

Attachment A

(Revised ANNEX II, incorporating the agreed amendments in red font)

ANNEX II ACCESS AND FEES

1. The parties to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States (“the Treaty”) hereby establish the terms for the level of access to be afforded U.S. vessels under the Treaty and the associated level of fees to be paid by U.S. vessel owners.
2. This Annex shall cover 5 Licensing Periods, beginning with the Licensing Period that begins on 1 January 2024.
3. Notwithstanding paragraph 2, the licensing and notification procedures in this Annex, including on Additional Days, shall continue to apply beyond 5 Licensing Periods.
4. The following amounts are payable annually –
 - a. industry payments as provided for in this Annex;
 - b. costs to be paid by the industry for the observer services as agreed; and
 - c. Sums pursuant to the related agreement between the FFA and the Government of the United States.

ELIGIBLE U.S. VESSELS

5. The U.S. Government shall determine the U.S. vessels that are eligible for licence applications, and shall submit applications to the Administrator for such vessels.
6. The Administrator shall not issue a licence to a U.S. vessel for which the U.S. Government has not submitted an application, and for which payment has not been received pursuant to the terms of this Annex.

UPFRONT DAYS

7. For each of the Licensing Periods, the following number of days shall be offered to U.S. vessel owners:
 - (a) In the Exclusive Economic Zones (EEZs) of the Parties to the Nauru Agreement (PNA) and the EEZs of other Pacific Island parties or their territories where the Purse Seine Vessel Day Scheme (VDS) is being applied¹, with the exception of the Republic of Kiribati:

2720 days.²
 - (b) 500 days in the EEZ of the Republic of Kiribati ~~for the Licensing Period.~~

¹ As of 30 May 2024 June 2026, the VDS participants are the PNA members (Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands, and Tuvalu) and Tokelau. Other Pacific Island parties that become a Party to the Palau Arrangement in any future licensing period may also participate in this pool of fishing days.

² The days for 2021 and 2022 are indicative only, subject to negotiation, including in respect of price.

(c) 350 days in the EEZ of the Cook Islands ~~for the Licensing Period.~~

(d) 600 days in the EEZs of Fiji, Niue, Samoa, Tonga and Vanuatu (“exploratory days”).

(Note: The number of upfront days above are to be applied for 5 years (2024-2028).)

PRICE AND PAYMENT FOR UPFRONT DAYS

8. The prices to be paid by the U.S. vessel owners for the upfront days referred to in paragraphs 7 (a), ~~and~~ (b) and (c) shall be negotiated each year with the relevant Pacific Island party or parties, or with the relevant territory or territories of a Pacific Island party with the appropriate authorization of the Pacific Island party.

- ~~(a) \$12,500 per day for years 1 and 2;~~
- ~~(b) \$13,000 per day for years 3 and 4; and~~
- ~~(c) Years 5 and 6 to 7 to be negotiated.~~

~~9. The price for the days specified in paragraph 7(c) for Cook Islands shall be \$9,533 per day for the licensing periods 2017-2020 and for licensing periods 2021 and 2022 to be negotiated.] (Note: Price is still under discussion for pools (a)-(c))~~

~~910.~~ The annual payment due from the U.S. vessels for fishing days referred to in paragraph 7(d) shall be:

- ~~(a) An upfront payment of \$250,000;~~
- ~~(ab) An additional~~ payment of \$6,000 for any fishing days that include catching, taking, or harvesting fish; and
- ~~(be)~~ No payment for fishing days that only consist of searching for fish or deploying FADs.

~~1011.~~ The price for the exploratory days referred to in paragraph 7(d) shall apply for at least the first two licensing periods: ~~2024 and 2025~~~~2017—2018~~. Any of the terms contained in paragraphs 7(d) and ~~910~~ may be negotiated for ~~L~~icensing ~~P~~eriods ~~2026 through 2028~~ ~~2019-2022~~ at the request of any of the parties referred to in paragraph 7(d) or the Government of the United States. Such negotiation may include a change in the nature of the days, as well as the associated additional payment, including by tonne caught.

~~1112.~~ If the parties do not change the terms or none of the parties referred to in paragraph 7(d) or the Government of the United States seek to modify the terms of any of the Licensing Periods ~~from 2026 through 2028~~~~2019 to 2022~~, they shall remain as stated in paragraph ~~910~~.

~~1213.~~ Consistent with Annex I, the U.S. Government shall notify the Administrator of U.S. vessels for which applications are expected to be submitted for the subsequent licensing period, in accordance with the following procedures:

- (a) The U.S. Government shall provide to the Administrator, by 1 ~~August~~~~July~~, an initial list of those U.S. vessels for which licence applications are expected to be submitted under the Treaty, the number of days from each pool identified in paragraphs 7 (a), (b) and (c) to be assigned to each U.S. vessel owner, and the corresponding financial commitment for which each U.S. vessel owner shall be responsible, based on the price per fishing day established pursuant to paragraphs 8 and 9. The list shall include the following information:

name of the U.S. vessel owner; name of the U.S. vessels and IRCS; number of days assigned and relevant pool; total number of days; total payment required.

(b) Any U.S. vessel owner may choose not to purchase from the days made available under paragraph 7. Such U.S. vessel owner shall still be provided with a Treaty licence by the Administrator, provided that it enters into one or more bilateral or multilateral agreements with Pacific Island parties for access to fish under the Treaty in accordance with paragraphs ~~22 and 23~~ ~~23 and 24~~.

(c) If the total number of fishing days purchased by U.S. vessel owners is less than those made available under paragraph 7, the Pacific Island parties may make unassigned days available to other fishing partners after 1 ~~August~~ ~~July~~.

(d) The days specified in paragraph 7 shall be reserved each year for the U.S. purse seine fleet.

~~1314~~. The U.S. Government shall notify the Administrator and the PNA Office ~~5~~ working days in advance of any change to the information notified pursuant to paragraph ~~1213~~ (a), in respect of days covered by paragraphs 7(a) and (b). The U.S. Government shall notify the Administrator and the Cook Islands ~~5~~ working days in advance of any change to the information notified pursuant to paragraph ~~1213~~(a), in respect of days covered by paragraph 7(c). Such changes may include any adjustment to the number of upfront days assigned to each U.S. vessel owner as long as the total number of upfront days as reflected in the submission from the U.S. Government, pursuant to paragraph ~~1213~~, does not change. Financial responsibility for any payments in respect of all days remains ~~primarily~~ with the U.S. vessel owner that originally purchased them as reflected in the submission from the U.S. Government pursuant to paragraph ~~1213~~.

~~1415~~. The payment agreed for upfront days due from each U.S. vessel owner shall be paid to the Administrator as follows:

(a) at least 50% by 15 December of the year preceding the relevant Licensing Period; and

(b) the balance, plus interest at the mutually agreed rate, by 31 May of the relevant Licensing Period.

~~1516~~. Until full payment is made by a U.S. vessel owner for the days assigned to a specific vessel in the list submitted under paragraph ~~1213~~(a), that U.S. vessel owner is restricted to using only 50% of their assigned days.

~~1617~~. The Administrator shall not issue a licence for a U.S. vessel where the relevant vessel owner has not made the payments pursuant to paragraph ~~1415~~(a).

~~1718~~. The Administrator shall suspend the licence for a U.S. vessel where the relevant vessel owner fails to pay the remaining balance pursuant to paragraph ~~1415~~(b).

~~1819~~. Upon non-issuance or suspension of the licence, the Pacific Island parties shall determine how to manage any unused days that had been assigned to the relevant vessel owner, including whether to make those days available for sale to others.

~~1920~~. The failure of any U.S. vessel owner to pay for fishing access under this Agreement shall not affect the access terms, rights or liabilities of other licensed vessel owners that are in good standing under this Agreement.

~~2021~~. The agreed level of upfront days and fees for each one-year Licensing Period shall run from January 1 of one year through December 31 of that year.

ADDITIONAL DAYS

~~2122~~. Subject to paragraph 6, any eligible U.S. vessel owner, whether or not they have purchased days from those made available under paragraph 7, may purchase additional days offered by a Pacific island party or group of Pacific island parties.

~~2223~~. Agreements between the Pacific Island party or Pacific Island parties and the owners of eligible U.S. vessels for additional fishing access provided pursuant to paragraph ~~2122~~ shall be in accordance with the template provided in Schedule 2; be governed by the terms of the Treaty; and must not contravene or otherwise undermine the terms of the Treaty. The U.S. Government shall ensure that U.S. vessel owners notify such agreements to the U.S. Government prior to implementation. The U.S. Government shall notify the relevant U.S. vessel owners, within 5 days of receipt, of any objections to implementation of any such agreement under the terms of the Treaty, and any necessary corrective action before the agreement is implemented.

~~2324~~. Where the U.S. vessel does not already have a licence, the Pacific Island party or Pacific Island parties providing additional fishing access pursuant to paragraph ~~2223~~ shall notify the Administrator and U.S. Government promptly upon payment for those additional days.

~~2425~~. Paragraph ~~2223~~ does not preclude U.S. vessel owners and a Pacific Island party or parties from entering into separate commercial arrangements, not governed by the Treaty, related to issues not covered by paragraph ~~2223~~.

~~2526~~. The Administrator shall not issue a licence, or where appropriate shall suspend the licence, for a vessel for which additional days have been assigned and appropriately notified, if the relevant Pacific Island party or Pacific Island parties provide notification that the vessel owner has failed to make a payment that is due.

OTHER MATTERS

~~2627~~. Without prejudice to Pacific Island parties' positions on any capacity management measure or other measures taken by Pacific Island parties to manage overall fishing capacity in their waters, Pacific Island parties acknowledge that the number of licence applications forwarded by the United States to the Administrator annually shall allow for no more than 40 vessels operating under the Treaty at any given time. This provision is included only for the purpose of providing the United States with regulatory authority to manage its fleet and shall not be used for other purposes such as to establish limits in respect of the Western and Central Pacific Fisheries Commission.

~~2728~~. Regional terms and conditions as agreed by the Pacific Island parties shall apply to the operation of fishing vessels of the United States within waters under the jurisdiction of the Pacific Island parties, in accordance with the Treaty.

AMENDMENT

~~2829~~. This Annex may be amended in writing by the parties, either intersessionally or at a meeting of the parties. The depositary shall promptly notify the Administrator and all the parties of the amendments to the Annex and their effective date.

(Clean version of Revised ANNEX II incorporating the agreed amendments)

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4. The following amounts are payable annually –
 - a. industry payments as provided for in this Annex;
 - b. costs to be paid by the industry for the observer services as agreed; and
 - c. Sums pursuant to the related agreement between the FFA and the Government of the United States.

ELIGIBLE U.S. VESSELS

5. The U.S. Government shall determine the U.S. vessels that are eligible for licence applications, and shall submit applications to the Administrator for such vessels.
6. The Administrator shall not issue a licence to a U.S. vessel for which the U.S. Government has not submitted an application, and for which payment has not been received pursuant to the terms of this Annex.

UPFRONT DAYS

7. For each of the Licensing Periods, the following number of days shall be offered to U.S. vessel owners:
 - (a) In the Exclusive Economic Zones (EEZs) of the Parties to the Nauru Agreement (PNA) and the EEZs of other Pacific Island parties or their territories where the Purse Seine Vessel Day Scheme (VDS) is being applied¹, with the exception of the Republic of Kiribati:

2720 days
 - (b) 500 days in the EEZ of the Republic of Kiribati.
 - (c) 350 days in the EEZ of the Cook Islands.
 - (d) 600 days in the EEZs of Fiji, Niue, Samoa, Tonga and Vanuatu (“exploratory days”).

¹ As of 30 May 2024, the VDS participants are the PNA members (Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands, and Tuvalu) and Tokelau. Other Pacific Island parties that become a Party to the Palau Arrangement in any future licensing period may also participate in this pool of fishing days.

PRICE AND PAYMENT FOR UPFRONT DAYS

8. The prices to be paid by the U.S. vessel owners for the upfront days referred to in paragraphs 7 (a), (b) and (c) shall be negotiated each year with the relevant Pacific Island party or parties, or with the relevant territory or territories of a Pacific Island Party with the appropriate authorization of that Pacific Island Party.

9. The annual payment due from the U.S. vessels for fishing days referred to in paragraph 7(d) shall be:

- (a) A payment of \$6,000 for any fishing days that include catching, taking, or harvesting fish; and
- (b) No payment for fishing days that only consist of searching for fish or deploying FADs.

10. The price for the exploratory days referred to in paragraph 7(d) shall apply for at least the first two licensing periods: 2024 and 2025. Any of the terms contained in paragraphs 7(d) and 9 may be negotiated for Licensing Periods 2026 through 2028 at the request of any of the parties referred to in paragraph 7(d) or the Government of the United States. Such negotiation may include a change in the nature of the days, as well as the associated additional payment, including by tonne caught.

11. If the parties do not change the terms or none of the parties referred to in paragraph 7(d) or the Government of the United States seek to modify the terms of any of the Licensing Periods from 2026 through 2028 for the exploratory days referred to in paragraph 7(d), they shall remain as stated in paragraph 9.

12. Consistent with Annex I, the U.S. Government shall notify the Administrator of U.S. vessels for which applications are expected to be submitted for the subsequent licensing period, in accordance with the following procedures:

(a) The U.S. Government shall provide to the Administrator, by 1 August, an initial list of those U.S. vessels for which licence applications are expected to be submitted under the Treaty, the number of days from each pool identified in paragraphs 7 (a), (b) and (c) to be assigned to each U.S. vessel owner, and the corresponding financial commitment for which each U.S. vessel owner shall be responsible, based on the price per fishing day established pursuant to paragraphs 8 and 9. The list shall include the following information: name of the U.S. vessel owner; name of the U.S. vessels and IRCS; number of days assigned and relevant pool; total number of days; total payment required.

(b) Any U.S. vessel owner may choose not to purchase from the days made available under paragraph 7. Such U.S. vessel owner shall still be provided with a Treaty licence by the Administrator, provided that it enters into one or more bilateral or multilateral agreements with Pacific Island parties for access to fish under the Treaty in accordance with paragraphs 22 and 23.

(c) If the total number of fishing days purchased by U.S. vessel owners is less than those made available under paragraph 7, the Pacific Island parties may make unassigned days available to other fishing partners after 1 August.

(d) The days specified in paragraph 7 shall be reserved each year for the U.S. purse seine fleet.

13. The U.S. Government shall notify the Administrator and the PNA Office 5 working days in advance of any change to the information notified pursuant to paragraph 12(a), in respect of days covered by paragraphs 7(a) and (b). The U.S. Government shall notify the Administrator and the Cook Islands 5 working days in advance of any change to the information notified pursuant to paragraph 12(a), in respect of days covered by paragraph 7(c). Such changes may include any adjustment to the number of upfront days assigned to each U.S. vessel owner as long as the total number of upfront days as reflected in the submission from the U.S. Government, pursuant to paragraph 12, does not change. Financial responsibility for any payments in respect of all days remains with the U.S. vessel owner that originally purchased them as reflected in the submission from the U.S. Government pursuant to paragraph 12.

14. The payment agreed for upfront days due from each U.S. vessel owner shall be paid to the Administrator as follows:

(a) at least 50% by 15 December of the year preceding the relevant Licensing Period; and

(b) the balance, plus interest at the mutually agreed rate, by 31 May of the relevant Licensing Period.

15. Until full payment is made by a U.S. vessel owner for the days assigned to a specific vessel in the list submitted under paragraph 12(a), that U.S. vessel owner is restricted to using only 50% of their assigned days.

16. The Administrator shall not issue a licence for a U.S. vessel where the relevant vessel owner has not made the payment pursuant to paragraph 14(a).

17. The Administrator shall suspend the licence for a U.S. vessel where the relevant vessel owner fails to pay the remaining balance pursuant to paragraph 14(b).

18. Upon non-issuance or suspension of the licence, the Pacific Island parties shall determine how to manage any unused days that had been assigned to the relevant vessel owner, including whether to make those days available for sale to others.

19. The failure of any U.S. vessel owner to pay for fishing access under this Agreement shall not affect the access terms, rights or liabilities of other licensed vessel owners that are in good standing under this Agreement.

20. The agreed level of upfront days and fees for each one-year Licensing Period shall run from January 1 of one year through December 31 of that year.

ADDITIONAL DAYS

21. Subject to paragraph 6, any eligible U.S. vessel owner, whether or not they have purchased days from those made available under paragraph 7, may purchase additional days offered by a Pacific Island party or group of Pacific Island parties.

22. Agreements between the Pacific Island party or Pacific Island parties and the owners of eligible U.S. vessels for additional fishing access provided pursuant to paragraph 21 shall be in accordance with the template provided in Schedule 2; be governed by the terms of the Treaty; and must not contravene or otherwise undermine the terms of the Treaty. The U.S. Government shall ensure that U.S. vessel owners notify such agreements to the U.S. Government prior to implementation. The U.S. Government shall notify the relevant U.S. vessel owners, within 5 days of receipt, of any objections to implementation of any such agreement under the terms of the Treaty, and any necessary corrective action before the agreement is implemented.

23. Where the U.S. vessel does not already have a licence, the Pacific Island party or Pacific Island parties providing additional fishing access pursuant to paragraph 22 shall notify the- Administrator and U.S. Government promptly upon payment for those additional days.

24. Paragraph 22 does not preclude U.S. vessel owners and a Pacific Island party or parties from entering into separate commercial arrangements, not governed by the Treaty, related to issues not covered by paragraph 22.

25. The Administrator shall not issue a licence, or where appropriate shall suspend the licence, for a vessel for which additional days have been assigned and appropriately notified, if the relevant Pacific Island party or Pacific Island parties provide notification that the vessel owner has failed to make a payment that is due.

OTHER MATTERS

26. Without prejudice to Pacific Island parties' positions on any capacity management measure or other measures taken by Pacific Island parties to manage overall fishing capacity in their waters, Pacific Island parties acknowledge that the number of licence applications forwarded by the United States to the Administrator annually shall allow for no more than 40 vessels operating under the Treaty at any given time. This provision is included only for the purpose of providing the United States with regulatory authority to manage its fleet and shall not be used for other purposes such as to establish limits in respect of the Western and Central Pacific Fisheries Commission.

27. Regional terms and conditions as agreed by the Pacific Island parties shall apply to the operation of fishing vessels of the United States within waters under the jurisdiction of the Pacific Island parties, in accordance with the Treaty.

AMENDMENT

28. This Annex may be amended in writing by the parties, either intersessionally or at a meeting of the parties. The depositary shall promptly notify the Administrator and all the parties of the amendments to the Annex and their effective date.