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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 amending: section 102 for the purposes of enacting new subsections 102(10) and 102(11) defining "driftnet fishing", and renumbering subsections 102(10) through 102(38); amending section 501 for the purposes of enacting a new subsection 501(1)(p) prohibiting FSM flagged vessels from unauthorized fishing in foreign waters, enacting a new subsection 501(1)(q) prohibiting any vessel from driftnet fishing in FSM waters, enacting a new subsection 501(1)(r) prohibiting FSM flagged vessels from driftnet fishing in any waters; amending subsection 501(2) to clarify ambiguities, 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
2 Federated States of Micronesia, is hereby further amended by
3 enacting new subsections (10) and (11) and by renumbering
4 subsections (10) through (38) to (12) through (40) respectively,
5 to read as follows:

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

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

12 (2) 'Applicable laws' means those laws affecting
13 marine resources from time to time identified by the
14 Authority by regulation.

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

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

25 (5) 'Authorized observer' means any person

1 authorized in writing by the Authority to act as an
2 observer on foreign fishing vessels, including any
3 observer authorized pursuant to a regional fisheries
4 treaty to be an authorized observer for purposes of this
5 title.

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

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

21 (8) 'Commercial pilot fishing' means any fishing
22 for the purpose of testing the commercial viability of:
23 (a) New fishing methods;
24 (b) Developing new stocks of fish; or
25 (c) Fishing in previously unexploited areas.

1 (9) 'Court' means the Supreme Court of the
2 Federated States of Micronesia.

3 (10) 'Driftnet' means a gillnet or other net or a
4 combination of nets which is more than 2.5 kilometers in
5 length the purpose of which is to enmesh, entrap or
6 entangle fish by drifting on the surface of or in the
7 water;

8 (11) 'Driftnet fishing activities' means:

9 (a) catching, taking or harvesting fish with
10 the use of a driftnet;

11 (b) attempting to catch, take or harvest fish
12 with the use of a driftnet;

13 (c) engaging in any other activity which can
14 reasonably be expected to result in the catching, taking
15 or harvesting of fish with the use of a driftnet,
16 including searching for and locating fish to be taken by
17 that method;

18 (d) any operations at sea in support of, or
19 in preparation for any activity described in this
20 paragraph, including operations of placing, searching
21 for or recovering fish aggregating devices or associated
22 electronic equipment such as radio beacons;

23 (e) aircraft use, relating to the activities
24 described in this paragraph, except for flights in
25 emergencies involving the health or safety of crew

1 members or the safety of a vessel; or
2 (f) transporting, transshipping and processing
3 any driftnet catch, and cooperation in the provision of
4 food, fuel and other supplies for vessels equipped for
5 or engaged in driftnet fishing;

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

9 (13) 'Domestic-based fishing agreements' means an
10 agreement between the Government of the Federated States
11 of Micronesia, but not including commercial pilot
12 fishing.

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

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

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

23 (17) 'Executive director' means the executive
24 director of the Micronesian Maritime Authority.

25 (18) 'Fish' means any living marine resource.

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

6 (20) 'Fishery' means any fishing for stocks of
7 fish.

8 (21) 'Fishery waters' means the exclusive economic
9 zone, the Territorial Sea, and internal waters as
10 described in Title 18 of the Code of the Federated
11 States of Micronesia, and any other waters within the
12 jurisdiction of the Federated States of Micronesia.

13 (22) 'Fishing' means:

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

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

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

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

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

2 (f) storing, processing or transporting fish
3 harvested within the fishery waters;

4 (g) refuelling or supplying fishing vessels;

5 or

6 (h) any operations at sea in support of or in
7 preparation for any activity described in this
8 subsection.

9 (23) 'Fishing gear' means any equipment, implement
10 or other thing that can be used in act of fishing,
11 including any fishing net, rope, line, float, trap,
12 hook, winch, boat carried on board a fishing vessel,
13 aircraft or helicopter.

14 (24) 'Fishing vessel' means any vessel, boat, ship,
15 or other craft which is used for, equipped to be used
16 for, or of a type that is normally used for:

17 (a) fishing;

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

23 (25) 'Foreign fishing' means any fishing not
24 defined as domestic fishing or domestic-based fishing,
25 but not including commercial pilot fishing or fishing

1 from a local fishing vessel less than or equal to
2 twenty-seven feet in overall length.

3 (26) 'Foreign fishing agreement' means an agreement
4 between the Authority on behalf of the Government of the
5 Federated States of Micronesia and one or more foreign
6 fishing interests to permit foreign vessels to harvest
7 fish within the exclusive economic zone.

8 (27) 'Foreign fishing vessel' means any fishing
9 vessel not defined as a local fishing vessel.

10 (28) 'Foreign party' means a party to a foreign
11 fishing agreement other than the Authority, the
12 Government of the Federated States of Micronesia or a
13 State government.

14 (29) 'Foreign recreational fishing' means fishing
15 by a foreign fishing vessel for recreational or sport
16 purposes.

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

19 (31) 'Living marine resource' means all forms of
20 marine animal and plant life other than marine birds and
21 includes, finfish, molluscs, and crustaceans.

22 (32) 'Local fishing vessel' means any fishing
23 vessel wholly owned and operated by one or more:

24 (a) The Government of the Federated States of
25 Micronesia, any State government or any subdivision

1 thereof.

2 (b) Citizen of the Federated States of
3 Micronesia.

4 (c) Corporation or cooperative established
5 under the laws of the Federated States of Micronesia or
6 of any State which is wholly owned and controlled by one
7 or more of the persons described in paragraphs (a) and
8 (b) of this subsection;

9 (d) Any combination of persons described in
10 paragraphs (a) through (c) of this subsection;

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

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

17 (35) 'Permit' means the document authorizing
18 fishing within all or part of the exclusive economic
19 zone issued pursuant to section 111 of this title or
20 pursuant to a treaty, or any agreement or arrangement
21 entered into pursuant to section 106 of this title.

22 (36) 'Person' means any individual, corporation,
23 partnership, association, or other entity, the
24 Government of the Federated States of Micronesia or any
25 of the States, or any political subdivision thereof, and

1 any foreign government, subdivision of such government,
2 or entity thereof.

3 (37) 'Regional fisheries treaty' means a treaty
4 between the governments of certain Pacific Island States
5 that relates to fishing in the waters of the Pacific
6 Island States that has entered into force according to
7 its terms, and has been ratified by the Congress of the
8 Federated States of Micronesia.

9 (38) 'Regional fishing license' means a regional
10 fishing license issued to a foreign fishing vessel
11 pursuant to a regional fisheries treaty.

12 (39) 'State' means any of the States of the
13 Federated States of Micronesia.

14 (40) 'Stock of fish' means a species, subspecies,
15 or other category of fish identified on the basis of
16 geographical, scientific, technical, recreational, and
17 economic characteristics which can be treated as a unit
18 for purposes of conservation and management."

19 Section 2. Section 501 of title 24 of the Code of the
20 Federated States of Micronesia, is hereby further amended by
21 enacting new subsections 501(1)(p) 501(1)(q), and 501(1)(r) and
22 by amending subsection (501(2) to read as follows:

23 "Section 501. Prohibited acts.

24 (1) It is unlawful for any person:

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

1 of any regulation or permit issued pursuant to this
2 title;

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

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

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

16 (e) to refuse to permit any authorized officer
17 to board a fishing vessel for purposes of conducting any
18 search or inspection in connection with the enforcement
19 of this title or any regulation, permit, or foreign or
20 domestic-based fishing agreement or any applicable
21 fishing treaty, agreement or arrangement;

22 (f) to assault, obstruct, resist, delay,
23 refuse boarding to, intimidate, or interfere with any
24 authorized officer or authorized observer in performance
25 of his duties, including in the conduct of any search or

1 inspection described in paragraph (e) of this
2 subsection; and for the purposes of this subparagraph,
3 any person who refuses to allow any authorized officer
4 or observer, or any person acting under his order or in
5 his aid, to exercise any of the powers conferred on an
6 authorized officer or observer by this title or any
7 regulations made under this title shall be deemed to be
8 obstructing that officer, observer, or person;

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

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

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

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

24 (k) to provide information required to be
25 recorded, notified or communicated pursuant to any

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

4 (l) to knowingly ship, transport, offer for
5 sale, sell, purchase, import, export, or have custody,
6 control, or possession of any fish taken or retained in
7 violation of this title or any regional fishing treaty,
8 regulation, permit, foreign or domestic-based fishing
9 agreement or any applicable law;

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

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

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

25 (p) being a fishing vessel entitled to fly the

1 national flag of the Federated States of Micronesia, to
2 fish in waters under the national jurisdiction of a
3 foreign nation unless duly authorized by the competent
4 authorities of the foreign nation or nations concerned;

5 (q) to engage in driftnet fishing activities
6 in the fishery waters; or

7 (r) being a fishing vessel entitled to fly the
8 national flag of the Federated States of Micronesia, to
9 engage in driftnet fishing activities in waters under
10 the national jurisdiction of a foreign nation, in the
11 high seas, or in enclosed or semi-enclosed seas as
12 defined in the United Nations Convention on the Law of
13 the Sea of December 10, 1982.

14 (2) It is unlawful for any fishing vessel, and for
15 the crew, owner, or operator of any fishing vessel, to
16 engage in fishing in the exclusive economic zone
17 authorized by and conducted in accordance with or
18 without a valid and applicable fishing permit issued
19 pursuant to this title, where such permit is required by
20 sections 103 and 104 of this title, and unless such
21 fishing is permitted pursuant to section 106."

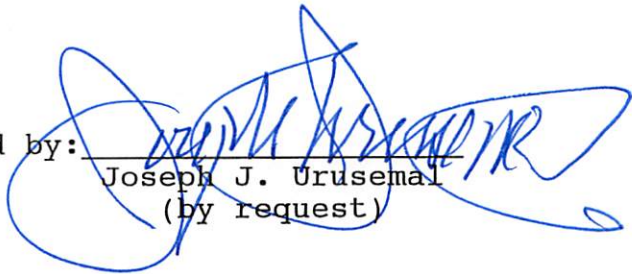
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C. B. NO. 9-115

1 Section 3. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

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5 Date: 11/27/95

Introduced by: 
Joseph J. Urusemal
(by request)

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