the 11th Annual Treaty Consultations in Palau in 1999

until such time as those amendments enter into force.

DATED: _____

SIGNATURES

For the Government of Australia

For the Government of the United States
of America

For the Government of the Cook Islands

M. [unclear]

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For the Government of the Federated States of Micronesia

For the Government of the Republic of Fiji

For the Government of the Republic of Kiribati

For the Government of the Republic of the Marshall Islands

For the Government of the Republic of Nauru

For the Government of New Zealand

For the Government of Niue

For the Government of the Republic of Palau

For the Government of the Independent State of Papua New Guinea

For the Government of Samoa

For the Government of Solomon Islands

For the Government of the Kingdom of Tonga

For the Government of Tuvalu

For the Government of the Republic of Vanuatu

initials

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AMENDMENTS TO THE TREATY ON FISHERIES BETWEEN THE
GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES AND THE
GOVERNMENT OF THE UNITED STATES OF AMERICA EXCEPT
ARTICLE 9 OF THE TREATY

1. New Preambular Paragraph 5:

"NOTING with satisfaction the successful conclusion of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean,"

2. New Article 1.1(b):

"Convention" means the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean."

3. Amend Article 7 as follows:

Renumber Article 7 as Article 7.1.

Add a new Article 7.2 as follows:

"The parties shall, where appropriate, consider the extent to which adjustments to the provisions of the Treaty or measures adopted thereunder may be necessary to promote consistency with any measures adopted under the Convention."

Add a new Article 7.3 as follows:

"The parties may cooperate to address matters of common concern under the Convention."

Add a new Article 7.4 as follows:

"The parties shall, where appropriate, consider the issue of capacity in the Treaty Area."

MBW

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AMENDMENTS TO THE ANNEXES TO THE TREATY ON FISHERIES
BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES
AND THE GOVERNMENT OF THE UNITED STATES

1. Amend Annex 1, Part 5, Paragraph 13 to read in its entirety as follows:

"13. Information relating to vessel position, catch and effort, as described in Part 1 of Schedule 4, shall be provided by telex, vessel monitoring system (VMS) transponder, electronic mail, or any other method of electronic reporting agreed to by the parties to the Administrator at the following times:

- (a) before departure from port for the purpose of beginning a fishing trip in the Licensing Area;
- (b) at least 24 hours before entry into port for the purpose of unloading fish from any trip involving fishing in the Licensing Area."

2. Amend Annex 1, Part 7, Paragraph 24(b) to read in its entirety as follows:

"(b) The fees for the cost of observers shall be provided in a lump sum on an annual basis from 15 June 2003 in accordance with the following formula:

The fixed cost component of US \$55,000 plus the number of vessels licensed multiplied by 5 trips multiplied by 20 percent multiplied by the cost per trip (US \$4,500) equals lump sum payment. The fixed cost component shall consist of the costs to the Administrator for training and management of the Observer and Crewing Programme."

3. Amend Annex 1, Part 7, Paragraph 24(c) to read in its entirety as follows:

"(c) The parties may, as mutually determined at the annual meeting provided for in Article 7.1 of the Treaty adjust the amount of the fees to be paid under subparagraph (b), it being understood that:

- the goal of the observer programme is to provide an effective observer programme for compliance by targeting 20 percent coverage, which may be reviewed from time to time;
- any unused sums are carried forward to the next licensing period; and
- the factor of inflation shall be taken into account."

4. Amend Annex 1, Part 8, Paragraph 30 to read in its entirety as follows:

"30. The vessel shall have its automatic locations communicator (ALC), as approved by the Forum Fisheries Agency (FFA), operational at all times while in the Treaty Area. Data collected through the vessel's ALC shall be transmitted in near real time both to the FFA and to the Government of the United States. While the vessel is in waters within the Treaty Area that are under the jurisdiction of the Government of the United States, viewing of the data transmitted shall be limited to the Government of the United States. All data transmitted in accordance with this provision shall be treated as confidential business information and shall be distributed only to ensure

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that the obligations under this Treaty are fulfilled. Technical matters including financial implications related to the implementation of this Part will be a matter for discussion between the parties."

- 5. Replace all references to "GMT" in Annex 1, Schedule 4 to read "UTC".
- 6. Replace all references to "short tonnes" in Annex 1, Schedules 4 and Schedule 5 to read "metric tonnes".
- 7. Add new subparagraphs 9 and 10 to Annex 1, Schedule 4, Part 1(a)

"(9) estimated date/time of arrival"
"(10) estimated date of departure"

- 8. Delete paragraph (b) of Annex 1, Schedule 4, Part 1
- 9. Add new subparagraph 9 to Annex 1, Schedule 4, Part 2(b):

"(9) observer on-board Y/N"

- 10. Amend Annex II, Schedule 2, Paragraph 1 to read in its entirety as follows:

"1. The following amounts are payable annually for a period of ten (10) years from 15 June 2003 pursuant to paragraph 3 of Annex II -

- (a) an annual industry payment of US \$3 million, which shall cover -
 - (i) license fees for up to 45 vessels as set forth in paragraph 2 below; and
 - (ii) technical assistance;
- (b) costs to be paid by the industry for the observer programme set forth in Part 7 of Annex I; and
- (c) sums pursuant to the related agreement between the South Pacific Forum Fisheries Agency and the Government of the United States."

- 11. Add new paragraph 2 to Annex II, Schedule 2 to read in its entirety as follows:

"2. The United States industry payment specified in paragraph 1(a) of this Schedule may be made in two separate instalments. One half of the payment shall be paid by June 15 of each year with the balance to be paid by December 15th of the same year. The second instalment will be paid with interest at an agreed rate."

- 12. Add new paragraph 3 to Annex II, Schedule 2 to read in its entirety as follows:

"3. In order to increase the benefits to the Pacific Island parties under the Treaty, the United States industry will develop with the Pacific Island parties a system for revenue sharing where the ex-vessel price is at or above a mutually agreed level. Payments made under such a system will be made quarterly and will be in addition to the amount specified in paragraph 1(a)."

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13. Amend paragraph 2 to Annex II, Schedule 2 to read in its entirety as follows:

Renumber paragraph 2 as paragraph 4.

"4. During each licensing period, the Administrator shall make available a maximum of 45 licences to fishing vessels of the United States for fishing in the Licensing Area. Any licences issued beyond 40 shall only be available to fishing vessels of the United States engaged in fishing activity designed to advance broader cooperation with the Pacific Island parties as envisaged under Article 2. If the Administrator does not receive applications for the maximum of 45 licences during any of the first three licensing periods under this Schedule, the Pacific Island parties reserve the right at the end of the third licensing period to review the allocation of licences beyond 40 for the remaining licensing periods."

14. Amend paragraph 3 to Annex II, Schedule 2 to read in its entirety as follows:

Renumber paragraph 3 as paragraph 5.

"5. Prior to the beginning of the sixth licensing period under this Schedule, the parties shall review the number of licenses to be issued, the license fees, the potential impact of any existing or pending catch or effort limitations or other measures that may substantially affect the operations of the U.S. fleet and any other issues which may be identified during the preceding Annual Consultation. During such review, the parties shall determine the number of licenses and the license fees for the second five-year period under this Schedule. Any agreed changes in the number of licenses or license fees shall be reflected in the annual industry payment."

M. P. Hill

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THE AMENDMENTS TO THE TREATY REGARDING LONGLINE FISHING
ON THE HIGH SEAS OF THE TREATY AREA, THE CLOSING OF THE
ARCHIPELAGIC WATERS OF PAPUA NEW GUINEA, AND THE OPENING
OF THE WATERS OF SOLOMON ISLANDS AS AGREED TO AT THE 11TH
ANNUAL TREATY CONSULTATIONS IN PALAU IN 1999

1. Amend Article 3.2 to read in its entirety as follows:

"3.2 It shall be a condition of any license issued pursuant to this Treaty that the vessel in respect of which the license is issued is operated in accordance with the requirements of Annex I. No fishing vessel of the United States shall be used for fishing in the Licensing Area without a license issued in accordance with Annex II or in waters closed to fishing pursuant to Annex I, except in accordance with paragraph 3 of this Article, or unless the vessel is used for fishing albacore tuna by the trolling method or for fishing by the longline method in high seas areas of the Treaty Area."

2. Amend Annex 1, Schedule 2, 'Closed Areas', subheading "Papua New Guinea" to read in its entirety as follows:

"Papua New Guinea At all times, all territorial seas, archipelagic and internal waters."

3. Amend Annex 1, Schedule 2, 'Closed Area', subheading "Solomon Islands" to read in its entirety as follows:

"Solomon Islands At all times, all internal waters, territorial seas, and archipelagic waters together with all waters within the exclusive economic zone of the Solomon Islands that are west of the meridian of Longitude 163 degrees East."

4. Amend Annex 1, Schedule 3, Limited Areas as follows:

Delete the heading Solomon Islands and paragraphs 1, 2 and 3.

MHW

Handwritten signatures and initials, including "MHW" and "A. J. ...".

AGREED RECORD OF AMENDMENTS TO THE TREATY ON FISHERIES
BETWEEN THE GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES
AND THE GOVERNMENT OF THE UNITED STATES

THIS CONSTITUTES THE AGREED RECORD OF AMENDMENTS
ADOPTED BY THE PARTIES TO THE TREATY

Done at Kiritimati, Kiribati, this 24th day of March 2002 in duplicate. One original of this Record shall be deposited with the Government of Papua New Guinea, as depositary for the Treaty. The second original shall be provided to the Government of the United States of America.

M. S.

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AT *SP* *RL* *CL*
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AMENDMENTS TO THE TREATY ON FISHERIES BETWEEN THE
GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES AND THE
GOVERNMENT OF THE UNITED STATES

1. New Preamble Paragraph 5:

"NOTING with satisfaction the successful conclusion of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean;"

2. New Article 1.1(b):

"Convention" means the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean."

3. Amend Article 3.2 to read in its entirety as follows:

"3.2 It shall be a condition of any license issued pursuant to this Treaty that the vessel in respect of which the license is issued is operated in accordance with the requirements of Annex I. No fishing vessel of the United States shall be used for fishing in the Licensing Area without a license issued in accordance with Annex II in waters closed to fishing pursuant to Annex I, except in accordance with paragraph 3 of this Article, or unless the vessel is used for fishing albacore tuna by the trolling method or for fishing by the longline method in high seas areas of the Treaty Area."

4. Amend Article 7 as follows:

Renumber Article 7 as Article 7.1.

Add a new Article 7.2 as follows:

"The parties shall, where appropriate, consider the extent to which adjustments to the provisions of the Treaty or measures adopted thereunder may be necessary to promote consistency with any measures adopted under the Convention."

Add a new Article 7.3 as follows:

"The parties may cooperate to address matters of common concern under the Convention."

Add a new Article 7.4 as follows:

"The parties shall, where appropriate, consider the issue of capacity in the Treaty Area."

5. Amend Article 9 to read in its entirety as follows:

"9. The following procedures shall apply to the adoption and entry into force of any amendment to an Annex of this Treaty unless otherwise provided in the Annex.

(a) Any party may propose an amendment to an Annex at any time by notifying such proposal to the depositary at least 120 days before the annual meeting. The depositary shall promptly notify all parties of the proposed amendment.

M. B. W.

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- (b) Any amendment to an Annex shall be adopted by consensus. For each amendment that is adopted, it is expected that each party shall act expeditiously to obtain acceptance of the amendment and to notify that acceptance to the Depository in accordance with Article 9(c). Pending the entry into force of any adopted amendment, the parties will, to the extent possible for them, apply the amendment provisionally.
- (c) A party approving a proposed amendment to an Annex shall notify its acceptance to the Depository, which shall promptly notify all the parties of each acceptance. Upon receipt by the Depository of notices of acceptance from all parties, such amendment shall be incorporate in the appropriate Annex and shall have effect from that date, or from such other date as may be specified in such amendment. The Depository shall promptly notify all parties of the adoption of the amendment and its effective date."

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