
A BILL FOR AN ACT

To further amend chapters 1, 2, 4, 6, 7 and 9 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 12-34, 13-86, 14-47, 14-55 and 15-38, to enhance the ability of the National Government of the Federated States of Micronesia to enforce, in the territory or jurisdiction of the Federated States of Micronesia, including the exclusive economic zone and other zones where FSM-flagged or FSM-licensed vessels undertake fishing activities, the national fishery laws, regulations and the international obligations entered into by the Federated States of Micronesia relating to conservation, sustainable exploitation and management of fishery resources, taking into consideration the National development needs and aspirations of the FSM, and for other purposes.

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

1 Section 1. Section 101 of chapter 1 of title 24 of the Code
2 of the Federated States of Micronesia, as amended by Public Law
3 No. 12-34, is hereby further amended to read as follows:

4 "Section 101. Purpose of this subtitle.

5 (1) The purpose of this subtitle is to ensure the
6 sustainable development, conservation and use of the
7 marine resources in the exclusive economic zone by
8 promoting development of, and investment in, fishing
9 and related activities in the context of effective
10 stewardship and to regulate fishing and related
11 activities of vessels entitled to fly the flag of the
12 Federated States of Micronesia beyond the fishery
13 waters.

14 (2) This act may be referred to as the 'Marine

1 Resources Act of 2002'."

2 Section 2. Section 102 of chapter 1 of title 24 of the
3 Code of the Federated States of Micronesia, as amended by
4 Public Law No. 12-34, is hereby amended to read as follows:

5 "Section 102. Definitions. In this subtitle, except
6 where otherwise specified, the following terms shall
7 have the meanings stated below:

8 (1) 'Access agreement' means a treaty, agreement or
9 arrangement entered into by the Authority pursuant to
10 this act in relation to access to the exclusive
11 economic zone for fishing by foreign fishing vessels,
12 and includes bilateral and multilateral instruments
13 applicable at the national, subregional, regional or
14 international level.

15 (2) 'Administrator' means the director of a
16 regional fisheries agency or any other organization or
17 person authorized, pursuant to section 106 of chapter
18 1 of this subtitle, to administer a fisheries access
19 agreement or fisheries management agreement to which
20 the Federated States of Micronesia is party.

21 (3) 'Agent' includes a person appointed or
22 designated by a foreign fishing company to act as the
23 legal representative of that company within the
24 Federated States of Micronesia, including acceptance
25 of and response to legal process, pursuant to section

1 404(4)(a) of chapter 4 of this subtitle.

2 (4) 'Aircraft' means any craft capable of self-
3 sustained movement through the atmosphere and includes
4 helicopters.

5 (5) 'Atoll' means a naturally formed coral reef
6 system which has one or more islands situated on the
7 reef system, including, but not limited to, Ngulu,
8 Ulithi, Sorol, Eauripi, Woleai, Faraulep, Ifalik,
9 Olaimarao, Elato, Lamotrek, West Fayu, Puluwat, Pulap,
10 Pulusuk, Namonuito, Kuop, Nomowin, Murilo, Losap,
11 Namoluk, Satawan, Etal, Lukunor, Minto Reef, Oroluk,
12 Nukuoro, Kapingamarangi, Pakin, Ant, Sapwuahfik,
13 Mwoakilloa and Pingelap.

14 (6) 'Authority' means the National Oceanic Resource
15 Management Authority established by section 201 of
16 chapter 2 of this subtitle.

17 (7) 'Authorized observer' means any person
18 authorized in writing by the Authority to act as an
19 observer on fishing vessels for the purposes of this
20 subtitle, including any observer authorized pursuant
21 to the provisions of an access agreement or a
22 fisheries management agreement.

23 (8) 'Authorized officer' means any person or
24 category of persons designated pursuant to section 602
25 of chapter 6 of this subtitle as an authorized

1 officer.

2 (9) 'Automatic location communicator or 'mobile
3 transceiver unit or' transponder' means a device
4 placed on a fishing vessel that transmits, either in
5 conjunction with another device or devices or
6 independently, information concerning the position,
7 fishing and other activities of the vessel.

8 (10) 'Based in the Federated States of Micronesia'
9 means using land-based facilities in the Federated
10 States of Micronesia to support fishing, including
11 location of the home port of a vessel in the Federated
12 States of Micronesia, landing or transshipping all
13 fish harvested within the exclusive economic zone
14 and/or operating under a joint venture arrangement in
15 the Federated States of Micronesia, or under
16 arrangements where the operator of a vessel is
17 participating in shore-based developments or is
18 otherwise making a substantial contribution to the
19 development of the domestic tuna industry.

20 (11) 'Buy' includes:

21 (a) barter or attempt to barter;

22 (b) purchase or attempt to purchase;

23 (c) receive on account or consignment;

24 (d) purchase or barter for future goods or for
25 any consideration of value; and

1 (e) purchase or barter as an agent for another
2 person, and 'buyer' shall have a corresponding
3 meaning.

4 (12) 'Citizen' means a person who is a citizen of
5 the Federated States of Micronesia.

6 (13) 'Closed area' means an area in which fishing is
7 prohibited.

8 (14) 'Closed season' means a period of time during
9 which fishing is prohibited.

10 (15) 'Commercial fishing' means any fishing
11 resulting or intending or appearing to result in the
12 sale or trade of any fish which may be taken during
13 the fishing operation, and does not include
14 subsistence fishing. For the purposes of this act,
15 the following shall be presumed to be commercial
16 fishing:

17 (a) use of a vessel for fishing which measures
18 twenty-seven (27) feet or more in overall length;

19 (b) use of more than one vessel for fishing
20 which is owned by a single person for the primary
21 purpose of selling or trading any fish.

22 (16) 'Commercial pilot fishing' means any fishing
23 for the purpose of testing the commercial viability
24 of:

25 (a) new fishing methods;

1 (b) developing new stocks of fish; or

2 (c) fishing in previously unexploited areas.

3 (17) 'Court' means the Supreme Court of the
4 Federated States of Micronesia.

5 (18) 'Domestic fishing' means any fishing by a local
6 fishing vessel longer than twenty-seven (27) feet in
7 overall length, but not including commercial pilot
8 fishing, and domestic fishing vessel' shall have a
9 corresponding meaning.

10 (19) (Reserved)

11 (20) (Reserved)

12 (21) 'Drift net' means a gillnet or other net or
13 arrangement of nets which is more than 2.5 kilometers
14 (1.56 miles) in length, the purpose of which is to
15 enmesh, entrap or entangle fish.

16 (22) 'Drift net fishing activities' includes fishing
17 with the use of a drift net and any related activities
18 including transporting, transshipping and processing
19 any drift net catch, and provisioning of food, fuel
20 and other supplies for vessels used or outfitted for
21 drift net fishing.

22 (23) 'Exclusive economic zone' means the exclusive
23 economic zone as defined in title 18 of the Code of
24 the Federated States of Micronesia.

25 (24) 'Executive Director' means the individual

1 appointed by the Authority to be in charge of the
2 daily activities and operation of the authority and to
3 perform such other functions as required by this
4 subtitle.

5 (25) 'Export' means to:

6 (a) send or take out of the country;

7 (b) attempt to send or take out of the
8 country;

9 (c) receive on account or consignment for
10 purposes of paragraph (a) or (b) above;

11 (d) act as an agent for another person for
12 purposes of (a) through (c) above; and

13 (e) carry or transport anything for purposes
14 of paragraphs (a) through (d) of this subsection, and
15 'exporter' shall have a corresponding meaning.

16 (26) 'Fish' means any living marine resource.

17 (27) 'Fish aggregating device' [~~means any man made~~
18 ~~or partly man made floating or semi submerged device,~~
19 ~~whether anchored or not, intended for the purpose of~~
20 ~~aggregating fish, and includes any natural floating~~
21 ~~object on which a device has been placed to facilitate~~
22 ~~its location] or 'FAD' means any object or group of
23 objects of any size floating on or near the surface of
24 the water or semi-submerged in the water or moving
25 slowly near the surface of the water, whether living~~

1 or non-living, that has been deployed for the purpose
2 of aggregating fish, or that has not been so deployed
3 but which has or is likely to have the effect of
4 aggregating fish, including but not limited to buoys,
5 floats, netting, logs and large fish.

6 (28) 'Fish processing' means the producing of any
7 substance or article from fish by any method and
8 includes the cutting up, dismembering, cleaning,
9 sorting, loining, freezing, canning, salting,
10 preserving and reduction of fish.

11 (29) 'Fisheries management agreement' means any
12 agreement, arrangement or treaty in force to which the
13 Federated States of Micronesia is a party, not
14 including any access agreement, which has as its
15 primary purpose cooperation in or coordination of
16 fisheries management measures in all or part of the
17 region, or implementation of a multilateral access
18 agreement, including, but not limited to, fisheries
19 monitoring, control and surveillance and establishing
20 criteria or requirements for fishing and fisheries
21 access.

22 (30) 'Fishery' or 'Fisheries' means one or more
23 stock of fish or any fishing operation based on such
24 stocks which can be treated as a unit for purposes of
25 conservation and management, taking into account

1 geographical, scientific, technical, recreational,
2 economic and other relevant characteristics.

3 (31) 'Fishery waters' means the exclusive economic
4 zone, the territorial sea and internal waters as
5 described in title 18 of the Code of the Federated
6 States of Micronesia, and any other waters over which
7 the Federated States of Micronesia claims sovereignty
8 or sovereign Rights.

9 (32) 'Fishing' means:

10 (a) the actual or attempted searching for,
11 catching, taking or harvesting of fish;

12 (b) any activity which can reasonably be
13 expected to result in the locating, catching, taking
14 or harvesting of fish;

15 (c) the placing, searching for or recovering
16 of any fish aggregating device or associated
17 electronic equipment such as radio beacons;

18 (d) any operation at sea directly in support
19 of or in preparation for any activity described in
20 this subsection except for operations defined as
21 related activities in subsection (51) of this section;
22 and

23 (e) the use of an aircraft in relation to any
24 activity described in this subsection except for
25 flights in emergencies involving the health or safety

1 of crew members or the safety of a vessel.

2 (33) 'Fishing day' means any calendar day, or part
3 of a calendar day, during which a fishing vessel is in
4 the fishery waters outside of a port, but does not
5 include any calendar day, or part of a calendar day on
6 which the fishing vessel is not engaged in fishing or
7 related activities.

8 [~~33~~] (34) 'Fishing gear' means any equipment,
9 implement, or other thing that can be used in the act
10 of fishing, including any fishing net, rope, line,
11 float, trap, hook, winch, boat, beacon or locating
12 device, aircraft or helicopter.

13 [~~34~~] (35) 'Fishing vessel' means any vessel, boat,
14 ship or other craft which is used for, equipped to be
15 used for or of a type that is normally used for
16 fishing as the term fishing is defined in subsection
17 (32) of this section.

18 [~~35~~] (36) 'Flag fishing vessel' means any foreign
19 fishing vessel that is [~~registered in~~] entitled to fly
20 the flag of the Federated States of Micronesia
21 pursuant to title 18 of the Code of the FSM and any
22 domestic fishing vessel.

23 [~~36~~] (37) 'Foreign fishing' means any fishing not
24 defined as domestic fishing, and not including
25 commercial pilot fishing or fishing from a local

1 fishing vessel less than or equal to twenty-seven (27)
2 feet in overall length.

3 [~~37~~] (38) 'Foreign fishing vessel' means any
4 fishing vessel other than a local fishing vessel.

5 [~~38~~] (39) 'Foreign party' means a noncitizen party
6 to an access agreement or a party to an access
7 agreement that is at least twenty percent foreign-
8 owned.

9 [~~39~~] (40) 'Foreign recreational fishing' means
10 fishing using a foreign fishing vessel for
11 recreational or sport purposes.

12 (41) 'Full insurance coverage' means insurance cover
13 for:

14 (a) personal injury;

15 (b) loss of life;

16 (c) loss of equipment and personal effects;

17 (d) medical coverage, including medical
18 evacuation if required;

19 (e) repatriation costs if required; and

20 (f) losses arising from the action, inaction
21 or activity of the authorized observer whilst on board
22 or in the service of the vessel.

23 [~~40~~] (42) 'High seas' means all parts of the sea
24 that are not included in the exclusive economic zone,
25 in the territorial sea, or in the internal water of

1 any nation, or in the archipelagic waters of an
2 archipelagic nation.

3 [~~(41)~~] (43) 'Internal waters' means waters on the
4 landward side of the baseline of the territorial sea
5 of any island within the Federated States of
6 Micronesia.

7 (44) 'international conservation and management
8 measures' means measures to conserve or manage fish
9 that are adopted and applied by an organization or
10 arrangement to which the Federated States of
11 Micronesia is a member and is required to apply.

12 [~~(42)~~] (45) 'Island' means a naturally formed area
13 of land surrounded by water, which is above water at
14 high tide.

15 [~~(43)~~] (46) 'Local fishing vessel' means any fishing
16 vessel wholly owned and controlled by:

17 (a) the Government of the Federated States of
18 Micronesia, any State government or any subdivision
19 thereof;

20 (b) one or more natural persons who are
21 citizens of the Federated States of Micronesia;

22 (c) any corporation, company, society, or
23 other association of persons incorporated or
24 established under the laws of the Federated States of
25 Micronesia or of any State and which is wholly owned

1 and controlled by one or more of the entities or
2 persons described in paragraphs (a) or (b) of this
3 subsection; and

4 (d) any combination of persons or entities
5 described in paragraphs (a) through (c) of this
6 subsection.

7 [~~44~~] (47) 'Master' in relation to any fishing
8 vessel means the person in charge or apparently in
9 charge of that vessel.

10 [~~45~~] (48) 'Multilateral access agreement' means an
11 access agreement between a foreign party and one or
12 more regional parties, to which the Federated States
13 of Micronesia is a party.

14 (49) 'net sharing' means the transfer of any fish or
15 fish products from any vessel to any vessel belonging
16 to the same owner in the last set of a fishing trip
17 provided that such transfer is authorized by the
18 Authority and in accordance with any conditions
19 required in writing by the Authority or prescribed by
20 regulations.

21 [~~46~~] (50) 'Officer' means any authorized officer
22 or national police officer, and includes any officer
23 of a vessel or aircraft used for the enforcement of
24 this act, whether or not such officers are officials
25 of the Government of the Federated States of

1 Micronesia or of one of the four State governments.

2 [~~(47)~~] (51) 'Operator' means any person who is in
3 charge of or directs or controls a fishing vessel, or
4 for whose direct economic or financial benefit a
5 vessel is being used, including the master, owner, and
6 charterer.

7 [~~(48)~~] (52) 'Owner' in relation to a fishing vessel
8 means any person exercising or discharging or claiming
9 the right or accepting the obligation to exercise or
10 discharge any of the powers or duties of an owner,
11 whether on his own behalf or on behalf of another, and
12 includes a person who owns the vessel jointly with any
13 other person or persons and any manager, director or
14 secretary of any corporate body or company that holds
15 an ownership interest in the vessel.

16 [~~(49)~~] (53) 'Permit' means any permit issued under
17 this subtitle or under an access agreement entered
18 into pursuant to this subtitle.

19 [~~(50)~~] (54) 'Person' means any natural person or
20 business enterprise and includes, but is not limited
21 to, a corporation, partnership, cooperative,
22 association, the government of any of the four States,
23 or any political subdivision thereof, and any foreign
24 government, subdivision of such government or other
25 entity.

1 [~~(51)~~] (55) 'Port sampler' means a category of
2 authorized observer who performs duties at a point of
3 transshipment or port located either inside or outside
4 the Federated States of Micronesia.

5 [~~(52)~~] (56) 'Recreational fishing' means fishing for
6 sport or leisure.

7 [~~(53)~~] (57) 'Region' means that area of land and ocean
8 which falls within the sovereignty and sovereign
9 rights of the member countries of the [~~South~~] Pacific
10 Islands Forum Fisheries Agency, whose headquarters are
11 located in Honiara, Solomon Islands, and includes high
12 seas within such area, and for the purposes of data
13 collection, includes that area of the Western and
14 Central Pacific Ocean which falls within the
15 jurisdiction and sovereign rights of the member
16 countries of the Secretariat of the Pacific Community
17 located in Noumea, New Caledonia, and 'regional' shall
18 have a corresponding meaning.

19 [~~(54)~~] (58) 'Regional access license' means a
20 regional access license issued to any fishing vessel
21 of a party to a multilateral access agreement or
22 fisheries management agreement, in accordance with
23 such agreement.

24 [~~(55)~~] (59) 'Regulation' or 'Regulations' means any
25 regulation which may be promulgated by the Authority

1 pursuant to this act.

2 ~~[(56)]~~ (60) 'Related activities' in relation to
3 fishing means:

4 (a) transshipment;

5 (b) refueling or supplying fishing vessels,
6 selling or supplying fishing equipment, or performing
7 either activity in support of fishing; and

8 (c) on-shore storing, buying or processing
9 fish or fish products from the time they are first
10 landed.

11 ~~[(57)]~~ (61) 'Secretary' means the Secretary of the
12 Department of Justice.

13 ~~[(58)]~~ (62) 'Sell' includes the exchange of any fish
14 or fish product or other thing for cash or for
15 anything which has value or which can be exchanged for
16 cash, and includes any exchange by barter.

17 ~~[(59)]~~ (63) 'Stock of fish' means a species,
18 subspecies or other category of fish identified on the
19 basis of geographical, scientific, technical,
20 recreational and economic characteristics which can be
21 treated as a unit for purposes of conservation and
22 management.

23 ~~[(60)]~~ (64) 'Subsistence fishing' means fishing by a
24 citizen or a resident substantially for personal
25 consumption, and does not include any fishing

1 resulting or intending or appearing to result,
2 directly or indirectly, in the sale or trading of any
3 fish which may be taken during the fishing operations.

4 ~~[(61)]~~ (65) 'Transponder' ~~[or]~~ has the same meaning
5 as 'automatic location communicator' ~~[means a device~~
6 ~~placed on a fishing vessel that transmits, either in~~
7 ~~conjunction with another device or devices or~~
8 ~~independently, information concerning the position,~~
9 ~~fishing and other activities of the vessel]~~.

10 ~~[(62)]~~ (66) 'Transshipment' means the transfer of
11 any or all fish or fish products to or from any vessel
12 or aircraft for the purposes of transporting such fish
13 or fish products elsewhere and includes net sharing.

14 ~~[(63)]~~ (67) 'United Nations Agreement' means the
15 agreement for the implementation of the provisions of
16 the United Nations Convention on the Law of the Sea of
17 10 December ~~[1992]~~ 1982 relating to the conservation
18 and management of straddling fish stocks and highly
19 migratory fish stocks.

20 ~~[(64)]~~ (68) 'United Nations Convention' means the
21 United Nations Convention on the Law of the Sea, 1982.

22 ~~[(65)]~~ (69) 'Vehicle' means any car, truck, van, bus,
23 trailer or other powered land conveyance.

24 ~~[(66)]~~ (70) 'Vessel' means any boat, ship, canoe or
25 other water-going craft."

1 Section 3. Section 103 of chapter 1 of title 24 of the
2 Code of the Federated States of Micronesia, as amended by
3 Public Law No. 12-34, is hereby further amended to read as
4 follows:

5 "Section 103. Fishing permits required - commercial.
6 No domestic fishing, commercial pilot fishing, foreign
7 fishing or such other fishing [~~or related activity~~] as
8 may be prescribed shall be allowed in the exclusive
9 economic zone unless it is in accordance with:

10 (1) a valid and applicable permit issued under
11 authority conferred by this subtitle; or

12 (2) a valid and applicable license issued by an
13 administrator pursuant to a multilateral access
14 agreement entered into pursuant to section 106 of
15 chapter 1 of this subtitle."

16 Section 4. Section 106 of chapter 1 of title 24 of the
17 Code of the Federated States of Micronesia, as amended by
18 Public Law No. 12-34, is hereby further amended to read as
19 follows:

20 "Section 106. Fisheries management agreements;
21 multilateral access agreements.

22 (1) Notwithstanding any other provision of this
23 subtitle, the Authority is authorized to enter into
24 fisheries management agreements for cooperation in or
25 coordination of fisheries management measures in all

1 or part of the region or for the implementation of a
2 multilateral access agreement. Such agreements may,
3 among other things, at the Authority's discretion,
4 include provisions for the following:

5 (a) authorization of a person, body or
6 organization to perform functions required by a
7 multilateral access agreement, including, but not
8 limited to, the allocation, issuance and denial of
9 fishing licenses valid in the region or part thereof,
10 including the exclusive economic zone;

11 (b) an observer program;

12 (c) a port sampling program;

13 (d) fisheries monitoring and control; and

14 (e) any other matter relating to fisheries
15 management.

16 (2) For the purpose of giving effect to a
17 multilateral access agreement or fisheries management
18 agreement, the Authority may, in writing:

19 (a) exempt any foreign fishing vessel, holding
20 a valid fishing license issued pursuant to a
21 multilateral access agreement, from any requirement of
22 this subtitle which is inconsistent with the terms of
23 such agreement;

24 (b) implement the establishment of closed
25 areas, closed seasons and such other management

1 measures as may be agreed upon pursuant to a fisheries
2 management agreement;

3 (c) authorize observers designated under an
4 observer program entered into pursuant to subsection
5 (1)(b) of this section to perform such duties and
6 responsibilities as may be required by such agreement;

7 (d) prescribe or otherwise require the
8 conditions to be observed by operators of foreign
9 fishing vessels exempted under paragraph (a) of this
10 subsection;

11 (e) prescribe or otherwise require the
12 conditions to be observed by flag vessels and citizens
13 for fishing outside the exclusive economic zone, in
14 accordance with any access agreement or fisheries
15 management agreement to which the Federated States of
16 Micronesia may be party.

17 (3) For the purpose of giving effect to
18 international conservation and management measures and
19 decisions of an organization established under a
20 fisheries management agreement, the Authority may
21 prescribe regulations or attach such conditions to a
22 permit, or authorization to fish or conduct related
23 activities as the Authority may concerning the
24 application of international conservation and
25 management measures do not apply to the internal

1 waters and territorial sea of the Federated States of
2 Micronesia as defined under the Title 18 of the Code
3 of the Federated States of Micronesia, without the
4 express consent of the Federated States of
5 Micronesia."

6 Section 5. Section 204 of chapter 2 of title 24 of the
7 Code of the Federated States of Micronesia, as amended by
8 Public Law No. 12-34, is hereby further amended to read as
9 follows:

10 "Section 204. Authority - adoption of regulations.

11 (1) The Authority shall have the authority to:

12 (a) adopt regulations for the management,
13 development and sustainable use of fisheries resources
14 in the exclusive economic zone;

15 (b) adopt regulations applicable to related
16 activities as defined in section 102 of this subtitle;

17 (c) adopt regulations in relation to fisheries
18 monitoring and control;

19 (d) adopt regulations to implement access
20 agreements and fisheries management agreements;

21 (e) adopt regulations relating to the
22 confidentiality of information consistent with section
23 208 of this subtitle;

24 (f) adopt regulations for the issuance of
25 citations and assessment of administrative penalties

1 consistent with chapter 7 of this subtitle;

2 (g) adopt regulations relating to compliance
3 by citizens and fishing vessels of the Federated
4 States of Micronesia which engage in fishing or
5 related activities outside the [~~internal waters, the~~
6 ~~territorial sea or exclusive economic zone of the~~
7 ~~Federated States of Micronesia~~] fishery waters with
8 applicable laws of foreign states and with applicable
9 access agreements or fisheries management agreements;

10 (h) adopt regulations relating to marine
11 scientific research and training;

12 (i) adopt regulations relating to observer
13 programs and port sampling programs; and

14 (j) adopt, in consultation with relevant State
15 or national agencies, regulations consistent with the
16 international obligations of the Federated States of
17 Micronesia to prohibit the entry and use of ports and
18 facilities by vessels that have been engaged in fishing
19 or related activities that undermine international
20 conservation and management measures; and

21 [~~(j)~~] (k) adopt any other regulations deemed
22 necessary for the implementation of this subtitle.

23 (2) Regulations adopted by the Authority shall have
24 the full force and effect of law, and shall be
25 considered an integral part of this subtitle."

1 Section 6. Section 205 of chapter 2 of title 24 of the
2 Code of the Federated States of Micronesia, as amended by
3 Public Law No. 12-34, is hereby amended to read as follows:

4 "Section 205. Authority - duties and functions. In
5 addition to the regulatory authority granted in the
6 preceding section, the Authority shall have the
7 following duties and functions:

8 (1) to provide technical assistance in the
9 delimitation of the exclusive economic zone in
10 accordance with section 107 of title 18 of the Code of
11 the Federated States of Micronesia;

12 (2) to negotiate, conclude and implement access
13 agreements and fisheries management agreements in
14 accordance with sections 105 and 106 of chapter 1 of
15 this subtitle and chapters 4 and 5 of this subtitle;

16 (3) to issue fishing permits in accordance with
17 this subtitle;

18 (4) to issue permits for fishing in the territorial
19 sea or internal waters of an FSM State as authorized
20 pursuant to section 118 of chapter 1 of this subtitle;

21 (5) to regulate related activities in accordance
22 with this subtitle;

23 (6) to coordinate and implement fisheries
24 monitoring and control as required under this subtitle
25 and under international treaties to which the

1 Federated States of Micronesia is a party;

2 (7) to cooperate as appropriate with other nations
3 or territories in the region and with foreign states
4 fishing in the region and adjacent high seas area for
5 the conservation and management of highly migratory
6 fish stocks;

7 (8) to cooperate in and coordinate as appropriate
8 with each FSM State on fisheries management measures
9 in the exclusive economic zone and territorial sea;

10 (9) to convene and chair a Fisheries Management and
11 Surveillance Working Group as set forth in section 207
12 of this chapter;

13 (10) to employ a full-time Executive Director and
14 such other staff as it may deem necessary;

15 (11) to submit the Authority's budget and report
16 regarding the expenditure of its funds to the Congress
17 each regular session for review;

18 (12) to contribute to the planning of programs
19 relating to fisheries, or fishing in the exclusive
20 economic zone, in which an FSM State government or the
21 Government of the Federated States of Micronesia, or
22 any agency or subdivision thereof, has a proprietary
23 interest, direct or indirect, by way of stock
24 ownership, partnership, joint venture or otherwise;
25 [~~and~~]

1 (13) to act as the authority responsible for
2 implementing the international fisheries and related
3 obligations of the Federated States of Micronesia
4 including the verification of catch and issuance of
5 catch certificates; and

6 ~~[(13)]~~ (14) to perform such other duties and
7 functions as may e necessary to carry out the purpose
8 of this subtitle."

9 Section 7. Section 402 chapter 4 of title 24 of the Code
10 of the Federated States of Micronesia, as amended by Public Law
11 No. 12-34, is hereby further amended to read as follows:

12 "Section 402. Negotiation of access agreements.

13 The Authority shall negotiate and enter into access
14 agreements on behalf of the Government of the
15 Federated States of Micronesia in accordance with this
16 subtitle. Such agreements may, at the Authority's
17 discretion:

18 (1) establish fees to be collected for permits
19 issued under the access agreement;

20 (2) establish a minimum or maximum number of
21 vessels to be granted access under the agreement; and

22 (3) establish a maximum number of fishing days of
23 such other rights to be granted under an access
24 agreement; and

25 ~~[(3)]~~ (4) permit the rebate of access fees in

1 accordance with section 403(2) of this subtitle, as
2 the Authority deems appropriate at the end of the
3 licensing period if the operator of any applicable
4 vessel participated substantially in shore-based
5 developments or otherwise made a substantial
6 contribution to the development of the fishing
7 industry of the Federated States of Micronesia."

8 Section 8. Section 407 of chapter 4 of title 24 of the
9 Code of the Federated States of Micronesia, as amended by
10 Public Law No. 12-34, is hereby further amended to read as
11 follows:

12 "Section 407. Related activities - transshipment.

13 (1) The operator of a foreign fishing vessel shall:

14 (a) not transship at sea under any
15 circumstances;

16 (b) provide seventy-two (72) hours notice to
17 the Authority of a request to transship any or all of
18 the fish on board and shall provide the name of the
19 vessel, its international radio call sign, its
20 position, the catch on board by species, the time and
21 port where such transshipment is requested to occur
22 and an undertaking to pay all fees required under the
23 laws of the Federated States of Micronesia;

24 (c) only transship at the time and port
25 authorized for transshipment; [~~and~~]

1 (d) comply with all conditions attached to the
2 authorization for transshipment;

3 (e) pay such fees required by the Authority or
4 prescribed by regulation; and

5 ~~(d)~~ (f) submit full reports on transshipping on
6 such forms as may be required by the Authority or
7 prescribed by regulation.

8 (2) During transshipment in the Federated States of
9 Micronesia the foreign party and operator of each
10 vessel shall comply with all applicable National and
11 State laws and regulations in the Federated States of
12 Micronesia relating to protection of the environment,
13 including without limitation, sewage holding tank
14 requirements.

15 (3) Any person who violates subsection (1) (a),
16 (1) (c), (1) (d), (1) (e) (1) (f), or (2) of this section
17 shall be subject to a civil penalty of not less than
18 \$75,000 and not more than \$275,000."

19 Section 9. Section 603 of chapter 6 of title 24 of the
20 Code of the Federated States of Micronesia, as amended by
21 Public Law No. 12-34, is hereby repealed.

22 Section 10. Title 24 of the Code of the Federated States of
23 Micronesia, as amended by Public Laws Nos. 12-34, 13-38, 14-47,
24 14-55 and 15-38, is hereby further amended by inserting a new
25 section 603A of chapter 6, to read as follows:

1 "Section 603A. Power of authorized officers within
2 the fishery waters.

3 (1) For the purposes of enforcing this title, any
4 authorized officer may:

5 (a) stop, board, remain on board and search
6 any vessel in the fishery waters that he reasonably
7 believes is a fishing vessel or a vessel which is
8 used for, equipped to be used for or of a type that
9 is normally used for related activities as the term
10 related activities is defined in section 102 of
11 chapter 1;

12 (b) stop, board, remain on board and search
13 any flag fishing vessel outside the fishery waters;

14 (c) stop and search any vessel, vehicle or
15 aircraft that he reasonably believes may be
16 transporting fish or engaging in other activities
17 relating to fishing;

18 (d) require the master or nay crew member or
19 other person aboard to inform him of the name, call
20 sign and country of registration of the vessel and
21 the name of the master, owner, charterer and crew
22 members;

23 (e) examine the master or nay crew member or
24 other person aboard about he cargo, contents of holds
25 and storage spaces, voyage and activities of the

1 vessel;

2 (f) make such examination and inquiry as may
3 appear necessary concerning any vessel, vehicle or
4 aircraft in relation to which any of the powers
5 conferred by this subsection have been or may be
6 exercised and take samples of any fish or fish
7 product found therein;

8 (g) require to be produced, examine and take
9 copies of any permit, logbook, record or other
10 documents required under this subtitle or concerning
11 the operation of any vessel or aircraft;

12 (h) make an entry dated and signed by him or
13 her in the logbook of such vessel or aircraft;

14 (i) require to be produced and examine any
15 fish, fishing gear or appliance, explosive, poison or
16 other noxious substance;

17 (j) give directions to the master and any crew
18 member of any vessel, vehicle or aircraft stopped,
19 boarded or searched as may be necessary or reasonably
20 expedient for any purpose specified in this subtitle
21 or to provide for the compliance of the vessel,
22 vehicle or aircraft, or master or any crew member
23 with the conditions of any permit;

24 (k) endorse any permit; and

25 (l) arrest any person who assaults him any

1 other authorized officer in the exercise of his
2 duties under this subtitle.

3 (2) Where an authorized officer has reasonable
4 grounds to believe an offense against this subtitle
5 is being or has been committed, he may without a
6 warrant:

7 (a) enter, inspect and search any premises,
8 other than premises used exclusively as a dwelling
9 house, in which he has reasonable grounds to believe
10 an offense has been or is being committed or fish
11 have been taken illegally and are being stored;

12 (b) stop, enter, search and stay in or on any
13 vehicle or aircraft which he reasonably suspects of
14 transporting fish or fish products;

15 (c) take samples of any fish found in any
16 vessel or vehicle inspected or within any premises
17 searched under this subtitle;

18 (d) after hot pursuit of a foreign fishing
19 vessel undertaken in accordance with international
20 law and commenced within the fishery waters, stop,
21 board and search outside the fishery waters any
22 fishing vessel that he has reasonable grounds to
23 believe has been used in the commission of an
24 offense, exercise any powers conferred by this
25 subtitle in accordance with international law, and

1 bring such vessel and all persons and things on board
2 within the fishery waters;

3 (e) seize:

4 (i) any vessel (including its fishing
5 gear, equipment, stores and cargo), vehicle, fishing
6 gear, nets or other fishing appliances or aircraft
7 that he has reasonable grounds to believe has been or
8 is being used in the commission of an offense or in
9 respect of which the offense has been committed;

10 (ii) any fish or fish products that he has
11 reasonable grounds to believe have been caught in the
12 commission of an offense or are possessed in
13 contravention of this subtitle;

14 (iii) any logs, charts or other documents
15 required to be maintained by this subtitle or under
16 the terms of any license or other authorization or
17 which he has reasonable grounds to believe show or
18 tend to show, with or without other evidence, the
19 commission of an offense against this subtitle; and

20 (iv) any thing which he has reasonable
21 grounds to believe might be used as evidence in any
22 processing under this subtitle;

23 (f) arrest any person who he has reasonable
24 grounds to believe has committed an offense against
25 this subtitle; and

1 (g) issue citations as authorized by
2 regulations promulgated under section 703 of chapter
3 7 of this subtitle.

4 (3) Any authorized officer may, while arresting any
5 person or fishing vessel that he has reasonable
6 grounds, to believe has done any act in contravention
7 of this subtitle, use such force as is reasonably
8 necessary in the circumstances to effect the arrest.

9 (4) Any person arrested without a warrant under
10 this section shall be detained and dealt with in
11 accordance with law.

12 (5) An authorized officer may:

13 (a) execute any warrant or other process
14 issued by any court of competent jurisdiction; and

15 (b) exercise any other lawful authority.

16 (6) A written receipt shall be given for any
17 article or thing seized under this section and the
18 grounds for such seizure shall be stated in such
19 receipt."

20 Section 11. Title 24 of the Code of the Federated States
21 of Micronesia, as amended by Public Laws Nos. 12-34, 13-38, 14-
22 47, 14-55, and 15-38, is hereby further amended by inserting a
23 new section 603B of chapter 6, to read as follows:

24 "Section 603B. Powers of authorized officers beyond
25 the fishery waters.

1 (1) An authorized officer may exercise any of the
2 powers under this Title beyond the fishery waters of
3 the Federated States of Micronesia in respect of any
4 fishing vessel or any person on board any such vessel
5 and relating to fisheries inspection, compliance or
6 enforcement provided that the exercise of those
7 powers is authorized by an access agreement or
8 fisheries management agreement to which the Federated
9 States of Micronesia is a party or authorized under a
10 conservation and management measure of a regional
11 fisheries management organization or arrangement to
12 which the Federated States of Micronesia is a member.

13 (2) In exercising his powers beyond the fishery
14 waters, an authorized officer shall comply with the
15 procedures and requirements under such access
16 agreement or fisheries management agreement or
17 conservation and management measures implemented by a
18 regional fisheries management organization or
19 arrangement.

20 (3) The Authority may make regulations providing
21 for additional measures and powers for authorized
22 officers beyond the fishery waters."

23 Section 12. Section 606 of chapter 6 of title 24 of the
24 Code of the Federated States of Micronesia, as amended by
25 Public Law No. 12-34, is hereby further amended to read as

1 follows:

2 "Section 606. Appointment of authorized observers;
3 port samplers.

4 (1) The Executive Director may appoint, in writing,
5 any person to be an authorized observer or class of
6 persons to be authorized observers for the purposes of
7 this subtitle, any access agreement or any fisheries
8 management agreement.

9 (2) Authorized observers appointed under this
10 subtitle shall exercise their duties beyond the
11 fishery waters in accordance with any [access
12 agreement or fisheries management agreement]. The
13 Authority may enter into such reciprocal agreement or
14 arrangement necessary to facilitate the exercise of
15 the authorized observer's duties beyond the fishery
16 waters.

17 [~~2~~] (3) The Executive Director may appoint, in
18 writing, any authorized observer to serve as a port
19 sampler. Port samplers shall perform the duties of
20 authorized observers at a point of transshipment or
21 port located either inside or outside the Federated
22 States of Micronesia.

23 (4) Authorized observers and port samplers shall
24 not be appointed as authorized officers and shall not
25 be authorized to take enforcement action under this

1 subtitle.

2 (5) The Authority may promulgate regulations that
3 provide, inter alia, for:

4 (a) observer duties within the fishery waters;

5 (b) observer duties on the high seas and in waters
6 under the jurisdiction of another nation;

7 (c) conduct of observers and related penalties;

8 (d) observer agents including the conduct and
9 registration or licensing of such agents; and

10 (e) reciprocal agreements or arrangements for the
11 recognition of observers appointed by another nation.

12 (6) The requirements of sections 607(1), 607(2),
13 607(6), 607(7), 608, 609 and 610 shall apply equally
14 to authorized observers and port samplers."

15 Section 13. Section 611 of chapter 6 of title 24 of the
16 Code of the Federated States of Micronesia, as amended by
17 Public Law No. 12-34, is hereby further amended to read as
18 follows:

19 "Section 611. Transponders required.

20 (1) The Authority may require, as a condition of
21 fishing in the exclusive economic zone, that the
22 operator of any vessel:

23 (a) install on such vessel, at its own
24 expense, a transponder approved by the Authority;

25 (b) maintain such transponder in good working

1 order at all times during the period of validity of a
2 permit [~~while in the fishery waters or such other area~~
3 ~~as may be agreed or designated~~]; and

4 (c) consent to the monitoring of the
5 transponder by the Authority in all waters and at all
6 times during the period of validity of the permit; and

7 [~~(e)~~](d) ensure that any information or data
8 required by the Authority to be transmitted by the
9 transponder is transmitted continuously, accurately
10 and effectively to the designated receiver.

11 (2) For the purposes of this subtitle, a
12 transponder, which may also be referred to as an
13 automatic location communicator or ALC, means any
14 device or machine placed on a fishing vessel as a
15 condition of its permit or access agreement, which
16 transmits, whether in conjunction with another machine
17 or other machines, elsewhere or not, information or
18 data concerning the position, fishing and such other
19 activities of the vessel as may be required.

20 (3) The Authority may establish by regulation a
21 list of approved transponders. An approved
22 transponder shall be presumed to be accurate; a
23 transponder that is not approved shall not be presumed
24 to be accurate. All information or data obtained or
25 ascertained by the use of a transponder, shall be

1 presumed to:

2 (a) come from the vessel so identified; and

3 (b) be given by the master, owner and

4 charterer of the fishing vessel. This presumption

5 shall apply whether or not the information was stored

6 before or after any transmission or transfer.

7 (4) No person shall intentionally, recklessly or

8 unintentionally destroy, damage, render inoperative or

9 otherwise interfere with a machine aboard a vessel

10 which automatically feeds or inputs information or

11 data into a transponder, or intentionally feed or

12 input information or data into a transponder which is

13 not officially required or is meaningless.

14 (5) Any person who violates subsection (1) or

15 subsection (4) of this section, by failing to install,

16 maintain, or ensure the transmission of information

17 from a transponder as required, is subject to a civil

18 penalty of not less than \$100,000 and not more than

19 \$500,000."

20 Section 14. Section 701 chapter 7 of title 24 of the Code

21 of the Federated States of Micronesia, as amended by Public Law

22 No. 12-34, is hereby further amended to read as follows:

23 "Section 701. Jurisdiction of the court.

24 (1) Any case or controversy arising under this

25 subtitle or out of any act or omission committed in

1 contravention of any provision of this subtitle by any
2 person:

3 (a) within the fishery waters; or

4 (b) outside the fishery waters by any flag
5 vessel, citizen or person ordinarily resident in the
6 Federated States of Micronesia; or

7 (c) by any person on board any fishing vessel
8 registered in the Federated States of Micronesia shall
9 be subject to the jurisdiction of the Supreme Court of
10 the Federated States of Micronesia and judicial
11 proceedings shall be taken as if such act or omission
12 had taken place in the Federated States of Micronesia
13 within the jurisdiction of the Supreme Court of the
14 Federated States of Micronesia.

15 (2) Where an authorized officer is exercising any
16 powers conferred on him outside the fishery waters in
17 accordance with section 603B of chapter 6 of this
18 subtitle, any act or omission of any person in
19 contravention of any of the provisions of this
20 subtitle shall be deemed to have been committed within
21 the fishery waters.

22 (3) Notwithstanding any provision of any other law
23 of the Federated States of Micronesia, any information
24 or complaint with respect to any violation of this
25 subtitle must be filed within two years of the

1 discovery of the violation.

2 (4) The Court may at any time enter restraining
3 orders or prohibitions, issue warrants, issue process
4 in rem or other processes, prescribe and accept
5 satisfactory bonds or other security, and take such
6 other actions as are in the interests of justice."

7 Section 15. Section 907 of chapter 9 of title 24 of the
8 Code of the Federated States of Micronesia, as amended by
9 Public Law No. 12-34, is hereby further amended to read as
10 follows:

11 "Section 907. Fishing without a valid permit.

12 (1) No person shall use any [~~fishing~~] vessel for,
13 and the crew and operator of any [~~fishing~~] vessel
14 shall not engage in, commercial or non-commercial
15 fishing or related activities in the exclusive
16 economic zone, territorial sea or internal waters
17 without a valid and applicable permit as required
18 pursuant to sections 103, 104 or 117 of chapter 1 of
19 this subtitle.

20 (2) Any person who commits an act in violation of
21 this section shall be subject to a civil penalty of
22 not less than \$100,000 and not more than \$1,000,000."

23 Section 16. Section 910 of chapter 9 of title 24 of the
24 Code of the Federated States of Micronesia, as amended by
25 Public Law No. 12-34, is hereby further amended to read as

1 follows:

2 "Section 910. Improper stowage of fishing gear and
3 reporting requirement.

4 (1) No operator of a fishing vessel in the
5 exclusive economic zone or fishery waters shall refuse
6 or otherwise fail to stow all fishing gear in such a
7 manner that it is not readily available for use in
8 fishing except when such fishing vessel is in an area
9 in which it is authorized to fish in accordance with
10 this subtitle.

11 (2) No operator of a vessel which is used for,
12 equipped to be used for or of a type that is normally
13 used for fishing or related activities transiting the
14 fishery waters shall, upon entry and while within the
15 fishery waters, refuse or otherwise fail to report its
16 name, International Radio Call Sign, flag
17 registration, date and time, position (to 1 minute of
18 arc), complement, intended activity in the fishery
19 waters, catch on board, and such other information
20 prescribed, to the Authority in the manner prescribed.

21 (3) Where the operator of a vessel transmitting the
22 fishery waters refuses or otherwise fails to report
23 the information described in subsection (2), there
24 shall be a refutable presumption that all fish found
25 on board such vessel have been caught within the

1 fishery waters in violation of this subtitle.

2 ~~[(2)]~~ (4) Any person who commits an act in violation
3 of this section shall be subject to a civil penalty of
4 not less than \$50,000 and not more than \$500,000."

5 Section 17. Section 911 of title 24 of the Code of the
6 Federated States of Micronesia, as amended by Public Law No.
7 12-34, is hereby further amended to read as follows:

8 "Section 911. Violation of marine space.

9 (1) No person shall use a vessel which is used for,
10 equipped to be used for or of a type that is normally
11 used for related activities for entering or remaining
12 within the exclusive economic zone in violation of any
13 provision of this subtitle.

14 (2) No operator of a vessel which is used for,
15 equipped to be used for or of a type that is normally
16 used for related activities entering or remaining
17 within the exclusive economic zone shall, upon entry
18 and while within the exclusive economic zone, refuse
19 or otherwise fail to report its name, International
20 Radio Call Sign, flag registration, date and time,
21 position (to 1 minute of arc), complement, intended
22 activity in the exclusive economic zone, catch on
23 board, and such other information prescribed, to the
24 Authority in the manner prescribed.

25 (3) Where the operator of a vessel entering or

1 remaining within the exclusive economic zone refuses
2 or otherwise fails to report the information described
3 in subsection (2), there shall be a refutable
4 presumption that the vessel has engaged in related
5 activities within the exclusive economic zone in
6 violation of this subtitle.

7 ~~[-(2)]~~ (5) Any person who violates this section shall
8 be subject to a civil penalty of not less than \$50,000
9 and not more than \$500,000."

10 Section 105. This act shall become law upon approval by
11 the President of the Federated States of Micronesia or upon its
12 becoming law without such approval.

13

14 Date: 3/19/12

Introduced by: /s/ Florencio S. Harper

Florencio S. Harper

(by request)

15

16

17

18

19

20

21

22

23

24