

STANDING COMMITTEE REPORT NO. 16-32

RE: C.R. NO. 16-41/R&D

SUBJECT: FISHING AGREEMENT BETWEEN JAPAN TUNA FISHERIES CO-OPERATIVE ASSOCIATION, NATIONAL OFFSHORE TUNA FISHERIES ASSOCIATION OF JAPAN, JAPAN FAR SEAS PURSE SEINE FISHING ASSOCIATION OF JAPAN - NORMA

SEPTEMBER 29, 2009

The Honorable Isaac V. Figir
Speaker, Sixteenth Congress
Federated States of Micronesia
Second Regular Session, 2009

Dear Mr. Speaker:

Your Committee on Resources and Development ("R&D"), to which was referred C.R. No. 16-41, entitled:

"A RESOLUTION APPROVING THE FOREIGN FISHING AGREEMENT (THE "AGREEMENT") ENTERED INTO JULY 24, 2009 BETWEEN THE FEDERATED STATES OF MICRONESIA THRU THE NATIONAL OCEANIC RESOURCE MANAGEMENT AUTHORITY (NORMA) AND THE JAPAN TUNA FISHERIES CO-OPERATIVE ASSOCIATION (NIKKASUKYO), NATIONAL OFFSHORE TUNA FISHERIES ASSOCIATION OF JAPAN (KINKATSUKYO), AND JAPAN FAR SEAS PURSE SEINE FISHING ASSOCIATION (KAIMAKI) FOR A PERIOD OF TEN (10) YEARS.",

begs leave to report as follows:

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

On September 23, 2009, the President has transmitted this resolution seeking Congress approval pursuant to section 405 of title 24 of the FSM Code.

This C.R. No. 16-41 is a resolution seeking approval of a Fishing Access Agreement (Agreement) between National Oceanic Resource Management Authority (NORMA) and the Japan Tuna Fisheries Co-Operative Association, National Offshore Tuna Fisheries Association of Japan and Japan Far Seas Purse Seine Fishing Association that was executed by both parties in Kolonia, Pohnpei on July 24, 2009.

THE AGREEMENT:

The proposed Agreement is a major overhaul from the previous agreements between NORMA and Japan Tuna Fisheries Co-Operative Association, National Offshore Tuna Fisheries Association of Japan and Japan Far Seas Purse Seine Fishing Association. Previously the agreements with the Associations have been on a per trip system. The fee for each month for each vessel type is calculated each month.

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Vessels only pay as they come in to fish each trip.

This proposed Agreement allows the Authority to receive lump sum annual permit. Vessels will pay an annual permit fee upfront for an annual permit. Shorter term permits (six and three-month) would also be available at a higher level for the time permitted.

According to NORMA, this new Agreement includes three gear types; longline, pole and line, purse seiner vessels all in one agreement.

The terms and conditions of access are the same as any other agreements that have come before the Congress for consideration. But this new Agreement is easier to administer and monitor. Each vessel regardless of size and type will be paying an application/registration fee of \$600.00, doubling the current of \$300.00. All vessels will also be paying an observer fee of \$3,000.00, higher than the current \$300.00 level.

Features of the New Agreement.

This new agreement contains eight attachments on the various required application and reporting formats, the fees for the three gear types and permit duration and several associated memorandum of understanding to implement provisions of this Agreement.

Access Fee

For purse seiners vessels the fee is \$132,957 depending on the fluctuation of exchange rate of the Japanese yen. For the pole and line vessels, it is \$28,280 also depending on the fluctuation of Japanese yen exchange rate. For the longline vessels for the first six months of the agreement: \$22,000 for fresh tuna longline vessels under 20 gross tons, \$26,000 for fresh tuna longline vessels over 20 gross tons, \$30,000 for ultra low temperature tuna longline vessels. The aforementioned access fees for longline vessels will be applied for the first six months.

After the first six months of the Agreement the following fees will apply for longline vessels in the seventh month:

- (i) Longliners less than 20 gross tons with storage method of keeping fish in a fresh and/or raw state for up to a

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- maximum of 60 vessels, the fee shall be: (a) \$25,000 for a one-year permit; (b) \$14,000 for a six-month permit; (c) \$8,000 for a three-month permit.
- (ii) Longliners greater than 20 gross tons with storage method of keeping fish in a fresh and/or raw state for up to a maximum of 25 vessels, the fee shall be: (a) \$30,000 for a one-year permit; (b) \$18,000 for a six-month permit; (c) \$10,000 for a three-month permit.
 - (iii) Longliners with Ultra Low Temperature storage facility for up to a maximum of 10 vessels, the fee shall be: (a) \$36,000 for a one-year permit; (b) \$20,000 for a six-month permit; (c) \$15,000 for a three-month permit.

Number of vessels

It is a maximum of 157 boats, 35 purse seiner, 27 pole and line vessels and 95 longline vessels, (60 of which has less than 20 gross tons, 25 with more than 20 gross tons and 10 with Ultra Low Temperature storage facility), which will participate in the Agreement. These vessels have already been operating in the area so they are not new vessels just being introduced into the FSM fishery area. They are currently operating under the existing agreement with the Japan Fishing Associations.

Expected Income from the Agreement

For the first six months for the longline vessels, the total access fees will come to about \$7,687,055. This figure will increase when the new higher fees for the longline fleet apply after the first six months of the agreement being in force. Hence, after the first registration period, using the higher fees for the longline fleet the expected income will be about \$8,027,055, not including the registration fee of \$4,200, the \$506,451 in Goods and Services, and \$471,000 for observer fees. The expected revenue inclusive of other fees is approximately \$9,098,706. The fee can be higher for purse seiner vessels, after they use up the allocated days for fishing.

The Authority reserves the right to revoke or suspend a permit issued under this agreement if the vessel is removed from good standing from the Vessel Registry or fails to meet Western Central Pacific Fisheries Commission (WCPFC) requirements. The Authority may terminate the Agreement for breach of its terms or upon substantial non-compliance.

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Further, if NORMA determines that there is a serious threat to the fish stocks in the waters of the FSM, it may take necessary action for the preservation of the stocks to limit or close access. All other standard terms and conditions including those required by law apply in this Agreement.

PUBLIC HEARING:

Your Committee held a public hearing on the above referenced agreement on Tuesday, September 21, 2009 at the call of Chairman Roger Mori. Committee members present included Senators Peter Sitan, Paliknoa K. Welly, Tony Otto, Dohsis Halbert and Joseph J. Urusemal. NORMA Executive Director Bernard Thoulag and Deputy Director Eugene Pangelinan appeared by invitation. Mr. Pelsesar Petrus, Special Assistant to the President for Legislative Matters, observed.

After the welcoming remarks, the Chairman yielded the floor to Executive Director Thoulag who provided an overview of the proposed agreement. He stated that the existing agreement runs per trip per vessel on a licensing system. Each month NORMA has to calculate the fee, which is quite lengthy. This new agreement will be a lump sum annual permit. He indicated that the expected income from this Agreement will be about \$9 million.

He further explained that the Agreement contains an amalgamation of documents: application and reporting forms, form for permit application, application forms to be filled out by vessels on registration, access fee schedule for the three vessel types and size, notification of transshipment and the report of actual transshipment, catch report forms for the three gear types, weekly report of non-operation by the purse seiner vessels, other weekly reports including entering and exiting the FSM EEZ, entering and exiting any FSM port, weekly position reports, trip completion report, manual reporting format when Automatic Locator Communication (ALC) fails and six memorandum of understanding.

Your Committee notes that this agreement will allow up to a combined total of 157 vessels, and is very concerned on the sustainability of stock. Your Committee asked when is the existing agreement ending. Mr. Thoulag indicated that it is a rolling agreement. Whenever

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Congress approves this new agreement, it will supersede the existing agreement. Mr. Thoulag indicated that the Scientific Committee under the Western Central Pacific Fisheries Commission (WCPFC) has looked into the impact on the catch of Tuna, and also the Third Implementing Agreement (3IA) accommodates the committee's concern. He further informed the committee that the Technical and Compliance Committee (TCC) will be looking at these issues also. In addition, the Tuna Commission is trying to come up with assessment on the depletion of tuna stock as a whole for the region. He urged prompt action on this resolution for that reason.

Your Committee continued to stress the need for the FSM to maximize its benefit from its most important fisheries resources and questioned efforts to raise the access fees and permit fees for commercial fishing in the EEZ.

RECOMMENDATION:

Your Committee wishes to offer some amendments to the said resolution as follows:

1. Page 2, lines 10 and 11, after "which", delete "MOUs for purposes of this resolution approving the Agreement".
2. Page 2, line 12, delete "parcel", and insert "partial" in lieu thereof.
3. Page 2, line 19, delete "by", and insert "that" in lieu thereof.
4. Page 2, line 20, after "Micronesia", insert "hereby", and delete "to".

Your Committee on Resources and Development recommends that the Fishing Access Agreement with Japan Tuna Fisheries Co-Operative Association, National Offshore Tuna Fisheries Association of Japan and Japan Far Seas Purse Seine Fishing Association of Japan be approved and that C.R. No. 16-41 be adopted in the form attached hereto as C.R. No. 16-41, C.D.1

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Respectfully submitted,

Roger S. Mori, Chairman

/s/
Tony Otto, Vice Chairman

Dohsis Halbert, member

Dion G. Neth, member

/s/
Peter Sitan, member

/s/
Joseph J. Urusemal, member

/s/
Paliknoa K. Welly, member