

years 2017 through 2021 to carry out this chapter and to pay the United States contribution to the Commission under Article 12 of the North Pacific Fisheries Convention.

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CHAPTER 97—CONVENTION ON THE CONSERVATION AND MANAGEMENT OF HIGH SEAS FISHERY RESOURCES IN THE SOUTH PACIFIC

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§ 7801. Definitions

In this chapter:

(1) 1982 Convention

The term “1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982.

(2) Commission

The term “Commission” means the Commission of the South Pacific Regional Fisheries Management Organization established in accordance with the South Pacific Fishery Resources Convention.

(3) Convention Area

The term “Convention Area” means the area to which the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean applies under Article 5 of such Convention.

(4) Council

The term “Council” means the Western Pacific Regional Fishery Management Council.

(5) Exclusive economic zone

The term “exclusive economic zone” means—

(A) with respect to the United States, the zone established by Presidential Proclamation Numbered 5030 of March 10, 1983 (16 U.S.C. 1453 note); and

(B) with respect to a foreign country, a designated zone similar to the zone referred to in subparagraph (A) for that country, consistent with international law.

(6) Fishery resources

The term “fishery resources” means all fish, mollusks, crustaceans, and other marine species, and any products thereof, caught by a fishing vessel within the Convention Area, but excluding—

(A) sedentary species insofar as they are subject to the national jurisdiction of coastal States pursuant to Article 77 paragraph 4 of the 1982 Convention;

(B) highly migratory species listed in Annex I of the 1982 Convention;

(C) anadromous and catadromous species; and

(D) marine mammals, marine reptiles and sea birds.

(7) Fishing

The term “fishing”—

(A) except as provided in subparagraph (B), means—

(i) the actual or attempted searching for, catching, taking, or harvesting of fishery resources;

(ii) engaging in any activity that can reasonably be expected to result in the locating, catching, taking or harvesting of fishery resources for any purpose;

(iii) transshipment and any operation at sea, in support of, or in preparation for, any activity described in this subparagraph; and

(iv) the use of any vessel, vehicle, aircraft, or hovercraft in relation to any activity described in this subparagraph; and

(B) does not include any operation related to emergencies involving the health and safety of crew members or the safety of a fishing vessel.

(8) Fishing vessel

The term “fishing vessel” means any vessel used or intended to be used for fishing, including any fish processing vessel support ship, carrier vessel, or any other vessel directly engaged in fishing operations.

(9) Person

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.

(10) Secretary

The term “Secretary” means the Secretary of Commerce.

(11) South Pacific Fishery Resources Convention

The term “South Pacific Fishery Resources Convention” means the Convention on the Conservation and Management of the High Seas Fishery Resources in the South Pacific Ocean (including any annexes, amendments, or protocols that are in force, or have come into force, for the United States), which was adopted at Auckland, New Zealand, on November 14, 2009, by the International Consultations on the Proposed South Pacific Regional Fisheries Management Organization.

(12) State

The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

(Pub. L. 114-327, title II, §201, Dec. 16, 2016, 130 Stat. 1985.)

§ 7802. Appointment or designation of United States Commissioners

(a) Appointment

(1) In general

The United States shall be represented on the Commission by not more than 3 Commissioners. In making each appointment, the President shall select a Commissioner from among individuals who are knowledgeable or experienced concerning fishery resources in the South Pacific Ocean.

(2) Representation

At least 1 of the Commissioners shall be—

(A) serving at the pleasure of the President, an officer or employee of—

- (i) the Department of Commerce;
- (ii) the Department of State; or
- (iii) the Coast Guard; and

(B) the chairperson or designee of the Council.

(b) Alternate Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time considered appropriate an alternate Commissioner to the Commission. An alternate Commissioner may exercise all powers and duties of a Commissioner in the absence of a Commissioner appointed under subsection (a).

(c) Administrative matters

(1) Employment status

An individual serving as a Commissioner, or as an alternate Commissioner, other than an officer or employee of the United States Government, shall not be considered a Federal employee, except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5 and chapter 171 of title 28.

(2) Compensation

An individual serving as a Commissioner or an alternate Commissioner, although an officer of the United States while so serving, shall receive no compensation for the individual's services as such Commissioner or alternate Commissioner.

(3) Travel expenses

(A) In general

The Secretary of State shall pay the necessary travel expenses of a Commissioner or an alternate Commissioner in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5.

(B) Reimbursement

The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this paragraph.

(d) Advisory Committee

(1) Establishment of permanent Advisory Committee

(A) Membership

There is established an advisory committee which shall be composed of 7 members appointed by the Secretary as follows:

(i) A member engaging in commercial fishing in the management area of the Council.

(ii) Two members from the indigenous population of the Pacific, including a Native Hawaiian and a native-born inhabitant of any State in the Pacific.

(iii) A member that is a marine fisheries scientist and a member of the Council's Scientific and Statistical Committee.

(iv) A member representing a non-governmental organization active in fishery issues in the Pacific.

(v) A member nominated by the Governor of the State of Hawaii.

(vi) A member designated by the Council.

(B) Terms and privileges

Each member of the Advisory Committee shall serve for a term of 2 years and shall be eligible for reappointment for not more than 3 consecutive terms. The Commissioners shall notify the Advisory Committee in advance of each meeting of the Commissioners. The Advisory Committee may attend each meeting and may examine and be heard on all proposed programs, investigations, reports, recommendations, and regulations of the Commissioners.

(C) Procedures

(i) In general

The Advisory Committee shall determine its organization and prescribe its practices and procedures for carrying out its functions under this chapter, the South Pacific Fisheries Convention, and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(ii) Public availability of procedures

The Advisory Committee shall publish and make available to the public a statement of its organization, practices, and procedures.

(iii) Quorum

A majority of the members of the Advisory Committee shall constitute a quorum to conduct business.

(iv) Public meetings

Meetings of the Advisory Committee, except when in executive session, shall be open to the public. Prior notice of each non-executive meeting shall be made public in a timely fashion. The Advisory Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(v) Cost savings

In order to reduce the cost of Advisory Committee meetings, the Advisory Committee shall, to the extent practicable, utilize teleconferences and webinars for that purpose.

(D) Provision of information

The Secretary and the Secretary of State shall furnish the Advisory Committee with relevant information concerning fishery resources and international fishery agreements.