**FORUM FISHERIES COMMITTEE**

**ONE HUNDRED AND EIGHTEENTH MEETING**

FFA

***25-28 MAY 2021***

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| **Agenda Item:** | 23 |
| **Paper No:** | **FFC118 - WP25** |
| **Title:** | **Update on U.S. Treaty** |


**Summary:**

This paper provides an update on the U.S. Treaty implementation and status of the renegotiation of the Treaty beyond 2022 when its current financial arrangement will expire.

The First Renegotiation Session was held in February 2021. All the Parties participated and the session went well. There was a general acknowledgement that the current business model of the Treaty is working well. However, there were a few parameters under the model that would require improvements and which may require a few amendments to be made in Annex II of the Treaty.

The Second Renegotiation Session is scheduled for 29-30 June 2021. In preparation for this session, the Pacific Island Parties (PIPs) have met from 22-23 April 2021 to follow up on some of the outstanding issues from the last session and also to discuss some substantive issues, including the proposed amendments to Annex II. The PIPs will meet again in mid-June to continue to prepare for this upcoming session.

Given the significance of the Treaty for the region, as one of the primary mechanisms through which the United States engages with Pacific Island countries, and linkages to the wider geo-political context, the renegotiation of the Treaty will be highlighted to MInisters at FFCMin in July and, from there, reported to Leaders. This will be important for ensuring that the commitment of PIPs to the renegotiation process is confirmed at the highest level.


**Recommendations:**

The Committee is invited to:

i. Note the progress in the renegotiation of the U.S. Treaty beyond 2022;
ii. Note the Outcomes of the First Renegotiation; and
iii. Provide further directions as may be appropriate in the preparation for the Second Renegotiation Session in late June 2021; and
iv. Note that the renegotiation of the Treaty will be highlighted to Ministers at FFCMin in July and, through FFCMin, to Forum Leaders when they meet later in 2021.

**Introduction**

1. This paper provides an update on the implementation of the U.S. Treaty and the current status of the renegotiation of the Treaty beyond 2022 when its financial arrangement will expire.

**Background**

2. 2021 is the fifth year of implementation of the current six-year Treaty extension that started in 2017 and will end next year in December 2022. That is, the Treaty has only about 1½ years before its current financial package ends.

3. At the 2020 Annual Consultation, the Parties agreed to commence the renegotiation for the Treaty extension in early 2021.

4. Initial plans were to have the renegotiation commenced in late 2020 but due to the Covid-19 pandemic and some challenges faced in the implementation of the Treaty in 2020, this was not possible. Therefore, the Parties agreed to have it held in early 2021.

**First Renegotiation Session**

5. The first renegotiation session was held on 25th February 2021. The session was held virtually. All the Parties to the Treaty participated in this session, including the U.S.

6. The session was preceded by the Special Meeting of the Pacific Island Parties (PIPs) at which the PIPs met internally to consider issues for the implementation of the Treaty and for the renegotiation of the Treaty. It was also preceded by the 2021 Annual Consultation at which the Parties (including the U.S.) discussed implementation issues for the Treaty for 2021 and 2022.

**Outcomes**

7. Since this was the first renegotiation session, there were no detailed discussions on specific issues. Rather, the Parties, through the exchanges of formal statements, shared their general observations on the Treaty and its implementation, in particular, whether the business model under the Treaty continues to serve the overall objectives of the Parties.

8. A summary of the Outcomes is provided below:

- The Treaty business model is working well for both the PIPs and the U.S., although there are some model parameters that must be updated, which included the need to review Annex II, to ensure that implementation problems faced in 2020 do not reoccur. Depending on further negotiations, Annex II could either fundamentally change it or focus on specific amendments.

- The U.S. acknowledged that both sides have similar expectations on the scope of the renegotiation and the general recognition that the Treaty is working as intended.
- PIPs expressed an interest in seeing an increase in the US Government financial contribution to the Treaty, noting that this has not increased for a number of years. The importance of the US Government contribution is likely to increase given the economic difficulties being faced by the US industry, and will be important for enabling an agreement to be reached that is in the interests of all Parties. The US was unable to commit to any increase at the first session but agreed to explore this further as part of the renegotiation.
- There were many commonalities on the points exchanged in the statements, which provided a positive start to the renegotiation. Parties agreed the process for the renegotiation should allow for early conclusion, ideally before the 1st of July in 2022, to allow individual parties to complete their internal processes to bring any amendments into force by the 1st of January 2023.
- In this regard, Parties noted the importance of being clear up front on what amendments are to be made to Annex II which sets out the key parameters relating to fisheries access and payments for fishing days.
- The U.S. expressed interest to provide its perspectives on the business model of the Treaty in the next session, noting that it has yet to develop its position for the renegotiation.
- Some preliminary operational issues of the U.S. include: review of the transfer period for days between vessels with a view to shorten the period, provided that there are no major impacts on the PIPs.
- Review of the Additional Days arrangement to ensure that bilateral access sought under this arrangement is consistent with the Treaty.
- On the WCPFC, there are a number of issues which can be resolved in advance to avoid clashes which include: the tropical tuna measure and high seas purse seine effort limits; and PIPs' strong emphasis on ensuring CMM2013-06 is adhered to and the rights under the Article 30 of the Convention are recognised and provided for.
    - The U.S. is supportive of CMM 2013-06 and considers itself as a close partner to FFA/PNA members as well as supportive of the need to engage and consider the special needs of all the CCMs particularly, SIDs.
    - Consultations with FFA Members should not be taken as having to reach agreement, but rather would feed into the U.S. agreement process before its national positions on any regional or international issues can be determined.

- The U.S. fleet will, according to the US, now operates exclusively out of American Samoan and be landing fish to the cannery in Pago Pago. The US asked that this is recognised as the current renegotiation process progresses.

9. The Parties also agreed to have the Second Renegotiation Session in the fourth week of June 2021 to be preceded by an additional meeting between the PIPs and the U.S. to consider the Arrangement for the days and price under the Treaty for 2022.

**Arrangements for days and price for 2022**

10. One of the issues in the implementation of the Treaty is that arrangements for the days and price were not specified for 2021 and 2022. These Treaty arrangements are to be negotiated between the Parties.

11. In 2020, the Parties negotiated for these arrangements but they only agreed on the arrangements for 2021. They could not agree on the arrangements for 2022. Hence, the Parties have further agreed to meet again specifically to finalise these arrangements in June 2021.

**Second Renegotiation Session**

12. This session will be held from 29-30 June 2021.

13. In preparation for this session, the PIPs have agreed to have two preparatory meetings; the first was held from 22-23 April 2021 at which they considered a few substantive issues, including a strategy for the second session. And the second meeting will be held from 23-24 June 2021, a week before the second renegotiation session.

14. One of the major outcomes of the first preparatory meeting of the PIPs held in April is their agreement to amend Annex II of the Treaty. Annex II provides for the licensing and fee arrangements. The objective of the proposed amendments are to remove the risk to PIPs of non-payment of the licence fees in the event a vessel which has committed to the purchase of days accidently sinks or faces unexpected natural disasters. The current terms under Annex II do not provide a clear direction on this, hence the proposed amendments to be made by the PIPs when they meet with the U.S. in the next session.

15. It is expected that the second session will involve more discussion on substantive issues and the Secretariat continues to work closely with the PIPs in preparation for this upcoming session.

16. It is also expected that there will be more renegotiation sessions to be held in the second half of 2021 and the first half of 2022 but this will be further

decided by the Parties when they meet again in the second renegotiation session.

**Reporting to FFCMin and Forum Leaders**

17. Given the significance of the Treaty for the region, as one of the primary mechanisms through which the United States engages with Pacific Island countries, and linkages to the wider geo-political context, the renegotiation of the Treaty will be highlighted to MInisters at FFCMin in July and, from there, reported to Leaders. This will be important for ensuring that the commitment of PIPs to the renegotiation process is confirmed at the highest level.