

L.N. 6/87

Order under section 5A**FOREIGN FISHING VESSELS LICENSING
(U.S. TREATY) ORDER 1987**

1. This Order may be cited as the Foreign Fishing Vessels Licensing (U.S. Treaty) Order 1987, and shall come into operation on the date on which the Treaty enters into force for Tuvalu. Citation and commencement
2. In this Order, unless the context otherwise requires - Interpretation
- "Administrator" has the meaning given in Article 1.1(a) of the Treaty and in terms of the agreement is the Director of the South Pacific Forum Fisheries Agency;
- "Agreement" means the Agreement among Pacific Island States concerning the implementation and administration of the Treaty on Fisheries between the Governments of certain Pacific Island States and the Government of the United States of America signed at Port Moresby on 2nd April, 1987;
- "closed areas for Tuvalu" means the closed areas described in Schedule 2 to Annex I to the Treaty, that is the territorial sea and waters within two nautical miles of all named banks, i.e. Macaw, Kosciusko, Rose, Bayonnaise and Hera, in Tuvalu EEZ, as depicted on the chart entitled "Tuvalu Fishery Limits" prepared by the United Kingdom Hydrographic Department, Taunton, January 11, 1981;
- "crew member" includes any fishing master;
- "observer" means an observer in accordance with Article 6(1) of this Order;
- "operator" has the meaning given in Article 1.1(f) of the Treaty, that is any person who is in charge of, directs or controls a vessel, including the owner, charterer and master;
- "regional fishing licence" means a fishing licence -
- (a) valid also for countries other than Tuvalu; and
- (b) to which Article 4(1) of this Order applies;
- "Treaty" means the Treaty designated in Article 3 of this Order;
- "U.S. fishing vessel" has the meaning given in Article 1.1(d) of the Treaty, that is any boat, ship or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, which is documented under the laws of the United States of America.
3. The Treaty to which this Order relates is designated the Treaty on Fisheries between the Governments of certain Pacific Island States and the Government of the United States of America signed at Port Moresby on 2nd April, 1987. Designation of Treaty
- 4.(1) A regional fishing licence issued under the Treaty by the Administrator in respect of a U.S. fishing vessel in the circumstances provided in Annex II to the Treaty shall be deemed during the period of validity of the licence to be a permit granted under section 5(3) of the Act in respect of the fishery limits but excluding the closed areas for Tuvalu. Regional fishing licences

- (2) This article shall not apply unless a regional fishing licence is -
- (a) in the form set out in Schedule 3 to Annex II to the Treaty and shown in the Schedule to this Order; and
 - (b) subject to the terms and conditions specified and referred to in Annex I to the Treaty.

Enforcement

5. Notwithstanding any other written law or the powers of any court, in accordance with Article 5.3 of the Treaty, in respect of a U.S. fishing vessel authorised by or under a regional fishing licence or to which the Treaty applies

- (a) where the master, owner, charterer or any member of the crew of the U.S. fishing vessel is in pre-trial custody in respect of an offence which amounts to a breach of the Treaty, he shall be promptly released if he enters into a bond or recognizance with or without sureties for a reasonable amount to appear before the appropriate court at a stated time and place and subject to such conditions as are stated in the bond or recognizance;
- (b) where the U.S. fishing vessel is seized in respect of an offence which amounts to a breach of the Treaty, the vessel (together with its equipment, stores and cargo) shall be promptly released if the master, owner, charterer or another person enters into a reasonable bond or other security for a reasonable amount for the vessel, equipment, stores, and cargo to be delivered back to the custody of an authorised officer at a stated time and place, and the release of the vessel, equipment, stores and cargo shall be subject to such conditions as are stated in the bond;
- (c) the master, owner, charterer or any of the crew of the U.S. fishing vessel shall not be liable to imprisonment on conviction for an offence under the Act, this Order or regulations made under the Act if the offence is a fishing violation.

Observers

6.(1) Observers on U.S. fishing vessels in accordance with Part 6 of Annex I to the Treaty are authorized in respect of Tuvalu.

(2) No operator or crew member of a fishing vessel shall assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with an observer in the performance of his duties.

(3) Notwithstanding any sanction which may be imposed under the Treaty, an operator or crew member who contravenes subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of \$100.

Application of
Regulations
LN 6/83
LN 22/84

7. In order to avoid doubt, the Foreign Fishing Vessels Regulations 1982 (as amended by the Fisheries (Foreign Fishing Vessels) (Amendment) Regulations 1984) are applicable national laws for Tuvalu in terms of Article 4 of and Schedule 1 to Annex I to the Treaty and except for Regulations 3 and 4 apply to U.S. fishing vessels holding regional fishing licences.

Article 4(2)(a)SCHEDULEFORM OF REGIONAL FISHING LICENCE(Treaty, Annex I)

SCHEDULE 3

TREATY ON FISHERIES BETWEEN THE
GOVERNMENTS OF CERTAIN PACIFIC ISLAND STATES
AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA

LICENCE FORM

The vessel described in this Licence is hereby authorised to engage in fishing in the Licensing Area for the period described in this Licence, in accordance with the terms and conditions referred to in Annex I.

FULL NAME OF VESSEL: _____

RADIO CALL SIGN OF VESSEL: _____

REGIONAL REGISTER NUMBER OF VESSEL: _____

HELICOPTER OR OTHER AIRCRAFT WHICH MAY BE USED IN ASSOCIATION WITH THE FISHING ACTIVITIES OF THE VESSEL: _____

PERIOD OF VALIDITY: _____

The period of validity of this licence shall be no longer than one year:

FROM _____, 19 ____

TO _____, 19 ____

FOR AND ON BEHALF OF THE PACIFIC ISLAND PARTIES

DATE OF ISSUE: _____

LICENCE NUMBER: _____

WARNING: IT IS AN OFFENCE AGAINST THE LAWS OF MANY NATIONS, INCLUDING THE UNITED STATES OF AMERICA, TO VIOLATE THE REQUIREMENTS OF ANNEX I. PENALTIES MAY INCLUDE SUBSTANTIAL FINES AND VESSEL FORFEITURE.