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A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by amending sections 108 and 402, as established by Public Law No. 6-11, to set limits on the number of permissible fishing permits and to establish the fee for such permits; by further amending section 404, as amended by Public Law No. 6-11, to include additional minimum terms in foreign fishing agreements; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 108 of title 24 of the Code of the Federated
2 States of Micronesia, as established by Public Law No. 6-11, is
3 hereby amended to read as follows:

4 "Section 108. Allowable levels of fishing.

5 (1) The maximum number of permits that may be in
6 effect at any time shall be as follows:

7 Purse seiners 80

8 Longliners 100

9 Pole and line vessels 100

10 The provisions of this section shall not affect the validity
11 or operation of any permits in effect at the time of the
12 passage of this act; nor shall such limitations affect the
13 ability of the Authority to issue such additional permits
14 at such fees as may be necessary to comply with any foreign
15 or domestic-based fishing agreements which are in effect at
16 the time of the passage of this act and which will expire,
17 according to their own terms, within one year of the
18 passage of this act. Foreign or domestic-based fishing
19 agreements which contain no definite expiration date, or
20 which contain an expiration date beyond one year from the
21 passage of this act, shall be terminated at the earliest
22 possible date, which shall not exceed one year, if their
23 continued operation would impede the implementation of the
24 above quotas. The provisions of this act shall be in full
25 force and effect with respect to all foreign and

1 domestic-based fishing vessels within 18 months of the
2 passage of this act.

3 (12) Subject to the limitations contained in section
4 1, the Authority may determine the total allowable level
5 of fishing with respect to any stock of fish subject to the
6 provisions of this title, and shall set such level in
7 accordance with requirements of optimum sustainable yield as
8 determined by:

9 (a) The scientific evidence available, including
10 statistical and other information concerning such stocks of
11 fish; and

12 (b) Conservation, management and development
13 measures contained in management plans relating to such
14 stocks of fish.

15 (23) Allocations of the total allowable level of
16 fishing with respect to any stock of fish shall be made
17 first to domestic fishing vessels seeking permits, then to
18 domestic-based fishing vessels, with any remaining allowable
19 level of fishing allocated to foreign fishing vessels.

20 (24) Allocations issued pursuant to this title may
21 include restrictions as to vessel type, gear type, seasons
22 of operations, areas in which the fishing can take place,
23 or any other restriction relevant to conservation,
24 management, and development."

25 Section 2. Section 402 of title 24 of the Code of the Federated

1 States of Micronesia, as established by Public Law No. 6-11, is hereby
2 amended to read as follows:

3 "Section 402. Fees for foreign fishing permits.

4 (1) Fees and other forms of compensation for the right
5 to exploit marine resources within the ~~Exclusive~~ ~~Economic~~
6 ~~Zone~~ by foreign fishing vessels shall be established in
7 foreign fishing agreements entered into pursuant to sections
8 401, 404, and 405 of this title, and shall include the
9 permit fees provided for in subsection (2) of this section.

10 (2) All foreign and domestic-based fishing vessels
11 shall be required to pay the following minimum annual permit
12 fees:

13 (a) Purse seiners

14 (i) 1,500 tons and above.....\$500,000

15 (ii) 1,000 to 1,499 tons..... 450,000

16 (iii) less than 1,000 tons..... 350,000

17 (b) Longliners

18 (i) 25 tons and above..... 200,000

19 (ii) less than 25 tons..... 100,000

20 (c) All pole and line vessels..... 30,000

21 (3) The Authority shall have the power to negotiate,
22 as a term of a foreign or domestic-based fishing agreement,
23 a complete or partial waiver of the above permit fees with
24 respect to vessels fishing within the Exclusive Economic
25 Zone which transship or process a significant portion of

1 their catch within the Federated States of Micronesia, where
2 the Authority determines that the economic benefits that
3 will accrue to the Federated States of Micronesia from such
4 transshipment or processing will be greater than the benefits
5 derived from the collection of the entire fees.

6 (4) The provisions of this section shall not affect
7 the validity or operation of any permits in effect at the
8 time of the passage of this act; nor shall such limitations
9 affect the ability of the Authority to issue such
10 additional permits at such fees as may be necessary to
11 comply with any foreign or domestic-based fishing
12 agreements which are in effect at the time of the passage
13 of this act and which will expire, according to their own
14 terms, within one year of the passage of this act. Foreign
15 or domestic-based fishing agreements which contain no
16 definite expiration date, or which contain an expiration
17 date beyond one year from the passage of this act, shall be
18 terminated at the earliest possible date, which shall not
19 exceed one year, if their continued operation would impede
20 the implementation of the above fees. The provisions of
21 of this act shall be in full force and effect with respect
22 to all foreign and domestic-based fishing vessels within 18
23 months of the passage of this act."

24 Section 3. Section 404 of title 24 of the Code of the Federated
25 States of Micronesia, as amended by Public Law No. 6-11, is hereby

1 further amended to read as follows:

2 "Section 404. Foreign fishing agreements - Terms. All
3 foreign fishing agreements shall have the following minimum
4 terms:

5 (1) The foreign party and the owner or operator of
6 any fishing vessel shall acknowledge the exclusive fishery
7 management authority of the Federated States of Micronesia
8 within the ~~the~~ Exclusive Economic Zone;

9 (2) The foreign party or the owner or operator of any
10 fishing vessel fishing, as appropriate, pursuant to such
11 agreement shall:

12 (a) comply with the requirements of this title,
13 all regulations issued pursuant to this title and all other
14 applicable laws and regulations;

15 (b) permit any officer authorized to enforce the
16 provisions of this title to board and search or inspect any
17 vessel at any time and make arrests and seizures provided
18 for in section 508 of this title whenever such officer has
19 reasonable cause to believe, as a result of such a search
20 or inspection, that any such vessel or any person has
21 committed an act prohibited by this title;

22 (c) permit such officer to examine and make
23 ~~notations~~ notations on any permit issued pursuant to
24 sections 109 through 111 of this title, or other
25 documentation required under any applicable foreign fishing

1 agreement;

2 (d) allow and assist any authorized officer to
3 enforce the provisions of this title, regulations made
4 thereunder and any other applicable laws or regulations;

5 (e) immediately comply with every instruction
6 given by an authorized officer, facilitate safe boarding,
7 and facilitate the inspection of the vessel, gear,
8 equipment, records, fish and fish products;

9 (f) allow and assist authorized observers to
10 board the vessel for scientific, monitoring, compliance and
11 other functions, and have full access to, and the use of,
12 facilities and equipment on board the vessel which the
13 authorized observer may determine ~~if~~ are necessary to carry
14 out his or her duties; have full access to the bridge, fish
15 on board and areas which may be used to hold, process,
16 weigh and store fish; remove samples; have full access to
17 the vessel's records, including its logs and documentation
18 for the purpose of inspection and copying; and gather any
19 other information relating to fisheries in the ~~Exclusive~~
20 ~~Economic~~ Zone;

21 (g) not assault, obstruct, resist, delay, refuse
22 boarding to, intimidate, or interfere with an authorized
23 officer or authorized observer in the performance of his or
24 her duties;

25 (h) display any permit or permit number issued

1 for any such vessel pursuant to sections 109 through 111 of
2 this title or any documentation required to be displayed
3 under foreign fishing agreements in the wheelhouse of such
4 vessel;

5 (i) ensure that appropriate position-fixing and
6 identification equipment shall be installed and maintained
7 in working order on each such vessel;

8 (j) ensure that the vessel is marked in
9 accordance with regulations issued by the Authority while
10 within the ~~E~~Exclusive ~~E~~Economic ~~Z~~Zone;

11 (k) require that the National Government of the
12 Federated States of Micronesia shall be reimbursed for the
13 cost of authorized observers;

14 (l) appoint and maintain an agent within the
15 Federated States of Micronesia who is authorized to receive
16 and respond to any legal process issued in the Federated
17 States of Micronesia with respect to such owner or operator
18 of such vessel; and

19 (m) not, in any year, exceed such party's
20 allocation of the total allowable level of foreign fishing,
21 in the event allocations are established in accordance with
22 this title/;

23 (n) cause all vessels which are issued permits
24 to display identification as follows:

25 (i) The radio call sign or name (in

1 English) of the vessel will be displayed in a prominent
2 position on the vessel where it can readily be identified
3 from the air or sea;

4 (ii) The letters and numbers constituting the
5 radio call sign will be at least one meter high, clear and
6 distinct and colored black or white on black or similar
7 contrasting colors;

8 (o) Continuously monitor the international distress
9 radio frequency 2.182 MHZ and 156.6 MHZ (channel 16, VHF)
10 for the purpose of facilitating communication with air and
11 seaborne authorities of the Federated States of Micronesia
12 wishing to establish the credentials of the vessel while in
13 the Zone;

14 (p) Complete and transmit to the Authority voyage
15 catch reports in the form set prescribed by the Authority.
16 The voyage catch reports shall be completed in the English
17 language, with daily entries of all catch in an agreed
18 reporting area defined as the FSM 200-mile EEZ, the
19 adjacent high seas to the Zone, or the EEZ's and adjacent
20 high seas of neighboring countries concerned. All such
21 reports shall be dispatched to the Authority within
22 45 days of the completion of a voyage. If a vessel does
23 not operate in the Zone during a voyage, a statement of no
24 operation shall be submitted to the Authority. If a vessel
25 transships less than 300 metric tons, that portion of the

1 trip shall not be considered the end of a trip;

2 (g) Report in the form and manner prescribed by
3 the Authority each entry into or departure from, including
4 those made for transit, the external boundaries of the
5 Exclusive Economic Zone;

6 (r) Fish only for species specifically
7 enumerated in the agreement or caught incidentally thereto;

8 (s) Not engage in bottom fishing or coral
9 fishing within the Exclusive Economic Zone;

10 (t) Conduct their fishery in a manner which
11 will not disrupt traditional, local-based fisheries, and
12 release all turtles and reef fish taken during the course
13 of the fishery in a manner which will provide this
14 miscellaneous catch with the greatest chance of survival;

15 (u) Not transship its catch at sea within or
16 outside the Exclusive Economic Zone, but only at such ports
17 or locations within the Federated States of Micronesia as
18 designated by the Authority. In complying with this
19 requirement the foreign party or vessel owner or operator
20 shall recognize the need to preserve the fragile marine
21 environmental conditions of the lagoons and atolls of the
22 Federated States of Micronesia by not dumping raw sewage,
23 discarding fish or by-catches, rubbish and garbage, fuel
24 wastes and other fuel waste by-products and other waste
25 materials in the lagoons and atolls and within 12 miles of

1 the baseline of any island;

2 (v) Comply with all other applicable National
3 and State laws and regulations relating to environmental
4 pollution;

5 (w) Use its best effort during the agreement
6 period to maximize the use of local agents and stevedores
7 and stevedoring services in its transshipment activities;

8 (x) Not discharge into any port or give out to
9 any persons fish or by-catches unless authorized by the
10 appropriate authority in the affected State; and

11 (y) Use its best effort to get provisioning
12 locally when transshipping in any FSM port.

13 (3) Foreign parties will:

14 (a) apply, pursuant to section 109 of this
15 title, for any required permits;

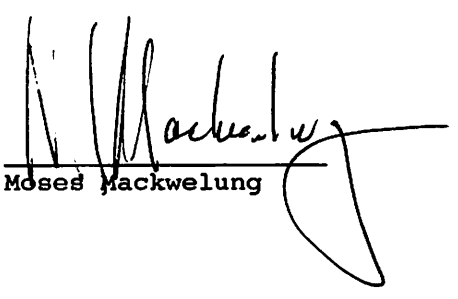
16 (b) deliver promptly to the owner or operator of
17 the appropriate fishing vessel any permit which is issued
18 under that section for such vessel; and

19 (c) abide by the requirement that no foreign
20 fishing will be permitted in the ~~Exclusive~~ ~~Economic~~ ~~Zone~~
21 without a valid and applicable permit, except as provided
22 by foreign fishing agreements concluded pursuant to this
23 chapter, and that all conditions and restrictions of the
24 permit, or any applicable foreign fishing agreement, are
25 complied with."

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1 Section 4. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its becoming
3 law without such approval.

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5 Date: 10/22/93

Introduced by: 
Moses Mackwelung

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