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:

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

"Section 101. Purpose of this subtitle.

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

(2) This act may be referred to as the 'Marine
Section 2. Section 102 of chapter 1 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-34, is hereby amended to read as follows:

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

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

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

(3) 'Agent' includes a person appointed or designated by a foreign fishing company to act as the legal representative of that company within the Federated States of Micronesia, including acceptance of and response to legal process, pursuant to section
404(4)(a) of chapter 4 of this subtitle.

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

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

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

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

(8) 'Authorized officer' means any person or category of persons designated pursuant to section 602 of chapter 6 of this subtitle as an authorized
1 officer.
2
3 (9) 'Automatic location communicator or 'mobile
4 transceiver unit or' transponder' means a device
5 placed on a fishing vessel that transmits, either in
6 conjunction with another device or devices or
7 independently, information concerning the position,
8 fishing and other activities of the vessel.
9
10 (10) 'Based in the Federated States of Micronesia'
11 means using land-based facilities in the Federated
12 States of Micronesia to support fishing, including
13 location of the home port of a vessel in the Federated
14 States of Micronesia, landing or transshipping all
15 fish harvested within the exclusive economic zone
16 and/or operating under a joint venture arrangement in
17 the Federated States of Micronesia, or under
18 arrangements where the operator of a vessel is
19 participating in shore-based developments or is
20 otherwise making a substantial contribution to the
21 development of the domestic tuna industry.
22
23 (11) 'Buy' includes:
24
25 (a) barter or attempt to barter;
26 (b) purchase or attempt to purchase;
27 (c) receive on account or consignment;
28 (d) purchase or barter for future goods or for
29 any consideration of value; and
(e) purchase or barter as an agent for another person, and 'buyer' shall have a corresponding meaning.

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

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

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

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

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

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

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

(a) new fishing methods;
(b) developing new stocks of fish; or

(c) fishing in previously unexploited areas.

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

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

(19) (Reserved)

(20) (Reserved)

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

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

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

(24) 'Executive Director' means the individual
appointed by the Authority to be in charge of the
daily activities and operation of the authority and to
perform such other functions as required by this
subtitle.

(25) 'Export' means to:

(a) send or take out of the country;
(b) attempt to send or take out of the
country;
(c) receive on account or consignment for
purposes of paragraph (a) or (b) above;
(d) act as an agent for another person for
purposes of (a) through (c) above; and
(e) carry or transport anything for purposes
of paragraphs (a) through (d) of this subsection, and
'exporter' shall have a corresponding meaning.

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

(27) 'Fish aggregating device' [means any man-made
or partly man-made floating or semi-submerged device,
whether anchored or not, intended for the purpose of
aggregating fish, and includes any natural floating
object on which a device has been placed to facilitate
its location] or 'FAD' means any object or group of
objects of any size floating on or near the surface of
the water or semi-submerged in the water or moving
slowly near the surface of the water, whether living
or non-living, that has been deployed for the purpose of aggregating fish, or that has not been so deployed but which has or is likely to have the effect of aggregating fish, including but not limited to buoys, floats, netting, logs and large fish.

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

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

(30) 'Fishery' or 'Fisheries' means one or more stock of fish or any fishing operation based on such stocks which can be treated as a unit for purposes of conservation and management, taking into account
geographical, scientific, technical, recreational,
economic and other relevant characteristics.

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

(32) 'Fishing' means:

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

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

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

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

and

(e) the use of an aircraft in relation to any
activity described in this subsection except for
flights in emergencies involving the health or safety
of crew members or the safety of a vessel.

(33) ‘Fishing day’ means any calendar day, or part of a calendar day, during which a fishing vessel is in the fishery waters outside of a port, but does not include any calendar day, or part of a calendar day on which the fishing vessel is not engaged in fishing or related activities.

(34) ‘Fishing gear’ means any equipment, implement, or other thing that can be used in the act of fishing, including any fishing net, rope, line, float, trap, hook, winch, boat, beacon or locating device, aircraft or helicopter.

(35) ‘Fishing vessel’ means any vessel, boat, ship or other craft which is used for, equipped to be used for or of a type that is normally used for fishing as the term fishing is defined in subsection (32) of this section.

(36) ‘Flag fishing vessel’ means any foreign fishing vessel that is entitled to fly the flag of the Federated States of Micronesia pursuant to title 18 of the Code of the FSM and any domestic fishing vessel.

(37) ‘Foreign fishing’ means any fishing not defined as domestic fishing, and not including commercial pilot fishing or fishing from a local
fishing vessel less than or equal to twenty-seven (27) feet in overall length.

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

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

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

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

(a) personal injury;

(b) loss of life;

(c) loss of equipment and personal effects;

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

(e) repatriation costs if required; and

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

[(40)](42) 'High seas' means all parts of the sea that are not included in the exclusive economic zone, in the territorial sea, or in the internal water of
any nation, or in the archipelagic waters of an archipelagic nation.

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

[(44)](45) 'International conservation and management measures' means measures to conserve or manage fish that are adopted and applied by an organization or arrangement to which the Federated States of Micronesia is a member and is required to apply.

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

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

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

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

(c) any corporation, company, society, or other association of persons incorporated or established under the laws of the Federated States of Micronesia or of any State and which is wholly owned
and controlled by one or more of the entities or persons described in paragraphs (a) or (b) of this subsection; and

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

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

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

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

[46] (50) 'Officer' means any authorized officer or national police officer, and includes any officer of a vessel or aircraft used for the enforcement of this act, whether or not such officers are officials of the Government of the Federated States of Micronesia.
Micronesia or of one of the four State governments.

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

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

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

[(50)](54) 'Person' means any natural person or business enterprise and includes, but is not limited to, a corporation, partnership, cooperative, association, the government of any of the four States, or any political subdivision thereof, and any foreign government, subdivision of such government or other entity.
'Port sampler' means a category of authorized observer who performs duties at a point of transshipment or port located either inside or outside the Federated States of Micronesia.

'Recreational fishing' means fishing for sport or leisure.

'Region' means that area of land and ocean which falls within the sovereignty and sovereign rights of the member countries of the [South] Pacific Islands Forum Fisheries Agency, whose headquarters are located in Honiara, Solomon Islands, and includes high seas within such area, and for the purposes of data collection, includes that area of the Western and Central Pacific Ocean which falls within the jurisdiction and sovereign rights of the member countries of the Secretariat of the Pacific Community located in Noumea, New Caledonia, and 'regional' shall have a corresponding meaning.

'Regional access license' means a regional access license issued to any fishing vessel of a party to a multilateral access agreement or fisheries management agreement, in accordance with such agreement.

'Regulation' or 'Regulations' means any regulation which may be promulgated by the Authority.
pursuant to this act.

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

(a) transshipment;

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

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

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

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

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

[(60)](64) 'Subsistence fishing' means fishing by a citizen or a resident substantially for personal consumption, and does not include any fishing
resulting or intending or appearing to result,
directly or indirectly, in the sale or trading of any
fish which may be taken during the fishing operations.

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

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

[(63)](67) 'United Nations Agreement' means the
agreement for the implementation of the provisions of
the United Nations Convention on the Law of the Sea of
and management of straddling fish stocks and highly
migratory fish stocks.

[(64)](68) 'United Nations Convention' means the

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

[(66)](70) 'Vessel' means any boat, ship, canoe or
other water-going craft.
Section 3. Section 103 of chapter 1 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-34, is hereby further amended to read as follows:

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

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

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

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

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

(1) Notwithstanding any other provision of this subtitle, the Authority is authorized to enter into fisheries management agreements for cooperation in or coordination of fisheries management measures in all
or part of the region or for the implementation of a multilateral access agreement. Such agreements may, among other things, at the Authority's discretion, include provisions for the following:

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

(b) an observer program;

(c) a port sampling program;

(d) fisheries monitoring and control; and

(e) any other matter relating to fisheries management.

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

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

(b) implement the establishment of closed areas, closed seasons and such other management
measures as may be agreed upon pursuant to a fisheries management agreement;

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

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

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

(3) For the purpose of giving effect to international conservation and management measures and decisions of an organization established under a fisheries management agreement, the Authority may prescribe regulations or attach such conditions to a permit, or authorization to fish or conduct related activities as the Authority may concerning the application of international conservation and management measures do not apply to the internal
waters and territorial sea of the Federated States of Micronesia as defined under the Title 18 of the Code of the Federated States of Micronesia, without the express consent of the Federated States of Micronesia."

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

"Section 204. Authority – adoption of regulations.

(1) The Authority shall have the authority to:

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

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

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

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

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

(f) adopt regulations for the issuance of citations and assessment of administrative penalties
consistent with chapter 7 of this subtitle;

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

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

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

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

    (j) adopt any other regulations deemed
necessary for the implementation of this subtitle.

    (2) Regulations adopted by the Authority shall have
the full force and effect of law, and shall be
considered an integral part of this subtitle."
Section 6. Section 205 of chapter 2 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-34, is hereby amended to read as follows:

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

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

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

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

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

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

(6) to coordinate and implement fisheries monitoring and control as required under this subtitle and under international treaties to which the
Federated States of Micronesia is a party;

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

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

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

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

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

(12) to contribute to the planning of programs relating to fisheries, or fishing in the exclusive economic zone, in which an FSM State government or the Government of the Federated States of Micronesia, or any agency or subdivision thereof, has a proprietary interest, direct or indirect, by way of stock ownership, partnership, joint venture or otherwise;
(13) to act as the authority responsible for implementing the international fisheries and related obligations of the Federated States of Micronesia including the verification of catch and issuance of catch certificates; and

[(13)\(\rightarrow\)](14) to perform such other duties and functions as may be necessary to carry out the purpose of this subtitle."

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

"Section 402. Negotiation of access agreements. The Authority shall negotiate and enter into access agreements on behalf of the Government of the Federated States of Micronesia in accordance with this subtitle. Such agreements may, at the Authority's discretion:

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

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

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

[(3)\(\rightarrow\)](4) permit the rebate of access fees in
accordance with section 403(2) of this subtitle, as
the Authority deems appropriate at the end of the
licensing period if the operator of any applicable
vessel participated substantially in shore-based
developments or otherwise made a substantial
contribution to the development of the fishing
industry of the Federated States of Micronesia."
Section 8. Section 407 of chapter 4 of title 24 of the
Code of the Federated States of Micronesia, as amended by
Public Law No. 12-34, is hereby further amended to read as
follows:
"Section 407. Related activities - transshipment.
(1) The operator of a foreign fishing vessel shall:
(a) not transship at sea under any
circumstances;
(b) provide seventy-two (72) hours notice to
the Authority of a request to transship any or all of
the fish on board and shall provide the name of the
vessel, its international radio call sign, its
position, the catch on board by species, the time and
port where such transshipment is requested to occur
and an undertaking to pay all fees required under the
laws of the Federated States of Micronesia;
(c) only transship at the time and port
authorized for transshipment; [and]
(d) comply with all conditions attached to the authorization for transshipment;

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

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

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

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

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

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

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

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

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

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

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

(e) examine the master or nay crew member or other person aboard about he cargo, contents of holds and storage spaces, voyage and activities of the
(f) make such examination and inquiry as may appear necessary concerning any vessel, vehicle or aircraft in relation to which any of the powers conferred by this subsection have been or may be exercised and take samples of any fish or fish product found therein;

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

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

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

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

(k) endorse any permit; and

(l) arrest any person who assaults him any
other authorized officer in the exercise of his
duties under this subtitle.

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

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

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

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

(d) after hot pursuit of a foreign fishing
vessel undertaken in accordance with international
law and commenced within the fishery waters, stop,
board and search outside the fishery waters any
fishing vessel that he has reasonable grounds to
believe has been used in the commission of an
offense, exercise any powers conferred by this
subtitle in accordance with international law, and
bring such vessel and all persons and things on board within the fishery waters;

(e) seize:

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

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

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

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

(f) arrest any person who he has reasonable grounds to believe has committed an offense against this subtitle; and
(q) issue citations as authorized by regulations promulgated under section 703 of chapter 7 of this subtitle.

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

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

(5) An authorized officer may:

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

(b) exercise any other lawful authority.

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

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

“Section 603B. Powers of authorized officers beyond the fishery waters.
(1) An authorized officer may exercise any of the powers under this Title beyond the fishery waters of the Federated States of Micronesia in respect of any fishing vessel or any person on board any such vessel and relating to fisheries inspection, compliance or enforcement provided that the exercise of those powers is authorized by an access agreement or fisheries management agreement to which the Federated States of Micronesia is a party or authorized under a conservation and management measure of a regional fisheries management organization or arrangement to which the Federated States of Micronesia is a member.

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

(3) The Authority may make regulations providing for additional measures and powers for authorized officers beyond the fishery waters.”
follows:

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

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

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

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

(4) Authorized observers and port samplers shall not be appointed as authorized officers and shall not be authorized to take enforcement action under this
(5) The Authority may promulgate regulations that provide, inter alia, for:

(a) observer duties within the fishery waters;
(b) observer duties on the high seas and in waters under the jurisdiction of another nation;
(c) conduct of observers and related penalties;
(d) observer agents including the conduct and registration or licensing of such agents; and
(e) reciprocal agreements or arrangements for the recognition of observers appointed by another nation.

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

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

"Section 611. Transponders required.

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

(a) install on such vessel, at its own expense, a transponder approved by the Authority;
(b) maintain such transponder in good working

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

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

(d) ensure that any information or data required by the Authority to be transmitted by the transponder is transmitted continuously, accurately and effectively to the designated receiver.

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

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

(a) come from the vessel so identified; and

(b) be given by the master, owner and charterer of the fishing vessel. This presumption shall apply whether or not the information was stored before or after any transmission or transfer.

(4) No person shall intentionally, recklessly or unintentionally destroy, damage, render inoperative or otherwise interfere with a machine aboard a vessel which automatically feeds or inputs information or data into a transponder, or intentionally feed or input information or data into a transponder which is not officially required or is meaningless.

(5) Any person who violates subsection (1) or subsection (4) of this section, by failing to install, maintain, or ensure the transmission of information from a transponder as required, is subject to a civil penalty of not less than $100,000 and not more than $500,000."

Section 14. Section 701 chapter 7 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 12-34, is hereby further amended to read as follows:

"Section 701. Jurisdiction of the court.

(1) Any case or controversy arising under this subtitle or out of any act or omission committed in
contravention of any provision of this subtitle by any person:

(a) within the fishery waters; or

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

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

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

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

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

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

"Section 907. **Fishing without a valid permit.**

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

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

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

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

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

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

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

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

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

"Section 911. Violation of marine space.

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

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

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

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

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

Date: 3/19/12 Introduced by: /s/ Florencio S. Harper
Florencio S. Harper (by request)