

STANDING COMMITTEE REPORT NO. 16-124

RE: C.R. NO. 16-151/External Affairs

SUBJECT: A RESOLUTION RATIFYING A TREATY ENTITLED A
THIRD ARRANGEMENT IMPLEMENTING THE NAURU AGREEMENT

JANUARY 17, 2011

The Honorable Isaac V. Figir
Speaker, Sixteenth Congress
Federated States of Micronesia
Sixth Regular Session, 2011

Dear Mr. Speaker:

Your Committee on External Affairs, to which was referred
Congressional Resolution No. 16-151, entitled:

"A RESOLUTION RATIFYING A TREATY ENTITLED A THIRD
ARRANGEMENT IMPLEMENTING THE NAURU AGREEMENT SETTING FORTH
ADDITIONAL TERMS AND CONDITIONS OF ACCESS TO THE FISHERIES
ZONES OF THE PARTIES.",

begs leave to report as follows:

The intent and purpose of the resolution are expressed in its title.

Presidential Communication No. 16-322 requests congressional
ratification as a treaty of the Third Implementing Arrangement to the
Nauru Agreement. The Nauru Agreement is a sub regional agreement to
coordinate terms and conditions for fishing licenses within the
exclusive economic zones of its signatory nations, aimed at the
rational development and optimum utilization of fish stocks. The
Parties to the Nauru Agreement (PNA) are the Federated States of
Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New
Guinea, Solomon Islands, and Tuvalu.

The Third Implementing Arrangement prohibits fishing vessels licensed
to fish in the exclusive economic zones of the PNA nations from
fishing in high seas pockets as a condition of their licenses; bans
for set time periods the use of Fishing Aggregating Devices—devices
used to attract tuna which often result in the capture of juvenile
fish—by purse seine fishing vessels; introduces catch retention (to
stop dumping of lower value tuna overboard purse seine fishing
vessels); and requires all foreign purse seine vessels to carry an

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observer and to ensure that their automatic location communicators are in operation at all times during the period of validity of their licenses. A copy of the full text of the Third Implementing Arrangement is attached.

Your Committee notes that the Second Implementing Arrangement was apparently never submitted to Congress for ratification as a treaty; according to the President it was "signed as an executive agreement by the Deputy Secretary of External Affairs." The President contends that the Third Implementing Arrangement requires ratification as a treaty because "its scope of coverage goes beyond the 200 nautical miles exclusive economic zone of the Federated States of Micronesia." However, this was also true of the Second Implementing Arrangement which, *inter alia*, prohibited transshipment of fish on the high seas. We therefore question the propriety of its approval as an executive agreement; however, this is a separate question that does not affect our position on the ratification of the Third Implementing Arrangement.

Your Committee recommends the following technical amendments:

1. Page 3, line 2, delete "Fifth Special" and insert "Sixth Regular" in lieu thereof; and delete "2010" and insert "2011" in lieu thereof.

Your Committee on External Affairs is in accord with the intent and purpose of C.R. No. 16-151, as amended hereby, and recommends its adoption in the form attached hereto as C.R. No. 16-151, C.D.1.

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Respectfully submitted,

/s/ Paliknoa K. Welly
Paliknoa K. Welly, chairman

/s/ Tiwiter Aritos
Tiwiter Aritos, vice chairman

/s/ Isaac V. Figir
Isaac V. Figir, member

Peter M. Christian, member

Dohsis Halbert, member

/s/ Setiro Paul
Setiro Paul, member

/s/ Joe N. Suka
Joe N. Suka, member