

STANDING COMMITTEE REPORT NO. 15-152

RE: C.R. NO. 15-160/R&D

SUBJECT: FOREIGN FISHERIES AGREEMENT BETWEEN THE NATIONAL OCEANIC
RESOURCE MANAGEMENT AUTHORITY AND FUNG LI FISHERIES GUAM,
INC.

OCTOBER 1, 2008

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Fifth Regular Session, 2008

Dear Mr. Speaker:

Your Committee on Resources and Development, to which was referred
C.R. No. 15-160, entitled:

"A RESOLUTION TO APPROVE THE FOREIGN FISHERIES AGREEMENT BETWEEN
THE NATIONAL OCEANIC RESOURCE MANAGEMENT AUTHORITY AND FUNG LI
FISHERIES GUAM, INC.",

begs leave to report as follows:

The intent and purpose of the resolution are expressed in its title.

The National Oceanic Resource Management Authority (NORMA) and Fung Li
Fisheries Guam, Inc. (Fung Li) have an existing agreement, which
permits access of nine Fung Li fishing vessels into the FSM EEZ. The
new agreement, which is the subject of this resolution, would increase
the number of Fung Li's vessels authorized to fish in the FSM EEZ from
nine (9) to twenty (20).

The access fee arrangement for each vessel in this new agreement
remains the same as that under the existing agreement. For vessels of
20 gross tonnage or less, the access fee is \$22,000 per vessel for a
one-year permit and \$6,000 for a three-months permit. For vessels
more than 20 gross tonnage, the access fee is \$26,000 for a one-year
permit and \$7,000 for a three-months permit.

A public hearing on the subject agreement was held on September 29,
2008 in the Congress Hearing Room. The witnesses in that hearing
included a representative each from NORMA and the Department of
Economic Affairs, the Secretary of the Department of Justice, and a
representative from the President's office. During the course of the
hearing, it was revealed to your Committee that Fung Li is based in
Guam. It had a legal agent in Pohnpei, but such agent has left for
good. To date, there has not been any official designation of a new
legal agent by and for Fung Li.

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The vessels are based and bunkered in Guam. Your Committee explored the possibility of having Fung Li based in the FSM and purchase fuel from the newly formed national petroleum corporation and suggested that NORMA takes every reasonable effort to bring Fung Li and other companies to base in the FSM so as to maximize the FSM's benefits from such fishing access agreements. NORMA has requested that a new legal agent be designated and based in the FSM.

Responding to a question raised by your Committee, it was also revealed that one of Fung Li's vessels failed to turn on the VMS while in the EEZ in violation of the terms of the agreement and national law. A court case was filed against Fung Li and was subsequently settled to the satisfaction of the parties involved. Pursuant to title 24 of the FSM Code, NORMA is prohibited to enter any agreement with any foreign fishing company with a pending case or an outstanding judgment. Since the case was settled and disposed of, the subject agreement could be negotiated and entered into.

The anticipated revenue that may be collected from the subject agreement is not included in the revenue projection submitted by the President for FY 2009.

Your Committee is appreciative that the subject agreement would bring 11 more vessels to fish in our waters and thereby infuse additional revenues. However, your Committee remains with the view that more diligent efforts, including exhaustive information gathering for purposes of effective negotiation, must be employed to ensure that we maximize both direct and indirect benefits from this major resource and, at the same time, ensure that such limited resource is not overexploited.

It is your Committee's intent that the foregoing comments be treated as policy for the guidance of NORMA in its negotiations with foreign fishing companies. That said, your Committee on Resources and Development is in accord with the intent and purpose of C.R. No. 15-160 and recommends its adoption.

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Respectfully submitted,

/s/ Dion G. Neth
Dion G. Neth, chairman

/s/ Tesime Kofot
Tesime Kofot, vice chairman

/s/ Resio S. Moses
Resio S. Moses, member

/s/ Peter Sitan
Peter Sitan, member

/s/ Joe N. Suka
Joe N. Suka, member

/s/ Joseph J. Urusemal
Joseph J. Urusemal, member

/s/ Paliknoa K. Welly
Paliknoa K. Welly, member