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A BILL FOR AN ACT

To further amend title 24 of the Code of the Federated States of Micronesia, as amended, by further amending section 102, as amended by Public Laws Nos. 5-37 and 6-11, and by further amending sections 301, 302, 303, 306, 404, 405 and 406, as amended by Public Law No. 6-11, to provide for the creation of the Division of Fisheries and Marine Resources within the Department of Resources and Development, to require the approval of Congress for all foreign and domestic-based fishing agreements, to set limits on the duration of foreign fishing agreements and permits, to allow domestic-based fishing agreements for periods of up to two years in some circumstances, by repealing section 305, and for other purposes.

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

1 Section 1. Section 102 of title 24 of the Code of the Federated
2 States of Micronesia, as amended by Public Laws Nos. 5-37 and 6-11,
3 is hereby further amended to read as follows:

4 "Section 102. Definitions. As used in this title the term:

5 (1) 'Administrator' means the director of a regional
6 fisheries agency or any other organization or person
7 authorized, pursuant to section 106 of this title, to
8 administer a regional fisheries treaty.

9 (2) 'Applicable laws' means those laws affecting
10 marine resources from time to time identified by the
11 Authority by regulation.

12 (3) 'Atoll' means a naturally formed coral reef
13 system which has one or more islands situated on the reef
14 system, including Ngulu, Ulithi, Sorol, Eauripik, Woleai,
15 Faraulep, Ifalik, Olaimarao, Elato, Lamotrek, West Fayu,
16 Puluwat, Pulap, Pulusuk, Namonuito, Kuop, Nomowin, Murilo,
17 Losap, Namoluk, Satawan, Etal, Lukunor, Minto Reef, Oroluk,
18 Nukuoro, Kapingamarangi, Pakin, Ant, Sapwuahfik,
19 Mwoakilloa, and Pingelap.

20 (4) 'Authority' means the ~~Micronesian Maritime~~
21 ~~Authority established by section 101 of this title~~
22 Division of Fisheries and Marine Resources of the
23 Department of Resources and Development.

24 (5) 'Authorized observer' means any person authorized
25 in writing by the Authority to act as an observer on

1 foreign fishing vessels, including any observer authorized
2 pursuant to a regional fisheries treaty to be an authorized
3 observer for purposes of this title.

4 (§6) 'Authorized officer' means any officer of the
5 Division of Security and Investigation of the Government of
6 the Federated States of Micronesia or any other person
7 authorized in writing by the Attorney General to be an
8 authorized officer for the purposes of this title.

9 (§7) 'Based in the Federated States of Micronesia'
10 means using land-based facilities in the Federated States
11 of Micronesia to support fishing, including location of the
12 home port of a vessel in the Federated States of
13 Micronesia, selling all fish for processing within the
14 Federated States of Micronesia, transshipping all fish
15 harvested within the exclusive economic zone, and basing
16 operations in the Federated States of Micronesia while
17 operating in the exclusive economic zone.

18 (§8) 'Commercial Pilot Fishing' means any fishing for
19 the purpose of testing the commercial viability of:

- 20 (a) New fishing methods;
21 (b) Developing new stocks of fish; or
22 (c) Fishing in previously unexploited areas.

23 (§9) 'Court' means the Supreme Court of the Federated
24 States of Micronesia.

25 (§10) 'Domestic-based fishing' means any fishing by

1 foreign fishing vessels based in the Federated States of
2 Micronesia, but not including commercial pilot fishing.

3 (17011) 'Domestic-based fishing agreements' means an
4 agreement between the Government of the Federated States of
5 Micronesia and one or more persons to permit domestic-based
6 fishing within the exclusive economic zone.

7 (17112) 'Domestic-based party' means a party to a
8 domestic-based fishing agreement other than the Government
9 of the Federated States of Micronesia or a State.

10 (17113) 'Domestic fishing' means any fishing by local
11 fishing vessels longer than twenty-seven feet in overall
12 length, but not including commercial pilot fishing.

13 (17114) 'Exclusive economic zone' means the exclusive
14 economic zone defined in title 18 of the Code of the
15 Federated States of Micronesia.

16 (17115) 'Executive director' means the ~~executive director~~
17 ~~of the Micronesian Maritime Authority~~ Secretary of
18 Resources and Development.

19 (17116) 'Fish' means any living marine resource.

20 (17117) 'Fish aggregating device' means any manmade or
21 partly manmade floating device, whether anchored or not,
22 intended for the purpose of aggregating fish, and includes
23 any floating object on a device which has been placed to
24 facilitate its location.

25 (17118) 'Fishery' means any fishing for stocks of fish.

1 (~~18~~19) 'Fishery waters' means the exclusive economic
2 zone, the Territorial Sea, and internal waters as described
3 in title 18 of the Code of the Federated States of
4 Micronesia, and any other waters within the jurisdiction of
5 the Federated States of Micronesia.

6 (~~19~~20) 'Fishing' means:

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

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

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

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

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

20 (f) storing, processing or transporting fish
21 harvested within the fishery waters;

22 (g) refueling or supplying fishing vessels; or

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

25 (~~20~~21) 'Fishing gear' means any equipment, implement or

1 other thing that can be used in the act of fishing,
2 including any fishing net, rope, line, float, trap, hook,
3 winch, boat carried on board a fishing vessel, aircraft or
4 helicopter.

5 (~~2122~~) 'Fishing vessel' means any vessel, boat, ship,
6 or other craft which is used for, equipped to be used for,
7 or of a type that is normally used for:

8 (a) fishing;

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

13 (~~2123~~) 'Foreign fishing' means any fishing not defined
14 as domestic fishing or domestic-based fishing, but not
15 including commercial pilot fishing or fishing from a local
16 fishing vessel less than or equal to twenty-seven feet in
17 overall length.

18 (~~2124~~) 'Foreign fishing agreement' means an agreement
19 between the Authority on behalf of the Government of the
20 Federated States of Micronesia and one or more foreign
21 fishing interests to permit foreign vessels to harvest fish
22 within the exclusive economic zone.

23 (~~2425~~) 'Foreign fishing vessel' means any fishing
24 vessel not defined as a local fishing vessel.

25 (~~2526~~) 'Foreign party' means a party to a foreign

1 fishing agreement other than the Authority, the Government
2 of the Federated States of Micronesia or a State government.

3 (~~27~~27) 'Foreign recreational fishing' means fishing by
4 a foreign fishing vessel for recreational or sport purposes.

5 (~~27~~28) 'Island' means a naturally formed area of land
6 surrounded by water, which is above water at high tide.

7 (~~28~~29) 'Living marine resource' means all forms of
8 marine animal and plant life other than marine birds and
9 includes/ finfish, mollusks, and crustaceans.

10 (~~29~~30) 'Local fishing vessel' means any fishing vessel
11 wholly owned and operated by one or more:

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

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

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

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

23 (~~30~~31) 'Operator' means any person who is in charge of,
24 directs, or controls a vessel, including the owner,
25 charterer, or the master.

1 (~~§~~132) 'Pacific Island States' means the parties to
2 the South Pacific Forum Fisheries Agency Convention, 1979.

3 (~~§~~133) 'Permit' means the document authorizing fishing
4 within all or part of the exclusive economic zone issued
5 pursuant to section 111 of this title or pursuant to a
6 treaty, or any agreement or arrangement entered into
7 pursuant to section 106 of this title.

8 (~~§~~134) 'Person' means any individual, corporation,
9 partnership, association, or other entity, the Government
10 of the Federated States of Micronesia or any of the States,
11 or any political subdivision thereof, and any foreign
12 government, subdivision of such government, or entity
13 thereof.

14 (~~§~~135) 'Regional fisheries treaty' means a treaty
15 between the governments of certain Pacific Island States
16 and governments, bodies or organizations of foreign States
17 other than Pacific Island States that relates to fishing in
18 the waters of the Pacific Island States and has entered
19 into force according to its terms, and has been ratified by
20 the Congress of the Federated States of Micronesia.

21 (~~§~~136) 'Regional fishing license' means a regional
22 fishing license issued to a foreign fishing vessel pursuant
23 to a regional fisheries treaty.

24 (~~§~~137) 'State' means any of the States of the Federated
25 States of Micronesia.

1 (3738) 'Stock of fish' means a species, subspecies, or
 2 other category of fish identified on the basis of
 3 geographical, scientific, technical, recreational, and
 4 economic characteristics which can be treated as a unit for
 5 purposes of conservation and management."

6 Section 2. Section 301 of title 24 of the Code of the
 7 Federated States of Micronesia, as amended by Public Law No. 6-11, is
 8 hereby further amended to read as follows:

9 "Section 301. Micronesian Maritime Authority Division of
 10 Fisheries and Marine Resources - Established.

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

13 (a) One representative of each State appointed
 14 by the President of the Federated States of Micronesia, in
 15 consultation with the Governor and Congressional Delegation
 16 of the affected State, PROVIDED, however, that no such
 17 representative shall also serve as a member of the Board of
 18 Directors of the National Fisheries Corporation of the
 19 Federated States of Micronesia, or any subsidiary or
 20 affiliate thereof, during the term of his membership on the
 21 Authority and

22 and one at-large member appointed by the
 23 President of the Federated States of Micronesia.

24 (b) All appointments shall be for a term of two
 25 years. The term of office of each at-large member shall

1 expiration effective the date of the first meeting of the
 2 authority after the effective date of this act. Upon the
 3 expiration of the term of an appointed member, his rights
 4 and powers of membership shall lapse and the executive
 5 director shall declare the vacancy and notify the President
 6 of the Federated States of Micronesia in writing of such
 7 vacancy. Vacancies occurring before the expiration of a
 8 member's term shall be filled in the same manner as the
 9 original appointment for the remainder of the term of
 10 office of the vacancy.

11 (7) The chairman shall be chosen by the majority vote
 12 of the members of the Authority. The Authority shall meet
 13 at such times and places as may be decided by the
 14 chairman or by the Authority. The Authority shall adopt
 15 its own rules of procedure and regulations by majority
 16 vote the Division of Fisheries and Marine Resources of
 17 the Department of Resources and Development."

18 Section 3. Section 302 of title 24 of the Code of the
 19 Federated States of Micronesia, as amended by Public Law No. 6-11, is
 20 hereby further amended to read as follows:

21 "Section 302. Authority; Regulations.

22 (1) The ~~Authority~~ Secretary of the Department of Resources
 23 and Development shall have the following authority:

- 24 (a) to adopt regulations for the conservation,
 25 management, and exploitation of fish in the exclusive

1 economic zone;

2 (b) to conclude foreign and domestic-based
3 fishing agreements in accordance with sections 401 and 406
4 of this title;

5 (c) to issue domestic, domestic-based, and
6 foreign fishing permits in accordance with established
7 procedures ~~prescribed by the Authority~~ or regulations
8 promulgated pursuant to subsections (1)(a) ~~and 2 of this~~
9 ~~section~~; and

10 (d) to participate in the planning and execution
11 of programs relating to fisheries, or fishing in the
12 exclusive economic zone in which a State government
13 or the Government of the Federated States of Micronesia, or
14 any agency or subdivision thereof, has a proprietary
15 interest, direct or indirect, by way of stock ownership,
16 partnership, joint venture, or otherwise.

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

19 Section 4. Section 303 of title 24 of the Code of the
20 Federated States of Micronesia, as amended by Public Law No. 6-11, is
21 hereby further amended to read as follows:

22 "Section 303. Duties and functions. In addition to the
23 authority granted in the preceding section, the ~~Authority~~
24 Division of Fisheries and Marine Resources shall have the
25 following duties and functions:

1 (1) to provide technical assistance in the
2 delimitation of the exclusive economic zone in accordance
3 with section 107 of title 18;

4 (2) to negotiate domestic-based and foreign fishing
5 agreements in accordance with sections 404 and 406 of this
6 title;

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

10 (4) ~~to submit its budget and a report regarding the~~
11 ~~expenditure of its funds to the Congress each regular~~
12 ~~session for review; and~~

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

15 Section 5. Section 305 of title 24 of the Code of the Federated
16 States of Micronesia is hereby repealed in its entirety.

17 Section 6. Section 306 of title 24 of the Code of the
18 Federated States of Micronesia, as amended by Public Law No. 6-11, is
19 hereby further amended to read as follows:

20 "Section ~~305~~305. Annual report. The ~~chairman of the~~
21 ~~Agency~~ Secretary of the Department of Resources and
22 Development shall report on its activities to the President
23 of the Federated States of Micronesia, the Speaker of the
24 Congress of the Federated States of Micronesia, and each
25 State Governor by December 1 of each year, which report

1 shall contain a detailed accounting of ~~the expenditure of~~
 2 ~~funds of the Authority~~ its activities to include, the
 3 number of permits and licenses issued, the fees,
 4 forfeitures, and fines collected, estimates of the effect
 5 of the current level of fishing on the stock of fish in the
 6 exclusive economic zone, and such other information
 7 regarding the implementation of this title in the preceding
 8 fiscal year as the ~~Authority~~ Secretary may determine."

9 Section 7. Section 404 of title 24 of the Code of the Federated
 10 States of Micronesia, as amended by Public Law No. 6-11, is hereby
 11 further amended to read as follows:

12 "Section 404. Foreign fishing agreements - Terms. All
 13 foreign fishing agreements shall be for a definite
 14 duration not to exceed one year, and shall specify the
 15 number of vessels that may be issued permits pursuant to
 16 the agreement, and the size, tonnage capacity, and manner
 17 of fishing of such vessels. Permits authorized by any
 18 foreign fishing agreement shall not be for a period of time
 19 extending beyond the term of the agreement. In addition,
 20 all foreign fishing agreements shall have the following
 21 minimum terms:

- 22 (1) The foreign party and the owner or operator of
- 23 any fishing vessel shall acknowledge the exclusive fishery
- 24 management authority of the Federated States of Micronesia
- 25 within the exclusive economic zone;

1 (2) The foreign party or the owner or operator of any
2 fishing vessel fishing, as appropriate, pursuant to such
3 agreement shall:

4 (a) comply with the requirements of this title,
5 all regulations issued pursuant to this title and all other
6 applicable laws and regulations;

7 (b) permit any officer authorized to enforce the
8 provisions of this title to board and search or inspect any
9 vessel at any time and make arrests and seizures provided
10 for in section 508 of this title whenever such officer has
11 reasonable cause to believe, as a result of such a search
12 or inspection, that any such vessel or any person has
13 committed an act prohibited by this title;

14 (c) permit such officer to examine and make
15 ~~notations~~ notations on any permit issued pursuant to
16 sections 109 through 111 of this title, or other
17 documentation required under any applicable foreign fishing
18 agreement;

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

22 (e) immediately comply with every instruction
23 given by an authorized officer, facilitate safe boarding,
24 and facilitate the inspection of the vessel, gear,
25 equipment, records, fish and fish products;

1 (f) allow and assist authorized observers to
2 board the vessel for scientific, monitoring, compliance and
3 other functions, and have full access to, and the use of,
4 facilities and equipment on board the vessel which the
5 authorized observer may determine ~~is~~ are necessary to carry
6 out his or her duties; have full access to the bridge, fish
7 on board and areas which may be used to hold, process, weigh
8 and store fish; remove samples; have full access to the
9 vessel's records, including its logs and documentation for
10 the purpose of inspection and copying; and gather any other
11 information relating to fisheries in the exclusive economic
12 zone;

13 (g) not assault, obstruct, resist, delay, refuse
14 boarding to, intimidate, or interfere with an authorized
15 officer or authorized observer in the performance of his or
16 her duties;

17 (h) display any permit or permit number issued
18 for any such vessel pursuant to sections 109 through 111
19 of this title or any documentation required to be displayed
20 under foreign fishing agreements in the wheelhouse of such
21 vessel;

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

25 (j) ensure that the vessel is marked in

1 accordance with regulations issued by the ~~Authority~~
 2 Secretary of the Department of Resources and Development
 3 while within the exclusive economic zone;

4 (k) require that the National Government of the
 5 Federated States of Micronesia shall be reimbursed for the
 6 cost of authorized observers;

7 (l) appoint and maintain an agent within the
 8 Federated States of Micronesia who is authorized to receive
 9 and respond to any legal process issued in the Federated
 10 States of Micronesia with respect to such owner or operator
 11 of such vessel; and

12 (m) not, in any year, exceed such party's
 13 allocation of the total allowable level of foreign fishing,
 14 in the event allocations are established in accordance with
 15 this title.

16 (3) Foreign parties will:

17 (a) apply, pursuant to section 109 of this title,
 18 for any required permits;

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

22 (c) abide by the requirement that no foreign
 23 fishing will be permitted in the exclusive economic zone
 24 without a valid and applicable permit, except as provided
 25 by foreign fishing agreements concluded pursuant to this

1 chapter and that all conditions and restrictions of the
2 permit, or any applicable foreign fishing agreement, are
3 complied with."

4 Section 8. Section 405 of title 24 of the Code of the Federated
5 States of Micronesia, as amended by Public Law No. 6-11, is hereby
6 further amended to read as follows:

7 "Section 405. Approval of foreign and domestic-based
8 fishing agreements.

9 (1) To take effect within the exclusive economic
10 zone, a foreign fishing agreement or domestic-based fishing
11 agreement shall require the approval of the Congress of the
12 Federated States of Micronesia by resolution.

13 (2) ~~The Committee on Resources and Development of the~~
14 ~~Congress of the Federated States of Micronesia shall~~
15 ~~approve such an agreement if the Congress is not in session/~~

16 (3) ~~An agreement involving fewer than ten vessels~~
17 ~~does not require the approval of the Congress of the~~
18 ~~Federated States of Micronesia/~~

19 (2) When submitting a domestic-based fishing
20 agreement to the Congress the Authority shall also submit:

21 (a) verifiable evidence of any investment in
22 land-based facilities made by the domestic-based party; and

23 (b) verifiable evidence that the domestic-based
24 party has obtained all foreign investment permits, licenses
25 and other permits and authorization necessary for such party

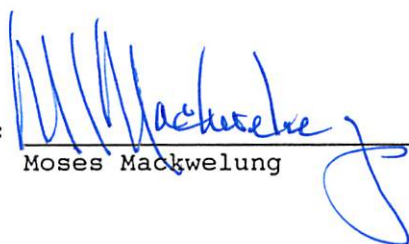
1 to conduct business in the Federated States of Micronesia
2 or any of the States thereof."

3 Section 9. Section 406 of title 24 of the Code of the Federated
4 States of Micronesia, as established by Public Law No. 6-11, is
5 hereby amended to read as follows:

6 "Section 406. Domestic-based fishing agreements. No
7 domestic-based fishing vessels shall be issued a permit to
8 fish in the exclusive economic zone without having entered
9 into a domestic-based fishing agreement. Such fishing
10 agreement shall have the same minimum terms required of
11 foreign fishing agreements by section 404 of this title
12 except that such agreements and the permits authorized by
13 such agreements may be for a period of time not to exceed
14 two years where the domestic-based party has invested more
15 than \$1,000,000 in the preceding two years in land-based
16 facilities in the Federated States of Micronesia."

17 Section 10. This act shall become law upon approval by the
18 President of the Federated States of Micronesia or upon its becoming
19 law without such approval.

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21 Date: 10/20/93

Introduced by: 
Moses Mackwelung

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