

117TH CONGRESS
2D SESSION

H. R. 9538

To amend the South Pacific Tuna Act (16 U.S.C. 973 et seq.).

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 14, 2022

Mr. CASE (for himself and Mrs. RADEWAGEN) introduced the following bill;
which was referred to the Committee on Natural Resources

A BILL

To amend the South Pacific Tuna Act (16 U.S.C. 973 et
seq.).

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “South Pacific Tuna Act of 2022”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of South Pacific Tuna Act.
- Sec. 3. Definitions.
- Sec. 4. Prohibited acts.
- Sec. 5. Exceptions.
- Sec. 6. Criminal offenses.
- Sec. 7. Civil penalties.
- Sec. 8. Licenses.

- Sec. 9. Enforcement.
- Sec. 10. Findings by Secretary.
- Sec. 11. Reporting requirements; disclosure of information.
- Sec. 12. Closed area stowage requirements.
- Sec. 13. Observers.
- Sec. 14. Technical assistance.
- Sec. 15. Arbitration.
- Sec. 16. Disposition of fees, penalties, forfeitures, and other moneys.
- Sec. 17. Additional agreements.
- Sec. 18. Authorization of appropriations.

1 **SEC. 2. AMENDMENT OF SOUTH PACIFIC TUNA ACT.**

2 Except as otherwise expressly provided, wherever in
 3 this title an amendment or repeal is expressed in terms
 4 of an amendment to, or repeal of, a section or other provi-
 5 sion, the reference shall be considered to be made to a
 6 section or other provision of the South Pacific Tuna Act
 7 (16 U.S.C. 973 et seq.).

8 **SEC. 3. DEFINITIONS.**

9 (a) **APPLICABLE NATIONAL LAW.**—Section 2 (16
 10 U.S.C. 973) is amended by striking “described in para-
 11 graph 1(a) of Annex I of” in paragraph (4) of section 2,
 12 and inserting in its place: “noticed and in effect in accord-
 13 ance with”.

14 (b) **CLOSED AREA.**—Section 2 (16 U.S.C. 973) is
 15 amended by striking “of the closed areas identified in
 16 Schedule 2 of Annex I of” in paragraph (5) of section 2,
 17 and inserting in its place: “area within the jurisdiction of
 18 a Pacific Island Party that is closed to vessels pursuant
 19 to that Party’s national laws, and is noticed and in effect
 20 in accordance with”.

1 (c) FISHING.—Section 2 (16 U.S.C. 973) is amended
2 by—

3 (1) inserting “for any purpose” after “har-
4 vesting of fish” at the end of paragraph (6)(C) of
5 section 2;

6 (2) striking “aircraft” at the beginning of para-
7 graph (6)(F) of section 2;

8 (3) striking “, relating to the activities” in
9 paragraph (6)(F) of section 2, and inserting in its
10 place: “of any other vessel, vehicle, aircraft or hover-
11 craft, for any activity”;

12 (4) striking “flights in” after “except for” in
13 paragraph (6)(F) of section 2;

14 (5) inserting “the” after “health or safety of”
15 in paragraph (6)(F) of section 2; and

16 (6) striking “members” after “crew” in para-
17 graph (6)(F) of section 2.

18 (d) FISHING VESSEL.—Section 2 (16 U.S.C. 973) is
19 amended by—

20 (1) inserting “purse seine” after “used for com-
21 mercial” in paragraph (7) of section 2; and

22 (2) inserting “for tuna” after “purse seine fish-
23 ing” in paragraph (7) of section 2, as so amended.

24 (e) LICENSING AREA.—Section 2 (16 U.S.C. 973) is
25 amended by striking “in the Treaty Area except for” and

1 all that follows, including subparagraphs (A), (B), and
2 (C), in paragraph (8) of section 2, and inserting in its
3 place: “under the jurisdiction of the Pacific Island Parties
4 except for internal waters, territorial seas, archipelagic
5 waters and any Closed Area.”.

6 (f) LIMITED AREA.—Section 2 (16 U.S.C. 973) is
7 amended by—

8 (1) striking paragraph (10) of section 2; and

9 (2) redesignating existing paragraphs (11)
10 through (14) of section 2 as paragraphs (10)
11 through (13), respectively.

12 (g) REGIONAL TERMS AND CONDITIONS.—Section 2
13 (16 U.S.C. 973) is amended by inserting after paragraph
14 (13) of section 2, as so redesignated, the following new
15 paragraph—

16 “(14) The term ‘regional terms and conditions’
17 means any of the terms or conditions attached by
18 the Administrator to the license issued by the Ad-
19 ministrator, as notified by the Secretary.”.

20 (h) TREATY AREA.—Section 2 (16 U.S.C. 973) is
21 amended by striking paragraph (18) of section 2.

22 **SEC. 4. PROHIBITED ACTS.**

23 (a) Section 5(a) (16 U.S.C. 973c) is amended by—

1 (1) striking “Except as provided in section
2 973d of this title, it” at the beginning of section
3 5(a), and inserting in its place: “It”;

4 (2) striking paragraphs (3) and (4);

5 (3) redesignating existing paragraphs (5)
6 through (13) as paragraphs (3) through (11), re-
7 spectively;

8 (4) inserting “, except in accordance with an
9 agreement pursuant to the Treaty” after “Closed
10 Area” at the end of paragraph (3), as so redesign-
11 ated;

12 (5) striking “or” at the end of paragraph (10),
13 as so redesignated;

14 (6) striking “.” at the end of paragraph (11),
15 as so redesignated, and inserting in its place “;”;
16 and

17 (7) inserting after paragraph (11), as so redesi-
18 gnated, the following new paragraphs—

19 “(12) to violate any of the regional terms and
20 conditions; or

21 “(13) to violate any limit on authorized fishing
22 effort or catch.”.

23 (b) Section 5(b) (16 U.S.C. 973c) is amended by—

1 (1) striking “Except as provided in section
2 973d of this title, it” at the beginning of section
3 5(b), and inserting in its place: “It”;

4 (2) striking paragraph (5); and

5 (3) redesignating existing paragraphs (6) and
6 (7) as paragraphs (5) and (6), respectively.

7 **SEC. 5. EXCEPTIONS.**

8 (a) Section 6 (16 U.S.C. 973d) is amended by strik-
9 ing section 6, including the section heading of section 6
10 and subsections (a) and (b), and inserting in its place:
11 “**【Reserved】**”.

12 **SEC. 6. CRIMINAL OFFENSES.**

13 (a) PROHIBITED ACTS.—Section 7(a) (16 U.S.C.
14 973e) is amended by striking “section 973c(a)(8), (10),
15 (11), or (12)”, and inserting in its place: “section
16 973c(a)(6), (8), (9), or (10)”.

17 **SEC. 7. CIVIL PENALTIES.**

18 (a) DETERMINATION OF LIABILITY; AMOUNT; PAR-
19 TICIPATION BY SECRETARY OF STATE IN ASSESSMENT
20 PROCEEDING.—Section 8(a) (16 U.S.C. 973f) is amended
21 by—

22 (1) striking “Code” after “liable to the United
23 States”; and

24 (2) striking “Except for those acts prohibited
25 by section 973c(a)(4), (5), (7), (8), (10), (11), and

1 (12), and section 973c(b)(1), (2), (3), and (7) of
2 this title, the”, and inserting in its place: “The”.

3 (b) WAIVER OF REFERRAL TO ATTORNEY GEN-
4 ERAL.—Section 8(g) (16 U.S.C. 973f) is amended by—

5 (1) striking “(8), (9),” after “(5), (6), (7),” at
6 the beginning of paragraph (g), and inserting in its
7 place: “(11), (12), or”; and

8 (2) striking “, all Limited Areas closed to fish-
9 ing,” after “outside of the Licensing Area” in para-
10 graph (2).

11 **SEC. 8. LICENSES.**

12 (a) FORWARDING AND TRANSMITTAL OF VESSEL LI-
13 CENSE APPLICATION.—Section 9(b) (16 U.S.C. 973g) is
14 amended by—

15 (1) striking “Except as provided in sub-
16 sections” at the beginning of section 9(b), and in-
17 serting in its place: “In accordance with subsection”;

18 (2) inserting “and except as provided in sub-
19 section” after “In accordance with subsection (e),”
20 at the beginning of section 9(b), as so amended;

21 (3) striking “, and (g)” at the beginning of sec-
22 tion 9(b);

23 (4) striking “to the Secretary of State for
24 transmittal”; and

1 (5) striking “, includes a complete application
2 form as required by Annex II of the Treaty, and is
3 accompanied by the required license fee” at the end
4 of section 9(b).

5 (b) FEES AND SCHEDULES.—Section 9(c) (16 U.S.C.
6 973g) is amended by—

7 (1) striking “and fee schedules” in the section
8 heading of section 9(c);

9 (2) striking paragraph (1);

10 (3) striking “(2) After such initial year, fees for
11 vessel licenses” of paragraph (2), and inserting in its
12 place: “Fees required under the Treaty”;

13 (4) striking “fee schedules established under
14 Annex II of”; and

15 (5) striking “published by the Secretary” at the
16 end of section 9(c), and inserting in its place: “any
17 procedures established by the Secretary”.

18 (c) MINIMUM FEES REQUIRED TO BE RECEIVED IN
19 INITIAL YEAR OF IMPLEMENTATION FOR FORWARDING
20 AND TRANSMITTAL OF LICENSE APPLICATIONS.—Section
21 9(f) (16 U.S.C. 973g) is amended by—

22 (1) striking section 9(f); and

23 (2) redesignating existing sections 9(g) and
24 9(h) as sections 9(f) and 9(g), respectively.

1 (d) GROUNDS FOR DENIAL OF FORWARDING OF LI-
2 CENSE APPLICATION.—Section 9(f) (16 U.S.C. 973g), as
3 so redesignated, is amended by striking “chapter” at the
4 end of paragraph (4), and inserting in its place: “title”.

5 (e) GRANDFATHERING OF VESSELS DOCUMENTED
6 BEFORE NOVEMBER 3, 1995.—Section 9(g) (16 U.S.C.
7 973g), as so redesignated, is amended by—

8 (1) in paragraph (1), replacing “12108” with
9 “12113”;

10 (2) striking “Treaty” after “may fish for tuna
11 in the” in paragraph (3) and inserting in its place:
12 “Licensing”;

13 (3) striking “including those waters subject to
14 the jurisdiction of the United States” in paragraph
15 (3) and inserting in its place: “and on the high seas
16 and in waters subject to the jurisdiction of the
17 United States west of 146° W. longitude and east of
18 129.5° E longitude”;

19 (4) striking “treaty and” after “subject to the
20 provisions of the” in paragraph (3), and inserting in
21 its place: “Treaty,”;

22 (5) inserting “and other applicable law,” in
23 paragraph (3) after “this chapter,”;

1 (6) striking “fishing in the Treaty Area” after
2 “provided that no such vessel” in paragraph (3);
3 and

4 (7) striking “under the provisions of the Treaty
5 or this chapter” at the end of paragraph (3).

6 **SEC. 9. ENFORCEMENT.**

7 (a) NOTICE REQUIREMENTS TO PACIFIC ISLAND
8 PARTY CONCERNING INSTITUTION AND OUTCOME OF
9 LEGAL PROCEEDINGS.—Section 10(c) (16 U.S.C. 973h)
10 is amended by—

11 (1) striking “paragraph 8 of Article 4 of” after
12 “notify the Pacific Island Party in accordance with”
13 in paragraph (1); and

14 (2) striking “Article 10 of” after “effective date
15 of the notice under” at the end of paragraph (1).

16 (b) SEARCHES AND SEIZURES BY AUTHORIZED OF-
17 FICERS; LIMITATIONS ON POWER.—Section 10(d) (16
18 U.S.C. 973h) is amended by—

19 (1) striking “or” at the end of paragraph
20 (1)(A)(ii); and

21 (2) inserting “or” at the end of paragraph
22 (1)(A)(iii).

23 **SEC. 10. FINDINGS BY SECRETARY.**

24 (a) ORDER OF VESSEL TO LEAVE WATERS UPON
25 FAILURE TO SUBMIT TO JURISDICTION OF PACIFIC IS-

1 LAND PARTY; PROCEDURE APPLICABLE.—Section 11(a)
2 (16 U.S.C. 973i) is amended by—

3 (1) striking “, all Limited Areas,” after “leave
4 immediately the Licensing Area” in section 11(a);

5 (2) striking “paragraph 2 of Article 3 of” after
6 “and that under” in paragraph (1)(A);

7 (3) striking “within the Treaty Area” after
8 “final determination deriving from a violation in
9 waters” in paragraph (1)(C), and inserting in its
10 place: “under the jurisdiction”;

11 (4) striking “(a)(5),” after “section
12 973c(a)(4),” in paragraph (2)(A);

13 (5) striking “(7)” after “section 973c(b)” in
14 paragraph (2)(B), and inserting in its place: “(6)”;
15 and

16 (6) striking “(7)” after “section 973c(b)” in
17 paragraph (2)(C), and inserting in its place: “(6)”.

18 (b) ORDER OF VESSEL TO LEAVE WATERS WHERE
19 PACIFIC ISLAND PARTY INVESTIGATING ALLEGED TREA-
20 TY INFRINGEMENT.—Section 11(b) (16 U.S.C. 973i) is
21 amended by striking “paragraph 7 of Article 5 of” after
22 “Parties has been made under”.

23 **SEC. 11. REPORTING REQUIREMENTS; DISCLOSURE OF IN-**
24 **FORMATION.**

25 (a) Section 12(a) (16 U.S.C. 973j) is amended by—

1 (1) striking “Holders of licenses” at the begin-
2 ning of section 12(a), and inserting in its place:
3 “Operators”; and

4 (2) striking “of part 4 of Annex I to the Trea-
5 ty” at the end of section 12(a), and inserting in its
6 place: “established by the Secretary”.

7 (b) Section 12(b) (16 U.S.C. 973j) is amended by—

8 (1) striking section 12(b), and inserting the fol-
9 lowing new paragraphs in its place—

10 “(b) The following information shall be confidential
11 and shall not be disclosed, except in accordance with sub-
12 section (c) below—

13 “(1) information provided to the Secretary by
14 the Administrator that the Administrator has des-
15 ignated confidential;

16 “(2) observer information; and

17 “(3) any information submitted to the Sec-
18 retary by any person in compliance with the require-
19 ments of this title.

20 “(c) The Secretary may disclose information de-
21 scribed in subsection (b):

22 “(1) if disclosure is required under court order;

23 “(2) if the information is used by Federal em-
24 ployees for enforcement, or in support of the Coast

1 Guard's homeland and national security missions as
2 defined in 6 U.S.C. 468;

3 “(3) if the information is used by Federal em-
4 ployees or Fishery Management Council employees
5 for Treaty administration or fishery management
6 and monitoring;

7 “(4) to the Administrator, in accordance with
8 the requirements of the Treaty and this title;

9 “(5) to the secretariat or equivalent of an inter-
10 national fisheries management organization of which
11 the United States is a member, in accordance with
12 its requirements or decisions, and insofar as pos-
13 sible, in accordance with an agreement that prevents
14 public disclosure of the business or identity of any
15 person; or

16 “(6) if the Secretary has obtained written au-
17 thorization from the person providing such informa-
18 tion, and release does not violate other requirements
19 of this title.

20 “(d) Notwithstanding subsections (b) and (c) above,
21 the Secretary may, by regulations, prescribe such proce-
22 dures as may be necessary to preserve the confidentiality
23 of information described in subsection (b), except that the
24 Secretary may release or make public any such informa-
25 tion in any aggregate or summary form, which does not

1 directly or indirectly disclose the identity or business of
2 any person submitting such information.”.

3 **SEC. 12. CLOSED AREA STOWAGE REQUIREMENTS.**

4 (a) Section 13 (16 U.S.C. 973k) is amended by strik-
5 ing “. In particular, the boom shall be lowered” and all
6 that follows, and inserting in its place: “and in accordance
7 with any requirements established by the Secretary.”.

8 **SEC. 13. OBSERVERS.**

9 (a) Section 14 (16 U.S.C. 973l) is amended by strik-
10 ing the text of section 14, including subsections (a), (b),
11 and (c), and paragraphs (1), (2), (3), and (4) of sub-
12 section (a), and inserting in its place: “Operators shall
13 comply with the requirements established by the Secretary
14 regarding vessel observers.”.

15 **SEC. 14. TECHNICAL ASSISTANCE.**

16 (a) Section 15 (16 U.S.C. 973m) is amended by strik-
17 ing the text of section 15, and inserting the following new
18 paragraph in its place—

19 “The Secretary and the Secretary of State may assist
20 the Pacific Island Parties to achieve their objective of
21 maximizing benefits to the Pacific Island Parties from the
22 development of their fisheries resources and the operation
23 of fishing vessels that are licensed pursuant to the Treaty.
24 This may include the provision of technical assistance,
25 training and capacity building opportunities, facilitation of

1 the implementation of private sector activities or partner-
2 ships, and other activities as appropriate.”.

3 **SEC. 15. ARBITRATION.**

4 (a) Section 16 (16 U.S.C. 973n) is amended by—

5 (1) striking “Article 6 of” after “arbitral tri-
6 bunal under”; and

7 (2) striking “paragraph 3 of that Article”, and
8 inserting in its place: “the Treaty, shall determine
9 the location of the arbitration”.

10 **SEC. 16. DISPOSITION OF FEES, PENALTIES, FORFEITURES,**
11 **AND OTHER MONEYS.**

12 (a) Section 17 (16 U.S.C. 973o) is amended by strik-
13 ing “Article 4 of”.

14 **SEC. 17. ADDITIONAL AGREEMENTS.**

15 (a) Section 18 (16 U.S.C. 973p) is amended by strik-
16 ing the text of section 18, and inserting in its place: “The
17 Secretary may establish procedures for review of any
18 agreements for additional fishing access entered into pur-
19 suant to the Treaty.”.

20 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) Section 20(a) (16 U.S.C. 973r) is amended by
22 striking section 20(a), including paragraphs (1) and (2),
23 and inserting in its place: “(a) There are authorized to
24 be appropriated such sums as may be necessary for car-

- 1 rying out the purposes and provisions of the Treaty and
- 2 this title.”.

○