To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by repealing chapters 1 through 5 in their entirety, and enacting new chapters 1 through 5; by renumbering chapters 6 and 7 as chapters 9 and 10 respectively; by enacting new chapters 6 through 8; to establish the Marine Resources Act of 1999; and for other purposes.

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

Section 1. Chapters 1 through 5 of title 24 of the Code of the Federated States of Micronesia, as amended, are hereby repealed in their entirety.

Section 2. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new chapter 1 entitled "General Provisions".

Section 3. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 101 of chapter 1 to read as follows:

"Section 101. Purpose of this chapter. The purpose of this chapter is to ensure the sustainable development and use of the marine resources in the exclusive economic zone by encouraging development of, and investment in, fishing and related activities in the context of effective stewardship."

Section 4. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 102 of chapter 1 to read as follows:

"Section 102. Definitions. In this chapter, 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 or domestic-based fishing
vessels, and includes bilateral and multilateral
instruments applicable at the national, sub-regional,
regional or international level.

(2) 'Administrator' means the director of a regional
fisheries agency or any other organization or person
authorized, pursuant to section 108 of chapter 1 of this
title, 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 title.

(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 Ngulu, Ulithi, Sorol, Fauripik, Woleai,
Paraulep, Ifalik, Olaimarao, Elato, Lamotrek, West Fayu.
Puluwat, Pulap, Pulusuk, Namonuito, Kucp, Nomowin,
Murilo, Losap, Namolu, Satawan, Etal, Lukunor, Minto
Reef, Oroluk, Nukuoro, Kapingamarangi, Pakin, Ant,
Sapwuahfik, Mwoakililo and Pingleap.

(6) 'Authority' means the Micronesian Maritime
Authority established by section 201 of chapter 2 of this
title.

(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 title, 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 502 of chapter
5 of this title as an authorized officer.

(9) 'Based in the Federated States of Micronesia' means
using land-based facilities in the Federated States of
Micronesia to support fishing, including location of the
home port of a vessel in the Federated States of
Micronesia, landing or transshipping all fish harvested
within the exclusive economic zone and/or operating under
a joint venture arrangement in the Federated States of
Micronesia, or under arrangements where the operator of a
vessel is participating in shore-based developments or is
otherwise making a substantial contribution to the
presumed to be commercial fishing.

purposes of this act, use of the following shall be

and does not include subsistence fishing. For the

any fish which may be taken during the fishing operation.

intending or appearing to result in selling or trading

fishing is prohibited.

closed season means a period of time during which

fished.

person who is not a citizen of the Federated States of Micronesia, and "non-citizen", means a

Federated States of Micronesia, and "citizen", means a person who is a citizen of the

person, and "buyer", shall have a corresponding meaning.

purchase or barter as an agent for another

Consideration of Value, and

purchase or barter for future goods or for any

account or consideration.

purchase or attempt to purchase;

(b) barter or attempt to barter;

(10) "Buy", includes:

development of the domestic tuna industry.
(c) any vessel selling its services for sport fishing.

(14) '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.

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

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

(17) 'Domestic based access agreement' means an agreement between the Government of the Federated States of Micronesia and one or more persons to permit domestic-based fishing within the exclusive economic zone.

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

(19) '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.

(20) '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.

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

(22) '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 subsection (a) or (b):

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

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

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

(24) '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.
(25) '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.

(26) 'Fisheries management agreement' means any agreement, arrangement or treaty in force to which the Federated States of Micronesia is party which has as its 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, but which does not include any access agreement.

(27) '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.

(28) '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 within the jurisdiction
of the Federated States of Micronesia.

(29) '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
paragraph except for operations defined as related
activities in subsection (30) of this section; and

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

(30) '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.

(31) '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.

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

(33) 'Foreign fishing vessel' means any fishing vessel other than a local fishing vessel.

(34) 'Foreign party' means a non-citizen party to an access agreement or a party to an access agreement that is at least twenty percent foreign-owned.

(35) 'Foreign recreational fishing' means fishing using a foreign fishing vessel for recreational or sport purposes.

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

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

(38) '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.

(39) 'Master' in relation to any fishing vessel means
the person in charge or apparently in charge of that
vessel.

(40) '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 party.

(41) '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 or of one of the four
State Governments or whether or not such vessel or
aircraft is registered in one of the four States.

(42) '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.

(43) '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
is the owner jointly with any other person or persons and
any manager, director or secretary of any corporate body
or company.

(44) 'Permit' means any permit issued under this title
or an access agreement entered into pursuant to this
title.

(45) 'Person' means any natural person or business
enterprise and includes, but is not limited to, a
corporation, partnership, cooperative, association, the
Government of the Federated States of Micronesia, the
Government of any of the four States, or any political
subdivision thereof, and any foreign government,
subdivision of such government or other entity.

(46) 'Recreational fishing' means non-commercial fishing
for leisure or relaxation and may include sport fishing.

(47) 'Region' means that area of land and ocean which
falls within the jurisdiction and sovereign rights of the
member countries of the South Pacific Forum Fisheries
Agency, whose headquarters are located in Honiara,
Solomon Islands, and includes high seas areas within such
area, and for the purposes of data collection also means
that area of the Western and Central Pacific Ocean which
falls within the jurisdiction and sovereign rights of the
member countries of the South Pacific Commission located
in Noumea, New Caledonia, and 'regional' shall have a

(p8) '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.

(p9) 'Regulation' or 'Regulations' means any regulation
which may be promulgated by the Authority pursuant to
this act.

(p50) 'Related activities' in relation to fishing means:

(a) transshipment;

(b) refueling or supplying fishing boats 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.

(p51) 'Secretary' means the Secretary of the Department
of Justice.
(52) 'Sell' includes exchanging any fish or fish product
or other thing for cash or for anything which has value
or which can be exchanged for cash, and bartering.

(53) '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.

(54) '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 selling
or trading any fish which may be taken during the fishing
operations.

(55) '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.

(56) 'United Nations Agreement' means the agreement for
the implementation of the provisions of the United
1992 relating to the conservation and management of
straddling fish stocks and highly migratory fish stocks.

(57) 'United Nations Convention' means the United
(58) 'Vehicle' means any car, truck, van, bus, trailer or other powered land conveyance.

(59) 'Vessel' means any boat, ship, canoe or other water going craft."

Section 5. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 103 of chapter 1 to read as follows:

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

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

(2) a valid and applicable license issued by an administrator pursuant to a multilateral access agreement entered into pursuant to section 107 of chapter 1 of this title."

Section 6. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 104 of chapter 1 to read as follows:

"Section 104. Fishing permits required - non-commercial. No scientific research, training or foreign recreational fishing is permitted in the exclusive economic zone unless it is in accordance with a valid and applicable
permit issued by the Authority on such terms and
conditions as it shall require."

Section 7. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 105 of chapter 1 to read as follows:

"Section 105. Related activities. No related activities
are permitted in the exclusive economic zone unless any
such activity is in accordance with this title, and such
conditions as may be required in writing by the Authority
or prescribed by regulation."

Section 8. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 106 of chapter 1 to read as follows:

"Section 106. Authority may enter into access
agreements. The Authority is authorized to negotiate and
enter into access agreements on behalf of the Government
of the Federated States of Micronesia in accordance with
this title. Such agreements may, at the Authority's
discretion, include provisions, inter alia, to:

(1) rebate such access fees, in accordance with section
402(2) of this title, as the Authority deems appropriate
at the end of the licensing period where the operator of
any applicable vessel participated in shore-based
developments or otherwise made a substantial contribution
to the development of the fishing industry of the
Federated States of Micronesia; and

(2) issue permits valid for up to one year in accordance with this title and an applicable access agreement."

Section 9. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 107 of chapter 1 to read as follows:

"Section 107. Authority may enter into fisheries management agreements.

(1) Notwithstanding any other provision of this title, the Authority is authorized to enter into fisheries management agreements. Such agreements may, at the Authority's discretion, include the following provisions, inter alia:

(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) fisheries monitoring and control; and

(d) 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 title 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:

(i) enforce the provisions of this title and any fisheries access agreement or fisheries management agreement on behalf of the Federated States of Micronesia; and

(ii) 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 citizens and operators of fishing vessels registered in the Federated States of Micronesia
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) Standing in the Supreme Court of Micronesia shall be afforded to any authorized officer or authorized observer designated under a fisheries management agreement entered into pursuant to subsection (1)(b) or (c) of this section to bring action against any person or fishing vessel for any act or offense that is actionable under the laws of the Federated States of Micronesia or is a violation of an access agreement or fisheries management agreement pursuant to which the observer was authorized which has occurred in the exclusive economic zone or the high seas, notwithstanding the nationality of the observer."

Section 10. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 108 of chapter 1 to read as follows:

"Section 108. Conservation, management and sustainable use of the fishery resources.

(1) The Authority shall ensure the long-term conservation and sustainable use of the fishery resources, and to this end shall adopt management measures which promote the objective of optimum
utilization.

(2) The Authority shall ensure that such management measures are based on the best scientific evidence available and designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, and taking into account fishing patterns, the interdependence of stocks and generally recommended international minimum standards.

(3) The Authority shall apply the precautionary approach at no less standard than set by criteria in the United Nations Agreement or any other fisheries management agreement.

(4) The Authority shall, as appropriate, adopt and apply the following general principles in relation to fisheries management:

(a) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;

(b) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their
reproduction may become seriously threatened;
(c) minimize pollution, waste, discards, by-catch, 
lost or abandoned gear, catch of non-target species and 
impacts on associated or dependent species, in particular 
edged species, through measures including, to the 
extent practical, the development and use of selective, 
environmentally safe and cost-effective fishing gear and 
techniques;
(d) protect biodiversity in the marine 
environment;
(e) take measures to prevent or eliminate over 
fishing and excess fishing capacity and to ensure that 
levels of fishing effort do not exceed those commensurate 
with the sustainable use of fishery resources;
(f) take into account the interests of artisanal 
and subsistence fishermen;
(g) collect and share, in a timely manner and in 
accordance with fisheries management agreements and 
international law, complete and accurate data concerning 
fishing activities on, inter alia, vessel position, catch 
of target and non-target species and fishing effort, as 
well as information from national and international 
research programs;
(h) promote and conduct scientific research and 
develop appropriate technologies in support of fishery
conservation and management;

(ii) implement and enforce conservation and
management measures through effective monitoring and
control and through support for and collaboration with
the FSM maritime surveillance program.

(5) The Authority may determine the total allowable
level of fishing with respect to any stock of fish
subject to the provisions of this title or as provided in
a fisheries management agreement entered into in
accordance with this title, and in so doing shall take
into account the requirements in subsections (1) through
(4) of this section.

(6) The Authority may determine participatory rights in
the fishery, such as allocations of allowable catch or
levels of fishing effort. Allocations of such
participatory rights:

(a) shall be made first to domestic fishing
vessels, then to domestic based fishing vessels or
vessels fishing pursuant to a fisheries management
agreement, with any remaining allocations to foreign
fishing vessels;

(b) may include restrictions as to vessel type,
gear type, seasons of operations, areas in which the
fishing can take place, or any other restriction relevant
to fisheries conservation and management.
(7) The Authority shall, in respect of highly migratory fish stocks which occur both in the exclusive economic zone and in the high seas, and without prejudice to the sovereign rights of the Federated States of Micronesia within its exclusive economic zone, have authority to cooperate with foreign States fishing on the high seas in respect of such stocks for the purpose of achieving compatible conservation and management measures in accordance with the United Nations Agreement, and in so doing shall take into account:

(a) the conservation and management measures adopted and applied in the exclusive economic zone, and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;

(b) previously agreed measures established and applied for the high seas in accordance with the United Nations Convention with respect to the same stocks by Federated States of Micronesia and foreign States fishing on the high seas;

(c) previously agreed measures established and applied in accordance with the United Nations Convention with respect to the same stocks by a sub-regional or regional fisheries management organization or arrangement:
(d) the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographic particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(e) the respective dependence of the Federated States of Micronesia's and the foreign states' fishing on the high seas on the stocks concerned;

(f) that such measures do not result in harmful impact on the living marine resources as a whole."

Section 11. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 109 of chapter 1 to read as follows:

"Section 109. Application for permit - Contents.

(1) Each person entitled to apply for a permit under this title shall make application on such forms as may be required by the Authority specifying, inter alia:

(a) the name, call sign, country of registration, country of registration number, regional register number, name and address of the operator, name of the vessel master, bank reference number;

(b) the tonnage, capacity, gear type, processing equipment and such other pertinent information with respect to the characteristics of each vessel as the
Authority may require; and

(c) if applicable, the access agreement under

which such permit is sought.

(2) The Authority may require such additional

information for permit applications as may be necessary

to implement and enforce the provisions of this title."

Section 12. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 110 of chapter 1 to read as follows:

"Section 110. Application for permit - Review. The

Executive Director, or his designee, shall review each
,application submitted pursuant to section 109 of this
,title, and may, in his discretion, solicit views from

appropriate persons in the States and hold public

hearings where necessary."

Section 13. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 111 of chapter 1 to read as follows:

"Section 111. Permit issuance and denial.

(1) The Executive Director shall notify the applicant

of the decision to issue or deny a permit within a

reasonable time of the date of receipt of the

application.

(2) The Executive Director may approve the application

on such terms and conditions and with such restrictions
as he or she deems appropriate.

(3) A permit, or its renewal, may be denied where:

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

(b) the Executive Director is satisfied that information required to be given or reported under this title is false, incomplete or misleading;

(c) the owner or charterer is the subject of proceedings under the bankruptcy laws of any jurisdiction or on reasonable grounds appears unable to meet any financial obligations which could arise from fishing activities and reasonable financial assurances determined by the Authority have not been provided;

(d) the fishing vessel does not meet required safety standards;

(e) the fishing vessel does not bear the required markings;

(f) an operator of the vessel has contravened or has committed an offense against the laws of the Federated States of Micronesia, or the vessel has been used for contravention of an access agreement; or

(g) the Executive Director determines that the issuance of a permit would not be in the best interests of the Federated States of Micronesia.

(4) A permit shall be denied:
(a) where the application is made in respect of a
foreign fishing vessel, and such vessel does not have
good standing on the Regional Register of Foreign Fishing
Vessels maintained by the South Pacific Forum Fisheries
Agency;

(b) where there has been a failure to satisfy a
judgment or other final determination for breach of this
title or an access or fisheries management agreement
entered into pursuant to this title by the operator of
the vessel with respect to which application for a permit
has been made, until such time as the judgment or other
determination is satisfied, and provided that a
subsequent change in ownership of a vessel shall not
affect the application of this provision;

(c) where the Executive Director determines it
would be inconsistent with management measures
implemented in accordance with this title;

(d) where the required fees, royalties or other
forms of compensation have not been paid in accordance
with this title and an applicable access agreement;

(e) where the Executive Director determines that
insurance requirements of this title and the applicable
access agreement are not fulfilled;

(f) authorizing fishing by fishing vessels on,
over or within one nautical mile of the edge of a coral
reef that is wholly submerged at mean high tide within
the exclusive economic zone, where:

(i) the Executive Director has submitted a
copy of the application to the FSM State whose customary
inhabitants have been traditionally ascribed the
authority to control the fishing over such reef; and

(ii) within thirty (30) days of such
submission, the Governor of the concerned FSM State, on
behalf of either the State Government or the State's
customary or traditional leadership, has communicated in
writing to the Executive Director its objection to the
issuance of the permit with respect to the reef or reefs
traditionally ascribed to its customary inhabitants.

(5) No permit shall be issued:

(a) authorizing fishing by foreign or domestic-
based vessels on, over or within one nautical mile of the
edge of a coral reef that is wholly submerged at mean
high tide within the exclusive economic zone;

(b) authorizing fishing using a drift net or other
substantially similar method of catching fish;

(c) authorizing drift net fishing activities.

(6) If the Executive Director denies an application
submitted by an applicant, the Authority shall notify
such applicant of the denial and the reasons therefor.
The applicant may then submit a revised application
taking into consideration the reasons for disapproval.

The decision of the Executive Director will then be final and binding."

Section 14. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 112 of chapter 1 to read as follows:

"Section 112. Suspension, revocation or imposition of conditions or restrictions on a permit. If any fishing vessel for which a permit has been issued, pursuant to section 111 of this title has been used in the commission of any act prohibited by this title or other applicable law, an applicable access agreement, or any permit issued in accordance with this title, or if any fee or civil penalty, criminal fine or other determination imposed under this title has not been paid within thirty (30) days of the due date, the Executive Director shall:

(1) revoke such permit with or without prejudice to the right of any party involved to be issued a permit for such vessel in any subsequent licensing period;

(2) suspend such permit for a period of time it may deem appropriate; or

(3) impose additional conditions or restrictions on any such permit."

Section 15. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new
section 113 of chapter 1 to read as follows:

"Section 113. Permits — Period of validity.

(1) Subject to subsection (2) of this section, every permit issued or renewed under this title shall, unless earlier canceled or suspended in accordance with this title, be valid for a period of one year, or such lesser period as may be specified, and shall not extend beyond the period of validity of an applicable charter agreement or access agreement.

(2) A permit issued or renewed under this title shall only be valid for the species of fish, the type of fishing gear or method of fishing, or such other activity in accordance with this title, as may be specified in the permit.

(3) Where a fishing vessel which is issued a permit as a local fishing vessel or a domestic-based fishing vessel becomes a foreign fishing vessel, the permit shall automatically terminate.

(4) A permit issued under this title may provide that it is transferable in accordance with such conditions as may be prescribed by regulation."

Section 16. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 114 of chapter 1 to read as follows:

"Section 114. Fees and charges."
(1) There shall be payable with respect to every permit issued under this title fees, royalties or other forms of compensation.

(2) The Authority shall determine the fees, royalties or other forms of compensation for permits, and other charges it may require in relation to fishing or related activities including, inter alia, for observers.

(3) In determining the fees for marine scientific research, the Authority shall take into account a research plan submitted by the applicant, and the long term value of such research to the management and development of any fishery in the exclusive economic zone.

(4) No permit shall be issued pursuant to this title unless the requisite fees, royalties, charges and other forms of compensation have been paid in accordance with this title and an applicable access agreement."

Section 17. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 115 of chapter 1 to read as follows:

"Section 115. Division of fees received as goods and services. In the case of fees paid as goods and services, the Authority shall submit a proposed division of such goods and services to the Congress of the Federated States of Micronesia for its approval by
resolution while in session, and by the Committee on Ways
and Means of the Congress of the Federated States of
Micronesia between sessions. If the Congress does not
approve or disapprove a division of such goods and
services within sixty (60) days of the submission of a
proposed division of such fees by the Authority, the
proposed division shall be deemed approved.”

Section 18. Title 24 of the Code of the Federated States
of Micronesia, as amended, is hereby further amended by adding a new
section 116 of chapter 1 to read as follows:

"Section 116. Reporting requirements.

(1) The operator of each foreign and domestic-based
fishing vessel issued a permit or which is permitted to
fish pursuant to an access agreement referred to in
section 107 of this title shall:

(a) at all times while the vessel is in the
exclusive economic zone, cause to be maintained in the
English language, in ink, a fishing log in a form
supplied or approved by the Authority, and shall enter
the following information relating to the activities of
the vessel on a daily basis:

(i) the gear type used;

(ii) the noon position of the vessel and,

where applicable, the set position and time or the number
of hooks and sea surface temperature;"
(iii) the species of fish taken and the size
and quantity of each species by weight or number as may
be specified in the form;

(iv) the species of fish returned from the
vessel to the sea, the reason for discard, the quantity
of each species by weight or number as may be specified
in the form; and

(v) such other information as the Authority
may require or prescribe by regulation, or as may be
required by an applicable access agreement or fisheries
management agreement;

(b) report information in a format approved or
supplied by the Authority, by telex or facsimile relating
to the position of, and catch on board, the vessel at the
following times:

(i) at least twenty-four (24) hours prior to
the estimated time of entry into and departure from the
exclusive economic zone;

(ii) each Wednesday while in the exclusive
economic zone;

(iii) at least twenty-four (24) hours prior to
the estimated time of entry into or departure from port;
and

(iv) upon entry and departure from a closed
area;
(c) provide such daily information relating to high seas fishing during the course of a fishing trip involving fishing in the exclusive economic zone as, and in the form, the Authority may require pursuant to any fisheries management agreement and to give effect to the duty in international law to cooperate in the conservation and management of highly migratory fish stocks; and

(d) certify that information provided pursuant to subparagraphs (a) through (c) of subsection (1) of this section is true, complete and accurate.

(2) The operator referred to in subsection (1) of this section shall provide reports required under subparagraphs (a) and (c) of subsection (1) of this section and post the requisite forms to the Authority by registered airmail within fourteen days following the date of completion of the off-loading operation, or within seven (7) days of the end of each calendar month's activities, and within seven (7) days of entry of the vessel into port at the completion of a trip lasting longer than fourteen (14) days.

(3) The Authority may require, by written notice or regulation, such other reports as may be necessary for the conservation and management of marine resources, including for related activities, and to implement or
enforce the provisions of this title and any access
agreement or fisheries management agreement."

Section 19. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 117 of chapter 1 to read as follows:

"Section 117. Related activities. The Authority may by
regulation require permits for, or otherwise regulate,
related activities which take place in the exclusive
economic zone and, with respect to related activities by
foreign fishing vessels which occur in the territorial
sea or internal waters, may authorize in writing, FSM
States to issue the relevant permits."

Section 20. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 118 of chapter 1 to read as follows:

"Section 118. Authority may issue State permits. Upon
delegation by an FSM State of its authority to issue any
permit or permits for fishing in the territorial sea or
internal waters, the Authority may issue such permit or
permits and collect fees for fishing in such waters, and
shall transfer any such fees collected to that State."

Section 21. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 119 of chapter 1 to read as follows:

"Section 119. Authority may appoint authorized
observers. The Executive Director may appoint, in
writing, any person or class of persons to be an
authorized observer for the purposes of this title, any
access agreement or any fisheries management agreement."

Section 22. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 120 of chapter 1 to read as follows:

"Section 120. Information and documentation to be true,
complete and accurate.

(1) Every person shall promptly give any information
required under this title, including records of any kind
and information requested by an authorized officer or
other officer or official carrying out duties under this
title.

(2) Any information required under this title shall be
true, complete and accurate, and the Executive Director
shall be notified immediately of any change in
circumstances which has the effect of rendering any such
information or documentation false, incomplete or
misleading.

(3) Any permit, registration or other document required
to be obtained under this title shall be obtained and
held in its original, complete and accurate form as
required under this title, and no such document shall be
altered after its issuance or used by any person other
than its legal holder."

Section 23. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 121 of chapter 1 to read as follows:

"Section 121. Violation of marine space. No person shall use a vessel for entering or remaining within the exclusive economic zone in violation of any provision of this title or any other law of the Federated States of Micronesia, unless the vessel is entering for innocent passage or force majeure in accordance with international law."

Section 24. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 122 of chapter 1 to read as follows:

"Section 122. Damage to fishing vessel or gear. No person shall recklessly, knowingly or intentionally take, damage or destroy any fish, fishing vessel or fishing gear belonging to another person."

Section 25. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 123 of chapter 1 to read as follows:

"Section 123. Fish samples. Any person in possession or apparent possession of any fish or fish products shall, when requested by any authorized officer or authorized observer to take fish samples, immediately give such
reasonable samples as may be required for the purposes of
this title without payment of any kind for such samples."

Section 26. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 124 of chapter 1 to read as follows:

"Section 124. Contamination of the exclusive economic
zone."

(1) No person shall, directly or indirectly,
contaminate the exclusive economic zone in any way,
including by the discharge of any substance or by any act
or omission that is likely to cause damage to, or
deterioration in, the quality of the marine resources.

(2) For the purposes of this section, the following is
presumed to be damaging:

(a) non-biodegradable trash or debris;

(b) the discharge of a poison, chemical or noxious
substance, including, but not limited to, oil, petroleum,
solvents, metals or sewage."

Section 27. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 125 of chapter 1 to read as follows:

"Section 125. Liability of operator. In any proceedings
under this title, the act or omission of any crew member
of a fishing vessel or in association with a fishing
vessel, shall be deemed to be that of the operator of
that fishing vessel."

Section 28. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 126 of chapter 1 to read as follows:

"Section 126. Civil liability of officers of companies.

(1) Except as further provided in this section, each officer of a partnership, corporation, firm, company or any other business enterprise engaged in activities governed by this title shall be personally liable for any violation of, or offense committed under this title, by any member or employee.

(2) It shall be an affirmative defense to liability under this section for the officer to prove by a preponderance of the evidence, that he or she used due diligence to secure compliance with the title or that the violation or offense was committed without that officer's knowledge, consent, collusion or collaboration."

Section 29. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 127 of chapter 1 to read as follows:

"Section 127. Application of other laws. No permit issued under this title shall relieve any fishing vessel or its operator or crew of any obligation or requirement imposed by other laws, including those concerning navigation, customs, immigration or health, unless so
indicated in those laws."

Section 30. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 128 of chapter 1 to read as follows:

"Section 128. Application of laws of foreign States.

(1) It shall be unlawful for any person to import, export, transport, sell, receive, acquire or purchase any fish or fish product taken, possessed, transported or sold in violation of any law or regulation of a foreign State upon implementation, on a reciprocal basis, of a fisheries management agreement between the Government of the Federated States of Micronesia and such other foreign State or States, in which such activities are agreed to be unlawful.

(2) The Authority shall implement the fisheries management agreement described in subsection (1) of this section by regulation, and may require, inter alia, record keeping and reporting for each day of fishing activity, whether the fishing took place in the jurisdiction of the fishery waters or not."

Section 31. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended, by adding a new section 129 of chapter 1 to read as follows:

"Section 129. Severability. If any provision of this title or amendments or additions thereto, or the
application thereof to any person, thing or circumstance

is held invalid, the invalidity does not affect the

provisions, application, amendments or additions that can

be given effect without the invalid provisions or

application, and to this end the provisions of this title

and the amendments or additions thereto are severable."

Section 32. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
chapter 2 entitled "Management Authority".

Section 33. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 201 of chapter 2 to read as follows:

"Section 201. Micronesian Maritime Authority -

Established.

(1) There is established a Micronesian Maritime
Authority composed of six members appointed as follows:

(a) one representative of each FSM State appointed

by the President of the Federated States of Micronesia,
in consultation with the Governor and Congressional
Delegation of the affected State; PROVIDED, however, that
no such representative shall also serve as a member of
the Board of Directors of the National Fisheries
Corporation of the Federated States of Micronesia, or any
subsidiary or affiliate thereof, during the term of his
membership on the Authority;
(b) one representative of fisheries interests from the private sector appointed by the President of the Federated States of Micronesia; PROVIDED, however, that no such representative shall also serve as a member of the Board of Directors of the National Fisheries Corporation of the Federated States of Micronesia, or any subsidiary or affiliate thereof, during the term of his membership on the Authority; and

(c) one at-large member appointed by the President of the Federated States of Micronesia.

(2) All appointments shall be for a term of two years. The term of office of each original member shall commence effective from the date of the first meeting of the Authority after the effective date of this title. Upon the expiration of the term of an appointed member, his or her rights and powers of membership shall lapse and the executive director shall declare the vacancy and notify the President of the Federated States of Micronesia in writing of such vacancy. Vacancies occurring before the expiration of a member's term shall be filled in the same manner as the original appointment for the remainder of the term of office of the vacancy.

(3) The chairman shall be chosen by a majority vote of the members of the Authority. The Authority shall meet at such time and place as may be designated by the
Chairman or by the Authority. The Authority shall adopt
its own rules of procedure and regulations by majority
vote."

Section 34. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 202 of chapter 2 to read as follows:

"Section 202. Authority - Regulations.

(1) The Authority shall have the authority to:

(a) adopt regulations for the management,

development and sustainable use of fish in the exclusive
economic zone;

(b) conclude and implement access agreements and

fisheries management agreements in accordance with
sections 107 and 108 of this title;

(c) issue fishing permits in accordance with this
title and any regulations it may prescribe;

(d) adopt regulations in relation to, and

otherwise manage, related activities in accordance with
this title;

(e) participate in the planning and execution 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 proprietary
interest, direct or indirect, by way of stock ownership."
partnership, joint venture or otherwise;
(f) cooperate as appropriate with other coastal
States in the region and foreign States fishing in the
region and adjacent high seas for the conservation and
management of highly migratory fish stocks;
(g) adopt regulations in relation to fisheries
monitoring and control;
(h) adopt regulations to implement access
agreements and fisheries management agreements;
(i) adopt regulations relating to compliance by
citizens and fishing vessels of the Federated States of
Micronesia which engage in fishing outside the internal
waters, territorial sea or exclusive economic zone of the
Federated States of Micronesia with applicable laws of
foreign States or regional fisheries management
organizations and applicable access agreements or
fisheries management agreements.
(2) Regulations adopted by the Authority shall have the
full force and effect of law, and shall be considered an
integral part of this title."
Section 35. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 203 of chapter 2 to read as follows:
"Section 203. Duties and functions. In addition to the
authority granted in the preceding section, the Authority
shall have duties and functions to:

(1) provide technical assistance in the delimitation of the exclusive economic zone in accordance with section 107 of title 13;

(2) negotiate access agreements and fisheries management agreements in accordance with sections 107 and 108 of chapter 1 of this title;

(3) implement by regulation or otherwise as appropriate access agreements or fisheries management agreements to which the Federated States of Micronesia is a party;

(4) issue permits for fishing in the territorial sea or internal waters of an FSM State as authorized pursuant to section 119 of chapter 1 of this title;

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

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

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

(8) perform such other duties and functions as may be necessary to carry out the purpose of this title."
Section 36. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 204 of chapter 2 to read as follows:

"Section 204. Executive director. The Authority shall employ a full-time executive director possessing such qualifications as may be established by the Authority. The Authority may employ such other staff as it may deem necessary."

Section 37. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 205 of chapter 2 to read as follows:

"Section 205. Compensation.

(1) Members of the Authority who are neither employees nor officials of the Government of the Federated States of Micronesia or any FSM State Government shall be compensated at such rate as may be set in the Rules of the Authority when actually on the business of the Authority.

(2) All members of the Authority, including members who are employees or officials of the Government of the Federated States of Micronesia or of any FSM State Government, shall receive per diem and travel expenses at established Federated States of Micronesia rates while on the business of the Authority.

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

Section 38. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 206 of chapter 2 to read as follows:

"Section 206. Annual report. The Chairman of the
Authority shall report on its activities to the President
of the Federated States of Micronesia, the Speaker of the
Congress of the Federated States of Micronesia, and each
FSM State Governor by December 1 of each year, which
report shall contain a detailed accounting of the
expenditure of funds of the Authority, the number of
permits and licenses issued, the fees, forfeitures and
fines collected, estimates of the effect of the current
level of fishing on the stock of fish in the exclusive
economic zone, and such other information regarding the
implementation of this title in the preceding fiscal year
as the Authority may determine. All departments and
offices of the FSM National Government shall be provided
copies of the annual report."

Section 39. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new chapter 3 entitled "Domestic Fishing".

Section 40. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 301 of chapter 3 to read as follows:

"Section 301. Permits for domestic fishing vessels. The Authority may require each domestic fishing vessel to hold a valid and applicable permit for the following activities, in addition to the requirements in section 104 of chapter 1 of this title, under such terms and conditions as may be prescribed by regulation or otherwise required by the Authority:

(1) fishing on the high seas or in an area designated by a fisheries management agreement; and

(2) fishing within areas under the national jurisdiction of foreign States."

Section 41. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 302 of chapter 3 to read as follows:

"Section 302. Registration fee for domestic fishing vessels. The executive director may issue a permit to each domestic fishing vessel in accordance with this title, after:
(1) an application has been made in such form as may be
required by the Authority; and

(2) such registration fee as the Authority shall
require is paid."

Section 42. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 303 of chapter 3 to read as follows:

"Section 303. Allocation of allowable fishing between
domestic fishing vessels. The Authority shall allocate
that portion of the optimum sustainable yield allocated
to domestic fishing vessels among domestic fishing
vessels, if it determines that unrestricted fishing by
domestic fishing vessels would result in a catch level
exceeding the optimum sustainable yield. In determining
the allocation, the Authority shall take into
consideration the extent to which each vessel or operator
of such vessel:

(1) has historically fished in a particular area;

(2) is advancing the development of a fishing industry
in the Federated States of Micronesia;

(3) has historically fished for a particular regulated
species;

(4) submits information for the conservation,
management and development of stocks of fish; and

(5) has traditional rights to fishing in an area; and
such other factors as the Authority deems appropriate."

Section 43. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 304 of chapter 3 to read as follows:

"Section 304. Fishing by domestic fishing vessels on the high seas or in an area designated by a fisheries management agreement - Compliance.

(1) Domestic fishing vessels and citizens fishing on the high seas or in an area designated by a fisheries management agreement shall:

(a) comply at all times with any applicable law or agreement and the terms of any applicable permit, and shall carry such permit on board at all times and produce it on demand for inspection by an authorized officer or investigating authority appointed pursuant to a fisheries management agreement; and

(b) give information to an authorized officer or investigating authority appointed pursuant to a fisheries management agreement which may be required, including vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation of such agreement.

(2) The Authority shall establish a national record of fishing vessels authorized to fish on the high seas and provide access to the information contained in that
record on request by directly interested foreign States, taking into account any applicable laws of the Federated States of Micronesia regarding the release of such information.

(3) Domestic fishing vessels and citizens are not permitted to engage in driftnet fishing activities.

(4) The Authority may take such further measures to implement any fisheries management agreement in respect to domestic fishing vessels as may be necessary.”

Section 44. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new chapter 4 entitled “Foreign and Domestic-Based Fishing and Related Activities”.

Section 45. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 401 of chapter 4 to read as follows:

“Section 401. Access agreement required. No foreign or domestic based fishing vessel shall be issued a permit to fish in the exclusive economic zone unless an applicable access agreement is in force.”

Section 46. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 402 of chapter 4 to read as follows:

“Section 402. Fees for permits for foreign fishing vessels and domestic based fishing vessels.”
(1) Fees and other forms of compensation for the right to engage in fishing within the exclusive economic zone by foreign and domestic-based fishing vessels shall be established in access agreements entered into pursuant to section 107 of this title.

(2) The Authority may accept all or a portion of the fee paid under an access agreement pending rebate under such conditions as the Authority may determine in writing or as may be prescribed by regulation, and when the executive director is satisfied that all conditions have been met. That portion of a fee that is subject to rebate shall be held in a separate trust account maintained by the Secretary of Finance until rebated to the foreign or domestic-based fishing vessel or paid into the General Fund, or its successor, pursuant to the terms of the agreement."

Section 47. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 403 of chapter 4 to read as follows:

"Section 403. Allocation of allowable fishing among foreign fishing vessels.

(1) The Authority may determine the allocation among foreign parties of the total allowable level of foreign fishing which is permitted with respect to any stock of fish subject to the provisions of this title."
(2) In determining the allocation among parties, the Authority shall take into consideration:

(a) the extent to which vessels of such parties have complied with the laws of the Federated States of Micronesia and any relevant access agreements;

(b) whether such parties or their national governments have cooperated with the Federated States of Micronesia in, and made substantial contributions to, the conservation, management and development of fisheries, fishery research and the identification of marine resources;

(c) whether such parties or their national governments undertake to invest in the fisheries sector in such a manner as to bring significant benefit to the Federated States of Micronesia;

(d) whether such parties or their national governments have cooperated with the Federated States of Micronesia in the enforcement of the provisions of this title and the regulations issued under its authority, including flag State enforcement and provision of information required for the conservation and management of fish;

(e) whether such parties or their national governments, while in the waters under national jurisdiction of any foreign State in the region, have
complied with the terms of any fisheries management agreement to which the Federated States of Micronesia is a party and which is implemented in such other foreign State; and

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

Section 48. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 404 of chapter 4 to read as follows:

"Section 404. Access agreement - Minimum terms. All access agreements shall have the following minimum terms:

(1) the sovereign rights and exclusive fishery management authority of the Federated States of Micronesia within the exclusive economic zone shall be recognized;

(2) the operator and each member of the crew shall comply with the applicable access agreement, this title, all regulations issued pursuant to this title and all other applicable laws and regulations.

(3) the operator shall:

(a) provide the authorized observer while on board the vessel, at no expense, with officer level accommodation, food and medical facilities;

(b) meet the following costs of the authorized observer:"

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(i) full travel costs to and from the vessel;

(ii) salary; and

(iii) full insurance coverage;

(c) display any permit or permit number issued for any such vessel, pursuant to this title, or any other documentation as required by the Authority to be displayed, under any access agreement, in the wheelhouse of such vessel;

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

(e) ensure that the vessel is marked and identified in accordance with the FAO approved Standard Specifications for the Marking and Identification of Fishing Vessels;

(f) ensure the continuous monitoring of the international distress and calling frequency 2182 KHz (HF), or the international safety and calling frequency 156.8 Mhz (channel 16, VHF-FM) to facilitate communication with the fisheries management, surveillance and enforcement authorities;

(g) ensure that a recent and up-to-date copy of the International Code of Signals (INTERCO) is on board and accessible at all times;

(h) ensure that the vessel is seaworthy and
contains adequate life safety equipment and survival gear
for each passenger and member of the crew;

(i) ensure that, promptly upon direction by the
Authority, each vessel will have installed, maintained
and fully operational at all times on board a
transponder, in accordance with section 510 of chapter 5
of this title, and shall be responsible for all
operational and maintenance costs of the transponder and
cooperate fully with the Authority in their utilization.

(4) The party to the access agreement shall:

(a) for the duration of the access agreement,
appoint and maintain an agent resident in the Federated
States of Micronesia, or establish and maintain a company
registered in accordance with the laws of the Federated
States of Micronesia authorized to receive and respond to
any legal process issued in the Federated States of
Micronesia with respect to the owner or operator of the
vessel, and shall notify the Federated States of
Micronesia of the name and address of such agent or
company, and any communication, information, document,
direction, request or response to, or from that agent or
company, shall be deemed to have been sent to, or
received from such owner or operator;

(b) not exceed any allocation which may be
established in any given licensing period in accordance
with this title:

(c) ensure compliance by each fishing vessel, its operator and crew members, with the access agreement, all laws of the Federated States of Micronesia and the terms of the permit; and

(d) ensure compliance by each fishing vessel, its operator and crew members, with subregional and regional conservation and management measures for highly migratory fish stocks."

Section 49. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 405 of chapter 4 to read as follows:

"Section 405. Access agreement - Term of validity.

(1) The term of validity of an access agreement shall not exceed ten (10) years, and may be renewable with the approval of the Authority according to the following criteria, taking into account performance of the other party during the previous term:

(a) likely compliance with the access agreement and this title; and

(b) potential economic benefits for the Federated States of Micronesia.

(2) Any access agreement whose validity exceeds one year shall include a provision for annual review by the Authority."
(3) Any access agreement may be terminated by the Authority, according to its terms or upon substantial non-compliance by the other party with any requirement of the access agreement or this title.

(4) Fishing under any access agreement may be suspended by the Authority upon a determination by the Authority, based on the best scientific information in the region, that continued fishing at current levels would seriously threaten the fish stocks.

(5) If fishing is suspended pursuant to subsection (4) of this section, the Authority shall make every effort to accommodate the long-term interests of the party to the access agreement and shall rebate proportionately any fees paid for fishing during such suspension.”

Section 50. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 406 of chapter 4 to read as follows:

“Section 406. Related activities - Transshipment.

(1) The operator of a foreign or domestic-based fishing vessel shall:

(a) not transship at sea under any circumstances; and

(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) 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."

Section 51. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
chapter 5 entitled "Enforcement".

Section 52. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 501 of chapter 5 to read as follows:

"Section 501. Enforcement responsibility. The
Department of Justice shall have primary responsibility
for fisheries enforcement, including:
(1) collaborating with the Authority in the monitoring
and control of all fishing operations within the fishery
waters; and

(2) the enforcement of this title."

Section 53. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 502 of chapter 5 to read as follows:

"Section 502. Appointment of authorized officers.

(1) The Secretary of the Department of Justice may, in
writing, appoint any person or class of persons as
authorized officer for the purposes of this title and
such persons shall exercise all powers and privileges
accorded by this title.

(2) Any person or class of persons may be appointed as
authorized officer in accordance with subsection (1) of
this section, pursuant to a fisheries management
agreement or similar cooperative arrangement for purposes
which include:

(a) for an authorized officer of the Federated
States of Micronesia, to perform fisheries monitoring,
control and surveillance functions on behalf of the
Federated States of Micronesia while on board a vessel or
aircraft of another party; and

(b) for an authorized officer of another party to
such agreement, to perform fisheries monitoring, control
and surveillance functions on behalf of the Federated
States of Micronesia while on board the vessel or
aircraft of that other party.

(3) Any authorized officer is deemed to be an
authorized inspector for purposes of the United Nations
Agreement.

(4) Any officer of the Maritime Surveillance Wing of
the National Police of the Government of the Federated
States of Micronesia shall be deemed to be an authorized
officer for the purposes of this title."

Section 54. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 503 of chapter 5 to read as follows:

"Section 503. Powers of authorized officers.

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

(a) stop, board, remain on board and search any
vessel in the exclusive economic zone that he or she
reasonably believes is a fishing vessel, and any fishing
vessel registered under the laws of the Federated States
of Micronesia outside the fishery waters, and stop and
search any vessel, vehicle or aircraft that he or she
reasonably believes may be transporting fish or engaging
in other activities relating to fishing;

(b) require the master or any 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;

(c) examine the master or any crew member or other
person aboard about the cargo, contents of holds and
storage spaces, voyage and activities of the vessel;

(d) 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;

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

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

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

(h) 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 title or to
provide for the compliance of the vessel, vehicle or
aircraft, or master or any crew member with the
conditions of any permit:

(i) endorse any permit; and

(ii) arrest any person who assaults him or her or
any other authorized officer in the exercise of his or
her duties under this title.

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

(a) enter, inspect and search any premises, other
than premises used exclusively as a dwelling house, in
which he or she 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 or she 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 title;

(d) following hot pursuit in accordance with
international law and commenced within the fishery
waters, stop, board and search outside the fishery waters
any fishing vessel which he or she has reasonable grounds
to believe has been used in the commission of an offense.
exercise any powers conferred by this title 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 which he or she
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 which he has
reasonable grounds to believe have been caught in the
commission of an offense or are possessed in
contravention of this title;
(iii) any logs, charts or other documents
required to be maintained by this title or under the
terms of any license or other authorization or which he
or she has reasonable grounds to believe show or tend to
show, with or without other evidence, the commission of
an offense against this title; and
(vi) any thing which he or she has reasonable
grounds to believe might be used as evidence in any
proceedings under this title;
(f) arrest any person whom he or she has
reasonable grounds to believe has committed an offense
against this title.

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

(4) 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.

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

(6) An authorized officer may, with or without a
warrant or other process:

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

(b) exercise any other lawful authority.”

Section 55. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 504 of chapter 5 to read as follows:

"Section 504. Requirements for seized vessels, etc.

(1) Where any vessel is seized under this title:

(a) the master and crew shall take it to such port
as the authorized officer shall designate being the
nearest or most convenient port;"
(b) the master shall be responsible for the safety
of the vessel and each person on board the vessel,
including the crew, himself and any authorized officer
until the vessel arrives at the designated port.

(2) If the master fails or refuses to take the seized
vessel to the designated port then an authorized officer
or person called upon to assist him or her may do so.

(3) If a vessel is taken to port in the circumstances
described in subsection (2) of this section, no claim
whatever may be made against any authorized officer or
the Government of the Federated States of Micronesia in
respect of any damage, injury, loss or death occurring
while the vessel is being so taken, subject to the
provisions of this title.

(4) The provisions relating to vessels and masters
described in subsections (1) to (3) of this section apply
mutatis mutandis to vehicles and aircraft seized in
accordance with this title, and their drivers and pilots
respectively."

Section 56. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 505 of chapter 5 to read as follows:

"Section 505. Removal of parts from seized vessels, etc.

(1) An authorized officer may remove any part or parts
from any seized vessel, vehicle or aircraft held in the
custody of the Government of the Federated States of Micronesia for the purpose of immobilizing that vessel, vehicle or aircraft.

(2) Any part or parts removed under subsection (1) of this section shall be kept safely and returned to the vessel, vehicle or aircraft upon its lawful release from custody.

(3) No person shall knowingly possess, or arrange to obtain, any part or parts removed under subsection (1) of this section or knowingly possess, or arrange to obtain, or make any replacement or substitute part or parts for those removed under subsection (1) of this section or shall fit or attempt to fit any part or parts or any replacement or substitute part or parts to a vessel, vehicle or aircraft held in the custody of the Government of the Federated States of Micronesia."

Section 57. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 506 of chapter 5 to read as follows:

"Section 506. Duties to authorized observers.

(1) Any person on board any vessel with a valid and applicable permit, shall permit any authorized observer to board and remain on such vessel for the purposes of carrying out his or her duties and functions.

(2) The operator and each member of the crew of such
vessel shall allow and assist any authorized observer to:

(a) board such vessel for scientific, compliance
monitoring and other functions, at such time and place as
the executive director may require;

(b) have full access to and the use of facilities
and equipment on board the vessel which the authorized
observer may determine is necessary to carry out his or
her duties, including:

(i) full access to the bridge, navigation
charts, fish on board and areas which may be used to
hold, process, weigh and store fish;

(ii) full access to the vessel's records,
including its logbooks and documentation for the purposes
of records inspection and copying;

(iii) full access to fishing gear on board; and

(iv) reasonable access to navigation equipment
and radios;

(c) take and remove from the vessel reasonable
samples for the purposes of scientific investigation, and
other relevant information;

(d) take photographs of the fishing operations,
including fish, fishing gear, equipment, charts and
records, and remove from the vessel such photographs or
film as he or she may have taken or used on board the
vessel:
taken, in the fishery waters, is unloaded or
transshipped; to remove reasonable samples for scientific
purposes and to gather any information relating to
fisheries in the fishery waters."

Section 58. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 507 of chapter 5 to read as follows:

"Section 507. Duties to authorized officers and
authorized observers.

(1) The master and each crew member of any fishing
vessel, the driver of any vehicle and the pilot and crew
of any aircraft shall immediately comply with every
instruction or direction given by an authorized officer
or authorized observer as appropriate, and facilitate
safe boarding, entry and inspection of the vessel,
vehicle or aircraft and any fishing gear, equipment,
records, fish and fish products.

(2) The master and each crew member of a vessel, driver
of a vehicle and pilot and crew of an aircraft shall take
all reasonable measures to ensure the safety of an
authorized officer or authorized observer as appropriate
in the performance of his or her duties.

(3) Every person commits an offense who:

(a) assaults, obstructs, resists, delays, refuses
boarding to, intimidates or fails to take all reasonable
measures to ensure the safety of, or otherwise interferes
with an authorized officer or authorized observer in the
performance of his or her duties;

(b) incites or encourages any other person to
assault, resist or obstruct any authorized officer or
authorized observer while carrying out his or her powers
or duties, or any person lawfully acting under the
authorized officer's orders or in his or her aid;

(c) uses threatening language or behaves in a
threatening or insulting manner or uses abusive language
or insulting gestures towards any authorized officer or
authorized observer while in the execution of his or her
powers or duties, or any person lawfully acting under an
authorized officer's orders or in his or her aid;

(d) fails to comply with the lawful requirements
of any authorized officer or observer;

(e) furnishes to any authorized officer or
authorized observer any particulars which, to his
knowledge, are false or misleading in any respect;

(f) impersonates or falsely represents himself or
herself to be an authorized officer or authorized
observer or who falsely represents himself or herself to
be a person lawfully acting under an authorized officer's
orders or in his or her aid;

(g) resists lawful arrest for any act prohibited
by this title; or
(h) is in breach of any other duty to an
authorized officer or authorized observer required under
this title.

(4) For the purposes of subsection (3) of this section,
any person who does not allow any authorized officer, or
any person acting under his or her orders or in his or
her aid, or an authorized observer to exercise any of the
powers conferred on such person by this title shall be
deemed to be obstructing that officer, person or
observer.

(5) Every person who, being a master, owner, charterer,
agent or company established under the laws of the
Federated States of Micronesia of a fishing vessel which
transports an authorized officer, inspector or observer
outside the fishery waters and causes him or her to
disembark outside the territory or jurisdiction of the
Federated States of Micronesia, commits an offense and
shall be jointly and severally liable on conviction to a
fine plus all costs of repatriation including board and
lodging while out of the Federated States of Micronesia
and direct transportation to the Federated States of
Micronesia."

Section 59. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 508 of chapter 5 to read as follows:

"Section 508. Identification of authorized officers and authorized observers. An authorized officer or authorized observer, when exercising any of the powers conferred by this title, shall on request, produce identification to show he or she is an authorized officer or authorized observer under this title."

Section 60. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 509 of chapter 5 to read as follows:

"Section 509. Protection of authorized officers and authorized observers. A person who does any act in pursuance or intended pursuance of the functions conferred on him or her by or under this title shall not be subject to any civil or criminal liability with respect to such act, whether on the grounds of want of jurisdiction, mistake of law or fact, or on any other ground unless he or she has acted, or omitted to act, in bad faith without reasonable cause."

Section 61. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 510 of chapter 5 to read as follows:

"Section 510. Transponders may be required.

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

(a) installs on such vessel, at its own expense, a transponder designated by the Authority;

(b) maintains such transponder in good working order at all times while in the fishery waters or such other area as may be agreed or designated; and

(c) ensures 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 title, a transponder, which may also be referred to as an automatic location communicator, 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 information or data concerning the vessel's position and fishing activities referred to in subsection (2) of this section may be fed or input manually into the transponder or automatically from machines aboard the vessel or ascertained by the use of the transponder transmissions in conjunction with other machines.

(4) Any machine:
(a) aboard a vessel automatically feeding or
inputting position fixing information or data into a
transponder shall be judicially recognized as notoriously
accurate;

(b) used in conjunction with a transponder for the
purpose of ascertaining or obtaining information or data
need not be judicially recognized as notoriously
accurate.

(5) All information or data obtained or ascertained by
the use of a transponder, shall be presumed, unless the
contrary is proved, to:

(a) come from the vessel so identified;

(b) be accurately relayed or transferred; and

(c) be given by the master, owner and charterer of
the fishing vessel; and evidence may be given of
information and data so obtained or ascertained whether
from a printout or visual display unit.

(6) The presumption in subsection (5) of this section
shall apply whether or not the information was stored
before or after any transmission or transfer.

(7) Any person may give a certificate stating:

(a) his or her name, address and official
position;

(b) that he or she is competent to read the
printout or visual display unit of any machine capable of
obtaining or ascertaining information from a transponder;

(c) the date and time the information was obtained
or ascertained from the transponder and the details
thereof;

(d) the name and call sign of the vessel on which
the transponder is or was located as known to him or her
or as ascertained from any official register, record or
other document; and

(e) a declaration that there appeared to be no
malfuction in the transponder, its transmissions or
other machines used in obtaining or ascertaining the
information.

(8) Section 607 of chapter 6 of this title shall apply
to a certificate given under this section as if it had
been a certificate given under section 506 of chapter 6
of this title, and any reference therein to section 606
of this title shall be read as a reference to this
section.

(9) Any person who intentionally, recklessly or
unintentionally destroys, damages, renders inoperative or
otherwise interferes with a machine aboard a vessel which
automatically feeds or inputs information or data into a
transponder, or who intentionally feeds or inputs
information or data into a transponder which is not
officially required or is meaningless commits an
offense."

Section 511. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 511 of chapter 5 to read as follows:

"Section 511. Establishment of fisheries enforcement and development fund.

(1) A special fund shall be established called the Fisheries Enforcement and Development Fund into which the following shall be deposited:

(a) all civil and criminal fines and administrative penalties, except for litigation costs recovered by the FSM Government;

(b) all criminal and civil fines and proceeds of forfeitures collected by the Government of the Federated States of Micronesia; and

(c) 0% of all access fees collected in any given year.

(2) The Fisheries Enforcement and Development Fund shall be:

(a) administered by the President of the Federated States of Micronesia;

(b) subject to standard auditing procedures;

(c) used to contribute to fisheries monitoring and control operations and as practicable such other management activities of the Authority as the executive
director may designate, including, inter alia, training
and research."

Section 63. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by renumbering
chapter 6 as chapter 9 and renumbering chapter 7 as chapter 10. The
component sections of the said chapters are hereby renumbered
accordingly.

Section 64. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by enacting a new
chapter 6 entitled "Jurisdiction and Evidence".

Section 65. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 601 of chapter 6 to read as follows:

"Section 601. Jurisdiction of the Court.

(1) Any act or omission committed in contravention
of any of the provisions of this title by any person
within the fishery waters, or outside the fishery waters
by any citizen or person ordinarily resident in the
Federated States of Micronesia, or by any person on
board any fishing vessel registered in the Federated
States of Micronesia, shall be dealt with and judicial
proceedings 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 this title, any act or omission of any
person in contravention of any of the provisions of this
title 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 offense against this title
may be filed at any time within two years of the
discovery of the offense.

(4) The Court may at any time enter restraining orders
or prohibitions; issue warrants, 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 66. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 602 of chapter 6 to read as follows:

"Section 602. Adjudication proceedings.

(1) The executive director may, after consultation with
and the consent of the Secretary, proceed
administratively against any person or business
enterprise in violation of this title.

(2) The decision to proceed administratively for any
violation of this title, shall be made within forty-eight
(48) hours of the issuance of a notice of violation by
the executive director or his or her designee in
consultation with the Secretary of the Department of
Justice.

(3) If the person or business enterprise admits in
writing to the violation, the executive director may
handle this matter under the summary administrative
proceedings provisions in section 603 of this title.

(4) If the person or business enterprise denies the
violation, the executive director shall refer the matter
to the Department of Justice.

(5) If there is a decision to handle the matter in an
adjudicatory administrative procedure, the person upon
whom the notice of violation is served shall be given the
notice of the adjudicatory hearing and shall have a right
to appear, be heard, produce evidence and to counsel
retained at his or her own expense.

(6) The executive director shall set an adjudicatory
administrative hearing for the violation within forty-
eight (48) hours of the decision to proceed
administratively.

(7) The Authority shall promulgate regulations
regarding the conduct of the proceedings."

Section 67. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new section 603 of chapter 6 to read as follows:

"Section 603. Summary administrative proceedings.

(1) Subject to subsection (4) of this section the executive director may, where he or she has determined that any person has violated this act and such person has in writing admitted to having committed such violation and consented to summary administrative proceedings after being fully informed about these proceedings, dispose of such violation by accepting on behalf of the Government of the Federated States of Micronesia from such person an administrative penalty, the amount of which shall not exceed the maximum fine or penalty required under this title, plus the fair market value of any fish caught illegally.

(2) Where summary administrative proceedings have been initiated under this title, the person who admits to having committed the offense under subsection (1) of this section shall:

(a) not engage in fishing or carry out any other activity in the fishery waters until the amount of the penalty has been paid in full; and

(b) be deemed to have consented to any seizure which took place in accordance with this title in relation to the offense subject to the summary
administrative proceedings, and to have waived any right
to a probable cause hearing.

(3) Summary administrative proceedings shall be null
and void if the full amount of the penalty, as determined
by the executive director under subsection (1) or (2) of
this section is not paid within three (3) days of
notification of such penalty assessment to the person
subject to the proceedings, and the matter shall be
referred to the Department of Justice forthwith.

(4) In summary administrative proceedings for any
violation, the executive director shall take into account
any report which may be prepared by the Department of
Justice as to the details of the offense or offenses and
applicable fine or penalty levels.

(5) On payment of the penalty in full pursuant to this
section, the executive director may order the release of
any article seized pursuant to this title or the proceeds
of sale of such article on such conditions as he or she
may determine.

(6) Summary administrative proceedings for any
violation shall be satisfied upon the payment of such sum
of money determined by the executive director and
notified in writing, under the signature of all parties,
to the Secretary.

(7) The executive director may order that any item used
or involved in the offense be seized, confiscated or
forfeited.

(8) Any decision taken or order given by the executive
director pursuant to this section is final and binding.

(9) Any person who engages in fishing or other activity
proscribed by subsection (2) of this section while
prohibited from so doing commits an offense.

(10) Any person who violates a valid order pursuant to
the terms of this chapter commits an offense.”

Section 60. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 604 of chapter 6 to read as follows:

“Section 604. Liability for non-payment of penalties.

All pecuniary penalties and all forfeitures incurred or
imposed pursuant to this title, and the liability to
forfeiture of any article seized under the authority
thereof, and all rents, charges, expenses and duties and
all other sums of money payable under this title may be
sued for, determined, enforced and recovered by suit or
other appropriate civil proceedings in the name of the
executive director as the nominal plaintiff; and all such
proceedings shall be deemed to be civil proceedings; and
the fact that a bond or other security has been paid
shall not be pleaded or made use of in answer to or in
stay of any such proceedings.”
Section 69. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 605 of chapter 6 to read as follows:

"Section 605. Liability for loss or damage. A person who commits an offense against this title may, upon conviction, be liable for any loss or damage caused by the offense and the amount of compensation for such loss or damage may be awarded by the Court as restitution in addition to, and recovered in the same manner as, a fine."

Section 70. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 606 of chapter 6 to read as follows:

"Section 606. Certificate of evidence. The executive director or any person designated in writing by him may give a certificate stating that:

(1) a specified vessel was or was not on a specified date or dates a local fishing vessel or a foreign fishing vessel;

(2) a specified vessel or person was or was not on a specified date or dates the holder of any specified license, authorization or certificate of registration;

(3) an appended document is a true copy of the permit or certificate of registration for a specified vessel or person and that specified conditions were attached to
such document:

(4) a particular location or area of water was on a
specified date or dates within the fishery waters, or
within a closed, limited, restricted or in any other way
controlled area of the fishery waters, or an area of the
fishery waters subject to specified conditions;

(5) an appended chart shows the boundaries on a
specified date or dates of the fishery waters,
territorial sea, closed or limited areas or other areas
or zones delineated for any specified purpose;

(6) a particular item or piece of equipment is fishing
gear;

(7) the cause and manner of death of or injury to any
fish;

(8) an appended document is a true copy of an approved
charter agreement, an access agreement or fisheries
management agreement;

(9) a call sign, name or number is that of or allotted
under any system of naming or numbering of vessels to a
particular vessel; or

(10) a particular position or catch report, a copy of
which is appended, was given in respect of a specified
vessel."

Section 71. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 607 of chapter 6 to read as follows:

"Section 607. Validity and procedures for certificates.

(1) Unless the contrary is proved, a document purporting to be a certificate given under section 606 of this title shall be deemed to be such a certificate and to have been duly given.

(2) Where a certificate issued under section 606 of this title is served upon a defendant seven (7) or more days before its production in court in any proceedings under this title, the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.

(3) Where a certificate issued under section 606 of this title is served upon a defendant fourteen (14) or more days before its production in court and the defendant does not, within seven (7) days of the date of service, serve notice of objection in writing upon the prosecutor, then the certificate shall, unless the court finds the defendant is unduly prejudiced by any failure to object, be conclusive proof of all the facts averred in it.

(4) Where any objection is notified under subsection (3) of this section the certificate shall, unless the contrary is proved, be sufficient evidence of all the facts averred in it.
(5) Any certificate issued under section 606 of this title shall be entitled 'Certificate Made Under Title 24, section 606'.

(6) Any omission from or mistake made in any certificate issued under section 606 of this title shall not render it invalid unless the Court considers such omission or mistake is material to any issue in the proceedings concerned, or the defendant is unduly prejudiced thereby.

(7) Where in any proceedings a certificate made under section 606 of this title is produced to the Court, the prosecution shall not be obliged to call the maker of the certificate and the Court shall, where material, rely on the facts therein unless the contrary is proved.”

Section 72. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 608 of chapter 6 to read as follows:

"Section 608. Certificate as to the location of a vessel.

(1) Where in any proceedings under this title the place or area in which a vessel is alleged to have been at a particular date and time or during a particular period of time is material to an offense charged then a place or area stated in a certificate given by an authorized officer or authorized observer shall be evidence, unless
the contrary is proved, of the place or area in which the
vessel was at the date and time or during the period of
time stated.

(2) An authorized officer shall in any certificate made
pursuant to subsection (1) of this section state:

(a) his name, address, official position, country
of appointment and provision under which he is appointed;

(b) the name and, if known, call sign of the
fishing vessel concerned;

(c) the date and time or period of time the vessel
was in the place or area;

(d) the place or area in which it is alleged the
vessel was located;

(e) the position fixing instruments used to fix
the place or area stated in subsection (2)(d) of this
section and their accuracy within specified limits;

(f) a declaration that he checked the position
fixing instruments a reasonable time before and after
they were used to fix the position and they appeared to
be working correctly; and

(g) if a position fixing instrument which is not
judicially recognized as notoriously accurate or a
designated machine is used, a declaration that he checked
the instrument as soon as possible after the time
concerned against such instrument.
(3) Section 607 of this title shall apply to a certificate given under this section as if it had been a certificate given under section 606 of this title and any reference therein to section 606 of this title shall be read as a reference to this section.

(4) For the purposes of this title 'authorized officer' shall include surveillance officers and those charged with similar responsibilities in other countries."

Section 73. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 609 of chapter 6 to read as follows:

"Section 609. Photographic evidence.

(1) Where a photograph is taken of any fishing or related activity and simultaneously the date, time or position from which the photograph is taken are superimposed upon the photograph then it shall be presumed, unless the contrary is proved, that the photograph was taken on the date, at the time or in the position so appearing.

(2) The presumption set out in subsection (1) of this section shall arise only if:

(a) the camera taking the photograph is connected directly to the instruments which provide the date, time and position concerned; and

(b) the photograph was taken by an authorized
officer or an authorized observer.

(3) Any authorized officer or authorized observer who
takes a photograph of the kind described in subsection
(1) of this section may give a certificate appending the
photograph stating:

(a) his or her name, address, official position,
country of appointment and authority under which he or
she is appointed;

(b) the name and call sign, if known, of any
fishing vessel appearing in the photograph;

(c) the names of the camera, watch or clock or
other instruments supplying the date and time and the
position fixing instrument and a declaration that he
checked those instruments a reasonable time before and
after the taking of the photograph and that they all
appeared to be working correctly;

(d) the matters set out in subsection (2)(a) of
this section;

(e) the accuracy of the fixing instrument used
within specified limits;

(f) the maximum possible distance and the
direction of the subject of the photograph away from the
camera at the time the photograph was taken.

(4) Section 607 of this title shall apply to a
certificate given under this section as if it had been a
certificate given under section 606 of this title and any
reference therein to section 606 of this title shall be
read as a reference to this section."

Section 74. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 610 of chapter 6 to read as follows:

"Section 610. Presumptions.

(1) All fish found on board any fishing vessel which
has been used in the commission of any offense under this
title shall be presumed to have been caught during the
commission of that offense, unless the contrary is
proved.

(2) Where, in any legal proceedings under this title,
the place in which an event is alleged to have taken
place is in issue:

(a) the place stated in the relevant entry in the
logbook or other official record of any enforcement
vessel or aircraft as being the place in which the event
took place shall be presumed to be the place in which the
event took place, unless the contrary is proved; and

(b) prima facie evidence of an entry in a logbook
or other official record of an enforcement vessel or
aircraft may be given by the production of a written copy
or extract of the entry certified by an authorized
officer as a true copy or accurate extract.

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(3) Where, in any legal proceedings relating to an
offense under this title, an authorized officer gives
evidence of reasonable grounds to believe any fish to
which the charge relates were taken in a specified area
of the fishery waters; the Court considers that, in
regard to that evidence, the grounds are reasonable, all
the fish shall be presumed to have been so taken, unless
the contrary is proved.

(4) Where, in any legal proceedings for an offense
under this title, an authorized officer gives evidence of
reasonable grounds to believe that any fish to which the
charge relates were taken by the use of driftnets; and
the Court considers that, in regard to the evidence, the
grounds are reasonable, all the fish shall be presumed to
have been so taken, unless the contrary is proved.

(5) Where any information is given regarding a fishing
vessel pursuant to this title or an access agreement in
relation to any fishing activity of a foreign fishing
vessel, it shall be presumed to have been given by the
master, owner and charterer of the vessel concerned,
unless it is proved it was not given or authorized to be
given by any of them.

(6) Any entry in writing or other mark in or on any
log, chart or other document required to be maintained
under this title or used to record the activities of a
foreign fishing vessel shall be deemed to be that of the
master, owner and charterer of the vessel.

(7) Any position fixing instrument on board a vessel or
aircraft used for the enforcement of this title shall be
presumed to be accurate. For the purposes of this
section, a position fixing instrument shall mean any
device which indicates the location of a vessel,
including, but not limited to, any satellite navigation
system or global positioning system."

Section 75. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 611 of chapter 6 to read as follows:

"Section 611. Burden of proof.

(1) Where, in any proceedings under this title, a
person is charged with having committed an offense
involving an act for which a permit or other permission
is required, the burden shall be on that person to prove
that at the relevant time the requisite permit or
permission was held.

(2) Where a person is charged with the contravention of
section 121 of chapter 1 of this title, the burden shall
be on that person to prove that the information given was
true, complete and correct."

Section 76. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 612 of chapter 6 to read as follows:

"Section 612. Destruction of evidence. No person shall destroy, dispose of, conceal, tamper with or abandon any fish, fish product, fishing gear, net or other fish appliance, record, document, electric shock device, explosive, poison or other noxious substance, or any other thing with intent to avoid seizure or the detection of an offense against this title."

Section 77. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new chapter 7 entitled "Forfeiture and Disposition of Seized or Confiscated Property".

Section 78. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 701 of chapter 7 to read as follows:

"Section 701. Forfeiture of property.

(1) Any fishing vessel including its fishing gear, furniture, appurtenances, stores, cargo and aircraft, and all or part of any fish, fish products, fishing gear, vehicle or aircraft used in or connected with the commission of any act prohibited by this title, and where any fish seized in connection with the offense have been sold, the proceeds of the sale of the fish, shall be subject to forfeiture to the Government of the Federated States of Micronesia pursuant to a civil proceeding under
this section.

(2) The Supreme Court of the Federated States of Micronesia shall have jurisdiction, upon application by the Secretary of the Department of Justice on behalf of the Federated States of Micronesia, to order any forfeiture authorized under subsection (1) of this section.

(3) If a judgment is entered for the Government of the Federated States of Micronesia in a civil forfeiture proceeding under this section, the Secretary of the Department of Justice shall seize any property or other interest declared forfeited to the Government of the Federated States of Micronesia, which has not previously been seized pursuant to this title.

(4) The forfeited item or items shall be sold and the proceeds deposited in the Fisheries Enforcement and Development Fund in accordance with this title, and any remainder shall be deposited into the General Fund of the Federated States of Micronesia and distributed in accordance with subsection (5) of this section.

(5) Fifty percent of the revenues from fines and forfeitures shall be distributed to an FSM State if the offense was committed within the territorial jurisdiction of that State.

(6) Pending completion of the civil forfeiture
proceeding, the item or items subject to forfeiture, or
any part thereof, may be released at the discretion of
the Court upon deposit with the Court of a satisfactory
bond, surety or other security at least equal to the fair
market value of the seized property. Exoneration of such
bond, surety or other security shall be conditional upon
return of the released property to the appropriate court
upon order, without any impairment of its value, or by
paying the monetary value of the released property to the
Fisheries Enforcement and Development Fund upon order of
the Court. Such bond, surety or other security shall be
forfeited in the event that any condition is breached as
shall be determined by the Court, and judgment shall be
recoverable by the Court against the principal of any
surety for any such breach.

(7) In the event there is an appeal from an order for
forfeiture, the Court may continue any such bond, surety
or other security deposited in accordance with subsection
(6) of this section during the pendency of the appeal and
any retrial or rehearing on remand or may require
additional security to be deposited with the Court.”

Section 79. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 702 of chapter 7 to read as follows:

“Section 702. Disposition of seized or confiscated fish

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or fish products.

(1) The executive director or his designee may sell any perishable fish or fish products which have been seized or confiscated pursuant to this title. If he or she made all reasonable efforts to sell them but was unable to do so, or where they are unfit to be sold, he or she may dispose of them as he or she may think fit. The proceeds of any sale shall be deposited in trust with the Court pending the final disposition of any civil forfeiture proceeding.

(2) The executive director shall notify the owner or apparent owner of the perishable goods seized of the sale, and such owner or his or her nominee may be present at the sale.”

Section 80. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 703 of chapter 7 to read as follows:

“Section 703. Disposition of forfeited or seized goods.

(1) Notwithstanding any other provision of this title, any vessel, vehicle, aircraft or other item ordered to be forfeited pursuant to this title may be disposed of in such manner as prescribed by law after the expiration of the time provided for the filing of a notice of appeal.

(2) Any vessel, vehicle, aircraft or other item seized under this title, but not forfeited in any legal
proceedings, may be held by the Government of the
Federated States of Micronesia until all fines, orders
for costs and penalties imposed under this title have
been paid and, failing payment within the time allowed,
be sold and the balance of the proceeds returned to the
owner or apparent owner in accordance with this title
after deduction of all fines, orders for costs, penalties
imposed under this title and costs of sale.

(3) The proceeds of sale of all forfeited items shall
be deposited into the Fisheries Enforcement and
Development Fund."

Section 81. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 704 of chapter 7 to read as follows:

"Section 704. Unlawful removal of item in custody.

(1) When any vessel, vehicle, aircraft or other item
held or forfeited under this title has been unlawfully
removed from the custody of the Federated States of
Micronesia, it shall be liable to seizure at any time
within the jurisdiction of the Federated States of
Micronesia.

(2) No person shall remove any vessel, vehicle,
aircraft or other item held under this title in custody
whether or not he or she knew that the vessel, vehicle,
aircraft or other item was held in custody."
Section 82. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 705 of chapter 7 to read as follows:

"Section 705. Liability of the Government for property in custody. The Government of the Federated States of Micronesia shall not be liable to any person for any loss, damage or deterioration in the condition of any vessel, vehicle, aircraft, fishing gear or other property which is in its custody pursuant to this title, and all costs of maintaining such property while in custody shall, unless otherwise provided, be borne by the operator upon a finding by the FSM Supreme Court that such property was used in or connected with a violation of this title."

Section 83. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 706 of chapter 7 to read as follows:

"Section 706. Release of seized goods.

(1) The Court may, on application, order the release of any fishing vessel, vehicle, aircraft or other items seized pursuant to this title on receipt of such bond or other form of security as it may determine.

(2) In determining the value of the bond or other form of security, the Court shall have regard to the aggregate amount of the value of the property to be released, an
estimated total fine or other penalty provided for the
offenses charged or likely to be charged and the costs
the prosecution would be likely to recover if a
conviction were entered, and may set the value at such
aggregate amount. In no case should the bond exceed the
value of the property to be released.

(3) Notwithstanding the provisions of subsection (2) of
this section, the amount determined by the Court under
this section shall not be less than the fair market value
of the property to be released or the aggregate minimum
fine or penalty for each offense charged, whichever is
greater.

(4) Where any vessel, vehicle, aircraft or other item
seized is released upon the lodging of a bond or other
form of security under subsection (1) of this section,
the court shall in the order state separately the sums
which are attributable to the property to be released,
the total fine or fines and the likely costs.

(5) The release of any bond or other form of security
under this section shall be conditional upon:

(a) a finding by the Court that the vessel,
vehicle, aircraft or other item has not been used in or
connected with the commission of an offense against this
title; or

(b) where the Court finds that the vessel,
vehicle, aircraft or other item has been used in or
connected with the commission of an offense under this
title:

(i) payment in full within 30 days of the
judgment of the Court of any fine imposed by the Court
and any costs ordered to be paid by the Court; and

(ii) where the Court so orders, delivery to
the Court of the vessel, including its fishing gear,
furniture, appurtenances, stores and cargo, and of any
fish ordered to be forfeited without any impairment of
their value, or payment of the monetary value thereof as
determined by the Court.

(6) Nothing in subsection (1) of this section shall
require a Court to release any vessel, vehicle, aircraft
or other item if it might be required as an exhibit in
court proceedings or is reasonably required for any
further investigations of offenses against this title."

Section 84. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 707 of chapter 7 to read as follows:

"Section 707. Holding of seized goods.

(1) Any vessel, vehicle, aircraft or other item seized
pursuant to this title or any bond or other security or
net proceeds of any sale in respect thereof shall be held
by the Government pending the outcome of any legal
proceedings under this title or until it is decided not
to file an information or a complaint, and any penalties
imposed under this title have been fully paid.

(2) Where any vessel, vehicle, aircraft or other items
seized under this title, or any bond, security or net
proceeds of sale in respect thereof is not forfeited or
applied in the discharge of any fine, order for costs or
penalty imposed pursuant to this title, it shall be made
available for collection by the registered owner or his
nominee or, in the absence of such persons, the person
who appears entitled to it.

(3) Where any vessel, vehicle, aircraft or other item
has been released upon the lodging of a bond or security,
an order for forfeiture shall operate as an order for
forfeiture of the bond or security.

(4) Where any vessel, vehicle, aircraft or other item
has been released upon the lodging of a bond or security,
the Court may order any convicted defendant and the owner
of the vessel, vehicle, aircraft or other item concerned,
whether or not he is a defendant, to pay the difference
between the bond or amount lodged in respect of the
forfeited property and the aggregate value of the
forfeited property."

Section 85. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 708 of chapter 7 to read as follows:

"Section 708. Application of bond, etc.

(1) Any bond, security or net proceeds of sale held in respect of any vessel, vehicle or aircraft or other item shall be applied as follows and in this order:

(a) the discharge of any forfeiture ordered pursuant to this title;

(b) the payment of all fines or penalties for offenses against this title or penalties imposed pursuant to this title arising out of the use of or in connection with the vessel, vehicle, aircraft or other item;

(c) the full satisfaction of all costs involved in maintaining and keeping secure the vessel and its equipment during legal proceedings;

(d) the discharge of all orders for costs in proceedings pursuant to this title arising out of the use of or in connection with the vessel, vehicle, aircraft or other item; and

(e) return as provided in this title."

Section 86. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by enacting a new chapter 8 entitled "Violations and Penalties".

Section 87. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 801 of chapter 8 to read as follows:
"Section 801. Prohibited acts.

(1) It is unlawful for any person to:

(a) violate any provision, condition or
requirement of a permit or license issued pursuant to
this title;

(b) violate any provision of a regulation
promulgated pursuant to this title;

(c) violate any provision, condition or
requirement of an access agreement, including the minimum
terms required in section 404 of chapter 4 of this title
and any agreement or arrangement implementing a
multilateral access agreement;

(d) refuse or otherwise fail to comply with
reporting requirements pursuant to section 116 of chapter
1 and section 406(1)(b) of chapter 4 of this title;

(e) refuse or otherwise fail to give information,
obtain and hold a permit, registration or other document
as required by section 120(1) and (3) of chapter 1 of
this title;

(f) provide information required under this title
which is not true, complete and accurate as required by
section 120(2) of chapter 1 of this title, or knowing or
having reasonable cause to believe that it is false,
incomplete or misleading or refusing or otherwise failing
to inform the executive director of any change in
circumstances in contravention of section 120(2) of chapter 1 of this title;

(g) use a vessel for entering or remaining in the exclusive economic zone in violation of any provision of this title or any other law of the Federated States of Micronesia in contravention of section 121 of chapter 1 of this title;

(h) damage a fishing vessel or gear belonging to another person in contravention of section 122 of chapter 1 of this title;

(i) refuse or otherwise fail to give fish samples to an authorized officer or authorized observer in contravention of section 123 of chapter 1 of this title;

(j) contaminate the exclusive economic zone in contravention of section 124 of chapter 1 of this title;

(k) import, export, transport, sell, receive, acquire or purchase any fish or fish product taken, possessed, transported or sold in violation of any law or regulation of a foreign State in contravention of section 128 of chapter 1 of this title;

(l) engage in transshipment in contravention of section 406(1)(a), (c), (d) or (2) of chapter 4 of this title;

(m) being a master or crew member of a seized vessel, refuse or fail to take a seized vessel to such
port as an authorized officer designates or to ensure the
safety of the vessel and each person on board as required
by section 504(1) of chapter 5 of this title;

(n) knowingly possess or arrange to obtain any
part or parts from any seized vessel, vehicle or aircraft
in contravention of section 505(3) of chapter 5 of this
title;

(o) refuse or otherwise fail to comply with the
requirements of sections 506 and 507 of chapter 5 of this
title which relates to duties to authorized observers and
authorized officers;

(p) being an authorized officer or authorized
observer, refuse or otherwise fail to produce
identification as required by section 508 of chapter 5 of
this title;

(q) being an operator of a vessel, refuse or
otherwise fail to install, maintain or ensure
transmission of information from a transponder as
required by section 510(1) of chapter 5 of this title;

(r) refuse or otherwise fail to comply with
requirements of section 510(9) of chapter 5 of this title
regarding destruction, etc., of any machine which
automatically feeds or inputs information into a
transponder, and intentionally feeds or inputs
meaningless, etc. information into a transponder;
(s) engage in fishing or carry out any other activity in the fishery waters in contravention of section 603(2)(a) of chapter 6 of this title until the amount of any penalty determined under section 603 of chapter 6 of this title has been paid in full;

(t) destroy, dispose of, conceal, tamper with or abandon any fish, fish product, fishing gear, net or other fish appliance, record, document, electric shock device, explosive, poison or other noxious substance or any other thing in contravention of section 612 of chapter 6 of this title;

(u) remove any vessel, vehicle, aircraft or other item held in custody in contravention of section 704(2) of chapter 7 of this title;

(v) knowingly ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of any fish taken or retained in contravention of this title or any access agreement, permit or applicable law;

(w) resist a lawful arrest for any act prohibited by this title;

(x) interfere with, delay, or prevent, by any means the apprehension or arrest of another person, knowing or having probable cause to believe that such person has committed any act prohibited by this title;
(y) use any foreign fishing vessel for fishing within one mile from submerged reefs within the exclusive economic zone, or within a two mile radius of any fish aggregating device of the Government, a citizen or any other body established under the laws of the Federated States of Micronesia;

(z) engage in driftnet fishing activities in the fishery waters;

(aa) being the operator of a fishing vessel entitled to fly the flag of the Federated States of Micronesia, refuse or otherwise fail to require that such vessel does not:

(i) fish in waters under the national jurisdiction of a foreign State unless duly authorized by the competent authorities of the foreign State or States concerned;

(ii) engage in driftnet fishing activities in waters under the national jurisdiction of a foreign State, in the high seas, or in enclosed or semi-enclosed seas as defined in the United Nations Convention;

(bb) being the operator of a fishing vessel in the exclusive economic zone, 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
accompany with this title; and

(cc) otherwise violate any provision of this title.

(2) It is unlawful for any fishing vessel to be used
for, and the crew and operator of any fishing vessel to
engage in, commercial or non-commercial fishing or
related activities in the exclusive economic zone without
a valid and applicable permit as required pursuant to
sections 103, 104 or 105 of chapter 1 of this title."

Section 88. Title 24 of the Code of the Federated States of
Micronesia, as amended, is hereby further amended by adding a new
section 802 of chapter 8 to read as follows:

"Section 802. Civil Penalties.

(1) Any person who is found by the Supreme Court of the
Federated States of Micronesia in a civil proceeding to
have committed an act prohibited by this title shall be
liable to the Federated States of Micronesia for a civil
penalty.

(2) The amount of the civil penalty shall not exceed
$1,000,000 for acts prohibited under section 507(3)(a)
and (b) of chapter 5 and section 801 subsections (1)(z),
(1)(aa)(i), (1)(aa)(ii) and (2), of chapter 8, of this
title.

(3) The amount of the civil penalty shall not exceed
$500,000 for acts prohibited under section 801(1),
paragraphs (a), (b), (c) and (d) of this title, regarding
serious miss reporting of catch; for fishing in a closed
area or after attaining a quota, directed fishing for a
stock for which fishing is prohibited, using prohibited
fishing gear, and falsifying or concealing the markings,
identity or registration of a fishing vessel; and for
acts prohibited under section 801(1), paragraphs (q),
(r), (t), and (bb) of this title.

(4) The amount of the civil penalty shall not exceed
$250,000 for acts prohibited under section 801(1),
paragraphs (l), (u), (v) and (y) of this title.

(5) Unless otherwise provided herein, the amount of the
civil penalty shall not exceed $100,000 for acts
prohibited under section 801(1), paragraphs (h), (m),
(o), (x), and (cc) of this title.

(6) Unless otherwise provided herein, the amount of the
civil penalty shall not exceed $50,000 for acts
prohibited under section 801(1), paragraphs (e), (f),
(i), (n) and (w) of this title.

(7) Unless otherwise provided herein, the amount of the
civil penalty shall not exceed $10,000 for acts
prohibited under section 801(1)(p) of this title.

(8) Each day of a continuing violation shall constitute
a separate offense, for which a separate penalty shall be
assessed.

(9) In determining the amount of the penalty, the
Supreme Court of the Federated States of Micronesia shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, whether any other civil or criminal fine or any imprisonment has been imposed as a result of the situation which has given rise to this action, whether there are multiple violations which together constitute a serious disregard of conservation and management measures and such other matters as justice may require.

(10) The Secretary of the Department of Justice is authorized to initiate all proceedings under this section and to recover the amount assessed as a civil penalty.

(11) The proceeds of civil penalties shall be deposited into the Fisheries Enforcement and Development Fund. Fifty percent of the proceeds from civil penalties shall then be distributed to any FSM State which may be affected by the situation which has given rise to this action."

Section 89. Title 24 of the Code of the Federated States of Micronesia, as amended, is hereby further amended by adding a new section 803 of chapter 8 to read as follows:

"Section 803. Criminal penalties.

(1) A person is guilty of an offense upon conviction if
he or she commits any act prohibited by this title.

Nothing in this title shall be interpreted to allow the
abatement of a criminal prosecution upon the late
satisfaction of a civil judgment or payment of a fine or
other determination pursuant to summary administrative
proceedings under this title.

(2) Unless otherwise provided, all maximum penalties
described in section 802 of this title shall also be
applicable in criminal proceedings in respect of the same
prohibited acts. In addition to any fine, the offender
shall also be punishable by imprisonment for not more
than ten years, if in the commission of any such offense
the person:

(a) uses a dangerous weapon;

(b) engages in conduct that causes bodily injury
to any authorized officer or authorized observer or other
officer authorized to enforce the provisions of this
title; or

(c) threatens any such person with bodily injury.

(3) Each day of a continuing violation shall be
considered a separate offense, for which a separate
penalty shall be assessed.

(4) The fines shall be deposited into the Fisheries
Enforcement and Development Fund. Fifty percent of the
proceeds from criminal fines shall be distributed to any
FSM State within whose territorial jurisdiction the
offense was committed.

Section 90. 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: 10/13/99

Introduced by: Joseph J. Urusmal
(by request)