

STANDING COMMITTEE REPORT NO. 16-126

RE: C.R. NO. 16-145/EX. AFF.

SUBJECT: AMENDMENTS TO PROTOCOL TO EU AGREEMENT AND ANNEX TO THE PROTOCOL

JANUARY 18, 2011

The Honorable Isaac V. Figir
Speaker, Sixteenth Congress
Federated States of Micronesia
Sixth Regular Session, 2011

Dear Mr. Speaker:

Your Committee on External Affairs (Ex. Aff.), to which was referred, jointly with your Committee on Resources and Development (R&D) C.R. No. 16-145, entitled:

"A RESOLUTION RATIFYING AN AMENDMENT TO THE FISHERIES PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE FEDERATED STATES OF MICRONESIA ON FISHING IN THE FEDERATED STATES OF MICRONESIA, BY AMENDING THE PROTOCOL AND ANNEX.",

begs leave to report as follows:

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

Your Committee on Resources and Development (R&D) held a hearing in Palikir on January 17, 2011 to hear testimony regarding the amendments to the protocol and annex to the EU fishing agreement. Among those present at the hearing were the Director of NORMA and the Secretary of the Department of Resources and Development. A number of Congress's concerns regarding the EU agreement were not resolved.

The new annex and protocol maintain the dual nature of the agreement as both an aid agreement and a fishing license agreement. The EU still makes an aid contribution based on the tonnage of fish taken while the fishing boats pay fees based on tonnage of fish taken. In effect, there are two

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sources of income from the same fish. The protocol covers the aid contribution. The annex to the protocol contains the licensing procedures and fishing fees. Witnesses at the hearing testified there was some commingling of the funds from these two sources. The dual nature of the collections under the EU agreement and the commingling of the funds decreases the ability to accurately estimate the fees paid for the fish itself. Your Committee on Ex. Aff. hoped the aid contributions and fishing fees would be decoupled but they have not.

The initial aid contribution remains the same at euro559,000. The amended protocol decreases the total tonnage of fish taken by EU boats before additional contribution is required. Under the new protocol the EU will owe an additional contribution of euro65/ton for every ton in excess of 8,000 tons. Previously the initial contribution of euro559,000 covered up to 8,600 tons, with the fee for any tonnage in excess of 8,600 at euro65/ton.

The amended protocol also decreases the maximum the EU can owe in the form of an aid contribution. The new maximum is twice the initial contribution. With this monetary limitation, the maximum tonnage of fish allowed is 16,600 tons. If EU boats catch more they must come to us to discuss how to arrange to pay for the excess. But despite this soft limit, there is nothing in the agreement, annex, or protocol to limit the overall total caught. Therefore the fee structure used implements only an implied limitation on the total tonnage of fish taken by EU boats. Your Committee had hoped for an explicit limit on the amount of fish that could be taken. Your Committee was told in the hearing of January 17 that the fee structure implemented a firm limit, however, your Committee, after reviewing the amendments carefully, does not agree there is a firm limit.

This implied limit has decreased, as under the original protocol the implied limit was 25,800 tons. This is because the maximum contribution under the original protocol is triple the initial contribution while the maximum is only double under the amended protocol. Also, in the original protocol the initial contribution itself entitled EU boats to 8,600 tons rather than 8,000.

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Financial contribution portion:

Original	Amended
For euro559,000: 8,600 tons	For euro559,000: 8,000 tons
>8,600 tons & ≤25,800 tons: euro65/ton	>8,000 tons & ≤16,600 tons: euro65/ton
>25,800 tons: consult as to payment	>16,600 tons: consult as to payment
implied limit: 25,800 tons	implied limit: 16,600 tons

Fishing fee portion:

Original	Amended
euro35/ton	euro35/ton

Money:

	Original	Amended
Initial contribution	euro559,000	euro559,000
Maximum additional cont.	euro1,118,000	euro559,000
Maximum Fishing fee:	euro903,000	euro581,000
Max (implied) potential collection:	euro2,580,000 (25,800 tons)	euro1,699,000 (16,600 tons)
Integrated rate:	euro100/ton	euro102.34/ton

Remaining changes are technical and barely material. Of note is that the application fee under the amended annex is euro460, up from euro250 under the original. Similarly, the observer contribution fee per vessel is euro1500, up from euro500 under the original.

Another change your Committee had hoped to see in the amendments was an explicit statement that the fees paid by the EU or its boats are not reimbursable. Your Committee does not want the FSM to take the risk that EU boats are not able to fill their holds nor the risk that EU boats never make it to our waters to fish. Reimbursable fees put this risk squarely upon FSM. Your Committee has become aware that currently there is still disagreement over the issue of reimbursement. Your Committee had hoped this issue would be resolved by the amendments but it has not.

Your Committee on External Affairs has considered the amendments to the EU protocol and does not recommend

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adoption of C.R. No. 16-145. Your Committee has not been satisfied. Your Committee's concerns over the decoupling of the aid contributions and fishing fees, an explicit limit on the catch, and reimbursement of fees have not been satisfactorily resolved.

Respectfully submitted,

/s/ Paliknoa K. Welly
Paliknoa K. Welly, chairman

/s/ Tiwiter Aritos
Tiwiter Aritos, vice chairman

/s/ Isaac V. Figir
Isaac V. Figir, member

Peter M. Christian, member

Dohsis Halbert, member

/s/ Setiro Paul
Setiro Paul, member

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