A BILL FOR AN ACT

To further amend section 404 of title 24 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 19-169, to grant the National Oceanic Resource Management Authority (NORMA) the discretion to exempt a fishing vessel from the prohibition of fishing in neighbouring high seas, and for other purposes.

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

Section 1. Section 404 of title 24 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 19-169, is hereby further amended to read as follows:

"Section 404. Access agreements—minimum terms and conditions.

(A) All access agreements shall include the following minimum terms:

(1) the foreign party recognizes the sovereign rights and exclusive fishery management authority of the Federated States of Micronesia within the exclusive economic zone;

(2) the operator and each member of the crew shall comply with the applicable access agreement, applicable permit conditions, this subtitle, all regulations issued pursuant to this subtitle and all other applicable laws and regulations;(3) the operator shall:

(a) accept the Authority's authorized observers;
(b) provide any authorized observer, while on board the vessel, at no expense, with officer level accommodations, food and medical facilities;

(c) meet the following costs of the authorized observer:

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

   (ii) salary; and

   (iii) full insurance coverage;

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

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

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

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

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

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

(j) 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 611 of chapter 6
of this subtitle, 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, for the
duration of the access agreement:

(a) appoint and maintain a resident agent in the
Federated States of Micronesia that is approved by the
Authority, 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 subtitle;

(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 sub regional and regional conservation and management measures for highly migratory fish stocks.

(B) On such further terms and conditions as may be modified or expanded by regulation promulgated by the Authority in accordance with the Administrative Procedures Act, the following terms and conditions are mandatory to every access agreement:

(1) Catch retention. All bigeye, skipjack and yellowfin tuna taken by a purse seine vessel shall be retained on board and then landed or transshipped in accordance with this title, except for:
(a) fish clearly and demonstrably unfit for human consumption; and

(b) the final set of a trip where the Authority has authorized net-sharing.

It is the duty of Master of fishing vessel to report fish discard under (1) (a) and (b) of this subsection.

(2) Use of fish aggregating device. There shall be no deployment or servicing of fish aggregating device and associated electronic equipment, or fishing by purse seine vessels on floating objects, between 0001 hours GMT on 1 July and 2359 hours GMT on 30 September each year, except that:

(a) by regulation, the Authority may grant exemption to fishing vessels that have suffered disproportionate burden from the prohibition on the use of fish aggregating device; and

(b) by regulation, the Authority may provide for appropriate arrangement set out in a FAD management plan to meet the requirements of domestic fishing vessels that are highly dependent on fishing on floating objects.

(3) Closure of high seas areas. A fishing vessel shall not fish the areas listed below:

(a) the area of high seas bounded by the national waters of the Federated States of Micronesia,
Indonesia, Palau, and Papua New Guinea; and
(b) the area of high seas bounded by the
national waters of the Federated States of Micronesia,
Fiji, Kiribati, the Marshall Islands, Nauru, Papua New
Guinea, the Solomon Islands, and Tuvalu.
(c) On a case-by-case basis, the Authority may
exercise discretionary exemption from this prohibition."

Section 2. 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: 7/12/17
Introduced by: /s/ for Joseph J. Urusemal
Florencio S. Harper
(by request)