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A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-20, 5-37 and 5-72, by amending sections 101, 102, 301, 302, 303, 305, 306, 402, 403, 404, 406, 501, 503, 504, 505, 506, 507, 509, 511, 512, 513, by renumbering sections 104 and 416, by repealing sections 103, 401, 405 and 407 through 415, by adding new sections 103 through 119, 201, 202, 402, 406, 407, 515 and 516, to revise the fisheries laws of the Federated States of Micronesia, and for other purposes.

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

1       Section 1. Section 101 of title 24 of the Code of the Federated  
2 States of Micronesia is hereby amended to read as follows:

3           "Section 101. Statement of purpose. The ~~living~~ resources  
4 of the sea around the Federated States of Micronesia are a  
5 finite but renewable part of the physical heritage of ~~the~~  
6 our people of Micronesia. As the Federated States of  
7 Micronesia is nearly devoid of has only limited land-based  
8 resources, the sea provides the only feasible primary means  
9 for the development of economic viability which is  
10 necessary to provide the foundation for political  
11 stability. The resources of the sea must be managed,  
12 conserved, and developed for the benefit of the people  
13 living today and for the generations of citizens to come.  
14 For this reason the harvesting of this resource, both  
15 domestic and foreign, must be monitored, and when necessary,  
16 controlled. ~~The resources of the sea around Micronesia are~~  
17 ~~being heavily exploited by the citizens of other nations~~  
18 ~~without benefit to the people of Micronesia. Catches~~  
19 ~~statistics indicate that certain reef and highly migratory~~  
20 ~~stocks of fish may be threatened with irreversible~~  
21 ~~diminution by reckless and excessive exploitation, thus~~  
22 ~~threatening the material advancement and ultimately the~~  
23 ~~political viability and stability of Micronesia.~~ The  
24 purpose of this title is to promote conservation,  
25 management, and development of the marine resources of the

1 Federated States of Micronesia, generate the maximum  
2 benefit for the Nation from foreign fishing, and to promote  
3 economic the development of a domestic fishing industry and  
4 to manage and conserve Micronesia's vital sea resources  
5 by means of the extension of the fishery jurisdiction of  
6 Micronesia out two hundred miles from its shores."

7 Section 2. Section 102 of title 24 of the Code of the Federated  
8 States of Micronesia, as amended by Public Law No. 5-37, is hereby  
9 further amended to read as follows:

10 "Section 102. Definitions. As used in this title, ~~unless~~  
11 ~~the context otherwise requires,~~ the term:

12 (1) 'Administrator' means the director of a regional  
13 fisheries agency or any other organization or person  
14 authorized, pursuant to section 407 of this title, to  
15 administer a regional fisheries treaty.

16 (1) 'Applicable laws' means those laws affecting  
17 marine resources from time to time identified by the  
18 Authority by regulation.

19 (2) 'Atoll' means a naturally formed circular or oval  
20 coral reef forming a geographic and ecologic unity crowned  
21 by at least one island system which has one or more islands  
22 situated on the reef system, including Ngulu, Ulithi,  
23 Sorol, Eauripik, Woleai, Faraulep, Ifalik, Olaimarao,  
24 Elato, Lamotrek, West Fayu, Puluwat, Pulap, Pulusuk,  
25 Namonuito, Kuop, Nomowin, Murilo, Losap, Namoluk, Satawan,

1 Etal, Lukunor, Minto Reef, Oroluk, Nukuoro, Kapingamarangi,  
2 Pakin, Ant, Sapwuahfik, Mwoakiloa, and Pingelap.

3 (3) 'Authority' means the Micronesian Maritime  
4 Authority established by section 301 of this title.

5 (4) 'Authorized observer' means any person authorized  
6 in writing by the Authority to act as an observer on  
7 foreign fishing vessels, including any observer authorized  
8 pursuant to a regional fisheries treaty to be an authorized  
9 observer for purposes of this title.

10 (5) 'Authorized officer' means any officer of the  
11 Division of Security and Investigation of the Government of  
12 the Federated States of Micronesia or any other person  
13 authorized in writing by the Attorney General to be an  
14 authorized officer for the purposes of this title.

15 (6) 'Based in the Federated States of Micronesia'  
16 means using land-based facilities in the Federated States  
17 of Micronesia to support fishing, including location of the  
18 home port of a vessel in the Federated States of  
19 Micronesia, selling all fish for processing within the  
20 Federated States of Micronesia, transshipping all fish  
21 harvested within the exclusive economic zone, and basing  
22 operations in the Federated States of Micronesia while  
23 operating in the exclusive economic zone.

24 (A) 'Congress' means the Congress of the Federated  
25 States of Micronesia.

1           (7) 'Commercial Pilot Fishing' means any fishing for  
2           the purpose of testing the commercial viability of:

3                   (a) New fishing methods;

4                   (b) Developing new stocks of fish; or

5                   (c) Fishing in previously unexploited areas.

6           (8) 'Court' means the Supreme Court of the Federated  
7           States of Micronesia.

8           (9) 'Domestic-based fishing' means any fishing by  
9           foreign fishing vessels based in the Federated States of  
10           Micronesia, but not including commercial pilot fishing.

11           (10) 'Domestic-based fishing agreements' means an  
12           agreement between the Government of the Federated States of  
13           Micronesia and one or more persons to permit domestic-based  
14           fishing within the exclusive economic zone.

15           (11) 'Domestic-based party' means a party to a  
16           domestic-based fishing agreement other than the Government  
17           of the Federated States of Micronesia or a State.

18           (12) 'Domestic fishing' means any fishing by local  
19           fishing vessels longer than twenty-seven feet in overall  
20           length, but not including commercial pilot fishing.

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

24           (14) 'Executive director' means the executive director  
25           of the Micronesian Maritime Authority.

1                   (§15) 'Fish' means any living marine resource.

2                   (16) 'Fish aggregating device' means any manmade or  
3                   partly manmade floating device, whether anchored or not,  
4                   intended for the purpose of aggregating fish, and includes  
5                   any floating object on a device which has been placed to  
6                   facilitate its location.

7                   (717) 'Fishery' means:

8                    (a) ~~one or more stocks of fish which can be~~  
9                    ~~treated as a unit for purposes of conservation and~~  
10                   ~~management and which are identified on the basis of~~  
11                   ~~geographical, scientific, technical, recreational, and~~  
12                   ~~economic characteristics; and~~

13                   (b) any fishing for ~~such~~ stocks of fish.

14                   (18) 'Fishery waters' means the exclusive  
15                   economic zone, the Territorial Sea, and internal  
16                   waters as described in title 18 of the Code of the  
17                   Federated States of Micronesia, and any other waters  
18                   within the jurisdiction of the Federated States of  
19                   Micronesia.

20                   (§19) 'Fishing' means:

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

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

1 (c) the placing, searching for, or recovery of  
2 fish aggregating devices or associated electronic equipment  
3 such as radio beacons;

4 (d) aircraft use relating to the activities  
5 described in this subsection, except for flights in  
6 emergencies involving the health or safety of crew members  
7 or the safety of a vessel; ~~of~~

8 (e) transshipping fish to or from any vessel;

9 (f) storing, processing or transporting fish  
10 harvested within the fishery waters;

11 (g) refueling or supplying fishing vessels; or

12 (h) any operations at sea in support of or in  
13 preparation for any activity described in this subsection.

14 (20) 'Fishing gear' means any equipment, implement or  
15 other thing that can be used in the act of fishing,  
16 including any fishing net, rope, line, float, trap, hook,  
17 winch, boat carried on board a fishing vessel, aircraft or  
18 helicopter.

19 (21) 'Fishing vessel' means any vessel, boat, ship,  
20 or other craft which is used for, equipped to be used for,  
21 or of a type that is normally used for:

22 (a) fishing;

23 (b) aiding or assisting one or more vessels at  
24 sea in the performance of any activity related to fishing,  
25 including, but not limited to preparation, supply, storage,

1 refrigeration, transportation, or processing.

2 (1022) 'Foreign fishing' means any fishing not defined  
3 as domestic fishing or domestic-based fishing, but not  
4 including commercial pilot fishing or fishing from a local  
5 fishing vessel less than or equal to twenty-seven feet in  
6 overall length. fishing by vessels!

7 (a) not registered in Micronesia; or

8 (b) not wholly owned by citizens of Micronesia;

9 or

10 (c) not wholly controlled by citizens of  
11 Micronesia; or

12 (d) of foreign registry chartered by citizens of  
13 Micronesia!

14 (1123) 'Foreign fishing agreement' means an agreement  
15 between the Authority on behalf of the Government of the  
16 Federated States of Micronesia and one or more foreign  
17 ~~commercial~~ fishing interests to permit foreign vessels  
18 to harvest fish within the ~~extended fishery~~ exclusive  
19 economic zone of the Federated States of Micronesia.  
20 A 'foreign party' is a party to such an agreement other than  
21 the Authority!

22 (24) 'Foreign fishing vessel' means any fishing  
23 vessel not defined as a local fishing vessel.

24 (25) 'Foreign party' means a party to a foreign  
25 fishing agreement other than the Authority, the Government

1 of the Federated States of Micronesia or a State government.

2 (26) 'Foreign recreational fishing' means fishing by  
3 a foreign fishing vessel for recreational or sport purposes.

4 (1227) 'Island' means a naturally formed area of land  
5 surrounded by water, which is above water at high tide.

6 (1228) 'Living marine resource' means all forms of  
7 marine animal and plant life other than marine birds and  
8 includes, a finfish, mollusks, and crustaceans, and all  
9 other forms of marine animal and plant life other than marine  
10 birds.

11 (29) 'Local fishing vessel' means any fishing vessel  
12 wholly owned and operated by one or more:

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

15 (b) Citizen of the Federated States of  
16 Micronesia;

17 (c) Corporation or cooperative established under  
18 the laws of the Federated States of Micronesia or of any  
19 State which is wholly owned and controlled by one or more  
20 of the persons described in paragraphs (a) and (b) of this  
21 subsection;

22 (d) Any combination of persons described in  
23 paragraphs (a) through (c) of this subsection.

24 (1A) 'Micronesia' or 'Government of Micronesia'  
25 refers to the appropriate State government of the



1 ~~Government of the Federated States of Micronesia~~

2 (1~~8~~30) 'Operator' means any person who is in charge of,  
3 directs, or controls a vessel, including the owner,  
4 charterer, or the master.

5 (1~~6~~31) 'Pacific Island States' means the parties to the  
6 South Pacific Forum Fisheries Agency Convention, 1979.

7 (32) 'Permit' means the document authorizing fishing  
8 within all or part of the exclusive economic zone issued  
9 pursuant to section 111 of this title or pursuant to a  
10 treaty, or any agreement or arrangement entered into  
11 pursuant to section 106 of this title.

12 (1~~7~~33) 'Person' means any individual, corporation,  
13 partnership, association, or other entity, the Government  
14 of the Federated States of Micronesia or any of ~~its~~  
15 ~~subdivisions or any entity thereof~~, the States, or any  
16 political subdivision thereof, and any foreign government,  
17 subdivision of such government, or entity thereof.

18 (1~~8~~) ~~'Reef fish' means any species of living resource~~  
19 ~~which predominantly inhabits reef areas or internal waters~~

20 (1~~9~~34) 'Regional fisheries treaty' means a treaty  
21 between the governments of certain Pacific Island States  
22 and governments, bodies or organizations of foreign States  
23 other than Pacific Island States that relates to fishing in  
24 the waters of the Pacific Island States and has entered  
25 into force according to its terms ~~following ratification~~,

1 and has been ratified by the Congress of the Federated  
2 States of Micronesia.

3 (2035) 'Regional fishing license' means a regional  
4 fishing license issued to a foreign fishing vessel ~~by an~~  
5 ~~Administrator~~ pursuant to a regional fisheries treaty.

6 (2136) 'State' means any of the States of the  
7 Federated States of Micronesia.

8 (2237) 'Stock of fish' means a species, subspecies, or  
9 other category of fish identified on the basis of  
10 geographical, scientific, technical, recreational, and  
11 economic characteristics which can be treated as a unit for  
12 purposes of conservation and management ~~geographical grouping~~  
13 ~~or other category of fish capable of management as a unit.~~

14 (23) ~~'Submerged reef' means a coral reef forming a~~  
15 ~~geographic and ecologic unity which is wholly submerged at~~  
16 ~~high tide."~~

17 Section 3. Section 103 of title 24 of the Code of the Federated  
18 States of Micronesia is hereby repealed.

19 Section 4. Title 24 of the Code of the Federated States of  
20 Micronesia is hereby further amended by adding a new section 103 to  
21 read as follows:

22 "Section 103. Fishing permits required - Commercial. No  
23 domestic, domestic-based, commercial pilot, or foreign  
24 fishing is permitted in the exclusive economic zone except:

25 (1) By a valid and applicable permit issued under

1 authority conferred by this title; or

2 (2) By a regional or multilateral license issued  
3 pursuant to a treaty or agreement entered into under the  
4 authority provided in section 105 of this chapter."

5 Section 5. Title 24 of the Code of the Federated States of  
6 Micronesia is hereby further amended by adding a new section 104 to  
7 read as follows:

8 "Section 104. Fishing permits required - Noncommercial.  
9 No scientific research, training, or foreign recreational  
10 fishing is permitted in the exclusive economic zone except  
11 by a valid and applicable permit issued by the Authority on  
12 such reasonable terms and conditions as it shall require."

13 Section 6. Title 24 of the Code of the Federated States of  
14 Micronesia is hereby further amended by adding a new section 105 to  
15 read as follows:

16 "Section 105. Stowage of fishing gear. All fishing gear  
17 aboard a fishing vessel in the exclusive economic zone  
18 shall be stowed in such a manner that it is not readily  
19 available for use in fishing, except when such fishing  
20 vessel is in an area in which it is authorized to fish in  
21 accordance with this title."

22 Section 7. Title 24 of the Code of the Federated States of  
23 Micronesia is hereby further amended by adding a new section 106 to  
24 read as follows:

25 "Section 106. Authority to enter into regional, bilateral,

1 and multilateral fisheries agreements.

2 (1) Notwithstanding any other provisions of this  
3 title, the Authority may enter into agreements or  
4 arrangements, pursuant to a regional, bilateral, or  
5 multilateral fisheries treaty, agreement or arrangement  
6 with other governments to provide for:

7 (a) Authorization of a person, body or  
8 organization to perform functions required by such a  
9 treaty, agreement or arrangement, including but not limited  
10 to, the issuance of regional fishing licenses; and

11 (b) An observer program.

12 (2) For the purpose of giving effect to a regional,  
13 bilateral, or multilateral fisheries treaty, agreement or  
14 arrangement, the Authority may adopt regulations to:

15 (a) Exempt any foreign fishing vessel holding a  
16 valid regional, multilateral, or bilateral fishing license  
17 issued pursuant to a regional, bilateral, or multilateral  
18 fisheries treaty, agreement, or arrangement from any  
19 requirements of this title which are inconsistent with the  
20 terms of such treaty, agreement or arrangement;

21 (b) Prescribe the conditions to be observed by  
22 operators of foreign fishing vessels exempted under  
23 paragraph (a) of this subsection; and

24 (c) Authorize observers designated and pursuant  
25 to an observer program entered into pursuant to subsection

1           (1)(b) of this section to:

2                           (i) Enforce the provisions of this title  
3           and any regional fisheries treaty, agreement or arrangement  
4           on behalf of the Federated States of Micronesia; and

5                           (ii) Perform such duties and  
6           responsibilities as may be required by such agreement.

7           (3) With respect to any observer program entered into  
8           pursuant to subsection (1)(b) of this section, standing in  
9           the Supreme Court of the Federated States of Micronesia  
10           shall be afforded to any authorized observer or the  
11           Federated States of Micronesia to bring action against any  
12           person or fishing vessel for any act or offense that is  
13           actionable under the law of the Federated States of  
14           Micronesia or is a violation of the treaty, agreement or  
15           arrangement pursuant to which the observer was authorized,  
16           which has occurred on the high seas, notwithstanding the  
17           nationality of the observer."

18           Section 8. Title 24 of the Code of the Federated States of  
19   Micronesia is hereby further amended by adding a new section 107 to  
20   read as follows:

21           "Section 107. Authority to enter into domestic-based and  
22           foreign fishing agreements. The Authority is authorized to  
23           negotiate and enter into such domestic-based and foreign  
24           fishing agreements as may be required to implement this  
25           title. Such agreements may, at the Authority's discretion,

1 include a provision to rebate fees under such circumstances  
2 as are consistent with this title and the Authority deems  
3 appropriate."

4 Section 9. Title 24 of the Code of the Federated States of  
5 Micronesia is hereby further amended by adding a new section 108 to  
6 read as follows:

7 "Section 108. Allowable levels of fishing.

8 (1) The Authority may determine the total allowable  
9 level of fishing with respect to any stock of fish subject  
10 to the provisions of this title, and shall set such level  
11 in accordance with requirements of optimum sustainable  
12 yield as determined by:

13 (a) The scientific evidence available, including  
14 statistical and other information concerning such stocks of  
15 fish; and

16 (b) Conservation, management and development  
17 measures contained in management plans relating to such  
18 stocks of fish.

19 (2) Allocations of the total allowable level of  
20 fishing with respect to any stock of fish shall be made  
21 first to domestic fishing vessels seeking permits, then to  
22 domestic-based fishing vessels, with any remaining  
23 allowable level of fishing allocated to foreign fishing  
24 vessels.

25 (3) Allocations issued pursuant to this title may

1 include restrictions as to vessel type, gear type, seasons  
2 of operations, areas in which the fishing can take place,  
3 or any other restriction relevant to conservation,  
4 management, and development."

5 Section 10. Title 24 of the Code of the Federated States of  
6 Micronesia is hereby further amended by adding a new section 109 to  
7 read as follows:

8 "Section 109. Application for permit - Contents.

9 (1) Each party entitled to apply for a permit under  
10 this title shall make application on prescribed forms  
11 specifying:

12 (a) The name, official number, and other  
13 identification of each fishing vessel for which a permit is  
14 sought, together with the name and address of the owner and  
15 operator thereof;

16 (b) The tonnage, capacity, processing equipment,  
17 and such other pertinent information with respect to  
18 characteristics of each such vessel as the Authority may  
19 require;

20 (c) The country of registration of the vessel;  
21 and

22 (d) If applicable, the foreign fishing agreement  
23 or domestic-based fishing agreement under which such permit  
24 is sought.

25 (2) The Authority may require, by regulation, such

1 additional information for permit applications by foreign  
2 parties or domestic-based parties as is necessary to  
3 implement and enforce the provisions of this title."

4 Section 11. Title 24 of the Code of the Federated States of  
5 Micronesia is hereby further amended by adding a new section 110 to  
6 read as follows:

7 "Section 110. Application for permit - Review. The  
8 Authority, or such person as it may designate by  
9 regulation, shall review each application submitted  
10 pursuant to section 109, and may, in its discretion solicit  
11 views from appropriate persons in the States and hold  
12 public hearings where necessary."

13 Section 12. Title 24 of the Code of the Federated States of  
14 Micronesia is hereby further amended by adding a new section 111 to  
15 read as follows:

16 "Section 111. Application for permit -- Issuance and  
17 denial.

18 (1) The Authority shall notify the applicant of the  
19 decision to issue or deny a permit within 30 days of the  
20 date of receipt of the application. If no such  
21 notification is given within 30 days, the request for a  
22 permit is deemed granted.

23 (2) The Authority may approve the application on such  
24 terms and conditions and with such restrictions as it deems  
25 appropriate.



1                   (3) A permit may be denied:

2                   (a) Where the application is not in accordance  
3                   with the requirements of this title;

4                   (b) Where the application is made in respect of  
5                   a foreign fishing vessel, and such vessel does not have  
6                   good standing on the Regional Register of Foreign Fishing  
7                   Vessels maintained by the South Pacific Forum Fisheries  
8                   Agency;

9                   (c) Where the owner or charterer is the subject  
10                   of proceedings under the bankruptcy laws of any  
11                   jurisdiction and reasonable financial assurances have not  
12                   been provided;

13                   (d) Where there has been a failure to satisfy a  
14                   judgment or other determination for breach of this title or  
15                   an agreement entered into pursuant to this title by the  
16                   operator of the vessel in respect to which application for  
17                   a permit has been made, until such time as the judgment or  
18                   other determination is satisfied;

19                   (e) Where an operator of the vessel has  
20                   contravened, or the vessel has been used for contravention  
21                   of a fishing agreement, or has committed an offense against  
22                   the laws of the Federated States of Micronesia; or

23                   (f) Where the Authority determines that the  
24                   issuance of a permit would not be in the best interests of  
25                   the Federated States of Micronesia.

1                   (4) A permit shall be denied:

2                   (a) Where the Authority determines that the  
3                   permit would authorize foreign fishing or domestic-based  
4                   fishing on, over, or within one nautical mile of the edge  
5                   of a coral reef that is wholly submerged at mean high tide  
6                   within the exclusive economic zone; or

7                   (b) Where the Authority determines that the  
8                   permit would authorize fishing on, over, or within one  
9                   nautical mile of the edge of a coral reef that is wholly  
10                   submerged at mean high tide within the exclusive economic  
11                   zone, and that subsection (a) of this section does not  
12                   apply to the permit application; and

13                   (i) The Authority has submitted a copy of  
14                   the application to the State, to the customary inhabitants  
15                   of which, the authority to control the fishing over such  
16                   reef has been traditionally ascribed. The Authority shall  
17                   have the power to prescribe by regulation the ascription of  
18                   such reefs to each of the the States. For the purposes of  
19                   this subsection (b), the State shall mean the Governor  
20                   thereof, and the councils of traditional leaders  
21                   established by law having the constitutional authority to  
22                   affect the enactment of State legislation; and

23                   (ii) Within 30 days of such submission, the  
24                   State, or any constituent part thereof, has communicated in  
25                   writing to the Authority its objection to the issuance of

1 the permit with respect to the reef or reefs  
2 traditionally ascribed to its customary inhabitants.

3 (5) If the Authority denies an application submitted  
4 by an applicant, the Authority shall notify such applicant  
5 of the disapproval and the reasons therefore. The  
6 applicant may then submit a revised application taking into  
7 consideration the reasons for disapproval."

8 Section 13. Title 24 of the Code of the Federated States of  
9 Micronesia is hereby further amended by adding a new section 112 to  
10 read as follows:

11 "Section 112. Suspension, revocation, or imposition of  
12 restrictions on a permit. If any fishing vessel for which  
13 a permit has been issued pursuant to section 111 has been  
14 used in the commission of any act prohibited by this title  
15 or other applicable law, an applicable domestic-based or  
16 foreign fisheries agreement or any permit issued in  
17 accordance with this title, or if any civil penalty or  
18 criminal fine imposed under this title has not been paid  
19 within 30 days, the Authority shall:

20 (1) Revoke such permit with or without prejudice to  
21 the right of any party involved to be issued a permit for  
22 such vessel in any subsequent year;

23 (2) Suspend such permit for the period of time deemed  
24 appropriate; or

25 (3) Impose additional conditions and restrictions on

1 any permit issued pursuant to this title."

2 Section 14. Title 24 of the Code of the Federated States of  
3 Micronesia is hereby further amended by adding a new section 113 to  
4 read as follows:

5 "Section 113. Fees for scientific research, training,  
6 commercial pilot, and foreign recreational fishing permits.  
7 Fees for scientific research, training, commercial pilot,  
8 and foreign recreational fishing shall be established  
9 pursuant to regulations issued by the Authority."

10 Section 15. Title 24 of the Code of the Federated States of  
11 Micronesia is hereby further amended by adding a new section 114 to  
12 read as follows:

13 "Section 114. Rebate of fees. The Authority may accept  
14 all or a portion of the fee paid under a domestic-based or  
15 foreign fishing agreement pending rebate pursuant to the  
16 agreement. That portion of a fee that is subject to rebate  
17 shall be held in a separate trust account maintained by the  
18 Secretary of Finance until rebated to the foreign or  
19 domestic-based fishing venture or paid into the General  
20 Fund, or its successor, pursuant to the terms of the  
21 agreement."

22 Section 16. Title 24 of the Code of the Federated States of  
23 Micronesia is hereby further amended by adding a new section 115 to  
24 read as follows:

25 "Section 115. Division of fees received as goods and

1 services. In the case of fees paid as goods or services  
2 rather than money, the Authority shall submit a proposed  
3 division of such goods or services to the Congress of the  
4 Federated States of Micronesia for its approval by  
5 resolution while in session, and by the Committee on Ways  
6 and Means of the Congress of the Federated States of  
7 Micronesia between sessions. If the Congress does not  
8 approve a division of such goods and services within 60  
9 days of the submission of a proposed division of such fees  
10 by the Authority, the proposed division shall be deemed  
11 approved."

12 Section 17. Title 24 of the Code of the Federated States of  
13 Micronesia is hereby further amended by adding a new section 116 to  
14 read as follows:

15 "Section 116. Reporting requirements.

16 (1) The master of each foreign fishing vessel issued  
17 a permit or which is permitted to fish pursuant to a treaty  
18 or any agreement or arrangement referred to in section 106  
19 shall at all times while the vessel is in the fishery  
20 waters, cause to be maintained in the English language a  
21 fishing log in a form supplied or approved by the  
22 Authority, and shall enter the following information  
23 relating to the activities of the vessel on a daily basis:

24 (a) The gear type used;

25 (b) The noon position of the vessel and, where

1 applicable, the set location and time;

2 (c) The species of fish taken and the quantity  
3 of each species by weight or number as may be specified in  
4 the form;

5 (d) The species of fish returned from the vessel  
6 to the sea, the quantity of each species by weight or  
7 number as may be specified in the form, and the reasons for  
8 discard; and

9 (e) Such other information as the Authority may  
10 prescribe by regulation or as may be required by an  
11 applicable treaty, agreement, or arrangement.

12 (2) The original log form described in subsection (1)  
13 shall be sent to the Authority by registered airmail  
14 within 30 days of entry of the vessel into port at the  
15 completion of the relevant trip, or as provided in the  
16 applicable treaty, agreement, or arrangement.

17 (3) The owner or operator of a local fishing vessel  
18 longer than twenty-seven feet in overall length shall  
19 maintain a fishing log in a prescribed form issued by the  
20 Authority, in which he shall enter the following  
21 information relating to the activities of the vessel on  
22 each fishing day:

23 (a) The type of gear used;

24 (b) Time and location where such fishing  
25 activities have taken place;

1                    (c) Species of fish taken and quantity of each  
2                    species by weight and number as may be specified in a form  
3                    issued by the Authority; and

4                    (d) Such other information as the Authority may  
5                    require in a specified form.

6                    (4) The owner or operator referred to in subsection  
7                    (3) shall send by registered mail or deliver such fishing  
8                    logs to the Authority within 7 days of the end of each  
9                    calendar month's activities, or within 7 days of entry of  
10                   the vessel into port at the completion of a trip lasting  
11                   longer than 14 days.

12                   (5) The Authority, by regulation, may prescribe such  
13                   other reporting requirements as may be required for the  
14                   conservation and management of marine resources and to  
15                   enforce the provisions of this title."

16                   Section 18. Title 24 of the Code of the Federated States of  
17                   Micronesia is hereby further amended by adding a new section 117 to  
18                   read as follows:

19                   "Section 117. Authority to issue State permits. If  
20                   authorized by appropriate State law, the Authority may  
21                   issue permits for fishing in the Territorial Sea or  
22                   internal waters in accordance with State law. Any fees  
23                   collected for fishing within the Territorial Sea or  
24                   internal waters shall be transferred to the State for which  
25                   the permit was granted."

1 Section 19. Title 24 of the Code of the Federated States of  
2 Micronesia is hereby further amended by adding a new section 118 to  
3 read as follows:

4 "Section 118. Authority to appoint observers. Pursuant to  
5 regulations issued by the Authority, the executive director  
6 may appoint, in writing, any person to be an authorized  
7 observer."

8 Section 20. Title 24 of the Code of the Federated States of  
9 Micronesia is hereby further amended by adding a new section 119 to  
10 read as follows:

11 "Section 119. Application of other laws. No permit issued  
12 under this title shall relieve any fishing vessel or its  
13 operator or crew of any obligation or requirements imposed  
14 by other laws, including those concerning navigation,  
15 customs, immigration, or health, unless so indicated in  
16 those laws."

17 Section 21. Section 104 of title 24 of the Code of the  
18 Federated States of Micronesia is hereby renumbered as section 120.

19 Section 22. Title 24 of the Code of the Federated States of  
20 Micronesia is hereby further amended by adding a new section 201 of  
21 chapter 2 to read as follows:

22 "Section 201. Registration fee for domestic fishing  
23 permits. A registration fee of up to \$25 may be charged  
24 for a domestic fishing permit."

25 Section 23. Title 24 of the Code of the Federated States of



1 Micronesia is hereby further amended by adding a new section 202 of  
2 chapter 2 to read as follows:

3 "Section 202. Allocation of allowable fishing between  
4 domestic fishing vessels. The Authority may allocate that  
5 portion of the optimum sustainable yield allocated to  
6 domestic fishing vessels among domestic fishing vessels, if  
7 unrestricted fishing by domestic fishing vessels would  
8 otherwise result in a catch level exceeding the optimum  
9 sustainable yield. In determining the allocation, the  
10 Authority shall take into consideration:

11 (1) The extent to which each vessel or operator of  
12 such vessel has historically fished in a particular area;

13 (2) The extent to which each vessel or operator of  
14 such vessel is advancing the development of a fishing  
15 industry in the Federated States of Micronesia;

16 (3) The extent to which each vessel or operator of  
17 such vessel has historically fished for a particular  
18 regulated species;

19 (4) The extent to which each vessel or operator of  
20 such vessel submits information for the conservation,  
21 management, and development of stocks of fish;

22 (5) The extent to which each vessel or operator of  
23 such vessel has traditional rights to fishing in an area; and

24 (6) Such other factors as the Authority deems  
25 appropriate."

1       Section 24. Section 301 of title 24 of the Code of the  
2 Federated States of Micronesia is hereby amended to read as follows:  
3       "Section 301. Micronesian Maritime Authority - Established.  
4               (1) There is established a Micronesian Maritime  
5 Authority composed of ~~seven~~ five members ~~with four members~~  
6 ~~from the Congress of the Federated States of Micronesia~~  
7 ~~appointed by the Speaker of the Congress of the~~  
8 ~~Federated States of Micronesia, one at-large member~~  
9 ~~appointed by the President of the Federated States of~~  
10 ~~Micronesia in consultation with the Speaker, and the~~  
11 ~~remaining two members being the Secretary of External~~  
12 ~~Affairs, or his designee, and the Secretary of Resources~~  
13 ~~and Development, or his designee, provided, however, that~~  
14 ~~members of the Authority as of the effective date of the~~  
15 ~~law from which this section derives shall serve until their~~  
16 ~~terms of appointment expire, appointed as follows:~~  
17               (a) One representative of each State appointed by  
18 the President of the Federated States of Micronesia, in  
19 consultation with the Governor and Congressional Delegation  
20 of the affected State; PROVIDED, however, that no such  
21 representative shall also serve as a member of the Board of  
22 Directors of the National Fisheries Corporation of the  
23 Federated States of Micronesia, or any subsidiary or  
24 affiliate thereof, during the term of his membership on the  
25 Authority; and

1                   **(b) One at-large member appointed by the President of**  
2                   **the Federated States of Micronesia.**

3                   (2) All appointments shall be for a term of two  
4                   years. The term of office of each original member shall  
5                   commence effective the date of the first meeting of the  
6                   Authority after the effective date of this act. Upon the  
7                   expiration of the term of an appointed member, his rights  
8                   and powers of membership shall lapse and the executive  
9                   director shall declare the vacancy and notify the President  
10                  of the Federated States of Micronesia in writing of such  
11                  vacancy. Vacancies occurring before the expiration of a  
12                  member's term shall be filled in the same manner as the  
13                  original appointment for the remainder of the term of  
14                  office of the vacancy.

15                  (3) The chairman shall be chosen by the majority vote  
16                  of the members of the Authority. The Authority shall meet  
17                  at such times and places as may be designated by the  
18                  chairman or by the Authority. The Authority shall adopt  
19                  its own rules of procedure and regulations by majority  
20                  vote."

21                  Section 25. Section 302 of title 24 of the Code of the  
22                  Federated States of Micronesia is hereby amended to read as follows:

23                  "Section 302. Authority; Regulations.

24                  (1) The Authority shall have the following authority:

25                         (a) to adopt regulations for the conservation,

1 management, and exploitation of *all living resources fish*  
 2 in the *extended fishery* exclusive economic zone of the  
 3 *Federated States of Micronesia* pursuant to sections 102,  
 4 103, and 104 of title 18 of this Code;

5 (b) to conclude foreign and domestic-based fishing  
 6 agreements in accordance with sections ~~402~~ 401 and ~~403~~ 406  
 7 of this title;

8 (c) to issue domestic, domestic-based, and  
 9 foreign fishing permits in accordance with procedures  
 10 ~~established~~ prescribed by the Authority or regulations  
 11 promulgated pursuant to ~~paragraph (d) of this subsection~~  
 12 ~~and subsection 2(a)~~ subsections (1)(a) and 2(a) of this  
 13 section; and

14 (d) *to rebate according to regulation approved*  
 15 *by the Authority all or a portion of a fee collected*  
 16 *pursuant to section 134(7) of this title from a joint*  
 17 *fishing venture duly organized by law, if the rebate will*  
 18 *promote fishery development; and*

19 (e) to participate in the planning and execution  
 20 of programs relating to fisheries, or fishing in the  
 21 extended fishery exclusive economic zone in which any  
 22 agency of the Micronesian Government a State government  
 23 or the Government of the Federated States of Micronesia, or  
 24 any agency or subdivision thereof, has a proprietary  
 25 interest, direct or indirect, by way of stock ownership,

1 partnership, joint venture, or otherwise.

2 (2) Regulations adopted by the Authority shall have  
3 the full force and effect of law.

4 (a) The process for the adoption of regulations  
5 by the Authority is expressly exempt from the requirements  
6 of the Administrative Procedure Act set forth in title 17  
7 of this code, but the Authority nevertheless shall publish  
8 its proposed regulations and afford the public a reasonable  
9 opportunity to present its view prior to the adoption of  
10 any regulation.

11 (b) The chairman may promulgate interim  
12 regulations on his own authority which shall be effective  
13 for a period no longer than six months unless the Authority  
14 by majority vote renounces the interim regulations."

15 Section 26. Section 303 of title 24 of the Code of the  
16 Federated States of Micronesia is hereby amended to read as follows:"

17 Section 303. Duties and functions. In addition to the  
18 authority granted in the preceding section, the Authority  
19 shall have the following duties and functions:

20 (1) to provide technical assistance in the  
21 delimitation of the ~~extended fishery~~ exclusive economic  
22 zone in accordance with section 107 of title 18;

23 (2) to negotiate domestic-based and foreign fishing  
24 agreements in accordance with sections ~~402 through~~ 404 of  
25 this title;

1           (2) to require all foreign fishing vessels to possess  
2           a permit issued by a State before fishing in the Territorial  
3           Sea or exclusive fishery zone of a State;

4           (3) To issue permits for fishing in the Territorial  
5           Sea or internal waters of a State as authorized pursuant to  
6           section 117;

7           (4) to submit its budget and a report regarding the  
8           expenditure of its funds to the Congress each regular  
9           session for approval review; and

10          (5) to perform such other duties and functions as may  
11          be necessary to carry out the purposes of this title."

12          Section 27. Section 305 of title 24 of the Code of the  
13          Federated States of Micronesia is hereby amended to read as  
14          follows:

15          "Section 305. Compensation.

16               (1) Members of the Authority, ~~other than the at-large~~  
17               ~~member,~~ who are neither employees nor officials of the  
18               Government of the Federated States of Micronesia or any  
19               State government shall be compensated at the rate of  
20               thirty-five dollars per day when actually on the business  
21               of the Authority.

22               (2) ~~The at-large appointee shall be compensated at a~~  
23               ~~rate established by the Authority, but shall not~~  
24               ~~participate in the decision of the Authority determining~~  
25               ~~his compensation.~~

1           (3) Members of the Authority who are employees of  
2           State governments or the Government of the Federated States  
3           of Micronesia or the Trust Territory of the Pacific Islands  
4           shall not be entitled to receive any compensation except  
5           for those benefits provided for in subsection (4) of this  
6           section.

7           (4) All members of the Authority, including members  
8           described in subsections (2) and (3) of this section,  
9           who are employees or officials of the Government of the  
10          Federated States of Micronesia or of any State government,  
11          shall receive per diem and travel expenses at established  
12          Federated States of Micronesia rates while on the business  
13          of the Authority.

14          (3) The executive director shall receive a  
15          remuneration for his services, the amount of which shall be  
16          fixed by the Authority in consonance with the pertinent  
17          provisions of the current annual budget of the Government  
18          of the Federated States of Micronesia. The executive  
19          director shall serve at the pleasure of the Authority and  
20          shall be exempt from the provisions of the National Public  
21          Service System Act, section 111 et seq. of title 52 of this  
22          Code."

23          Section 28. Section 306 of title 24 of the Code of the  
24          Federated States of Micronesia is hereby amended to read as follows:

25          "Section 306. Annual report. The chairman of the

1 Authority shall report on its activities to the President  
 2 of the Federated States of Micronesia, to the ~~Presiding~~  
 3 ~~Officer~~ Speaker of the Congress of the Federated States of  
 4 Micronesia, and ~~to~~ each State Governor ~~on an annual basis~~  
 5 by December 1 of each year, which report shall contain a  
 6 detailed accounting of the expenditure of funds of the  
 7 Authority, the number of permits and licenses issued, the  
 8 fees, forfeitures, and fines collected, estimates of the  
 9 effect of the current level of fishing on the stock of fish  
 10 in the exclusive economic zone, and such other information  
 11 regarding the implementation of this title in the preceding  
 12 fiscal year as the Authority may determine."

13 Section 29. Sections 401, 405, and 407 through 415 inclusive of  
 14 title 24 of the Code of the Federated States of Micronesia are hereby  
 15 repealed.

16 Section 30. Section 402 of title 24 of the Code of the  
 17 Federated States of Micronesia is hereby amended to read as follows:

18 "Section ~~402~~401. Foreign fishing agreements -  
 19 Acknowledgment of management authority Required. ~~Each~~  
 20 ~~foreign fishing agreement shall acknowledge the exclusive~~  
 21 ~~fishery management authority of the Government of~~  
 22 ~~Micronesia as set forth in this title.~~ No foreign fishing  
 23 vessel shall be issued a permit to fish in the exclusive  
 24 economic zone without having entered into a foreign fishing  
 25 agreement."



1 Section 31. Title 24 of the Code of the Federated States of  
2 Micronesia is hereby further amended by adding a new section 402 to  
3 read as follows:

4 "Section 402. Fees for foreign fishing permits. Fees and  
5 other forms of compensation for the right to exploit marine  
6 resources within the exclusive economic zone by foreign  
7 fishing vessels shall be established in foreign fishing  
8 agreements entered into pursuant to sections 404 and 405 of  
9 this title."

10 Section 32. Section 404 of title 24 of the Code of the  
11 Federated States of Micronesia is hereby amended to read as follows:

12 "Section ~~404~~403. Allowable levels of foreign fishing  
13 Allocation of allowable fishing among foreign fishing  
14 vessels.

15 *(1) The total allowable level of foreign fishing, if*  
16 *any, with respect to any fishery subject to the provisions*  
17 *of this title, shall be that portion of the maximum*  
18 *sustainable yield of such fishery which will not be*  
19 *harvested by vessels of Micronesia.*

20 *(2) The Micronesian Maritime Authority may determine*  
21 *the allocation among foreign parties of the total allowable*  
22 *level of foreign fishing which is permitted with respect to*  
23 *any ~~fishery~~ stock of fish subject to the provisions of this*  
24 *title.*

25 *(3) In determining the allocation among parties, the*

1 Authority shall take into consideration:

2 (a) the extent to which vessels of such parties  
3 have ~~traditionally~~ historically fished the particular  
4 regulated species;

5 (b) the extent to which vessels of such parties  
6 have complied with the laws of the Federated States of  
7 Micronesia and any relevant treaties, agreements, or  
8 arrangements;

9 (c) whether such parties or their national  
10 governments have cooperated with the ~~Government~~ Federated  
11 States of Micronesia in, and made substantial contributions  
12 to, the conservation, management and development of  
13 fisheries, fishery research and the identification of  
14 ~~fishery~~ marine resources;

15 (d) whether such parties or their national  
16 governments have cooperated with the ~~Government of the~~  
17 Federated States of Micronesia in enforcement of the  
18 provisions of this title and the regulations issued under  
19 its authority, including flag state enforcement and  
20 provision of information required for the conservation and  
21 management of stocks of fish; and

22 (e) such other matters as it may deem appropriate."

23 Section 33. Section 403 of title 24 of the Code of the  
24 Federated States of Micronesia is hereby amended to read as follows:

25 "Section ~~403~~404. Foreign fishing agreements - Terms. ~~In~~

1        *negotiating foreign fishing agreements, the Authority shall*  
2        *seek substantial agreement by the foreign parties to the*  
3        *following terms and conditions* All foreign fishing  
4        agreements shall have the following minimum terms:

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

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

12            (a) ~~abide by~~ comply with the requirements of  
13        this title, all regulations issued pursuant to ~~under~~  
14        authority of chapter 3 of this title and all other  
15        applicable laws and regulations/;

16            *(2) The foreign party and the owner or operator of*  
17        *any fishing vessel fishing pursuant to such foreign fishing*  
18        *agreements will abide by the agreement that:*

19            (ab) permit any officer authorized to enforce the  
20        provisions of this title ~~shall be permitted~~ to board and  
21        search or inspect any vessel at any time and make arrests  
22        and seizures provided for in section 508 of this title  
23        whenever such officer has reasonable cause to believe, as a  
24        result of such a search or inspection, that any such vessel  
25        or any person has committed an act prohibited by this title;

1                   (b~~c~~) permit such officer ~~shall also be permitted~~  
2                   to examine and make negotiations on any permit issued  
3                   pursuant to sections ~~110~~ 108 through ~~112~~ 110 of this ~~chapter~~  
4                   title, or other documentation required under any applicable  
5                   foreign fishing agreement;

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

9                   (e) immediately comply with every instruction  
10                  given by an authorized officer, facilitate safe boarding,  
11                  and facilitate the inspection of the vessel, gear,  
12                  equipment, records, fish and fish products;

13                  (f) allow and assist authorized observers to  
14                  board the vessel for scientific, monitoring, compliance and  
15                  other functions, and have full access to, and the use of,  
16                  facilities and equipment on board the vessel which the  
17                  authorized observer may determine is necessary to carry out  
18                  his duties; have full access to the bridge, fish on board  
19                  and areas which may be used to hold, process, weigh  
20                  and store fish; remove samples; have full access to the  
21                  vessel's records, including its logs and documentation for  
22                  the purpose of inspection and copying; and gather any other  
23                  information relating to fisheries in the exclusive economic  
24                  zone;

25                  (g) not assault, obstruct, resist, delay, refuse

boarding to, intimidate, or interfere with an authorized officer or authorized observer in the performance of his duties;

(dh) display any permit or permit number issued for any such vessel pursuant to sections 410109 through 412111 of this chapter title or any documentation required to be displayed under foreign fishing agreements ~~shall be prominently displayed~~ in the wheelhouse of such vessel;

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

(j) ensure that the vessel is marked in accordance with regulations issued by the Authority while within the exclusive economic zone;

(ek) ~~duly authorized Micronesian observers shall be permitted on board any such vessel and require~~ that the National Government of the Federated States of Micronesia shall be reimbursed for the cost of ~~such~~ authorized observers; ~~and~~

(fl) appoint and maintain an agent ~~shall be appointed and maintained~~ within the Federated States of Micronesia who ~~is~~ is authorized to receive and respond to any legal process issued in the Federated States of Micronesia with respect to such owner or operator of such vessel/; and

(3m) The foreign party and the owners or operators of all of the fishing vessels of such party shall not, in any year, exceed such party's allocation of the total allowable level of foreign fishing, in the event allocations are established by the Authority in accordance with this title.

(43) Foreign parties will:

(a) apply, pursuant to sections 410109 through 412111 of this chapter title, for any required permits;

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

(c) abide by the requirement that no foreign fishing will be permitted in the extended fishery exclusive economic zone of the Federated States of Micronesia without a valid and applicable permit, except as provided by foreign fishing agreements concluded pursuant to this chapter 3 of this title, and that all conditions and restrictions of the permit, or any applicable foreign fishing agreement, are complied with.

(5) The foreign party and the owner or operator of any fishing vessel fishing pursuant to such agreement will abide by all other terms and conditions of the agreement."

Section 34. Section 406 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

1           "Section ~~406~~ 405. Approval of foreign and domestic-based  
2           fishing agreements.

3                 (1) To take effect within the ~~extended fishery zone of~~  
4           ~~the Federated States of Micronesia~~ exclusive economic zone,  
5           a foreign fishing agreement or domestic-based fishing  
6           agreement shall require the approval of the Congress of the  
7           Federated States of Micronesia by resolution.

8                 (2) The Committee on Resources and Development of the  
9           Congress of the Federated States of Micronesia shall  
10          approve such an agreement if the Congress is not in session.

11                (3) An agreement involving fewer than ten vessels  
12          ~~will~~ does not require the approval of the Congress of the  
13          Federated States of Micronesia."

14          Section 35. Title 24 of the Code of the Federated States of  
15   Micronesia is hereby further amended by adding a new section 406 to  
16   read as follows:

17                "Section 406. Domestic-based fishing agreements. No  
18           domestic-based fishing vessels shall be issued a permit to  
19           fish in the exclusive economic zone without having entered  
20           into a domestic-based fishing agreement. Such fishing  
21           agreement shall have the same minimum terms required of  
22           foreign fishing agreements by section 404 of this title."

23          Section 36. Title 24 of the Code of the Federated States of  
24   Micronesia is hereby further amended by adding a new section 407 to  
25   read as follows:

"Section 407. Allocation of allowable fishing between domestic-based fishing vessels. The portion of the optimum sustainable yield allocated to domestic-based fishing vessels shall be divided by the Authority among domestic-based fishing vessels, if necessary. In determining the allocation among domestic-based fishing vessels, the Authority shall take into consideration:

(1) The extent to which each vessel or operator of such vessel has historically fished for a particular regulated species;

(2) The extent to which each vessel or operator contributes to the economic growth of the Nation;

(3) The extent to which each vessel or operator of such vessel has provided information necessary for the conservation and management of stocks of fish; and

(4) Such other provisions as the Authority deems appropriate."

Section 37. Section 416 of title 24 of the Code of the Federated States of Micronesia is hereby renumbered as section 408.

Section 38. Section 501 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-37, is hereby further amended to read as follows:

"Section 501. Prohibited acts.

(1) It is unlawful for any person:

(a) to violate any provision of this title or of



1 any regulation or permit issued pursuant to this title;

2 (b) ~~to use any fishing vessel~~ to engage in  
3 fishing after revocation, or during the period of  
4 suspension, of an applicable permit issued pursuant to this  
5 title;

6 (c) to violate any provision of, or regulation  
7 under, an applicable domestic-based or foreign fishing  
8 agreement entered into pursuant to sections 401, 403, and  
9 404 through 406 of this title or any term or condition of  
10 any permit issued in accordance with this title and any  
11 regulations made under this title;

12 (d) to violate any provision of any applicable  
13 foreign fishing treaty, agreement or arrangement or the  
14 terms of any regional fishing license recognized in  
15 accordance with this title;

16 (e) to refuse to permit any authorized officer  
17 ~~authorized to enforce the provisions of this title~~ to board a  
18 fishing vessel ~~subject to such person's control~~ for purposes  
19 of conducting any search or inspection in connection with  
20 the enforcement of this title or any regulation, permit, or  
21 foreign or domestic-based fishing agreement or any  
22 applicable fishing treaty, agreement or arrangement  
23 ~~referred to in paragraphs (a), (c) and (i) of this subsection;~~

24 (f) to ~~forcibly~~ assault, obstruct, resist,  
25 delay, refuse boarding to, oppose, impede, intimidate, or

---

1 interfere with any ~~such~~ authorized officer or <sup>§</sup>authorized  
2 observer in performance of his duties, including in the  
3 conduct of any search or inspection described in  
4 paragraph (d) of this subsection; and for the purposes of  
5 this subparagraph, any person who refuses to allow any  
6 authorized officer or observer, or any person acting under  
7 his order or in his aid, to exercise any of the powers  
8 conferred on an authorized officer or observer by this  
9 title or any regulations made under this title shall be  
10 deemed to be obstructing that officer, observer, or person;

11 (g) to fail to comply with the lawful  
12 requirements of any authorized officer or observer;

13 (h) to furnish to any authorized officer any  
14 particulars which, to his knowledge, are false or  
15 misleading in any respect;

16 (i) being on board any vessel being pursued or  
17 about to be boarded by any authorized officer, to throw  
18 overboard or destroy any fish, fishing gear, explosive,  
19 poison, or other noxious substance to avoid seizure of such  
20 fish, fishing gear, explosive, poison, or other noxious  
21 substance or thing or to avoid the detection of any offense  
22 under this title or the regulations made under this title;

23 (fj) to resist a lawful arrest for any act  
24 prohibited by this section;

25 (k) to provide information required to be

1 recorded, notified or communicated pursuant to any  
2 requirement of the provisions of this title or the  
3 regulations, knowing or having reasonable cause to believe  
4 that it is false, incomplete or misleading;

5 (g) to knowingly ship, transport, offer for  
6 sale, sell, purchase, import, export, or have custody,  
7 control, or possession of any fish taken or retained in  
8 violation of this title or any regional fishing treaty,  
9 regulation, permit, or foreign or domestic-based fishing  
10 agreement or any applicable law referred to in paragraphs  
11 (d), (e) and (f) of this subsection;

12 (h) to interfere with, delay, or prevent, by  
13 any means, the apprehension or arrest of another person,  
14 knowing that such person has committed any act prohibited  
15 by this section; or

16 (i) to violate any provision of, or regulation  
17 under, any applicable agreement to implement a regional  
18 fisheries treaty, or any other treaty, agreement or arrangement  
19 having effect in the Federated States of Micronesia, entered  
20 into pursuant to section 106 of this title; or

21 (o) to use any foreign fishing vessel for  
22 fishing within a two-mile radius of any fish aggregating  
23 device of the Government, a citizen, or any other body  
24 established under the laws of the Federated States of  
25 Micronesia.

1 (3) Any offense described as a prohibited act by  
2 subsections (1)(d), (e), (f), (g), (h), (i), or (j) of  
3 section 501 is punishable by a fine of not more than  
4 \$400,000, or imprisonment for not more than two years, or  
5 both; PROVIDED that if in the commission of any such  
6 offense the person uses a dangerous weapon, engages in  
7 conduct that causes bodily injury to any officer authorized  
8 to enforce the provisions of this title, or threatens any  
9 such officer with bodily injury, the offense is punishable  
10 by a fine of not more than \$1 million, or imprisonment for  
11 not more than ten years, or both; and PROVIDED FURTHER that  
12 where a regional fisheries treaty so requires, persons  
13 arrested for violating any provisions of, or regulations  
14 under, such treaty shall not be subject to imprisonment.  
15 (4) Any offense described as a prohibited act by  
16 subsection (2) of section 501 is punishable by a fine of  
17 not more than \$400,000. Each day of continuing violation  
18 shall be considered a separate offense."  
19 Section 40. Section 504 of title 24 of the Code of the  
20 Federated States of Micronesia is hereby amended to read as follows:  
21 "Section 504. Forfeitures - Liability. Any fishing vessel  
22 involved in the commission of any act prohibited by section  
23 501 of this chapter shall, along with its fishing gear,  
24 furniture, appurtenances, stores, cargo used, and any fish  
25 taken or retained, in any manner, in connection with or as

1                   (2) It is unlawful for any ~~foreign~~ fishing vessel,  
2                   and for the crew, owner, or operator of any ~~foreign~~ fishing  
3                   vessel, to engage in fishing in the ~~extended fishery~~  
4                   exclusive economic zone of Micronesia unless such fishing is  
5                   authorized by and conducted in accordance with or without a  
6                   valid and applicable fishing permit issued pursuant to this  
7                   title, where such permit is required by sections 103 and  
8                   104 of this title, and unless such fishing is permitted  
9                   pursuant to section 106. ~~It is unlawful for any foreign~~  
10                  ~~fishing vessel, and for the crew, owner, or operator of any~~  
11                  ~~foreign fishing vessel, to engage in fishing in the~~  
12                  ~~Territorial Sea or Exclusive Fishery Zone of a State unless~~  
13                  ~~such fishing is authorized by and conducted in accordance~~  
14                  ~~with a valid and applicable fishing permit issued by the~~  
15                  ~~State."~~

16               Section 39. Section 503 of title 24 of the Code of the  
17               Federated States of Micronesia, as amended by Public Law No. 5-37, is  
18               hereby further amended to read as follows:

19               "Section 503. Criminal penalties.

20                   (1) A person is guilty of an offense if he commits  
21                   any act prohibited by section 501 of this chapter.

22                   (2) Any offense described as a prohibited act by  
23                   subsections (1)(a), (b), (c), (gd), (h), (k), (l), (n), or  
24                   (io) of section 501 is punishable by a fine of not more  
25                   than \$250,000.

1 a result of such act, be subject to forfeiture to the  
2 ~~Government~~ Federated States of Micronesia. All or part of  
3 such vessel shall, and all such fish shall, be forfeited to  
4 the ~~Government~~ Federated States of Micronesia pursuant to a  
5 civil proceeding under this section."

6 Section 41. Section 505 of title 24 of the Code of the  
7 Federated States of Micronesia is hereby amended to read as follows:

8 "Section 505. Forfeitures - Jurisdiction. The ~~National~~  
9 Supreme Court of the ~~Government~~ Federated States of  
10 Micronesia shall have jurisdiction, upon application by the  
11 Attorney General or the executive director on behalf of  
12 the ~~Government~~ Federated States of Micronesia, to order any  
13 forfeiture authorized under section 504 of this chapter."

14 Section 42. Section 506 of title 24 of the Code of the  
15 Federated States of Micronesia is hereby amended to read as follows:

16 "Section 506. Forfeitures - Seizures. If a judgment is  
17 entered for the ~~Government~~ Federated States of Micronesia  
18 in a civil forfeiture proceeding under sections 504 through  
19 509 of this chapter, the Attorney General shall seize any  
20 property or other interest declared forfeited to the  
21 ~~Government~~ Federated States of Micronesia, which has not  
22 previously been seized pursuant to this title."

23 Section 43. Section 507 of title 24 of the Code of the  
24 Federated States of Micronesia is hereby amended to read as  
25 follows:

1           "Section 507. Forfeitures - Disposition of property. The  
2           forfeited vessel, gear, furniture, appurtenances, stores,  
3           cargo, and fish may be sold and the proceeds deposited ~~with~~  
4           ~~the authority for use in accordance with section 510 of~~  
5           ~~this chapter, or may be retained for use by, or at the~~  
6           ~~direction of, the Government of Micronesia~~ into the General  
7           Fund of the Federated States of Micronesia and distributed  
8           in accordance with section 510 of this title."

9           Section 44. Section 509 of title 24 of the Code of the  
10          Federated States of Micronesia is hereby amended to read as follows:

11          "Section 509. Forfeitures - Disposition of ~~catch~~  
12          perishable articles.

13                 (1) Any fish, fish products, or other perishable  
14                 articles seized or taken pursuant to this title may be  
15                 sold, subject to the approval and direction of the Court.  
16                 The proceeds of any such sale shall be deposited with such  
17                 Court pending the disposition of the civil forfeiture  
18                 proceeding.

19                 (2) For purposes of this title, it shall be a  
20                 rebuttable presumption that:

21                         (a) ~~A~~All fish found on board a fishing vessel  
22                         which is seized or taken in connection with an act  
23                         prohibited by section 501 of this chapter were taken or  
24                         retained in violation of this title/; and

25                         (b) All fish found on board a transiting fishing

1 vessel which vessel has been used in the commission of an  
2 offense in the exclusive economic zone, shall be deemed to  
3 have been caught in the exclusive economic zone."

4 Section 45. Section 511 of title 24 of the Code of the  
5 Federated States of Micronesia is hereby amended to read as follows:

6 "Section 511. Jurisdiction of Courts.

7 *(1) The High Court of the Trust Territory of the*  
8 *Pacific Islands shall have exclusive jurisdiction over any*  
9 *case or controversy arising under this title until the*  
10 *establishment of the Supreme Court of the Federated States*  
11 *of Micronesia, when the Supreme Court of the Federated*  
12 *States of Micronesia shall have exclusive jurisdiction over*  
13 *any case or controversy arising under this title.*

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

19 Section 46. Section 512 of title 24 of the Code of the  
20 Federated States of Micronesia is hereby amended to read as follows:

21 "Section 512. Enforcement responsibility.

22 *(1) Primary responsibility for the enforcement of*  
23 *this title shall be assumed by the The Office of the*  
24 *Attorney General of the ~~Government of the~~ Federated States of*  
25 *Micronesia has primary responsibility for the enforcement*



1 of this title, and may authorize other entities, officials  
 2 or persons to perform enforcement functions <sup>3</sup> with respect to  
 3 the fishery zones of the Federated States of Micronesia.

4 (2) The Attorney General of the Trust Territory  
 5 Government will be apprised of all enforcement actions  
 6 taken and the progress thereon in an expeditious manner.

7 (3) Communications with foreign governments in  
 8 connection with enforcement actions will be in accordance  
 9 with Department of Interior Order No. 10039.

10 (4) Enforcement policies and decisions will be made  
 11 in consultation with the Attorney General of the Trust  
 12 Territory of the Pacific Islands.

13 (5) The Attorney General of the Federated States of  
 14 Micronesia may, from time to time, seek enforcement  
 15 assistance from the United States Government and from the  
 16 Government of the Trust Territory of the Pacific Islands."

17 Section 47. Section 513 of title 24 of the Code of the  
 18 Federated States of Micronesia is hereby amended to read as follows:

19 "Section 513. Enforcement authority. Any officer who is  
 20 authorized and appointed by the Attorney General to enforce  
 21 the provisions of this title may:

22 (1) with or without a warrant or other process:

23 (a) arrest any person, if he has reasonable  
 24 cause to believe that such person has committed an act  
 25 prohibited by section 301 of this chapter.

1 (b) board and search or inspect any fishing  
2 vessel which is subject to the provisions of this title;

3 (c) seize any fishing vessel used or employed  
4 in, or when it reasonably appears that such vessel was used  
5 or employed in, the violation of any provision of this  
6 title;

7 (d) seize any fishing gear, furniture,  
8 appurtenances, stores, cargo, and fish in the possession of  
9 a fishing vessel seized pursuant to authority granted by  
10 paragraph (c) of this subsection; and

11 (e) seize any other evidence related to any  
12 violation of any provision of this title;

13 (1) For the purpose of ascertaining whether there is  
14 or has been any contravention of the provisions of this  
15 title or any regulations passed thereunder, any authorized  
16 officer may:

17 (a) Upon the issuance of a warrant, at all  
18 reasonable hours, enter any fish processing establishment  
19 and any premises other than premises used exclusively as a  
20 dwelling-house;

21 (b) Stop, board and search:

22 (i) Any foreign or domestic-based fishing  
23 vessel within the fishery waters, or

24 (ii) Any domestic fishing vessel, inside or  
25 outside the fishery waters;

1                   (c) Stop and search any vessel or vehicle  
2                   transporting, or reasonably suspected of transporting, fish  
3                   or fish products;

4                   (d) Make such examination and inquiry as may  
5                   appear necessary to him concerning any premises, fish  
6                   processing establishment, vessel or vehicle in relation to  
7                   which any of the powers conferred by this section have  
8                   been, or may be exercised and take samples of any fish, or  
9                   fish products, found therein;

10                  (e) Require any person to produce his permit or  
11                  his authority if it appears to the authorized officer that  
12                  such person is doing any act for which a permit or other  
13                  authority is required under this title and take copies of  
14                  any such license or other authority;

15                  (f) Require any person to produce any logbook,  
16                  record or other document required to be held by him under  
17                  this title or any regulations made under this title and  
18                  take copies of such logbook, record or other document.

19                  (2) Where he has reasonable cause to believe that an  
20                  offense against the provisions of this title or any  
21                  regulations made under this title has been committed, any  
22                  authorized officer may, with or without a warrant or other  
23                  process:

24                  (a) Following hot pursuit in accordance with  
25                  international law and commenced within the fishery waters,

stop, board and search inside or outside the fishery waters  
any fishing vessel which he believes has been used in the  
commission of that offense within the fishery waters or in  
relation to which he believes such offense has been  
committed and bring such vessel and all persons and things  
on board within the fishery waters;

(b) Within the fishery waters:

(i) Arrest any person if he has reasonable  
cause to believe that such person has committed an offense  
prohibited by this title or any regulations issued under  
this title;

(ii) Seize any fishing vessel used or  
employed in, or when it reasonably appears to have been  
used or employed in, the violation of any provision of this  
title or any regulations issued under this title;

(iii) Seize any fishing gear, furniture,  
appurtenances, stores, cargo, and fish in or on a fishing  
vessel seized pursuant to this section; and

(iv) Seize any fish which he reasonably  
believes to have been taken or fish products produced in  
violation of any provision of this title or any regulations  
issued under this title.

(23) Any authorized officer may execute any warrant or  
other process issued by any court of competent  
jurisdiction/ and.

1 (4) Where following the commission of an offense  
2 under this title by a foreign fishing vessel, that vessel  
3 is pursued beyond the limits of the fishery waters, the  
4 powers conferred on authorized officers under this section  
5 shall be exercisable beyond the limits of the fishery  
6 waters in accordance with international law.  
7 (b5) Any authorized officer may exercise any other  
8 lawful authority for the enforcement of this title and any  
9 regulations issued under this title."  
10 Section 48. Title 24 of the Code of the Federated States of  
11 Micronesia is hereby further amended by adding a new section 515 to  
12 read as follows:  
13 "Section 515. Presumption of location of fishing. Where,  
14 in any legal proceedings instituted under this title or any  
15 regulations issued under this title, the place in which an  
16 event is alleged to have taken place is in issue, the place  
17 stated in a copy of the relevant entry in the logbook or  
18 other official record of an enforcement vessel or aircraft  
19 as being the place in which the event took place shall be  
20 presumed to be the place in which the event took place,  
21 unless the contrary is proved."  
22 Section 49. Title 24 of the Code of the Federated States of  
23 Micronesia is hereby further amended by adding a new section 516 to  
24 read as follows:  
25 "Section 516. Immunities. No action shall lie against the

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C. B. No. 6-61

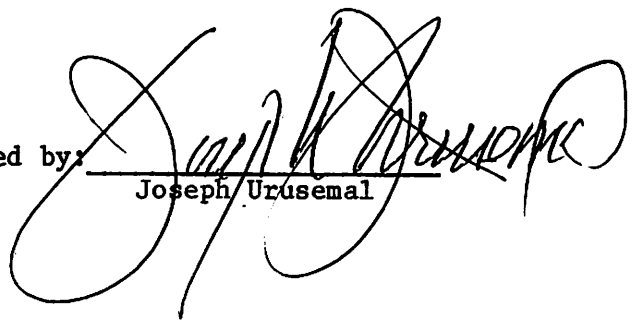
1 Authority, any authorized officer or observer, or any other  
2 person appointed pursuant to this title in respect of  
3 anything done or omitted to be done by him in good faith in  
4 the execution or purported execution of his powers and  
5 duties under this title or regulations issued under this  
6 title."

7 Section 50. Nothing in this act shall be construed to require  
8 changes in foreign fishing agreements in effect on the day preceding  
9 the effective date of this act nor shall this act impose any added  
10 burdens on any person or vessel fishing in the exclusive economic  
11 zone pursuant to such agreements.

12 Section 51. This act shall take effect 30 days after the day on  
13 which the act shall have become law.

14 Section 52. This act shall become law upon approval by the  
15 President of the Federated States of Micronesia or upon its becoming  
16 law without such approval.

17  
18 Date: 6/6/89

Introduced by:   
Joseph Urusemal

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