AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by amending sections 102, 401, 407, 408, 409, 501 and 503, for the purpose of providing for the implementation of regional fisheries treaties, and for other purposes.

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

Section 1. Section 102 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

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

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

(2) 'Atoll' means a circular or oval coral reef forming a geographic and ecologic unity crowned by at least one island.

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

(4) 'Congress' means the Congress of the Federated States of Micronesia.

(5) 'Executive director' means the executive director of the Micronesian Maritime Authority.

(6) 'Fish' means any living resource.

(7) 'Fishery' means:

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

(b) any fishing for such stocks.

(8) 'Fishing' means:

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

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

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

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

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

(9) '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:

(a) fishing;

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

(10) 'Foreign fishing' means fishing by vessels:

(a) not registered in Micronesia; or

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

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

(d) of foreign registry chartered by citizens of Micronesia.

(11) 'Foreign fishing agreement' means an agreement between the Authority on behalf of the Government of the Federated States of Micronesia and one or more foreign commercial fishing interests to permit foreign vessels to harvest fish within the extended fishery zone of the Federated States of Micronesia. A 'foreign party' is a party to such an agreement other than the authority.

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

(13) 'Living resource' means a finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine birds.

(14) 'Micronesia' or 'Government of Micronesia' refers to the appropriate State government or the Government of the Federated States of Micronesia.

(15) 'Operator' means any person who is in charge of, directs, or controls a vessel, including the owner,
charterer, or the master.

(16) 'Pacific Island States' means the parties to the South Pacific Forum Fisheries Agency Convention, 1979.

(17) 'Person' means any individual, corporation, partnership, association, or other entity, the Government of Micronesia or any of its subdivisions or any entity thereof, and any foreign government, subdivision of such government, or entity thereof.

(18) 'Reef fish' means any species of living resource which predominately inhabits reef areas or internal waters.

(19) 'Regional fisheries treaty' means a treaty between the governments of certain Pacific Island States and governments, bodies or organizations of foreign States other than Pacific Island States that relates to fishing in the waters of the Pacific Island States and has entered into force according to its terms following ratification by the Congress of the Federated States of Micronesia.

(20) 'Regional fishing license' means a regional fishing license issued to a foreign fishing vessel by an Administrator pursuant to a regional fisheries treaty.

(21) 'State' means any of the States of the Federated States of Micronesia.

(22) 'Stock of fish' means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.
(23) 'Submerged reef' means a coral reef forming a geographic and ecologic unity which is wholly submerged at high tide."

Section 2. Section 401 of title 24 of the Code of the Federated States of Micronesia is hereby amended to read as follows:

"Section 401. Foreign fishing permitted. No foreign fishing regulated pursuant to the provisions of this title is permitted in the extended fishery zone of Micronesia except by valid and applicable permit issued under authority conferred by this title. No foreign fishing is permitted in the Territorial Sea and Exclusive Fishery Zone of a State except by valid and applicable permit issued by the State."

Section 3. Section 407 of title 24 of the Code of the Federated States of Micronesia is hereby repealed in its entirety and a new section 407 is hereby enacted to read as follows:

"Section 407. Regional fisheries treaties, agreements, and licenses,

(1) Notwithstanding any other provisions of this title, the Government of the Federated States of Micronesia may enter into agreements with other governments to provide for observer programs pursuant to a regional fisheries treaty or to authorize the director of a regional fisheries agency or any other organization or person designated by any such agreement to perform functions required by a regional fisheries treaty, including but not limited to, the issuance
of regional fishing licenses.

(2) For the purpose of giving effect to any agreements described in subsection (1) of this section, the Authority may, pursuant to subsections 1(a) and 2(a) of section 302 of this title, adopt regulations to:

(a) Exempt any foreign fishing vessels holding valid regional fishing licenses pursuant to a regional fisheries treaty from any requirements of this title which are inconsistent with the terms of such treaty;

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

(c) Authorize observers designated pursuant to an observer program agreement to enforce the provisions of this title and any regional fisheries treaty on behalf of the Federated States of Micronesia, and to perform such duties and responsibilities as may be required by such agreement.

Section 4. Section 408 of title 24 of the Code of the Federated States of Micronesia, as amended by Public Law No. 3-10, is hereby further amended to read as follows:

"Section 408. Fishing permits required. No foreign fishing vessel shall engage in fishing regulated pursuant to the provisions of this title in the extended fishery zone of the Federated States of Micronesia unless such vessel has
on board a valid permit issued under this section and
sections 407 and 409 through 414 of this title for such vessel,
except as may be provided in any applicable foreign fishing
agreement or regional fisheries treaty. No foreign fishing
vessel shall engage in fishing in the Territorial Sea or the
Exclusive Fishery Zone of a State unless such vessel has on
board a valid permit issued by the State for such vessel."
Section 5. Section 409 of title 24 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 409. Foreign fishing agreement prerequisite to
permit. Fishing permits will only be issued in accordance
with a foreign fishing agreement approved pursuant to
section 406 of this title, or in accordance with a
regional fisheries treaty pursuant to section 407 of this
title; provided that permits issued for fishing in
accordance with section 414 of this chapter need not be
pursuant to a foreign fishing agreement or regional
fisheries treaty."

Section 6. Section 501 of title 24 of the Code of the Federated
States of Micronesia is hereby amended to read as follows:

"Section 501. Prohibited acts.

(1) It is unlawful for any person:

(a) to violate any provision of this title or of any
regulation or permit issued pursuant to this title;

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

(c) to violate any provision of, or regulation under, an applicable foreign fishing agreement entered into pursuant to sections 401 through 406 of this title;

(d) to refuse to permit any officer authorized to enforce the provisions of this title to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation, permit, or agreement referred to in paragraphs (a), (c) and (i) of this subsection;

(e) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in paragraph (d) of this subsection;

(f) to resist a lawful arrest for any act prohibited by this section;

(g) to knowingly ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of any fish taken or retained in violation of this title or any regulation, permit, or agreement referred to in paragraphs (a), (c) and (i) of this subsection;

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

(1) to violate any provision of, or regulation under,

any applicable agreement to implement a regional fisheries

treaty entered into pursuant to section 407 of this title.

(2) It is unlawful for any foreign fishing vessel, and

for the crew, owner, or operator of any foreign fishing

vessel, to engage in fishing in the extended fishery zone

of Micronesia unless such fishing is authorized by and

conducted in accordance with a valid and applicable fishing

permit issued pursuant to this title. It is unlawful for any

foreign fishing vessel, and for the crew, owner, or operator of

any foreign fishing vessel, to engage in fishing in the

Territorial Sea or Exclusive Fishery Zone of a State unless such

fishing is authorized by and conducted in accordance with a valid

and applicable fishing permit issued by the State."

Section 7. Section 503 of title 24 of the Code of the Federated

States of Micronesia, as amended by Public Law No. 3-34, is hereby

further amended to read as follows:

"Section 503. Criminal penalties.

(1) A person is guilty of an offense if he commits

any act prohibited by section 501 of this chapter.

(2) Any offense described as a prohibited act by

subsections (1)(a), (b), (c), (g), or (i) of section 501

is punishable by a fine of not more than $250,000.

(3) Any offense described as a prohibited act by
subsections (1)(d), (e), (f), or (h) of section 501 is punishable by a fine of not more than $400,000, or imprisonment for not more than two years, or both; PROVIDED that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this title, or threatens any such officer with bodily injury, the offense is punishable by a fine of not more than $1 million, or imprisonment for not more than ten years, or both; and PROVIDED FURTHER that where a regional fisheries treaty so requires, persons arrested for violating any provisions of, or regulations under, such treaty shall not be subject to imprisonment.

(4) Any offense described as a prohibited act by subsection (2) of section 501 is punishable by a fine of not more than $400,000. Each day of continuing violation shall be considered a separate offense."

Section 8. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.