

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1792
OFFERED BY MRS. RADEWAGEN OF AMERICAN
SAMOA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “South Pacific Tuna Treaty Act of 2023”.

4 (b) TABLE OF CONTENTS.—The table of contents of
5 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of South Pacific Tuna Act of 1988.
- 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.

6 SEC. 2. AMENDMENT OF SOUTH PACIFIC TUNA ACT OF 1988.

7 Except as otherwise expressly provided, wherever in
8 this Act an amendment or repeal is expressed in terms
9 of an amendment to, or repeal of, a section or other provi-

1 sion, the reference shall be considered to be made to a
2 section or other provision of the South Pacific Tuna Act
3 of 1988 (16 U.S.C. 973 et seq.).

4 **SEC. 3. DEFINITIONS.**

5 (a) APPLICABLE NATIONAL LAW.—Section 2(4) (16
6 U.S.C. 973(4)) is amended by striking “described in para-
7 graph 1(a) of Annex I of” and inserting “noticed and in
8 effect in accordance with”.

9 (b) CLOSED AREA.—Section 2(5) (16 U.S.C. 973(5))
10 is amended by striking “of the closed areas identified in
11 Schedule 2 of Annex I of” and inserting “area within the
12 jurisdiction of a Pacific Island Party that is closed to ves-
13 sels pursuant to a national law of that Pacific Island Party
14 and is noticed and in effect in accordance with”.

15 (c) FISHING.—Section 2(6) (16 U.S.C. 973(6)) is
16 amended—

17 (1) in subparagraph (C), by inserting “for any
18 purpose” after “harvesting of fish”; and

19 (2) by amending subparagraph (F) to read as
20 follows:

21 “(F) use of any other vessel, vehicle, air-
22 craft, or hovercraft, for any activity described
23 in this paragraph except for emergencies involv-
24 ing the health or safety of the crew or the safe-
25 ty of a vessel.”.

1 (d) FISHING VESSEL.—Section 2(7) (16 U.S.C.
2 973(7)) is amended by striking “commercial fishing” and
3 inserting “commercial purse seine fishing for tuna”.

4 (e) LICENSING AREA.—Section 2(8) (16 U.S.C.
5 973(8)) is amended by striking “in the Treaty Area” and
6 all that follows and inserting “under the jurisdiction of
7 a Pacific Island Party, except for internal waters, terri-
8 torial seas, archipelagic waters, and any Closed Area.”.

9 (f) LIMITED AREA; PARTY; TREATY AREA.—Section
10 2 (16 U.S.C. 973) is amended—

11 (1) by striking paragraphs (10), (13), and (18);

12 (2) by redesignating paragraphs (11) and (12)
13 as paragraphs (10) and (11), respectively;

14 (3) by redesignating paragraph (14) as para-
15 graph (12); and

16 (4) by redesignating paragraphs (15) through
17 (17) as paragraphs (14) through (16), respectively.

18 (g) REGIONAL TERMS AND CONDITIONS.—Section 2
19 (16 U.S.C. 973) is amended by inserting after paragraph
20 (12), as so redesignated, the following:

21 “(13) The term ‘regional terms and conditions’
22 means any of the terms or conditions attached by
23 the Administrator to the license issued by the Ad-
24 ministrator, as notified by the Secretary.”.

1 **SEC. 4. PROHIBITED ACTS.**

2 (a) IN GENERAL.—Section 5(a) (16 U.S.C. 973c(a))
3 is amended—

4 (1) by striking “Except as provided in section
5 6 of this Act, it” at the beginning and inserting
6 “It”;

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

8 (3) by redesignating paragraphs (5) through
9 (13) as paragraphs (3) through (11), respectively;

10 (4) in paragraph (3), as so redesignated, by in-
11 sserting “, except in accordance with an agreement
12 pursuant to the Treaty” after “Closed Area”;

13 (5) in paragraph (10), as so redesignated, by
14 striking “or” at the end;

15 (6) in paragraph (11), as so redesignated, by
16 striking the period at the end and inserting a semi-
17 colon; and

18 (7) by adding at the end the following:

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) IN THE LICENSING AREA.—Section 5(b) (16
24 U.S.C. 973c(b)) is amended—

25 (1) by striking “Except as provided in section
26 6 of this Act, it” and inserting “It”;

1 (2) by striking paragraph (5); and

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

4 **SEC. 5. EXCEPTIONS.**

5 Section 6 (16 U.S.C. 973d) is repealed.

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

7 Section 7(a) (16 U.S.C. 973e(a)) is amended by
8 striking “section 5(a) (8), (10), (11), or (12)” and insert-
9 ing “paragraphs (6), (8), (9), or (10) of section 5(a)”.

10 **SEC. 7. CIVIL PENALTIES.**

11 (a) DETERMINATION OF LIABILITY; AMOUNT; PAR-
12 TICIPATION BY SECRETARY OF STATE IN ASSESSMENT
13 PROCEEDING.—Section 8(a) (16 U.S.C. 973f(a)) is
14 amended—

15 (1) by striking “Code” after “liable to the
16 United States”; and

17 (2) by striking “Except for those acts prohib-
18 ited by section 5(a) (4), (5), (7), (8), (10), (11), and
19 (12), and section 5(b) (1), (2), (3), and (7) of this
20 Act, the” and inserting “The”.

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

23 (1) by striking “section 5(a)(1), (2), (3), (4),
24 (5), (6), (7), (8), (9), or (13)” and inserting “para-

1 graphs (1), (2), (3), (4), (5), (6), (7), (11), (12), or
2 (13) of section 5(a)”; and

3 (2) in paragraph (2), by striking “, all Limited
4 Areas closed to fishing,” after “outside of the Li-
5 censing Area”.

6 **SEC. 8. LICENSES.**

7 (a) FORWARDING AND TRANSMITTAL OF VESSEL LI-
8 CENSE APPLICATION.—Section 9(b) (16 U.S.C. 973g(b))
9 is amended to read as follows:

10 “(b) In accordance with subsection (e), and except
11 as provided in subsection (f), the Secretary shall forward
12 a vessel license application to the Administrator whenever
13 such application is in accordance with application proce-
14 dures established by the Secretary.”.

15 (b) FEES AND SCHEDULES.—Section 9(c) (16 U.S.C.
16 973g(c)) is amended to read as follows:

17 “(c) Fees required under the Treaty shall be paid in
18 accordance with the Treaty and any procedures estab-
19 lished by the Secretary.”.

20 (c) MINIMUM FEES REQUIRED TO BE RECEIVED IN
21 INITIAL YEAR OF IMPLEMENTATION FOR FORWARDING
22 AND TRANSMITTAL OF LICENSE APPLICATIONS.—Section
23 9 (16 U.S.C. 973g) is amended—

24 (1) by striking subsection (f);

1 (2) by redesignating subsections (g) and (h) as
2 subsections (f) and (g), respectively;

3 (3) by amending subsection (f), as so redesign-
4 ated, to read as follows:

5 “(f) The Secretary, in consultation with the Secretary
6 of State, may determine that a license application should
7 not be forwarded to the Administrator if—

8 “(1) the application is not in accordance with
9 the Treaty or the procedures established by the Sec-
10 retary; or

11 “(2) the owner or charterer—

12 “(A) is the subject of proceedings under
13 the bankruptcy laws of the United States, un-
14 less reasonable financial assurances have been
15 provided to the Secretary;

16 “(B) has not established to the satisfaction
17 of the Secretary that the fishing vessel is fully
18 insured against all risks and liabilities normally
19 provided in maritime liability insurance; or

20 “(C) has not paid any penalty which has
21 become final, assessed by the Secretary in ac-
22 cordance with this Act.”; and

23 (4) in subsection (g), as so redesignated—

24 (A) by amending paragraph (1) to read as
25 follows:

1 “(1) chapter 12113 of title 46, United States
2 Code;”;

3 (B) in paragraph (2), by inserting “of
4 1972” after “Marine Mammal Protection Act”;

5 (C) in paragraph (3), by inserting “of
6 1972” after “Marine Mammal Protection Act”;

7 and

8 (D) in the matter that follows paragraph
9 (3), by striking “any vessel documented” and
10 all that follows and inserting the following:

11 “any vessel documented under the laws of the United
12 States as of the date of enactment of the Fisheries Act
13 of 1995 for which a license has been issued under sub-
14 section (a) may fish for tuna in the Licensing Area, and
15 on the high seas and in waters subject to the jurisdiction
16 of the United States west of 146° west longitude and east
17 of 129.5° east longitude in accordance with international
18 law, subject to the provisions of the Treaty, this Act, and
19 other applicable law, provided that no such vessel inten-
20 tionally deploys a purse seine net to encircle any dolphin
21 or other marine mammal in the course of fishing.”.

22 **SEC. 9. ENFORCEMENT.**

23 (a) NOTICE REQUIREMENTS TO PACIFIC ISLAND
24 PARTY CONCERNING INSTITUTION AND OUTCOME OF

1 LEGAL PROCEEDINGS.—Section 10(c)(1) (16 U.S.C.
2 973h(c)(1)) is amended—

3 (1) by striking “paragraph 8 of Article 4 of”;

4 and

5 (2) by striking “Article 10 of”.

6 (b) SEARCHES AND SEIZURES BY AUTHORIZED OF-
7 FICERS; LIMITATIONS ON POWER.—Section 10(d)(1)(A)
8 (16 U.S.C. 973h(d)(1)(A)) is amended—

9 (1) in clause (ii), by striking “or” at the end;

10 and

11 (2) in clause (iii), by adding “or” at the end.

12 **SEC. 10. FINDINGS BY SECRETARY.**

13 (a) ORDER TO LEAVE WATERS UPON FAILURE TO
14 SUBMIT TO JURISDICTION OF PACIFIC ISLAND PARTY;
15 PROCEDURE APPLICABLE.—Section 11(a) (16 U.S.C.
16 973i(a)) is amended—

17 (1) by striking “, all Limited Areas,”;

18 (2) in paragraph (1)—

19 (A) in subparagraph (A), by striking
20 “paragraph 2 of Article 3 of”; and

21 (B) in subparagraph (C), by striking
22 “within the Treaty Area” and inserting “under
23 the jurisdiction”; and

24 (3) in paragraph (2)—

1 (A) in subparagraph (A), by striking “sec-
2 tion 5 (a)(4), (a)(5), (b)(2), or (b)(3)” and in-
3 serting “paragraph (4) of section 5(a) or para-
4 graphs (2) or (3) of section 5(b)”;

5 (B) in subparagraph (B), by striking “(7)”
6 and inserting “(6)”; and

7 (C) in subparagraph (C), by striking “(7)”
8 and inserting “(6)”.

9 (b) ORDER OF VESSEL TO LEAVE WATERS WHERE
10 PACIFIC ISLAND PARTY INVESTIGATING ALLEGED TREA-
11 TY INFRINGEMENT.—Section 11(b) (16 U.S.C. 973i(b)) is
12 amended by striking “paragraph 7 of Article 5 of”.

13 **SEC. 11. REPORTING REQUIREMENTS; DISCLOSURE OF IN-**
14 **FORMATION.**

15 Section 12 (16 U.S.C. 973j) is amended to read as
16 follows:

17 **“SEC. 12. REPORTING.**

18 “(a) PROHIBITED DISCLOSURE OF CERTAIN INFOR-
19 MATION.—The Secretary shall keep confidential and may
20 not disclose the following information, except in accord-
21 ance with subsection (b):

22 “(1) Information provided to the Secretary by
23 the Administrator that the Administrator has des-
24 ignated confidential.

25 “(2) Information collected by observers.

1 “(3) Information submitted to the Secretary by
2 any person in compliance with the requirements of
3 this Act.

4 “(b) PERMITTED DISCLOSURE OF CERTAIN INFOR-
5 MATION.—The Secretary may disclose information de-
6 scribed in subsection (a)—

7 “(1) if disclosure is ordered by a court;

8 “(2) if the information is used by a Federal em-
9 ployee—

10 “(A) for enforcement; or

11 “(B) in support of the homeland and na-
12 tional security missions of the Coast Guard as
13 defined in section 888 of the Homeland Secu-
14 rity Act of 2002 (6 U.S.C. 468);

15 “(3) if the information is used by a Federal em-
16 ployee or an employee of the Fishery Management
17 Council for Treaty administration or fishery man-
18 agement and monitoring;

19 “(4) to the Administrator, in accordance with
20 the requirements of the Treaty and this Act;

21 “(5) to the secretariat or equivalent of an inter-
22 national fisheries management organization of which
23 the United States is a member, in accordance with
24 the requirements or decisions of such organization,
25 and insofar as possible, in accordance with an agree-

1 ment that prevents public disclosure of the identity
2 of any person that submits such information;

3 “(6) if the Secretary has obtained written au-
4 thorization from the person providing such informa-
5 tion, and disclosure does not violate other require-
6 ments of this Act; or

7 “(7) in an aggregate or summary form that
8 does not directly or indirectly disclose the identity of
9 any person that submits such information.”.

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

11 Section 13 (16 U.S.C. 973k) is amended by striking
12 “. In particular, the boom shall be lowered” and all that
13 follows and inserting “and in accordance with any require-
14 ments established by the Secretary.”.

15 **SEC. 13. OBSERVERS.**

16 Section 14 (16 U.S.C. 973l) is repealed.

17 **SEC. 14. TECHNICAL ASSISTANCE.**

18 Section 15 (16 U.S.C. 973m) is amended to read as
19 follows:

20 **“SEC. 15. TECHNICAL ASSISTANCE.**

21 “The Secretary and the Secretary of State may pro-
22 vide assistance to a Pacific Island Party to benefit such
23 Pacific Island Party from the development of fisheries re-
24 sources and the operation of fishing vessels that are li-
25 censed pursuant to the Treaty, including—

- 1 “(1) technical assistance;
- 2 “(2) training and capacity building opportuni-
- 3 ties;
- 4 “(3) facilitation of the implementation of pri-
- 5 vate sector activities or partnerships; and
- 6 “(4) other activities as determined appropriate
- 7 by the Secretary and the Secretary of State.”.

8 **SEC. 15. ARBITRATION.**

9 Section 16 (16 U.S.C. 973n) is amended—

- 10 (1) by striking “Article 6 of” after “arbitral tri-
- 11 bunal under”; and
- 12 (2) by striking “paragraph 3 of that Article”,
- 13 and inserting “the Treaty, shall determine the loca-
- 14 tion of the arbitration”.

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

17 Section 17 (16 U.S.C. 973o) is amended by striking

18 “Article 4 of”.

19 **SEC. 17. ADDITIONAL AGREEMENTS.**

20 Section 18 (16 U.S.C. 973p) is amended by striking

21 “Within 30 days after” and all that follows and inserting

22 “The Secretary may establish procedures for review of any

23 agreements for additional fishing access entered into pur-

24 suant to the Treaty.”.

