

**FOURTH RENEGOTIATION SESSION ON THE EXTENSION OF THE
MULTILATERAL TREATY ON FISHERIES**

**BETWEEN THE PACIFIC ISLAND PARTIES AND THE UNITED STATES OF
AMERICA**

RECORD

Nadi, Fiji, 17-21 November 2012
(Tanoa Hotel)

Introduction

1. Representatives from Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu met with Representatives of the United States of America in Nadi, Fiji from 17-21 November 2011 for the Fourth Renegotiation Session (RS4) on the Extension of the *Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States* (“the Treaty”).
2. The list of participants is appended as **Attachment A**.
3. The adopted agenda is appended as **Attachment B**.

Opening of Meeting

4. The session was opened with an opening prayer by the head of the Tongan delegation, Dr Sione Vailala Matoto, followed by a welcome remark from Mr Sanaila Nagali of Fiji as the host of the meeting. The opening was followed by additional words of welcome by the PIP Chair followed by acknowledgement remarks and appreciation from the US head of delegation.
5. The spokespersons for the Pacific Island Parties were Mr. Atonio Mulipola of Samoa (current FFC & PIP Chair), Mr Sanaila Naqali of Fiji (host) and Mr Sione Vailala Matoto of Tonga (next FFC & PIP Chair). The spokespersons for the US were Mr William Gibbons-Fly (head of US delegation), Dr Charles Karnella (International Fisheries Coordinator, NOAA) and Mr Brian Hallman (Executive Director of ATA). The US Ambassador to Fiji, H.E. Frankie Reed, and the Assistant Deputy Secretary, Mr James Loi (State Department), also joined the U.S. delegation and participated in the discussions.

Renegotiation Session

6. The Fourth Renegotiation Session was held through the exchange of formal Statements between the Parties. However, during the course of the meeting the formal session was suspended to allow discussions to continue in the TWG and in less formal working groups. These sessions provided opportunities to consider major proposals raised in the statements of both parties in a more frank and informal manner. These informal sessions assisted in taking forward the issues under discussion.

Statements

7. The First and Opening Statement by the Pacific Island Parties is appended as **Attachment C**.
8. The First Statement by the United States, in response, is appended as **Attachment D**.
9. The Second Statement by the Pacific Island Parties is appended as **Attachment E**.
10. The Second Statement by the United States is appended as **Attachment F**.
11. The Third Statement by the Pacific Island Parties is appended as **Attachment G**.
12. The Third Statement by the United States is appended as **Attachment H**.
13. The Fourth Statement by the Pacific Island Parties is appended as **Attachment I**.
14. The Fourth Statement by the United States is appended as **Attachment J**

Other Matters

15. There were no other matters discussed.

a) *Record of Proceedings*

16. The record of the session was agreed out of session.

b) *Next Meeting*

17. The next meeting (RS5) will be held from 14-18 January 2012 in Nadi, Fiji. The FFA Secretariat will advise the venue.

Close of Session

18. The lead spokesperson for both the Pacific Island Parties and the United States expressed appreciation and thanks to each other for the opportunity to progress the negotiation and looked forward to continue the discussion in the next session.

Appendix A

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Draft Agenda

1. Introduction/Opening
2. Level of fishing opportunities & Financial Terms
3. National laws and operational terms and conditions
4. Broader Cooperation
5. Trade
6. Vessel Day Scheme
7. Other Matters
8. Closing

PIP First and Opening Statement

Good morning ladies and gentlemen of the US delegation; Bill and your team. On behalf of the PIPs, please let me welcome you to Fiji. I'm sure you will join us in thanking our hosts, the people and Government of Fiji; it is always a pleasure to be here and to be looked after with the famous Fijian friendliness.

Please let me start by inviting your delegation to a welcome function to be held here tonight co-sponsored by Fiji and FFA.

As we have moved through the renegotiation process with you, we have gradually come together through a greater shared understanding and a gradual convergence of views. We note that negotiations are at a critical stage now and that we need to expedite our agreement on the key elements of a future arrangement. PIPs believe that there is good potential to build on the recent progress towards a successful outcome.

We acknowledge and appreciate the efforts of the US Government to assign this issue a high level of priority through the side event held in Auckland at the Forum Leaders meeting and the recent meetings between Pacific leaders and senior US principals in Honolulu.

We are encouraged by the feedback from those events, with both sides able to address a series of issues that are of importance to them. For our part, Pacific Leaders have used those opportunities to promote the importance of key issues raised by the PIPs in the negotiation process and we now look forward to working with you to reach agreement on them in the context of a future arrangement. There are a number of new participants on PIP delegations at this session and we also welcome the additional representatives from the US.

PIPs have been encouraged by the progress of the TWG to date. The informal and free flowing dialogue of the last few meetings has allowed us to narrow the gaps on issues, particularly in terms of categorising some terms and conditions, better understanding of the development opportunities, constraints and diversity on both sides and closer matching of VDS. We do note that the TWG has not yet brought the Parties as a whole to a point where agreements can be made on the key issues. We see that as largely the role of these formal renegotiation sessions and we hope to reach agreement over the next few days.

PIPs see an ongoing role for the TWG to progress any decisions or agreements taken here as well as to continue to work on outstanding matters. We see that there may also be merit in meeting as the TWG during this session if there are issues that would benefit from an informal, yet structured discussion at this session.

PIPs would now like to address each of the key issues that we have been discussing with you:

With regard to the level of fishing opportunities for the US fleet and the associated financial package the PIPs have included our position as part of this opening statement. The proposal outlined below is intended to provide an indication of the level of access that PIPs believe could be made available to the US fleet given the outlined associated financial package, and

agreement being reached on other issues such as the application of national laws, operational terms and conditions and broader cooperation.

The proposal is as follows:

1. US vessels will be allocated a total of 7,000 days consisting of 6,000 VDS days which can be utilised in PNA EEZs and 1,000 days that can be utilised in the EEZs of non-PNA PIPs.
2. The US industry payment for these days will be \$US10,000 per day.
3. The US Government annual payment would be increased.
4. The access rights granted will be for a duration that is significantly shorter than that granted under the current Treaty.
5. An indexation payment is included as a component of the financial package.

Achieving enhanced and more equitable returns for the value of access to the resource has been a recurring theme raised by our leaders in the recent dialogues. We have developed this position to achieve that as a good faith response to your initial offer in Apia and trust that it will be useful to you in your consideration of the follow-on proposal that you indicated in Pohnpei.

On the issue of applicable national laws and operational terms and conditions, PIPs are encouraged by the progress that was made in the small working group held in the margins of TWG5. As tasked at TWG5, the PIP members of the TWG prepared a more developed draft of text reflecting our understanding of the discussions of this small working group, which was forwarded for the consideration of the US.

We hope that you have had sufficient opportunity to review that draft text, noting that there are several terms that can only be completed once there is further agreement on other issues.

PIPs feel that it would be useful, once agreement is reached on these issues, for the small working group to re-convene and further develop the draft text based on such discussions. This would help both sides to identify what has been agreed and focus discussions on what is outstanding.

Similarly, we are pleased with the progress of the informal dialogue that has been occurring on domestic development and broader cooperation. The improved understanding of each others constraints and opportunities provides a useful basis for the identification of tangible mechanisms that can be included in the package of arrangements that we seek to agree upon. In particular, we are encouraged by the discussions on the concept of a development facility or fund and in the range of training and internship opportunities that you presented in Apia. We look forward to continuing the dialogue at this meeting.

We remain encouraged by the recent priority that the US government has afforded to discussions on trade related issues in particular the US commitment to consider a development oriented trade and investment arrangement. While we have not yet been able to organise the proposed multilateral discussion with the US Trade Representative's Office, we do note that senior principals have been supportive of movement on this front. While this is now entering a parallel process, it does remain important to us and will be a key factor in our consideration of future arrangements.

PIPs had hoped that the initial technical meeting on the VDS agreed at TWG5 would have taken place prior to this session. This has been a key issue of discussion in the past and we look forward to the opportunity for further progress on this in a technical setting as soon as possible.

Finally, PIPs would like to make some suggestions for the general approach to this session. We seek to balance the need for formal approval of key issues with the need for faster progress than has been made to date, which can only be achieved through less formal dialogue. PIPs have proposed above that a small working group could meet at some stage here to further develop our collective view of the draft text on national laws and operational terms and conditions. We have also suggested continuing the dialogue on domestic development as well as being prepared to meet as the TWG should the need arise on specific issues. We would welcome any thoughts you have on this, or other ideas to expedite progress.

We look forward to your response on the matter we have raised.

Vinaka vaka levu

U.S. First Statement

1. Good morning, Ladies and Gentlemen. Let me begin by also thanking our Fijian hosts for hosting this meeting and for all of the work associated with that, which is very much appreciated.
2. It is extremely disappointing to receive this proposal at this date, a full two years since our negotiations began in Honiara in November 2009. In the absence of any concrete financial proposal from your side over the past two years, and in particular following what we viewed as a very positive meeting in Majuro in March, we have moved forward, making every effort to find ways to address the concerns that your side has expressed to us.
3. The United States has viewed positively the discussions that have taken place in the Technical Working Group (TWG) since our previous formal negotiating session in Majuro last March. We agree with your view that these discussions have progressed the negotiations in significant ways on a number of key issues. We have looked forward to this meeting as an opportunity to move forward as expeditiously as possible with a view to concluding an agreement for an extended Treaty arrangement that is acceptable and beneficial to all Parties.
4. However, having received your proposal, we are not certain that that is possible. The elements of the proposal on the financial and other terms are not realistic and we see no possibility to reach an agreement on the basis of this proposal. Further, if there is an expectation on your part that we can now begin to negotiate toward some middle ground between our two positions, we do not see that possibility.
5. Quite frankly, we are out of time. We cannot wait until May of next year to know whether or not we will have an extended Treaty. Our U.S. vessel owners and operators need to decide now, whether they believe the negotiations will result in the Treaty being extended. If they cannot be confident that this is the case, they need sufficient lead-time to make other arrangements to protect the multi-million dollar investments in their vessels and operations. I am sure that after seeing your proposal, most of our vessel owners will be close to concluding that it is extremely unlikely that a new arrangement can be agreed in a timely manner, if at all.
6. With time running out, we need to determine this week whether the elements can be put in place, to ensure a successful extension of the Treaty arrangement. As a result, our goal for this meeting had been to reach agreement in principle on the key points under discussion in the negotiations, in particular: 1) operation of the U.S. fleet under the Vessel Day Scheme; 2) the level of access to be afforded to the U.S. fleet and the corresponding level of compensation; 3) the operational terms and conditions for the U.S. fleet under an extended Treaty; and 4) issues related to broader cooperation.
7. Even before receiving your proposal, we saw this as a formidable task. If we are to achieve it, both sides will need to set aside the incremental approaches we have engaged in over the past two years and be prepared to bridge the difference in our positions on a range of issues. Although there is much work to be done, it had been our sense that the discussions

in Majuro, Apia, and Pohnpei had moved us closer to a possible agreement that will be mutually beneficial and acceptable to all Parties.

8. In that same spirit, we came to this meeting with ideas and proposals to present, building on the discussions in Majuro, Apia, and Pohnpei. This includes another proposal on the level of access and corresponding compensation package.
9. However, the expectations reflected in your proposal are impossible for us to meet. And so, we must ask: is there a basis for continuing these discussions? We are prepared to do so, but only if there is a realistic opportunity to move forward, bridge our differences and reach a mutually acceptable agreement.

PIP Second Statement

1. Thank you for your first statement.
2. PIPs came to this session with the same 4 key issues in mind as you outline in paragraph 6. We agree that we should continue with the good work that has been done. We look forward to your thoughts on ideas to progress all key issues.
3. PIPs thought that there was an appreciation on the part of the US that the value of fisheries access is growing rapidly and the PIPs are faced with a growing number of bilateral offers that include access fees significantly higher than the PNA benchmark price and are associated with on shore development opportunities. We have previously noted that days afforded to your fleet must attract a premium due to their multilateral and multi-year nature.
4. Your initial offer in Apia fell well short of our expectations but did not prevent further negotiation. To move forward on the financial package, we request that you provide details of the proposal you refer to in paragraph 8. We can then consider it in line with our objectives, the expectations of our Leaders from the Honolulu meeting, and the general principles we have discussed.

U.S. Second Statement

1. Thank you for your second statement.
2. As we have already noted, we are concerned about the status of the negotiations and view the meeting this week as a watershed meeting. Cognizant of the issues still to be resolved before concluding a successful agreement, and the distance between our respective positions, our primary concern at present is time. Under the current circumstances, the Treaty will cease to have effect on May 14, 2012, which, in our view, even prior to the start of this meeting, does not allow sufficient time to conclude the necessary process.
3. The complexity of the issues is such that, even once agreement in principle is reached, it will take considerable time and effort to translate any agreement into specific amendments and to draft ancillary documents being considered as part of the Treaty package. As we have previously noted, should the Treaty cease to have effect as currently foreseen, our ability to continue under some other arrangement is highly unlikely, placing our longstanding arrangement in serious jeopardy.
4. As we stated this morning, with time running out, we need to determine this week whether the elements can be put in place to ensure a successful extension of the Treaty arrangement.
5. As a starting point for this session, we present for your consideration the following ideas and proposals, many of which are based on our discussions during the TWG meetings in Apia and Pohnpei. However, in an effort to continue to move the negotiations forward, we have expanded or elaborated on a number of these ideas, taking into account the subsequent discussions at the TWG.

VESSEL DAY SCHEME

6. As we discussed in the TWG, the United States is prepared to have the U.S. purse seine fleet operate under the Vessel Day Scheme under an amended and extended Treaty arrangement. In this regard, we have two primary objectives:
7. That the level of effort allocated to the U.S. generally remain at the current level of effort authorized under the Treaty; and
8. That we have a clear understanding of the VDS, and a mutually agreed upon transparent process for the application of the VDS to the U.S. fleet, in particular with respect to the counting of fishing days and the criteria and process for determining non-fishing days.
9. During the TWG meetings, we reviewed a range of options for applying the vessel day scheme to the U.S. fleet. We agree that, to the maximum extent possible, the application of VDS should mirror the VDS as it is applied by the PNA countries on a bilateral basis. However, both sides acknowledged that adjustments will be necessary to accommodate the application of the VDS on a multilateral basis to the U.S. fleet. Without reviewing the full range of alternatives that have been discussed, the following is our proposal for clarifying the terms of the application of the VDS to the U.S. fleet. This proposal is our best effort to accommodate

the discussion within the TWG on various options. We remain open to considering such adjustments or other options as may be necessary.

US Proposal

- i) The VDS would apply to all fishing by U.S. Treaty vessels operating in the waters under the jurisdiction of the Pacific Island Parties, both PNA and non-PNA Parties, which waters shall constitute the Treaty Area.
- ii) The U.S. fleet would be allocated a single number of annual fishing days, guaranteed for the duration of the Treaty extension, and available for fishing throughout the Treaty Area.
- iii) Except as provided in viii, below, the count on “fishing days” would begin when a U.S. vessel enters the Treaty Area and end when a vessel enters a designated port or leaves the Treaty Area.
- iv) For vessels departing from a U.S. port, or another port that is not in the territory of one of the Pacific Island Parties, entry into the Treaty Area would be the time and day on which the vessel enters the EEZ of one of the Treaty Parties.
- v) For vessels leaving from a designate port of a Pacific Island Party, entry into the Treaty Area would be the time and day on which the vessel leaves port to beginning fishing operations.
- vi) National authorities would continue, as they do with all other vessels fishing under the VDS, to identify and determine “non-fishing days,” as identified in subparagraph vii, for U.S. vessels fishing in their EEZ at any given time. These would be coordinated through a central point of contact.
- vii) Non-fishing days shall be those days or portions of days when the vessel is determined to be, or to have been, engaged in any of the following activities as verified by the observer and the captain to their respective authorities, and shall not be counted against the total number of fishing days allocated to the U.S. fleet:
 - a. Transit/sailing for fishing position
 - b. Bad weather
 - c. Full catch and sailing for port
 - d. In port for transshipment
 - e. Breakdown
 - f. Repairing net
 - g. Spare parts transfer/provisioning
 - h. Returning back for annual repairing
 - i. Other conditions as may be identified by each Party in its waters
- viii) In particular, transit days would be recorded and counted as follows:
 - a. When a vessel leaves port, the Captain and the observer would each verify to their respective authorities that the fishing gear is stowed.

- b. When the vessel reaches the fishing grounds and the gear is readied for fishing, the Captain and the observer would verify to their respective authorities that the vessel is now actively in fishing mode.
 - c. At that point, the count would start on the "fishing days".
 - d. Likewise, when the vessel completed its trip and was prepared to return to port, it would fully stow its gear and the Captain and observer would report to their respective authorities that the vessel was no longer fishing.
 - e. The "vessel day" count would stop at that point and the vessel would return directly to port.
- ix) Similar procedures would be adopted for the identification on other categories of non-fishing days, acknowledging that the final decision on any determination of non-fishing days resides with the national administrator of the Parties in whose waters the vessel is fishing.
- x) The Pacific Island Parties will provide the United States, through such authority or entity as shall be agreed, a weekly report showing the running total number of fishing days counted for each vessel operating under the Treaty.
- xi) The Parties shall establish a regular procedure for reconciling any differences in the number of fishing days counted against a vessel or vessels.

Discussion

10. With respect to the source of fishing days, there was considerable discussion in the TWG regarding how days would be made available to the U.S. fleet. We consider this to be an internal matter for the Pacific Island Parties to resolve among themselves.
11. However, in our view, the best approach, and our strong preference, is the approach described to us in the initial stages of the VDS. At that time, the United States received repeated assurances that days necessary for the U.S. fleet would be taken off the top of the Total Allowable Effort established by the PNA prior to the distribution of days among those Parties.
12. We appreciate the invitation to send a team to PNG to work out the technical details. Although it was not possible for us to schedule that meeting prior to this session, we are hoping to schedule it for early in the new year.

LEVEL OF EFFORT AND CORRESPONDING FINANCIAL TERMS

13. The level of fishing effort to be afforded the U.S. fleet and the corresponding financial terms are directly tied to each other and must be considered together. As discussed in the TWG and in previous negotiating sessions, the United States is seeking to extend the Treaty at a level of effort on a par with the level currently authorized. In the non-paper presented at the TWG we noted that the level of effort by the U.S. fleet in 2010 was approximately 9,800 fishing days.
14. However, based on discussions within the TWG, and additional discussions among our technical experts, we believe it may be possible for the U.S. fleet to operate viably under the Treaty at something below that level, when transit days, other non-fishing days, and other factors are taken into consideration.

15. With respect to the financial package, the United States understands that the Pacific Island Parties are looking for a higher return than under the current arrangement. We also recognize the concerns of the Pacific Island Parties with respect to locking in one set of financial terms for an extended period, 10 years in the case of the most recent extension. We acknowledge that the terms of the Treaty and the related Economic Assistance Agreement have not allowed the Parties to adjust the payments received in response to changing circumstances and economic conditions in the fishery. We agree that any renewed Treaty arrangement must allow more flexibility to adjust to changing circumstances.
16. Our proposal to achieve that objective is that the level of fees paid by the U.S. industry and the financial assistance package provided by the United States Government through the Economic Assistance Agreement would be reviewed every two years. To be clear, we are not proposing a 2-year extension of the Treaty. Instead, we seek a longer-term framework agreement, such as up to 10 years, within which certain terms would be subject to review every two years. The issues under consideration would be those involving certain operational terms and conditions for the U.S. fleet, the level of fishing effort and the associated level of compensation to the Pacific Island Parties. Factors to be taken into consideration in such a review would include the price of fish, price of fuel, changes to the Total Allowable Effort, among others.
17. Under this scenario, we would expect that adjustments to the financial package would relate primarily to the fees paid by the U.S. industry. Due to the long lead time required in the U.S. Federal budget process, we would not expect to see adjustments to the level of USG funding every two years, yet this would not be ruled out in the case of extraordinary circumstances.

U.S. Proposal

18. If we are able to reach agreement on something approximating the proposals and ideas presented in this paper, the United States is prepared to offer a package to the Pacific Island Parties under such an extended arrangement of \$42 million.
19. The proposal above assumes that the U.S. fleet remains at 40 vessels and requests the specified number of days. If the U.S. fleet should decrease, the financial package would need to adjust to ensure that the payment reflects the actual days purchased each year. For example, if the fleet decreased to 30 vessels and each vessel sought 200 days, the payment would be reduced by a corresponding amount while maintaining the same price per day.

OPERATIONAL TERMS AND CONDITIONS FOR THE U.S. FLEET

20. We believe that good progress has been made on this issue through the TWG, most particularly in the TWG5 in Pohnpei. At this stage, we believe that the Parties have a good understanding of the positions of both sides on this issue and have begun to make headway in bridging the gaps in those positions.
21. We appreciate the efforts of the Pacific Island Parties to prepare a paper to continue to develop the concepts discussed during our small working group meeting in Pohnpei. We have received that paper, continue to discuss it internally and will provide a full response as

soon as possible. At this stage, however, we believe the points below reflect the current status of our discussions on this issue:

- i) Operational terms and conditions will be broken down into two categories.
- ii) Category One terms are those that materially affect the access by US vessels or affect the value of the arrangement. These terms and conditions will be contained within the primary Treaty text and require the consent of both the Pacific Islands Parties and the United States in order to be changed.
- iii) Category Two terms are those that affect the access by US vessels or affect the value of the arrangement in only minor, technical or administrative ways. These terms and conditions would be contained in a document, the exact form to still be determined, outside the primary Treaty text. These terms and conditions would be collectively agreed by the Pacific Island Parties, and do not require consent of the United States to be changed.
- iv) The issues of a) timing of the application, and b) notification to United States of changes to Category Two terms and conditions need further discussion and agreement, but both sides agree there needs to be an established process to ensure a transparent and stable operating environment for U.S. vessels.
- v) Some operational terms and conditions may be broken down into components with different component in different categories. For example, the requirement for U.S. vessels to carry and operate an ALC might be a Category One term and condition, whereas specific type approvals of ALCs might be a Category Two term and condition.
- vi) There needs to be a process in the primary Treaty text for resolving differences, in the rare event that they might arise, regarding the nature of a change made to a Category Two term and condition. In other words, should the Pacific Island Parties make a change to a Category Two term and condition that the United States believes materially affects the value of the Treaty arrangement, there should be a fair, straightforward process for addressing that issue.
- vii) Outside the Treaty and any associated documents, there are a number of items that could be subject to change solely at the discretion of the Pacific Island Parties, either individually or collectively. These include, but are not limited to, the provisions of national laws and the provisions of sub-regional and regional arrangements. These would be applied to U.S. vessels while operating in the waters under the jurisdiction of the Parties through the same process described above. If they would alter a Category One term and condition, they would require the consent of both the Pacific Island Parties and the United States to be applied to U.S. vessels. If they would alter a Category Two term and condition, they would not require consent of the United States to be applied to U.S. vessels, but would be subject to the same issues of timing and notification as described in (iv) above.

22. During our discussions in Pohnpei, we began the process of tentatively assigning Categories for certain terms and conditions. We also note that your paper began the process of drafting some actual Treaty language on some of these terms and conditions. We would propose that work on both of these items is a priority and should be continued at this

meeting. We agree with your proposal that a small working group should meet to continue these efforts during this meeting.

BROADER COOPERATION

23. The United States supports the domestic development goals of the Pacific Island Parties. We are fully prepared to work with you to explore how enhanced broader cooperation initiatives can be developed in association with an extended Treaty arrangement to assist in realizing some of these goals. At TWG4 in Apia, we presented in our non-paper a thorough response to the various ideas that the Pacific Island Parties presented at TWG2, including details of training, crewing, offloading and transshipment. The TWG and other more informal break-out sessions have provided opportunities to explore these ideas in greater detail.
24. We agree that those discussions should continue to explore ways to move forward to support and contribute to the broader development aspirations of the Pacific Island Parties in association with a future Treaty arrangement.
25. Finally, there are some outstanding items that the Pacific Island Parties agreed to provide that we have not yet received. The first is a template for possible joint venture agreements. The second, as reflected in paragraph 3(f) appendix G of the report of TWG5, at that meeting PIPs undertook to provide a previous study on SIDS Development Aspirations, and also to develop a simplified 'needs assessment.'

OTHER MATTERS

26. We note that you have not yet been able to arrange the meeting with the U.S. Trade Representatives Office. As discussed at TWG5 in Pohnpei, if you have not done so already, we urge you to reach out to the USTR contact identified in the letter from USTR delivered to you at that meeting.

PIP Third Statement

This statement has been prepared to respond to your request for clarification of the ideas presented at the informal discussion group. The ideas below have been put forward to advance the negotiations. PIPs and the US have identified the need to identify the parameters that we each face.

1. 6,000 days could be made available to US vessels. This would consist of 5,500 VDS days which can be utilised in PNA EEZs and 500 days that can be utilised in the EEZs of non-PNA PIPs.
2. The total payment for these days (industry plus Government) would be USD 60 million.
3. The access rights granted would be for a duration that is significantly shorter than that granted under the current Treaty.
4. An indexation payment would be included as a component of the financial package. This is subject to the agreement being reached on other issues such as the application of national laws, operational terms and conditions and broader cooperation as outlined in the PIP first statement.

Any agreement will be based on further satisfying ourselves that the financial returns of any proposal are sufficient to allow Parties to make fishing days available.

We have previously noted that US industry must pay a commercial level of access, and as such, industry payments should form the majority of the financial package.

The proposal in our first statement was for 7,000 days and an associated financial package of no less than USD 88 million (USD 70 million from industry plus an increased government contribution).

In considering this reduction to our offer we note that we have moved a long way beyond the midpoint between the two proposals that have been tabled at this session. We see this as a significant compromise in line with our statements that there is no time for incremental bargaining.

U.S. Third Statement

1. We have received your Third Statement. Although, the numbers in the current proposal are marginally lower, they are no less unacceptable, with a dollar figure of \$10K a day, plus some unspecified indexing payment. In addition, the proposal actually reflects a step backward on the critical issue of the number of days. This is extremely disappointing and surprising.
2. In our view, the situation is much the same as stated in our First Statement on Thursday morning. We see no basis for agreement in the current proposal, and time is running out.
3. We should also note our surprise at the statement in yesterday's informal session that your side has not come to this meeting with a full negotiating mandate. We came with a different expectation, namely that the delegations here have the authority to take decisions and make proposals that the Pacific Island Parties will stand behind.
4. With time running out, we are prepared to make a final effort to bring us to agreement at this meeting. As before, any proposal is contingent on satisfactory resolution of the other issues under discussion and agreement on a longer-term arrangement of up to 10 years. We are prepared to revise our previous proposal to meet your benchmark price of \$5K per day. In this regard:
 - We are prepared to offer \$45 million for 9,000 days to be fished throughout the Treaty Area (as defined in our earlier proposal to mean waters under the jurisdiction of the Pacific Island Parties).
 - We do not intend to include an indexing component in an extended Treaty arrangement given that the intent of the indexing component is covered by the two-year review.
 - In response to the discussions in paragraph 17 of our Second Statement, we would withdraw the proposal for an annual adjustment to the compensation package should the number of vessels change from year to year. Any adjustment of this type would be covered in the two-year review. As such you would be guaranteed a fixed total amount for each two-year period.
 - However, the proposal remains contingent on 40 vessels in the U.S. fleet at the time any agreement is reached. If vessels leave the U.S. fleet before negotiations have been concluded, we could not guarantee that we could offer the same total amount.
5. Under the current circumstances, we have reached the maximum limit of our flexibility and can go no further. However, if the Pacific Island Parties see a chance to reach agreement on the basis of our proposal, we are prepared to continue talking.
6. We hope your side does not underestimate the significance of our agreement with your benchmark. We know that this benchmark exceeds the average cost of a fishing day

across the region. Although some days may sell above this amount, we know many more sell for less, sometimes significantly less. If you accept our proposal you will have a solid and transparent precedent and standard that could be shown to other countries and fleets seeking fishing days. The economic benefits of that to the Pacific Island Parties would be very substantial.

7. Finally, we are very much aware of the time constraint that will cause the Treaty to cease to have effect in May of next year. If that situation does not change, there is little chance that the Treaty will survive. As we have made clear, the negotiation of any new instrument would be risky and problematic at best. We need more time to conclude our discussions and draft the documents that will be necessary to give any agreement legal effect.
8. We hope that the progress in the negotiations since March and the offer that we have put on the table here are sufficient to have addressed the primary concerns that resulted in the decision by one Party to withdraw from the Treaty. We seek a solution that is acceptable to all sides and propose the following: If the instrument of withdrawal by that Party is revoked, and the 25th Licensing Period under the Treaty moves forward as originally envisioned, we are prepared to voluntarily increase the payment for that licensing period to \$35 million from the current \$21 million plus indexing. All of this increase would come from the U.S. industry. This would then allow us time to continue negotiating for an extension in 2013, with a realistic chance of concluding our work before the Treaty expires.
9. If these ideas are worth exploring, we'd welcome a chance to continue discussions in the small group. This would also offer us an opportunity to explore some additional ideas not reflected in this statement.

PIP Fourth Statement

1. Thank you for your third Statement.
2. We note that there has been no recognition of the significant compromise that our third statement made. To us, a reduction of USD 28 million, equating to a reduction in USD 3,000 per day is not marginal. It is a considerable change, and one that was very difficult for us to agree to. Notwithstanding your statement, PIPs are willing to continue discussions.
3. In response to paragraph 3 in your statement, the PIPs intentionally provided our proposal to you in the form of a third formal statement to provide you with the assurance that you sought that this was a position agreed to by the PIPs in a sincere effort to advance negotiations. PIPs stand behind that proposal, which was developed under the mandate of all PIPs to negotiate. Having said that, it goes without saying that every mandate has limits.
4. We have noted your repeated criticism that this session is the first time that PIPs have tabled a specific proposal on fishing opportunities and financial package. PIPs and the US have raised various elements of the package of fishing opportunities and financial arrangements in sessions to date. This meeting is the first time that either side has tabled definitive proposals on both the financial arrangements and the expected level of fishing effort in a formal session.
5. Your response to our queries regarding your initial proposal that the financial arrangements would be subject to an annual adjustment based on the predicted number of US vessels is appreciated. We agree that the financial arrangement should be more stable than an annual adjustment would allow for.
6. We emphasise that in our view, both of the proposals tabled by PIPs represent the commercial realities of the fishery in the context of the privileges that would be afforded to US vessels.
7. We note the view expressed that some others are not paying the PNA benchmark price. If you are receiving advice that standard foreign access is routinely being agreed to for prices less than this benchmark, then that advice is untrue. The PNA benchmark price is a reality in this fishery and is now the basis of all current and future negotiations on bilateral access arrangements for foreign vessels operating in PNA EEZs. US vessels are seeking premium access, which demands a premium price.
8. PIPs have always sought to separate the government and industry contributions in any financial package. In responding to your second statement, which combined these two payments, PIPs made the concession of also treating them as a single package. Our proposal was based on the following:
 - a. There is a minimum benchmark price for bilateral, annual days of \$5,000
 - b. Bilateral days are selling for significantly higher than the benchmark
 - c. This would represent the single largest allocation of days (almost 25%), decreasing the ability of the PIPs to achieve a diversity of customers

- d. This is multilateral access, which attracts a premium because:
 - i. It allows vessels to access the most lucrative fishing grounds in the region on a flexible basis as they determine.
 - ii. It significantly increases operational flexibility
 - iii. There is no need to enter into multiple bilateral agreements to buy extra days or licenses to cater for the need to move multi-zones or change practices. For example, to achieve 9,000 fishing days through bilateral arrangements, US vessels would have to purchase far more than 9,000 days, at extra cost.
 - e. This is multi-year access, which provides a far higher degree of certainty to the operation and adds significantly to the risk and opportunity cost for PIPs given the expectation that fish prices will rise substantially.
 - f. All Parties recognise that the Treaty is not simply a fisheries access agreement. It uniquely serves as the vehicle for the relationship between the US and all sixteen Pacific Island Governments.
9. In respect of your proposal in the first two dot points of paragraph 4, we agree that there remains a significant gap in our respective positions. While we appreciate the marginal increase in your offer of USD 45 million, it remains unacceptable to the PIPs. This Treaty has formed the basis of our relationship over the last two extensions and has delivered development and political outcomes. We question whether the Treaty will continue to achieve those outcomes under the financial arrangements that you now propose, which squarely places the entire financial package as only a fisheries access agreement. Leaving aside all other considerations, you have previously accepted that the US must compete with other fleets for access. Your offer does not do that in the context of the benefits that would be afforded to US vessels.
10. In reference to your proposal in paragraph 8 for arrangements that could be put in place for the 25th licensing period if the Treaty were to continue to be in force; this may positively contribute to the negotiation. This proposal will be explored, noting that the current discussions and the parameters contained therein still remain the position of the PIPs.
11. We note that both the US and PIPs have raised issues about the other key elements of this negotiation, being national laws, VDS and domestic development. While we have not yet succeeded in an agreement on the fishing opportunities and financial package at this session, we see value in progressing these as quickly as possible.
12. In closing, PIPs would like to discuss with you the possibility of a fifth renegotiation session to be held in late 2011 or early 2012. We are well aware of the additional burden that this places on us all, but in our view, reaching agreement is worth that additional effort and we remain committed to it.

U.S. Fourth Statement

1. Thank you for your Fourth Statement. Most significantly, we note that the statement does not contain any substantive counter-proposal that would serve to move these negotiations forward. This is extremely disappointing and a cause for significant concern on our side. Because the future of the Treaty is in jeopardy, our industry is facing a very uncertain future.
2. With respect to paragraph 10 of your statement, we appreciate your recognition that our proposal may contribute positively to the negotiations and we understand that you intend to consider it further. We will leave this offer on the table, contingent upon a decision that would allow the 25th licensing period to proceed and grant us additional time to continue these negotiations. However, a timely decision on this matter is required.
3. We agree that we should schedule a fifth session at the earliest possible time. We propose that this be held from January 12 - 16, 2012; like this session, a Thursday through Monday, which would allow time at the beginning of the week for the internal meetings on both sides. While we can be flexible on the dates, in our view it is important that we pin those dates down before we leave this meeting. We hope that at that meeting, the Pacific Island Parties will come prepared to present a counter-proposal to the U.S. proposals contained in our second and third statements.
4. In the meantime, we are looking to provide you our response to your paper on operational terms and conditions and will get this to you well in advance of the next meeting. In addition, we will be in communication regarding possible dates for the visit of the VDS technical experts.