

**CHAPTER 16C—SOUTH PACIFIC TUNA
FISHING**

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§ 973. Definitions

As used in this chapter—

(1) The term “Administrator” means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States Government.

(2) The term “Authorized Officer” means any officer who is authorized by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an enforcement agreement with the Secretary under section 973h(a) of this title.

(3) The term “Authorized Party Officer” means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

(4) The term “applicable national law” means any provision of law of a Pacific Island Party which is described in paragraph 1(a) of Annex I of the Treaty.

(5) The term “Closed Area” means any of the closed areas identified in Schedule 2 of Annex I of the Treaty.

(6) The term “fishing” means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or

(F) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

(7) The term “fishing vessel” or “vessel” means any boat, ship, or other craft which is used for, equipped to be used for, or of a type

normally used for commercial fishing, and which is documented under the laws of the United States.

(8) The term “Licensing Area” means all waters in the Treaty Area except for—

(A) those waters subject to the jurisdiction of the United States in accordance with international law;

(B) those waters within Closed Areas; and

(C) those waters within Limited Areas closed to fishing.

(9) The term “licensing period” means the period of validity of licenses issued in accordance with the Treaty.

(10) The term “Limited Area” means any area so identified in Schedule 3 of Annex I of the Treaty.

(11) The term “operator” means any person who is in charge of, directs or controls a vessel, including the owner, charterer, and master.

(12) The term “Pacific Island Party” means a Pacific Island nation which is a party to the Treaty.

(13) The term “Party” means a nation which is a party to the Treaty.

(14) The term “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(15) The term “Secretary” means the Secretary of Commerce, or the designee of the Secretary of Commerce.

(16) The term “State” means each of the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(17) The term “Treaty” means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements.

(18) The term “Treaty Area” means the area so described in paragraph 1(k) of Article 1 of the Treaty.

(Pub. L. 100-330, § 2, June 7, 1988, 102 Stat. 591.)

EFFECTIVE DATE

Pub. L. 100-330, § 21, June 7, 1988, 102 Stat. 601, provided that:

“(a) Except as provided in subsection (b) of this section, this Act [enacting this chapter] shall be effective on the date on which the Treaty enters into force for the United States. [The Treaty entered into force for the United States June 15, 1988.]

“(b)(1) The authority to promulgate regulations pursuant to this Act shall be effective on the date of enactment of this Act [June 7, 1988].

“(2) Any regulation promulgated pursuant to this Act shall not be effective before the date on which the Treaty enters into force for the United States.”

SHORT TITLE

Pub. L. 100-330, §1, June 7, 1988, 102 Stat. 591, provided: "That this Act [enacting this chapter] may be cited as the 'South Pacific Tuna Act of 1988'."

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 973a. Application to other laws

The seizure by a Pacific Island Party of a vessel of the United States shall not be determined to be a seizure described in section 1825(a)(4)(C) of this title or section 1972 of title 22 if the seizure is found by the Secretary of State to be in accordance with the provisions of the Treaty.

(Pub. L. 100-330, §3, June 7, 1988, 102 Stat. 592; Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

AMENDMENTS

1996—Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1825(a)(4)(C) of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title I, §101(a) [title II, §211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41, provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

§ 973b. Regulations

The Secretary of Commerce, with the concurrence of the Secretary of State and after consultation with the Secretary of the department in which the Coast Guard is operating, shall issue regulations as may be necessary to carry out the purposes and objectives of the Treaty and this chapter. These regulations shall be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located.

(Pub. L. 100-330, §4, June 7, 1988, 102 Stat. 592.)

EFFECTIVE DATE

Authority to promulgate regulations effective on June 7, 1988, with any such regulation not to be effective before date on which Treaty enters into force for the United States, see section 21 of Pub. L. 100-330, set out as an Effective Date note under section 973 of this title.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 973c. Prohibited acts

(a) Except as provided in section 973d of this title, it is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this chapter or any regulation or order issued pursuant to this chapter;

(2) to use a vessel for fishing in violation of an applicable national law;

(3) who has entered into a fishing arrangement under paragraph 3 of Article 3 of the Treaty, to violate the terms and conditions of such fishing arrangement if the Secretary of State has decided under section 973p of this title that Article 4 and paragraph 6 of Article 5 of the Treaty shall apply to the arrangement;

(4) to use a vessel for fishing in any Limited Area in violation of any requirement in Schedule 3 of Annex I of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated, or recorded pursuant to a requirement of this chapter, or to fail to submit any required information, or to fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete, or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this chapter or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this chapter or the Treaty;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with—

(A) any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection in connection with the enforcement of this chapter or the Treaty; or

(B) an observer in the conduct of observer duties under the Treaty;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or retained.

(b) Except as provided in section 973d of this title, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental by-catch;

(3) to use a vessel for fishing by any method other than the purse-seine method;