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COMMITTEE ON FOREIGN AFFAIRS
SUBCOMMITTEE ON ASIA, THE PACIFIC, AND THE GLOBAL ENVIRONMENT

HEARING ON THE MULTILATERAL TREATY ON FISHERIES BETWEEN THE
GOVERNMENT OF CERTAIN PACIFIC ISLAND STATES AND THE
GOVERNMENT OF THE UNITED STATES
("SOUTH PACIFIC TUNA TREATY")

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Mr. Chairman and distinguished members of the Subcommittee:

Thank you for the opportunity to be here today to discuss The Multilateral Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States, often referred to as the "South Pacific Tuna Treaty," or hereinafter "The Treaty." The Treaty, which entered into force in 1988, continues to be a vital component of the relationship between the United States and the sixteen Pacific Island States that are party to it.

Although the Department of State has the lead responsibility for conducting relations under the treaty, implementing the Treaty is a shared responsibility, which would not be possible without a great deal of support and assistance. In particular, the NOAA Fisheries Pacific Islands Regional Office in Honolulu and its Field Station on Pago Pago, American Samoa carry out the operational aspects of the Treaty on a day-to-day basis. We are grateful for the very strong support and collaboration we receive from that office and other offices in NOAA. We also appreciate the active participation and involvement of the American Tunaboat Association, which represents the U.S. tuna purse seine fleet, and all of the U.S. tuna purse seine owners and operators with vessels operating under the Treaty. As discussed later in this testimony, it is these vessel owners and operators that are, in large measure, the foundation of the success of the Treaty over the past 20-plus years.

We also enjoy a strong and cooperative working relationship with the Pacific Forum Fisheries Agency (FFA), which serves as the Administrator of the Treaty for the States that are Party to the Treaty: Australia, the Cook Islands, the Federated States of Micronesia, Fiji, Kiribati, Nauru, New Zealand, the Marshall Islands, Niue, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tonga, Tuvalu and Vanuatu.

The Treaty provides an integral part of the international legal framework under which the U.S. tuna purse seine fleet fishes in a vast area of the Western and Central Pacific Ocean, including the waters under the jurisdiction of those Pacific Island States listed above. Among the driving forces behind the Treaty at its inception, was the goal of eliminating the tensions that existed at the time between the United States and Pacific Island States with respect to claims of fisheries jurisdiction, fishing access rights, and other aspects of international law. Over the past 20 years, the Treaty has achieved this goal and more, and now serves as the foundation for a strong and mutually-beneficial relationship that carries over into other areas, described in more detail later in this testimony.

The Treaty has provided considerable economic benefits to the United States and the Pacific Island Parties. The value of the tuna harvested by U.S. vessels operating under the Treaty has varied widely given fluctuations in ex-vessel prices paid to operators, but it is estimated that the landed value of the 2008 catch was in excess of \$200 million. Because the value of the tuna increases as it moves through the processing and distribution chain, the total contribution to the U.S. economy may be as much as \$400 to \$500 million. In addition, tuna caught by U.S. vessels operating under the Treaty supplies two important canneries in American Samoa that, together with associated services, provide more than 80 percent of the private sector employment in that U.S. territory.

The Pacific Island Parties have also received considerable benefits. Under a related Economic Assistance Agreement, the United States provides \$18 million annually in Economic Support Funds (ESF) to the Pacific Island Parties. These funds make significant contributions to the economic development and well-being of the Pacific Island Parties, many of which have few other natural resources or reliable sources of income beyond those received from fisheries in waters under their jurisdiction. In addition, the U.S. industry contributes an additional \$3 million annually in up-front payments, with the possibility of additional payments if the price of the fish being harvested reaches a certain threshold level. This year Mr. Chairman, those additional payments from the U.S. industry to the Pacific Island Parties will total an estimated \$2.7 million, for a total U.S. industry payment of \$5.7 million. The economic return to the Pacific Island Parties under the Treaty, as a percentage of the value of the fish being caught, is higher than the return for any similar bilateral or regional arrangement adopted between the Pacific Island Parties and other distant water fishing fleets operating in the region.

Beyond financial considerations, the Treaty also provides the basis for cooperation between the United States and the Pacific Island Parties to promote the long-term sustainability of the fishery resources of the Pacific Ocean. One of the unique features of the Treaty is that its provisions apply not only within waters under the jurisdiction of the Pacific Island Parties, but throughout vast areas of the high seas within the Treaty Area. Within the Treaty Area, U.S. vessels are subject to a number of requirements designed to ensure that such vessels operate at the highest levels of accountability. Over the life of the Treaty, the Pacific Island Parties and the FFA Staff have praised the leadership of the U.S. purse seine fleet with respect to implementing a regional electronic vessel

monitoring system, regional observer program coverage, strict and detailed reporting requirements, port sampling, and other operational requirements.

The U.S. industry accepted these strict requirements at the request of the Pacific Island Parties even though, at the time, these requirements did not apply to other fleets fishing in the region. The U.S. fleet agreed to implement these requirements with the understanding that the Pacific Island Parties would use the example set by the U.S. fleet to insist that these requirements be adopted and applied by other fleets operating in the region.

Today, a number of the requirements first accepted by the U.S. fleet are widely required as the regional standard for vessels operating in the Western and Central Pacific Ocean. In this regard, the FFA and the Pacific Island Parties have recognized that without this leadership, it would have been much more difficult, if not impossible, to get other fleets to implement these requirements. At the same time, the U.S. fleet continues to operate with monitoring, control and surveillance requirements that do not apply on a region-wide basis to all fleets. We continue to work within the Treaty, with the States of the region and, in addition, now through the Western and Central Pacific Fisheries Commission (WCPFC), to level the playing field for the U.S. fleet and ensure that all vessels operating in the region do so under the same set of operational requirements and obligations.

For all of these reasons, Mr. Chairman -- the long-term commitment of the United States under the Treaty; the responsibility and accountability of the U.S. tuna purse seine industry; the leadership of the United States in strengthening efforts by the Pacific Island States to monitor and control vessels operating in the region; and the significantly higher economic return to the Pacific Island States under the Treaty than under other such arrangements -- the Treaty has been widely recognized and praised by the international community. A number of non-governmental conservation organizations such as the World Wildlife Fund have recognized the Treaty as a model for fishery access agreements negotiated between coastal States, in particular developing coastal States, and distant water fishing States.

Despite all these positive factors, there are some who have raised issues regarding the Treaty on various grounds. I welcome an opportunity to address these issues and to comment on a number of key points.

One point is that today the U.S. fleet is exercising its right to the full number of 40 licenses authorized under the Treaty, even though for a number of years this was not the case. As you know, in recent years the number of vessels operating under the Treaty was well below this number, which raised concerns both in the United States and among the Pacific Island Parties about the future of the U.S. purse seine fleet and of the Treaty itself. As a result, we supported efforts by the U.S. industry to revitalize the fleet and this effort has been successful. However, this has also led to statements that the United States is "increasing its fleet" and "contributing to overcapacity in the region." This assertion is unfounded and unwarranted and ignores several important points.

Originally, the Treaty provided for a total of 50 licenses to be available to U.S. vessels and, in the early years of the Treaty, the number of vessels actively fishing in the region was close to this number. When we negotiated the current extension of the Treaty, which took effect in 2003 and runs through 2013, the United States gave up 10 of these licenses so that they could be made available to other fleets, including for the expansion of domestic fleets in the Pacific Island States. To date, the United States remains the only country that operates under a legally-binding limit on the number of purse seine vessels that can be authorized to fish in the region. Further, it is the only country that has agreed to, adopted, and implemented a legally-binding reduction of 20 percent in the fishing opportunities available to its fleet. Right now, Mr. Chairman, there is strong interest among the U.S. industry in obtaining additional licenses, but we are bound by and respect the limit imposed under the Treaty and have no intention of exceeding the limit to which we have agreed.

Moreover, Mr. Chairman, it is important to note that throughout this period, the United States Government and industry continued to provide in full all funds specified pursuant to the Treaty and the associated Economic Assistance Agreement, even when the U.S. fleet was not utilizing the full 40 licenses available under the Treaty. We did so because of the long-term commitment to the Pacific Island Parties that the Treaty represents and the importance of honoring that commitment even under difficult circumstances. However, during this same period the level of fishing effort by other States increased significantly. In many cases, the new vessels entering the Western and Central Pacific tuna purse seine fishery had no history of fishing in the region, no history of regional cooperation, and no record of reporting and compliance with FFA rules and requirements.

Another observation you might hear is that it is not appropriate for the United States Government to be making payments for access fees on behalf of U.S. vessels fishing in the region. Here again, we would like to highlight a number of key points to keep in mind when considering this question.

First, as noted earlier, the U.S. industry makes a substantial payment to the Pacific Island Parties under the Treaty. This year that payment will be just short of \$6 million. Moreover, the U.S. Government funds provided under the Economic Assistance Agreement associated with the Treaty are the only significant source of Economic Support Funds (ESF) provided to the Pacific Island States. One of the unique features of the Treaty is that all of the Pacific Island Parties receive some benefit under the Economic Assistance Agreement, even if there is no fishing by U.S. vessels taking place in waters under their jurisdiction. In this regard, the funds provided go far beyond the purpose of affording access by U.S. vessels to fish in waters under the jurisdiction of the Pacific Island Parties. They contribute directly to the economic development and well being of States throughout the region and as a result, are a cornerstone of the economic and political relationship between the United States and the Pacific Island Parties. By all accounts, this is money well spent when considering the needs of these States with respect to their economic development and, in particular, in light of the growing influence and presence of other States and entities in the region.

Second, no vessel can receive a license to fish under the Treaty unless it is registered under U.S. flag. There are significant costs associated with operating under U.S. flag when compared with the costs of operating under flags of other States. All U.S. vessels must comply with a strict regulatory regime related to vessel safety, application of conservation and management measures, and monitoring and reporting requirements. Every vessel must carry significant levels of insurance, at a very high cost, to protect against injury and other tort liability claims that are not a factor for other vessels.

In addition, the Treaty itself has requirements for U.S. vessels that do not apply uniformly to all fleets in the region. These include a requirement to use a satellite-based vessel monitoring system at all times when operating in the Treaty Area, including on the high seas, a minimum level of observer coverage, and strict catch and effort reporting requirements, among others.

So Mr. Chairman, we have a clear choice as to the policy we seek to promote with respect to U.S. purse seine vessels operating under the Treaty. This is the choice between having vessels operating under U.S. flag, where they are bound by both the requirements of the Treaty and the provisions of U.S. law and regulatory requirements or, alternatively, seeing them leave U.S. jurisdiction to operate under flags of other States, where they are not bound by or required to comply with these and other similar requirements. Of these two choices, we see the former as the much preferred policy outcome, and this is the outcome that the Treaty helps us achieve.

With that background, Mr. Chairman, let me address the specific issues raised in the letter inviting me to testify. In particular, I know you are interested in hearing our thoughts and intentions with respect to the future of the Treaty and related issues.

The current extension of the Treaty, which took effect on June 15, 2003, continues for ten years, through June 14, 2013. If the Treaty is to continue beyond that point, we will need to reach agreement with the Pacific Island States on the terms and conditions for extending the agreement. At our most recent Treaty Consultation, which took place just last month in Koror, Palau, the Parties to the Treaty noted that we should begin our discussions to that end later this year. We are currently working to obtain the authority within the Department to begin those negotiations.

These discussions will not be easy and the outcome is not certain. It is clear that the conditions in the Western and Central Pacific have changed from when we negotiated the previous extension in 2001 and 2002. Among other things, the interest for fishing licenses in waters under the jurisdiction of the Pacific Island States has increased markedly. As foreign fishing fleets have depleted the tuna resources in the Atlantic and, more recently, in the Eastern Pacific Ocean, they are looking to move to the Western and Central Pacific, and are currently offering significant sums to the Pacific Island States in exchange for licenses to fish in the region. It is fair to say that such vessels, when licensed, do not and will not operate at the same standards of monitoring, reporting and accountability as the U.S. fleet.

At the same time, a subgroup of eight countries within the FFA, known as the Parties to the Nauru Agreement or “PNA,” are in the process of implementing a new means of allocating fishing effort in waters under their jurisdiction. These countries straddle the equator in the Western and Central Pacific Ocean and the vast majority of purse seine fishing in the region by all nations takes place in their exclusive economic zones (EEZ). Instead of the previous straight limit on the number of purse seine vessels authorized to fish in the EEZs of the PNA, this new system allocates fishing days to vessels under a very complex arrangement. The PNA have made it clear that they want to see the U.S. vessels operating under the Treaty integrated into this “Vessel Day Scheme.” Given its complexity, we have a number of questions regarding the operational details of the Vessel Day Scheme and have initiated a dialogue with the PNA members and FFA Staff to better understand the system. While these technical discussions are ongoing, we have indicated to the PNA that, provided that outstanding issues can be clarified, we are open to considering an effort to make the Treaty compatible with the Vessel Day Scheme. Having said that, the issues are complex and we cannot predict the outcome.

Additionally, the Pacific Island Parties have their own aspirations to develop locally-based purse seine fleets that allow them to gain more direct economic benefits from the fisheries in their waters. These aspirations have certain parallels to what occurred in the United States in the 1980s and early 1990s, whereby foreign fishing was phased out as local capacity and industry developed. Although the timeframe in which this transition will occur is uncertain, the commitment to this process by the Pacific Island Parties is undeniable. The implications of this process are far reaching and significant to U.S. interests in the Pacific.

For these and other reasons, Mr. Chairman, it is possible that not all of the current Parties to the Treaty will see continuing as a Party as in their best interest. Some may decide that they are better off working to develop their domestic industries or to negotiate additional bilateral arrangements with other countries. In the past, some have sought to explore the option of a separate bilateral arrangement with the United States, outside the Treaty framework, for access to all or a portion of the waters under their jurisdiction. On this latter point, the United States continues to view the Treaty with all the member States of the Pacific Forum as the sole vehicle governing access by U.S. vessels to waters under the jurisdiction of the Pacific Island Parties. We have no intention to negotiate bilateral purse-seine access arrangements with any Party outside the framework of the Treaty. If a current Party decides not to participate in an extended Treaty beyond 2013, we remain interested in negotiating with the other Parties to maintain and extend the Treaty with them.

The issues above highlight the complexity of the upcoming discussion regarding the extension of the Treaty. Nonetheless, we are hopeful that the Pacific Island States will continue to see the long-term arrangement with the United States as in their collective interest, and that we will be able to reach agreement on the terms and conditions that will allow the Treaty to extend beyond 2013. It is our strong hope that the 20-plus year relationship established under the Treaty, and that has worked so well for both sides, will

continue to be of value to the Pacific Island Parties, in the same way that it is to the United States. Working with them, with the Congress and with the U.S. fishing industry, we will seek to demonstrate that a vibrant Treaty can be a strong complementary element to the Pacific Island Parties own development aspirations.

Finally Mr. Chairman, we were asked to comment on the status of the amendments to the Treaty and its annexes that were concluded as part of the previous extension in 2002. The United States deposited its instrument of ratification for the 2002 amendments to the Treaty and its Annexes with the Department of Foreign Affairs of the Government of Papua New Guinea, which serves as the depositary for Treaty, on August 12, 2005. Those Amendments will formally enter into force when ratified by all Parties to the Treaty. To date, there are still some Parties that have not yet ratified.

However, the fact that it might take some time for Parties, including the United States, to ratify the Amendments was anticipated at the time the amendments were adopted in 2002. The amendments to the Treaty and its Annexes related to the operation of the Treaty are being provisionally applied under the terms of a Memorandum of Understanding (MOU) between the United States and the other Treaty Parties signed on March 24, 2002, the same date the amendments were adopted. The MOU specifies that any amendments not in force by June 15, 2003, would be provisionally applied from that date, until such time as they enter into force. These include the amendments regarding the revised program fee formula, the available reporting methods, the provisions relating to the vessel monitoring systems (VMS) and others. The only exception is the amendment to revise the procedures for amending the Treaty annexes. Because this amendment relates to Treaty law, rather than the operational aspects of the Treaty with respect to U.S. vessels, this amendment was not included in the 2002 MOU and will only take effect once the amendments have been ratified by all Parties.

Mr. Chairman and distinguished members of the Subcommittee, thank for the opportunity to be here today. I am happy to respond to any questions you may have.