

AN ACT

To provide funding for various National Fisheries Corporation purchases, projects and joint venture participation by appropriating the sum of \$3,100,000 from the General Fund of the Federated States of Micronesia for the fiscal year ending September 30, 1990, to be a loan from the National Government to the National Fisheries Corporation for the purpose of providing for the initial capitalization of the National Fisheries Corporation participation in certain tuna industrial joint venture projects and longline shorebased development joint ventures, and to authorize the appropriation of the sum of \$4,649,000 for the fiscal year ending September 30, 1991, to be a loan from the National Government to the National Fisheries Corporation for the purpose of providing additional capitalization for NFC participation in tuna industrial fisheries joint ventures and to authorize the National Government of the Federated States of Micronesia to participate in a borrowing under the Compact Funds Financing Act for the purpose of promoting fisheries development in the Federated States of Micronesia by making a loan to a particular joint venture or under certain circumstances to reimburse the State of Pohnpei; by further amending title 55 of the Code of the Federated States of Micronesia, as amended, by adding a new section 310A for the purpose of authorizing the payment of expenses associated with Compact Financial Assistance Fund accounts and borrowing under the Compact Funds Financing Act; and for other purposes.

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

1 Section 1. This act may be cited as the "NFC Act of 1990."

2 Section 2. As used in this act:

3 (1) Terms shall have the same definitions as are contained
4 in section 512 of title 58 of the Code of the Federated States of
5 Micronesia;

6 (2) "National Government" means the National Government of
7 the Federated States of Micronesia; and

8 (3) "Medium-Term Note Program" means the program by such
9 title that has been or will be negotiated by the National Government
10 pursuant to the Compact Funds Financing Act.

11 Section 3. The sum of \$3,100,000, or so much thereof as may be
12 necessary, is hereby appropriated from the General Fund of the
13 Federated States of Micronesia for the fiscal year ending September
14 30, 1990, to be a loan from the National Government to the National
15 Fisheries Corporation under the terms and conditions set forth
16 in section 17 of this act for the purpose of providing for the
17 initial capitalization of the National Fisheries Corporation
18 for its participation in tuna industrial fisheries joint venture
19 projects in Kosrae, Chuuk and Yap States and for NFC capitalization
20 for participation in tuna longline shorebased development joint
21 ventures in Pohnpei, Kosrae and Yap States.

22 Section 4. The sum appropriated for a loan under section 3 of

1 this act shall be apportioned as follows:

2 (1) The sum of \$2,500,000 is appropriated for a loan for ✓
3 the purpose of providing initial capitalization for NFC participation in
4 tuna industrial fisheries joint ventures in Kosrae, Chuuk and Yap States
5 for the fiscal year ending September 30, 1990.

6 (2) The sum of \$500,000 is appropriated for a loan for the ✓
7 purpose of providing initial capitalization for NFC participation in
8 longline shorebased development joint ventures in the States of Kosrae,
9 Pohnpei and Yap.

10 (3) The sum of \$100,000 is appropriated for a loan for the ✓
11 purpose of providing a subsidy to the National Fisheries Corporation for
12 the costs of joint venture and other business development solicitation,
13 review and negotiations.

14 Section 5. The sum of \$4,649,000, or so much thereof as may be
15 necessary, is hereby authorized to be appropriated for a loan from the
16 General Fund of the Federated States of Micronesia for the fiscal year
17 ending September 30, 1991, to be a loan from the National Government to
18 the National Fisheries Corporation under the terms and conditions set
19 forth in section 17 of this act for the purpose of providing additional
20 initial capitalization for NFC participation in tuna industrial fisheries
21 joint ventures, to provide funds for the operation of a trial tuna
22 longline fishing operation and to provide a subsidy to the NFC for
23 ongoing project commitments in the fiscal year ending September 30, 1991.

24 Section 6. The sum authorized to be appropriated for a loan under
25 section 5 of this act shall be apportioned as follows:

1 (1) The sum of \$4,500,000, or so much thereof as may be
2 necessary, is hereby authorized to be appropriated for a loan from the ✓
3 General Fund of the Federated States of Micronesia for the fiscal year
4 ending September 30, 1991, for the purpose of providing additional initial
5 capitalization for NFC participation in tuna industrial fisheries joint
6 ventures in Kosrae, Chuuk and Yap States in a manner such that NFC
7 capitalization for ventures in all four States shall be generally
8 equitable given the particular circumstances of each joint venture
9 arrangement.

10 (2) The sum of \$96,000, or so much thereof as may be necessary, ✓
11 is hereby authorized to be appropriated for a loan from the General Fund
12 of the Federated States of Micronesia for the fiscal year ending September
13 30, 1991, for the purpose of operating a trial tuna longline fishing
14 operation in the Federated States of Micronesia utilizing 2 fourteen ton
15 longline vessels.

16 (3) The sum of \$53,000, or so much thereof as may be necessary, ✓
17 is hereby authorized to be appropriated for a loan from the General Fund
18 of the Federated States of Micronesia for the fiscal year ending
19 September 30, 1991, for the purpose of providing a subsidy to the
20 National Fisheries Corporation for ongoing project commitments in the
21 fiscal year ending September 30, 1991, for the NFC/OFCF Outer Banks
22 Survey Projects and for the Fresh Fish Export Promotion Project to be
23 conducted in Kosrae State.

24 Section 7. The National Government is hereby authorized to
25 participate in a borrowing under the Medium-Term Note Program pursuant

1 to the Compact Funds Financing Act, PROVIDED that such borrowing is
2 done pursuant to the conditions in this act.

3 Section 8. The President, the Secretary of Finance, the Attorney
4 General and any other officials designated by the President are
5 authorized to perform the functions and duties described in the Compact
6 Funds Financing Act and such other duties and functions as may be
7 necessary to lawfully accomplish the purposes of such Act and of this
8 act, including in the case of the Attorney General providing the legal
9 opinion described in such Act and in the case of the President
10 authorizing the pledge of security necessary to secure the borrowing, to
11 satisfy any financial obligations attributable to the National Government
12 related to or resulting from such borrowing, and also to pledge or
13 provide such additional security as may be necessary to protect any
14 non-participating State against any loss arising in connection with the
15 National Government's participation and to secure payment of all financial
16 obligations related to or resulting from the borrowing including costs
17 and expenses, and the President is further authorized to cause all
18 necessary payments to be made to satisfy all financial obligations
19 attributable to the National Government's participation in the borrowing,
20 PROVIDED that such National Government officials may take such actions
21 only with respect to specific amounts authorized by this act and such
22 additional security as is so required.

23 Section 9. In order to secure such borrowing, the President is
24 authorized to make an irrevocable pledge of up to \$4,500,000 in
25 future Compact Funds and any investment earnings thereon that would

1 otherwise be payable to the National Government, PROVIDED that he must
2 follow the procedures contained in the Compact Funds Financing Act, and
3 PROVIDED FURTHER that the amount of such pledge shall not exceed the
4 following amounts and the investment earnings thereon from the National
5 Government's share of funds under the Compact of Free Association:

<u>Fiscal Year</u>	<u>Source</u>	<u>Amount</u>
7 1991	Section 211(a) 8 Capital Account	\$1,500,000
9 1992	Section 211(a) 10 Capital Account	\$1,500,000
11 1993	Section 211(a) 12 Capital Account	\$1,500,000

13 Section 10. Proceeds from the borrowing authorized in section 7 may ✓
14 be used only for the purpose of promoting fisheries development in the
15 Federated States of Micronesia by making a loan of \$3,750,000 to
16 the joint venture corporation registered as Caroline Fisheries
17 Corporation, Inc., the partners of which are the National Fisheries
18 Corporation, Pohnpei State Economic Development Authority and the Tuna
19 Development Company, Pty Ltd.; PROVIDED that if Pohnpei State has
20 already made a loan to the joint venture company for \$7,500,000 before
21 this act becomes law, then the \$3,750,000 shall instead be paid to
22 Pohnpei State to relieve the State of one-half of the loan to the
23 joint venture company, PROVIDED FURTHER that upon such payment, the
24 President shall ensure that the State of Pohnpei shall explicitly agree
25 and provide that the Government of the Federated States of Micronesia

1 shall be a equal lender party with the State of Pohnpei to the
2 Loan Agreement between the State of Pohnpei and Caroline Fisheries
3 Corporation, Inc.; and Pohnpei State Economic Development Authority,
4 National Fisheries Corporation and Tuna Development Company Pty. Ltd.;
5 and shall be entitled to all rights, privileges, benefits, and
6 responsibilities of a equal lender thereunder. Such loan or loan
7 relief payment shall not be subject to the provisions of the Financial
8 Management Act of 1979.

9 Section 11. Notwithstanding any other provision of law, the
10 President or his designee is authorized to enter into an agreement with
11 the Federated States of Micronesia Development Bank for it to administer
12 and service such loan on behalf of the National Government.

13 Section 12. The President or his designee is authorized to disburse
14 the proceeds of the borrowing as necessary to accomplish the purposes of
15 this act.

16 Section 13. Upon actual or constructive receipts of proceeds from
17 the borrowing, the National Government consents to and authorizes a
18 reduction in the amount of Compact Funds received or to be received
19 through the Compact Financial Assistance Fund on behalf of the National
20 Government, with such reduction being commensurate with the amount of
21 Pledged Compact Funds pledged by the National Government, and the
22 National Government irrevocably waives all rights to the receipt of such
23 Pledged Compact Funds, PROVIDED, however, that the amounts to be pledged
24 and waived may not exceed the amount provided in section 9 of this act.

25 Section 14. The National Government waives its sovereign immunity

1 to the extent necessary to permit any State of the Federated States of
2 Micronesia to bring an action and execute a judgment as to assets of the
3 National Government based on any loss arising in connection with the
4 National Government's participation in the Medium-Term Note Program.

5 Section 15. After the issuance of any Bonds, the National
6 Government will not limit or alter, or seek to limit or alter the rights
7 thereby vested and vested pursuant to the Indenture including, without
8 limitation, the irrevocable pledge by the President of Pledged Compact
9 Funds, until the Bonds, together with interest and premium thereon, if
10 any, are fully paid and discharged, PROVIDED that nothing herein
11 contained shall preclude such limitation or alteration if and when
12 adequate provision shall be made in accordance with the terms of the
13 Indenture for protection of the holders of the Bonds.

14 Section 16. All funds appropriated by this act shall be allotted,
15 managed, administered, and accounted for in accordance with applicable
16 law, including, but not limited to, the Financial Management Act of
17 1979. The President or his designee shall be the allottee and shall be
18 responsible for ensuring that these funds, or so much thereof as may be
19 necessary, are used solely for the purposes specified in this act, and
20 that no obligations are incurred in excess of the sum appropriated. The
21 authority of the allottee to obligate or disburse funds appropriated by
22 this act shall not lapse. Notwithstanding any other provision of this
23 act or any other law of the Federated States of Micronesia, with respect
24 to the funds appropriated by this act, the National Fisheries Corporation
25 shall be deemed to be a subsidy recipient and neither an allottee nor

1 suballottee of such funds nor a National Government agency for any
2 purposes, including for purposes of the Public Contracts Act, chapter 4
3 of title 55 of the Code of the Federated States of Micronesia. With
4 respect to funds obligated prior to February 28, 1990, the National
5 Fisheries Corporation shall continue to be deemed to be a National
6 Government agency.

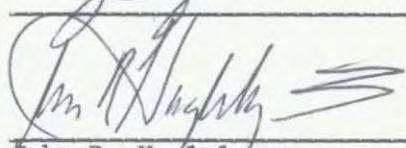
7 Section 17. The sum appropriated under section 3 of this act and
8 the sum authorized to be appropriated under section 5 of this act shall
9 be loaned from the National Government to the National Fisheries
10 Corporation. Such loans shall not be subject to the provisions of the
11 Financial Management Act of 1979. Such loans shall be made on reasonable
12 terms to be established by the President of the Federated States of
13 Micronesia in consultation with the President of the Development Bank of
14 the Federated States of Micronesia; PROVIDED, each loan agreement shall
15 provide that repayment shall begin 3 years after the date of execution
16 of each loan agreement; and PROVIDED FURTHER, each loan agreement shall
17 provide that only the principal of the loans shall be repaid and that no
18 interest shall be paid on the loans.

19 Section 18. Title 55 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section 310A to read
21 as follows:

22 "Section 310A. Authorization to debit certain expenses.
23 Without further authorization or appropriation, any appropriate
24 Compact Financial Assistance Fund account of the FSM National
25 Government or a State government may be debited for expenses,

1 including trustee fees, associated with such government's
2 Compact Financial Assistance Fund accounts or with such
3 government's borrowing under the Compact Funds Financial Act."
4 Section 19. This act shall become law upon approval by the
5 President of the Federated States of Micronesia or upon its becoming
6 law without such approval.

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July 17, 1990

John R. Hagelgam
President
Federated States of Micronesia

