

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by adding a new chapter 3 to clarify, coalesce, and strengthen the powers of the National Government regarding the importation and exportation of goods and the payment and collection of customs tariffs on such goods; to provide for Customs control over goods, vessels and aircraft, as well as for providing for offenses, penalties and enforcement provisions to further emphasize the true nature of Customs work and duties; by repealing chapter 2 of title 54 of the Code of the Federated States of Micronesia in its entirety; and for other purposes.

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

1 Section 1. Title 54 of the Code of the Federated States of
2 Micronesia is hereby further amended by adding a new section 301
3 of chapter 3 to read as follows:

4 "Section 301. Short title. This act may be cited as
5 the Customs Act of 1994."

6 Section 2. Title 54 of the Code of the Federated States of
7 Micronesia is hereby further amended by adding a new section 302
8 of chapter 3 to read as follows:

9 "Section 302. Definitions. In this chapter, except
10 where otherwise specified, the following terms shall
11 have the meanings stated below:

12 (1) 'Ad valorem' (Latin for 'according to the
13 value') means a tax imposed at a rate percent of value.

14 (2) 'Aircraft' includes airplanes, seaplanes,
15 airships, or any other means of aerial locomotion.

16 (3) 'Airport' means an official port of entry for
17 aircraft as listed in title 18 of this Code and the
18 regulations issued pursuant thereto.

19 (4) 'Arrival' means the first time goods or
20 passengers become subject to Customs control within the
21 Federated States of Micronesia or any subsequent time
22 before reaching their final destination.

23 (5) 'Authorized officer' means a Customs officer
24 duly authorized by the Secretary to exercise the powers
25 or perform the functions authorized by this chapter.

1 (6) 'Cannabis' means all parts of the plant
2 cannabis sativa L., described in subsection (14) of
3 section 1112 of title 11 of the Code of the Federated
4 States of Micronesia.

5 (7) 'Commissioner' means the Commissioner of
6 Customs.

7 (8) 'Congress' means the Congress of the Federated
8 States of Micronesia.

9 (9) 'Container,' as defined by the International
10 Convention For Safe Containers, means an article of
11 transport equipment:

12 (a) Of a permanent character and accordingly
13 strong enough to be suitable for repeated use;

14 (b) Specially designed to facilitate the
15 transport of goods, by one or more modes of transport,
16 without intermediate reloading;

17 (c) Designed to be secured and/or readily
18 handled, having corner fittings for these purposes;

19 (d) Of a size such that the area enclosed by
20 the four outer bottom corners is either:

21 (i) At least 14 sq.m.(150 sq.ft.), or

22 (ii) At least 7 sq.m.(75 sq.ft.) if it is
23 fitted with top corner fittings;

24 (e) In addition the following shipping terms
25 used with containers have the following meanings:

1 (i) 'CY-CY (or FCL)' means all the goods
2 packed in the container are for the one consignee and
3 the container is consigned from container yard to
4 another container yard and will not normally be unpacked
5 at the wharf;

6 (ii) 'CFS (or LCL)' means the goods packed
7 in the container are for more than one consignee and the
8 goods will be unpacked at the wharf.

9 (10) 'Controlled substance' means a drug,
10 substance, or immediate precursor in schedules I through
11 V of subchapter II of chapter 11 of title 11 of the Code
12 of the Federated States of Micronesia.

13 (11) 'Controlling authority' in relation to any
14 port, airport, or transit building, means the owner or
15 occupier thereof, or any person having control thereof,
16 and includes any local authority or public body having
17 control thereof.

18 (12) 'Customs' means the Division of Customs of the
19 Federated States of Micronesia.

20 (13) 'Customs officer' means a person:

21 (a) Employed by the FSM Division of Customs;

22 (b) Authorized in writing by the Secretary
23 under this chapter to perform all of the functions of a
24 Customs officer; or

25 (c) Deputized in accordance with the

1 provisions of section 354 of this chapter.

2 (14) 'Duty' means any tax, duty, or tariff payable
3 on the importation or exportation of goods, and
4 'dutiable goods' means those goods subject to a tax,
5 duty, or tariff on their importation or exportation.

6 (15) 'Forfeiture' means the surrender of ownership
7 of goods to the National Government, following a breach
8 of the provisions of this act, and is independent of and
9 in addition to any penalty imposed under this act. All
10 the provisions of this act with respect to the
11 forfeiture of goods shall extend and apply to any
12 aircraft, vessel, vehicle, or other thing forfeited
13 under the Customs Act.

14 (16) 'Free on board' or 'FOB' means the value of
15 goods when shipped for export, and includes all costs
16 and charges up to the time of delivery of the goods on
17 board the exporting vessel or aircraft.

18 (17) 'FSM' means the Federated States of
19 Micronesia.

20 (18) 'Goods' means any type of merchandise,
21 product, commodity, vehicle, moveable personal property,
22 or commercial wares.

23 (19) 'Impound' means to hold in legal custody
24 pending forfeiture.

25 (20) 'Importer' means any person by or for whom any

1 goods are imported, and includes the consignee and any
2 other person who is beneficially interested in the goods.

3 (21) 'Marihuana' means all parts of the plant
4 cannabis sativa L.

5 (22) 'Master' means:

6 (a) In relation to a vessel, the person in
7 charge or command of the vessel;

8 (b) In relation to an installation, the
9 person in charge of the installation.

10 (23) 'Narcotic drug' means those described in
11 subsection (15) of section 1112 of title 11 of the Code
12 of the Federated States of Micronesia.

13 (24) 'On or about the body' means on or within the
14 body, clothing, footwear, purse, handbag or similar
15 article.

16 (25) 'Overtime' means all work performed in excess
17 of the regular forty (40) hour workweek by an officer of
18 Customs.

19 (26) 'Owner' means:

20 (a) In respect of goods, any person being or
21 holding himself or herself out to be the owner,
22 importer, exporter, consignee, agent or person possessed
23 of, or having control of, or power of disposition over
24 the goods;

25 (b) In respect of a vessel or aircraft, the

1 owner of record, or a person acting as agent on behalf
2 of the owner of record.

3 (27) 'Package' includes every means by which goods
4 for transportation may be cased, covered, enclosed,
5 contained, or packed.

6 (28) 'Person' means any individual, company,
7 corporation, partnership, unincorporated association, or
8 other business entity.

9 (29) 'Pilot' means the person in charge or in
10 command of an aircraft.

11 (30) 'Place' means any location, building or site,
12 and includes moveable locations such as a vessel or
13 aircraft.

14 (31) 'Port' or 'Port of entry' means an official
15 port of entry as listed in title 18 of this Code and
16 regulations issued pursuant thereto.

17 (32) 'Prescribed form' means a form prescribed by
18 the Secretary of Finance or the Commissioner of Customs.

19 (33) 'President' means the President of the
20 Federated States of Micronesia.

21 (34) 'Prohibited goods' means any goods which the
22 importation or exportation thereof is prohibited under
23 the FSM Code.

24 (35) 'Regulations' means any regulations
25 promulgated pursuant to this act.

(36) 'Secretary' means the Secretary of the Department of Finance of the Federated States of Micronesia or other person appointed by the President to administer the Division of Customs.

(37) 'Smuggling' means any importation or exportation, attempted importation or exportation, with the intent to defraud the Federated States of Micronesia, or any importation or exportation that is prohibited or restricted by any law under this Code.

(38) 'Stamp' means device or instrument used by a Customs officer to make a distinctive impression or imprint, to identify and evidence the clearance of imported or exported goods and the clearance of vessels or aircraft.

(39) 'Transit building' means a building or any part of a building used for the reception, examination, or protection of goods on their loading or unloading while subject to the control of the Customs.

(40) 'Unlawfully imported' means the importation of goods in breach of the provisions of this act, or any other act in the Code of the Federated States of Micronesia, or whose sale, possession or use is prohibited or restricted by the State into which the importation took place.

(41) 'Vehicle' means every description of carriage

1 or other contrivance used or capable of being used as a
2 means of transport on land.

3 (42) 'Vessel' means every description of watercraft
4 or other contrivance used or capable of being used as a
5 means of transportation, of goods or people, in water.

6 (43) 'Wine gallon' means 128 fluid ounces or 3.785
7 liters."

8 Section 3. Title 54 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new section 303
10 of chapter 3 to read as follows:

11 "Section 303. Administration of Customs.

12 (1) Appointments. Except where otherwise expressly
13 provided, the Secretary of Finance shall appoint Customs
14 officers.

15 (2) Customs locks and seals.

16 (a) Official locks and seals. All courts and
17 all persons shall take notice of any official lock or
18 seal used by an officer during the course of his/her
19 duties and shall presume, until shown otherwise, that
20 the lock or seal was fastened by the proper authority.

21 (b) National offense. Any person who
22 disregards, alters, breaks, or interferes with a
23 lawfully affixed Customs lock or seal is guilty of a
24 National offense.

25 (c) Penalty. A person convicted under this

1 section shall be subject to a fine not exceeding \$2,000
2 or imprisonment of not more than 1 year.

3 (3) Customs stamps.

4 (a) Stamped impression. All courts and all
5 persons shall take notice of a stamped impression made
6 by an officer during the course of his/her duties and
7 shall presume, until shown otherwise, that the
8 impression was made by the proper authority.

9 (b) National offense. Any person who
10 disregards, alters or attempts to alter, or unlawfully
11 duplicates a Customs stamp is guilty of a National
12 offense.

13 (c) Penalty. A person convicted under this
14 section shall be subject to a fine not exceeding \$2,000
15 or imprisonment of not more than 1 year.

16 (4) Business hours of Customs. The business hours
17 of the Division of Customs shall be Monday through
18 Friday, 8 a.m. through 5 p.m., except for National
19 holidays or as prescribed by Public Service System
20 Regulations.

21 (a) Cargo should be cleared and passengers
22 landed from a vessel or aircraft only during the
23 business hours of Customs, except when the working of
24 overtime is authorized in advance by the Commissioner.

25 (b) Any person may request that the

1 Commissioner, or his designee, arrange for an officer to
 2 be made available to perform a function at a place
 3 outside of the business hours of Customs. Such person
 4 shall pay to the Division of Customs a fee, reflecting
 5 the overtime costs of making officer(s) available as set
 6 by the Commissioner.

7 (c) The fee for such attendance becomes legally
 8 due and payable upon performance of the requested
 9 function.

10 (5) Recovery of overtime costs.

11 (a) The Division of Customs will regularly
 12 issue a Bill For Collection, to the owner or agent of
 13 the aircraft, vessel, or goods, who incurred the
 14 overtime costs.

15 (b) The Bill For Collection will set out the
 16 amount due and details of the overtime duties performed
 17 to which the bill relates.

18 (c) Any person issued with such a Bill For
 19 Collection shall pay the amount due within 30 calendar
 20 days of the date of issue, unless a notice to dispute
 21 has been given in writing to the Commissioner.

22 (6) Remedies for non-payment of a bill. Where any
 23 bill is not in dispute and remains unpaid 60 calendar
 24 days after the date of issue, the Commissioner may:

25 (a) Recover the unpaid amount by civil action,

1 and/or

2 (b) Refuse the entry and/or clearance of any
3 aircraft, vessel, or goods for that person until the
4 entire unpaid balance is received, and/or

5 (c) Detain, with the assistance of the
6 National police, the aircraft, vessel, or goods at the
7 port of entry until the entire unpaid balance is
8 received.

9 (d) Any person who willfully permits the
10 unloading or loading of any goods from an aircraft or
11 vessel that has been refused entry or clearance, or has
12 been detained, pending the payment of an unpaid bill is
13 guilty of a National offense.

14 (e) Any person convicted under this section
15 shall be subject to a fine not exceeding \$5,000.

16 (7) Customs Overtime Revolving Fund.

17 (a) The Secretary is authorized to establish
18 the Customs Overtime Revolving Fund, hereinafter
19 referred to as the 'Overtime Fund,' separate from the
20 General Fund of the Federated States of Micronesia and
21 all other funds.

22 (b) The purpose of the Overtime Fund is to
23 provide an ongoing operating fund for the performance of
24 Customs duties outside the normal business hours of
25 Customs specified in subsection (6) above, that will:

1 (i) Create a pool of funds to meet the
2 future overtime costs of the Customs Division, without
3 the need to seek funding from Congress each fiscal year;

4 (ii) Be primarily funded by those
5 requiring the services of Customs outside normal
6 business hours; and

7 (iii) Enable Customs to undertake
8 surveillance activities in performing its community
9 protection and revenue collection roles.

10 (c) All future appropriations for, and costs
11 recovered from, the performance of Customs duties
12 outside normal business hours shall be deposited in the
13 Overtime Fund; PROVIDED that total monies in the
14 Overtime Fund shall be capped at \$50,000, and monies in
15 excess of \$50,000 shall be transferred to the General
16 Fund.

17 (d) Any unexpended monies in the Overtime Fund
18 shall not revert to the General Fund nor lapse at the
19 end of the fiscal year.

20 (e) The Overtime Fund shall be administered by
21 the Commissioner.

22 (f) The Commissioner shall submit to the
23 President and the Chairman of the Ways and Means
24 Committee of Congress within 30 days after the
25 close of each fiscal year a complete report of the

1 activities and condition of the Overtime Fund for the
2 fiscal year just completed.

3 (g) The Overtime Fund shall be subject to
4 audit by the Public Auditor.

5 (8) Insurance. The Commissioner is authorized to
6 arrange insurance coverage for Customs officers who
7 undertake hazardous duties.

8 (9) Annual report. Within 60 days of the end of
9 each fiscal year the Division of Customs shall submit to
10 Congress an annual report on its activities setting
11 forth the following details:

12 (a) Overview;

13 (b) Revenue:

14 (i) Revenue collected,

15 (ii) Cost of collection,

16 (iii) Costs recovered,

17 (iv) Entries passed;

18 (c) Enforcement:

19 (i) Invoices appraised,

20 (ii) Vessels and aircraft searched,

21 (iii) Goods forfeited,

22 (iv) Prosecutions and convictions;

23 (d) Licensing:

24 (i) Business licenses to import;

25 (ii) Business licenses to export;

(e) Staff; and

(f) Plan for the next year."

Section 4. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 304 of chapter 3 to read as follows:

"Section 304. Vessels and aircraft to report to ports of entry only.

(1) Reporting of vessels. All vessels must come into ports of entry, when:

(a) Arriving for the first time on any journey from any country outside of the FSM; and

(b) While carrying any goods subject to Customs control.

(2) Official ports of entry. Official ports of entry for the entry and clearance of vessels by Customs officers are those listed in title 18 of this Code and the regulations issued pursuant thereto.

(3) Master's responsibility. No master of any vessel shall cause or permit his vessel to enter at any place in the Federated States of Micronesia other than a port of entry.

(4) Exceptions. Stress of weather, a life threatening situation or other similar grave emergency will be basis for excepting from subsection (1) above.

(a) If any master of a vessel is compelled to

1 enter at any place other than a port of entry, he:

2 (i) Shall report to a Customs officer or
3 member of the National Police, as soon as is
4 practicable;

5 (ii) Shall not permit any goods carried
6 on the vessel to be unloaded, or any member of the crew
7 or passengers to depart from its vicinity, except as
8 provided in (4)(c) below;

9 (iii) Shall comply with any directions
10 given by a Customs officer in respect of any goods
11 carried on the vessel;

12 (b) No passenger or member of the crew shall
13 the leave the vicinity of a vessel compelled to enter at
14 any place other than a port of entry, except as provided
15 in (4)(c) below;

16 (c) Where a Customs officer has given
17 permission, or departure or removal is necessary for the
18 reasons of health or safety, or preservation of life or
19 property;

20 (i) Passengers and crew may leave the
21 vicinity of the vessel.

22 (ii) Goods may be removed from it.

23 (d) The master of a vessel shall not be held to
24 have committed a breach of this section if he proves
25 that:

1 (i) No Customs officer or member of the
2 National Police was readily accessible.

3 (ii) He resumed and completed his voyage,
4 as soon as was practicable.

5 (5) Provisions applying to aircraft. The
6 provisions of this section also apply to aircraft which
7 must land at an airport listed as a port of entry.

8 (6) National offense. Any person who willfully
9 contravenes any of the provisions of this section is
10 guilty of a National offense.

11 (7) Penalty. A person convicted under this section
12 shall be subject to a fine not exceeding \$2,000 or
13 imprisonment of not more than 1 year."

14 Section 5. Title 54 of the Code of the Federated States of
15 Micronesia is hereby further amended by adding a new section 305
16 of chapter 3 to read as follows:

17 "Section 305. Duties of controlling authorities.

18 (1) The controlling authority of every port,
19 airport or transit building shall provide and maintain
20 at the port, airport or transit building, to the
21 satisfaction of the Secretary, the following:

22 (a) Staff accommodation and facilities for the
23 use of Customs officers, at such place or places as the
24 Secretary may direct; and

25 (b) Suitable transit buildings as the

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1 Secretary may declare as necessary in respect to the
2 port or airport, together with suitable weighing
3 appliances for use by Customs officers.

4 (2) The controlling authority of every port,
5 airport or transit building shall store goods subject to
6 the control of Customs in such manner and place as the
7 Commissioner or other proper officer of Customs may
8 direct.

9 (3) Any controlling authority who willfully fails
10 to comply with any provision of this section commits a
11 National offense.

12 (4) Any person convicted under this section shall
13 be subject to a fine not exceeding \$2,000 or
14 imprisonment of not more than 1 year."

15 Section 6. Title 54 of the Code of the Federated States of
16 Micronesia is hereby further amended by adding a new section 306
17 of chapter 3 to read as follows:

18 "Section 306. Cooperation with other National and State
19 authorities. The Secretary is authorized to enter into
20 Memorandums of Understanding with other National and
21 State authorities where the Division of Customs can
22 provide assistance in the enforcement of any National or
23 State law.

24 (1) Taxation. The Division of Customs is
25 authorized to exchange information, pursuant to the

disclosure of information provisions in section 351 of this chapter, with other National or State authorities to ensure the proper and correct collection of taxes.

(2) Statistics.

(a) The Division of Customs is responsible for the collection of statistical data on the importation and exportation of goods and providing this information to the Office of Statistics.

(b) The Secretary is authorized to introduce classification schedules and associated computer software to assist with this function.

(3) Quarantine. The Secretary may accept an appointment made by the Secretary of the Department of Resources and Development of the Federated States of Micronesia, regarding the empowering of Customs officers to perform agriculture quarantine inspections, pursuant to section 407 of title 22 of the Code of the Federated States of Micronesia.

(4) Immigration. The Secretary may accept an appointment made by the Office of the Attorney General of the Federated States of Micronesia, regarding the empowering of Customs officers to perform immigration inspections, pursuant to section 108 of title 50 of the Code of the Federated States of Micronesia.

(5) Community, social, environmental and

antiquities protection. The Division of Customs will monitor imports and exports on behalf of other National and State agencies to ensure compliance with legislation and international agreements, ratified by the FSM, dealing with community, social, environmental and antiquities protection."

Section 7. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 307 of chapter 3 to read as follows:

"Section 307. Customs control of goods.

(1) Goods subject to Customs control.

(a) Imported goods, from the time of their importation until the duties applicable are paid and the goods are released or until their exportation to any country outside of the FSM.

(b) All goods for export, from the time when the same are brought to any port, airport or place for export until their exportation to any country outside of the FSM.

(c) Goods imported through the post office are subject to the control of the Customs in the same manner as goods otherwise imported.

(2) Non-routine examinations. Wherefore the purposes of section 308 of this chapter examination at the dock or airport is impracticable, shipments may be

1 removed to the owner's premises for examination.

2 Removal is conditional upon the consignee's guarantee,
3 in writing, in the form prescribed by the Commissioner,
4 that he will comply with all the provisions of title 54
5 of this Code.

6 (3) CY-CY containers.

7 (a) CY-CY container shipments or similar
8 shipments may be delivered to a final destination other
9 than the dock, upon the approval of a Customs officer.

10 (b) The consignee shall notify the Division of
11 Customs of the delivery of the shipment and shall not
12 open the container without the approval of a Customs
13 officer.

14 (c) Customs officers shall be given access to
15 any CY-CY container or similar shipment at the owner's
16 premises for the purposes of any section of this
17 chapter.

18 (4) Removal of goods. Goods removed from the dock
19 or airport pursuant to subsections (2) and (3) of this
20 section remain subject to Customs control until the
21 examination has been undertaken and a Customs officer
22 has authorized their release.

23 (5) National offense. Any person who, otherwise
24 than by authority and in accordance with this chapter,
25 moves, alters or interferes with goods subject to the

1 control of Customs, is guilty of a National offense.

2 (6) Penalty. A person convicted under this section
3 shall be subject to a fine not exceeding \$10,000 or
4 imprisonment of not more than 5 years."

5 Section 8. Title 54 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new section 308
7 of chapter 3 to read as follows:

8 "Section 308. Right of examination. A Customs officer
9 shall have the right to examine all goods subject to
10 Customs control.

11 (1) Examination of goods. In carrying out the
12 examination of goods:

13 (a) Any Customs officer may open packages and
14 examine, weigh, mark and seal any goods.

15 (b) Where shipments have been removed to the
16 owner's premises for examination, Customs officers shall
17 be granted access to the shipment for the purposes of
18 this section. The expenses of the examination,
19 including the cost of removal to the place of
20 examination, shall be borne by the owner.

21 (2) Search of residences, buildings and premises.
22 Any officer may enter any residence, building or
23 premises to search for and seize smuggled or unlawfully
24 imported goods, if:

25 (a) The officer is in possession of a search

1 warrant; or

2 (b) The officer has a reasonable suspicion
3 that smuggled or unlawfully imported goods are in the
4 residence, building or on the premises, and it is
5 impracticable for the officer to obtain a search
6 warrant; or

7 (c) The officer is in pursuit of a person he
8 reasonably believes has violated any provision of this
9 act.

10 (3) Search of persons.

11 (a) Where a Customs officer or officer of the
12 National Police on reasonable grounds believes a person
13 has unlawfully secreted on or about their body any
14 dutiable, restricted, prohibited, or forfeited goods,
15 the officer may, subject to the following conditions,
16 search and detain that person and may use reasonable
17 force to carry out the search.

18 (b) No strip search shall be undertaken unless
19 another officer or person is present as a witness.

20 (c) Searches will normally be undertaken by an
21 officer and witness of the same gender unless there are
22 reasonable grounds for believing the person being
23 searched may resist the search.

24 (d) Body cavity searches shall be carried out
25 by a qualified medical officer or other similarly

1 trained person."

2 Section 9. Title 54 of the Code of the Federated States of
3 Micronesia is hereby further amended by adding a new section 309
4 of chapter 3 to read as follows:

5 "Section 309. Use of aids by Customs officers. In
6 exercising any power of examination or search under this
7 chapter, any officer of Customs or any member of the
8 National or State police assisting him may have with him
9 and use for the purposes of examination or searching,
10 any dog, or any mechanical, electrical, or electronic
11 device."

12 Section 10. Title 54 of the Code of the Federated States of
13 Micronesia is hereby further amended by adding a new section
14 310 of chapter 3 to read as follows:

15 "Section 310. Compensation for loss. The Government of
16 the Federated States of Micronesia is liable for loss or
17 damage to goods subject to the control of the Customs
18 when such loss or damage is caused by the negligent or
19 willful act of an officer."

20 Section 11. Title 54 of the Code of the Federated States of
21 Micronesia is hereby further amended by adding a new section 311
22 of chapter 3 to read as follows:

23 "Section 311. Owners having possession of dutiable
24 goods. An owner shall remain liable for any duty
25 payable where, having possession or custody of dutiable

1 goods still subject to the control of Customs, that
2 person fails to:

3 (1) Keep them safely, or

4 (2) Account for all the goods left in that
5 person's possession or custody, when requested by a
6 Customs officer to do so."

7 Section 12. Title 54 of the Code of the Federated States of
8 Micronesia is hereby further amended by adding a new section 312
9 of chapter 3 to read as follows:

10 "Section 312. Importation of goods.

11 (1) Business license to import.

12 (a) No person shall import goods into the
13 Federated States of Micronesia for resale unless that
14 person holds or has been issued a current business
15 license to import issued pursuant to title 32 of the
16 Code of the Federated States of Micronesia.

17 (b) The issuance to a person of such a license
18 by the Secretary of Resources and Development is
19 authority for that person to carry on the business of
20 importing in any State within the Federated States of
21 Micronesia.

22 (c) Customs will provide to the appropriate
23 State authorities, details and other information as
24 required, of persons licensed to engage in the business
25 of importing.

1 (d) Application for a business license to
2 import and payment of the relevant fee will be made to
3 the National Customs office in each State.

4 (2) Arrival procedures. Upon arrival of an
5 aircraft or vessel at any port in the Federated States
6 of Micronesia, the master/pilot of such vessel/aircraft
7 shall deliver the following to the Customs officer:

8 (a) Copies of the manifest;

9 (b) All bills of lading or air waybills for
10 cargo to be discharged at that particular port;

11 (c) Customs clearance from the last port of
12 call;

13 (d) Passenger list;

14 (e) Crew list and list of goods in their
15 possession (crew search list);

16 (f) List of ships or aircraft stores,
17 including any narcotic drugs/controlled substances
18 (medical stores), on board the vessel or aircraft;

19 (g) List of all unmanifested cargo scheduled
20 for discharge;

21 (h) List of all firearms on board the vessel
22 or aircraft, other than those that may be carried in
23 passenger's baggage;

24 (i) List of all explosives or other hazardous
25 materials on board or listed for discharge;

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1 (j) List of all animals and birds, including
2 pets and those carried as cargo;

3 (k) Live plants and fruit on board.

4 (3) Time of entry. Each consignee of imported
5 goods shall make entry of those goods at the local
6 Customs office within 21 days after departure of the
7 importing vessel or aircraft.

8 (4) Penalty for late payment. Where goods are not
9 entered and the duty paid within the 15 day period,
10 there shall be added to the amount of duty due, an
11 additional ten percent if the failure is not more than
12 one calendar month, with an additional ten percent for
13 each additional calendar month or fraction thereof
14 during which such failure continues, not exceeding one
15 hundred percent in the aggregate.

16 (5) Verification of entry.

17 (a) Entry shall be verified by the
18 presentation to Customs by the consignee, or authorized
19 agent of the consignee, of a completed and signed entry
20 form, together with a non-negotiable bill of lading or
21 an air waybill and vendor's invoices for the imported
22 goods.

23 (b) The consignee shall answer any questions
24 relating to the goods and, upon request of a Customs
25 officer, furnish any other documentation deemed

1 necessary for:

2 (i) A proper assessment of the duties on
 3 the merchandise;

4 (ii) The proper collection of accurate
 5 statistics with respect to the merchandise being
 6 imported; and

7 (iii) A determination of whether any other
 8 applicable legal requirements have been met.

9 (c) The prescribed entry form shall set forth
 10 such facts in regard to the importation as the Secretary
 11 may require for the inspection, appraisement, payment of
 12 duties, and for the collection of statistics.

13 (6) Release of imported goods. Customs personnel
 14 shall, upon examination of the above documents, and
 15 payment of the correct duty, stamp and release the
 16 imported goods.

17 (7) Personal baggage. Goods that are the personal
 18 baggage of passengers in a vessel or aircraft that are
 19 not dutiable goods may be released without entry.

20 (8) Importation defined.

21 (a) Except where otherwise expressly provided,
 22 goods shall be deemed to be imported into the Federated
 23 States of Micronesia as soon as they come within the
 24 territorial limits of the Federated States of Micronesia
 25 from any country outside those limits.

1 (b) Goods shall still deemed to be imported
2 whether the importation is lawful or unlawful.

3 (c) Goods whose destination is outside the
4 territorial limits of the FSM, including ship's stores
5 and aircraft stores, shall not be deemed to be imported
6 unless, while they are within those limits, they are
7 removed from the vessel or aircraft in which they
8 arrived there.

9 (9) Duty rate. Dutiable goods shall be liable to
10 the rate of duty in force at the time when the aircraft
11 or vessel first arrives at a designated port of entry
12 within the Federated States of Micronesia.

13 (10) Clearing goods prior to arrival. Each
14 consignee of imported goods may, provided he or she has
15 the required documentation, clear those goods prior to
16 arrival of the vessel or aircraft. This does not waive
17 or limit the authority of the Division of Customs to
18 examine those goods on arrival.

19 (11) Exempt goods. Except where otherwise expressly
20 provided, all tax-exempt goods are to be cleared on the
21 official clearance form.

22 (12) Abandoned goods.

23 (a) Goods remaining unentered 3 months after
24 the departure of the importing vessel or aircraft will
25 be treated as goods abandoned to the National Government

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1 and will be sold by auction.

2 (b) The surplus of proceeds of such sale,
3 after the payment of storage charges, expenses and
4 duties, and the satisfaction of any lien for freight
5 charges, shall be deposited in the Treasury of the
6 Federated States of Micronesia, if a claim therefore is
7 not filed with the Division of Customs within 10 days of
8 the date of sale.

9 (c) The sale of such goods exonerates the
10 master of any vessel or the pilot of any aircraft in
11 which it was imported from all claims by the owner.

12 (d) The owner is nevertheless, on due proof of
13 his or her interest, entitled to receive from the
14 Treasury the amount of any surplus of the proceeds of
15 sale."

16 Section 13. Title 54 of the Code of the Federated States of
17 Micronesia is hereby further amended by adding a new section 313
18 of chapter 3 to read as follows:

19 "Section 313. Value for import duty.

20 (1) The value for the import duty on goods shall be
21 calculated as the free on board (FOB) amount, which is
22 the value of goods when shipped for export, and includes
23 all costs and charges up to the time of delivery of the
24 goods on board the exporting vessel or aircraft.

25 (2) If the Customs officer can reasonably determine

1 the free on board amount of imported goods, then import
2 duty shall be payable on the free on board amount.

3 (3) If the Customs officer cannot determine the
4 free on board amount of imported goods, but can
5 determine the value of identical goods, then import duty
6 shall be payable on the value of identical goods.

7 (4) Where the Customs officer cannot determine the
8 free on board amount or the value of identical goods,
9 the value for the payment of import duty shall be
10 determined by appraisal, the cost of which shall be
11 borne by the owner.

12 (5) No deduction of any kind shall be allowed from
13 the free on board amount because of any special or
14 sample discount, or on account of any other
15 consideration by which a special reduction in price has
16 been or might be obtained.

17 (6) Where there is a relationship between the buyer
18 and seller of imported goods the consignee must show
19 that the relationship did not influence the price paid
20 or payable for the goods.

21 (a) To demonstrate the acceptability of the
22 price paid or payable for the goods, the consignee shall
23 supply to Customs details of:

24 (i) The way in which the buyer and
25 seller organize their commercial relationship;

1 (ii) The way in which the price in
2 question was arrived at; and

3 (iii) The price of identical merchandise,
4 or similar merchandise, in sales to unrelated buyers in
5 the Federated States of Micronesia.

6 (b) Where it is decided that the relationship
7 has influenced the price paid or payable the free on
8 board amount shall be determined by appraisal.

9 (7) Where the Commissioner can establish that the
10 invoice value for the imported goods is intentionally
11 undervalued, the value for the payment of import duty
12 shall be the value of identical goods plus 10 percent.

13 (8) If the value of imported goods is stated in a
14 currency other than United States of America dollars,
15 the basis of the import duty of such goods shall be
16 calculated according to the rate of exchange for that
17 currency, used by commercial banks within the FSM, on
18 the date of export of the goods."

19 Section 14. Title 54 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section 314
21 of chapter 3 to read as follows:

22 "Section 314. Entry and valuation conditions applying
23 to specific goods.

24 (1) Pre-sold goods.

25 (a) Where any person arranges the importation

1 of goods into the Federated States of Micronesia but has
2 them shipped to individual consignees, the goods shall
3 be treated as goods for resale upon importation and
4 subject to import duty.

5 (b) The value for import duty shall be
6 determined in accordance with the provisions of section
7 313 of this chapter.

8 (2) Samples and gifts.

9 (a) Where any person engaged in the business
10 of importing receives samples or gifts, they shall be
11 treated as goods for resale upon importation and subject
12 to import duty.

13 (b) The value for import duty shall be
14 determined in accordance with the provisions of section
15 313 of this chapter.

16 (3) Goods for resale.

17 (a) Goods imported for commercial use or for
18 incorporation into a final product, service, meal or
19 other commercial enterprise are goods for resale and
20 subject to duty upon importation.

21 (b) Goods imported as duty-free goods or
22 personal possessions, but which are actually within six
23 months resold or incorporated into a final product,
24 service, meal or other commercial enterprise, are
25 subject to duty immediately upon resale or commercial

1 use.

2 (c) Failure to pay duty upon goods imported
3 for personal use, but actually resold or otherwise
4 converted to mercantile use, will, after 10 days of the
5 date of resale, subject the goods to forfeiture and the
6 importer to the penalties set forth in section 343 of
7 this chapter.

8 (d) Products imported into the FSM by a person
9 or entity licensed to import or carry on business in the
10 FSM or any political subdivision thereof are presumed
11 imported for resale in the FSM, and import duty shall be
12 levied thereon.

13 (e) The presumption of importation for resale
14 may be rebutted by presentation to and acceptance by the
15 Secretary of Finance or his designee of evidence
16 reasonably satisfactory and sufficient to prove that
17 such products are not imported for resale in the FSM."

18 Section 15. Title 54 of the Code of the Federated States of
19 Micronesia is hereby further amended by adding a new section 315
20 of chapter 3 to read as follows:

21 "Section 315. Prohibited and restricted imports. It
22 shall not be lawful to import into the Federated States
23 of Micronesia any goods whose use, sale or possession is
24 prohibited or restricted by the FSM or the State into
25 which the goods are imported, unless the importer has

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1 lawfully obtained or holds a valid permit or license to
2 possess the goods."

3 Section 16. Title 54 of the Code of the Federated States of
4 Micronesia is hereby further amended by adding a new section 316
5 of chapter 3 to read as follows:

6 "Section 316. Import duties - Levy and rates. The
7 following import duties are hereby levied on all
8 products imported into the Federated States of
9 Micronesia, except as provided in subsections (3), (4),
10 (8), (9), (10), (11) of this section, and section 317:

11 (1) Cigarettes, at the rate of twenty-five percent
12 ad valorem;

13 (2) Tobacco, other than cigarettes, at the rate of
14 fifty percent ad valorem;

15 (3) Perfumery, cosmetics, and toiletries, including
16 cologne and other toilet waters, articles of perfumery,
17 whether in sachets or otherwise, and all preparations
18 used as applications to the hair or skin, lipsticks,
19 pomades, powders, and other toilet preparations not
20 having medicinal properties, when imported for resale,
21 at the rate of twenty-five percent ad valorem;

22 (4) Soft drinks, drink mixes, drink preparations,
23 coffee, tea, and nonalcoholic beverages, when imported
24 for resale, at the rate of twenty-five percent ad

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1 valorem;

2 (5) Beer and malt beverages, at the rate of twenty-
3 five percent ad valorem;

4 (6) Distilled alcoholic beverages, at the rate of
5 ten dollars per wine gallon;

6 (7) Wine, at the rate of twenty-five percent ad
7 valorem;

8 (8) Foodstuffs for human consumption, when imported
9 for resale, at the rate of three percent ad valorem;
10 PROVIDED, however, that fresh citrus fruit shall be at
11 the rate of twenty-five percent ad valorem;

12 (9) Gasoline and diesel fuel, when imported for
13 resale, at the rate of five cents per gallon;

14 (10) Laundry bar soap, when imported for resale, at
15 the rate of one hundred percent ad valorem; and

16 (11) All other imported products, except those
17 specified above, when imported for resale, at the rate
18 of four percent ad valorem."

19 Section 17. Title 54 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section 317
21 of chapter 3 to read as follows:

22 "Section 317. Duty exemption for goods.

23 (1) Damaged, pillaged and faulty goods. Upon
24 receipt of a written request within 28 days of the
25 goods' release from Customs control, the Secretary may

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1 authorize a refund of the whole or part of the duty
2 paid, where any of the following conditions exist:

3 (a) Goods have been damaged or pillaged during
4 the voyage;

5 (b) Goods have, while subject to the control
6 of Customs, been damaged, pillaged, lost or destroyed;
7 or

8 (c) The Commissioner is satisfied that, owing
9 to a fault or defect in any goods, the importer has
10 received a reduction or a refund, in whole or part, of
11 the price paid or to be paid for the goods.

12 (2) Imported goods subsequently exported. Any
13 person who imports commodities into the Federated States
14 of Micronesia, and then exports them to a buyer who is
15 outside the territorial limits of the Federated States
16 of Micronesia, is entitled to a refund of any import
17 duty actually paid on such commodities, upon application
18 to and approval by the Secretary.

19 (3) Cigarettes, cigars, tobacco, and distilled
20 alcoholic beverages. Any person may import into the
21 Federated States of Micronesia duty free, the quantities
22 specified below, if such goods are for that person's own
23 personal use and consumption and not for resale. In
24 respect of distilled alcoholic beverages the person must
25 also be permitted by applicable State law to possess,

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1 consume, and use such goods:

2 (a) Up to 200 cigarettes per trip;

3 (b) Up to one pound of tobacco or twenty
4 cigars per trip; and

5 (c) Up to 52 fluid ounces or 1500 milliliters
6 of distilled alcoholic beverages per trip.

7 (4) Personal and household effects, but not
8 including cigarettes, cigars, tobacco and distilled
9 alcoholic beverages.

10 (a) Residents. A returning resident of the
11 FSM or a person intending to reside in the FSM may
12 import their bona fide personal and household effects
13 duty free, provided the goods are for their own personal
14 use and not for resale or exchange.

15 (b) Tourists. A tourist who is staying for 30
16 days or less may import bona fide personal effects into
17 the FSM duty free, provided the goods are intended for
18 their own personal use and not for resale.

19 (5) Sacramental wine. Sacramental wine imported
20 into the Federated States of Micronesia by religious
21 organizations for use in the religious rites of such
22 organizations.

23 (6) Foreign aid projects. Construction materials
24 and equipment for use in foreign aid projects approved
25 and authorized by the President.

(7) Living resources harvested within the Federated States of Micronesia Exclusive Economic Zone. All living resources harvested within the Federated States of Micronesia Exclusive Economic Zone shall be treated as exempt from import duties when landed, including landing for transshipment, at any port of entry within the Federated States of Micronesia.

(8) Organizations. To the extent provided by any statute cited in this subsection, the following organizations are exempt from the payment of import duties:

(a) International organizations designated by the President, (sections 203 and 204 of title 10 of this Code).

(b) Diplomatic missions, (section 601 of title 10 of this Code).

(c) Federated States of Micronesia Airline Corporation, (section 206 of title 20 of this Code).

(d) Telecommunications Corporation, (section 208 of title 21 of this Code).

(e) Federated States of Micronesia Coconut Development Board, (section 209 of title 22 of this Code).

(f) National Fisheries Corporation, (section 724 of title 24 of this Code)."

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1 Section 18. Title 54 of the Code of the Federated States of
2 Micronesia is hereby further amended by adding a new section 318
3 of chapter 3 to read as follows:

4 "Section 318. Duty liens. Any duties imposed or
5 authorized under this chapter upon property shall be a
6 lien upon the property and may be collected by levy upon
7 it in the same manner as the levy of an execution."

8 Section 19. Title 54 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new section 319
10 of chapter 3 to read as follows:

11 "Section 319. Civil action of enforcement. Any duties,
12 license fees or levies imposed or authorized under this
13 chapter may also be collected by a civil suit brought in
14 the name of the Commissioner of Customs. In such civil
15 suit a signed written statement of the Commissioner of
16 Customs as to the amount of duty due, the fact it is
17 unpaid, and who is authorized to collect it, shall be
18 sufficient evidence of these matters unless the contrary
19 is shown by clear and convincing evidence."

20 Section 20. Title 54 of the Code of the Federated States of
21 Micronesia is hereby further amended by adding a new section 320
22 of chapter 3 to read as follows:

23 Section 320. Transactions to be recorded.

24 (1) Every person, firm, corporation, or association
25 engaging in any transaction subject to a duty, fee, or

1 levy imposed under this chapter shall keep a full and
2 accurate record of each transaction engaged in by him
3 and such record shall be available for examination by
4 the Secretary of Finance or his authorized
5 representative for at least 3 years after the date of
6 such transaction.

7 (2) Any person, firm, corporation, or association
8 willfully failing to keep or make available for
9 examination such records is guilty of a National
10 offense.

11 (3) Penalty. A person convicted under this section
12 shall be subject to a fine not exceeding \$10,000 or
13 imprisonment of not more than 5 years, and in addition
14 thereto, shall be subject to the immediate revocation of
15 any existing license to do business in the Federated
16 States of Micronesia."

17 Section 21. Title 54 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 321
19 of chapter 3 to read as follows:

20 "Section 321. Production of documents.

21 (1) Additional documents required. Where an
22 officer is not satisfied with the facts as presented in
23 documents relating to a specific shipment, arrival or
24 departure of a vessel or an aircraft, the Customs
25 officer may require the owner to produce additional

1 documents and answer any questions relating to them.

2 (2) Summons.

3 (a) For the purpose described under sections
4 312, 313, and 314 of this chapter, the Secretary is
5 authorized to summon the person or persons liable for
6 tax under this title to appear before the Secretary or
7 his or her designee and at the appearance to require
8 such person or persons to produce such documents as
9 specified in the summons and to answer any questions
10 relating to said documents.

11 (b) The provisions of paragraph (a) of this
12 section shall also apply to any officer, employee or
13 agent of the person(s) described in paragraph (a) of
14 this section, or any third party having possession,
15 custody, or care of the documents relating to the goods
16 in question."

17 Section 22. Title 54 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 322
19 of chapter 3 to read as follows:

20 "Section 322. Distribution of revenues.

21 (1) The Treasurer of the Federated States of
22 Micronesia shall pay eighty percent of the net duties on
23 fuel collected pursuant to section 316(9) of this
24 chapter, and fifty percent of all other net duties
25 collected pursuant to section 316, into the treasury of

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1 the State government to which the duties are
2 attributable for appropriation by the State legislature.

3 (2) 'Net duties,' as used in subsection (1) of this
4 section, means gross collections of duties, penalties,
5 or other related charges less refunds and less the cost
6 of administration.

7 (3) 'Cost of administration,' as used in subsection
8 (2) of this section, means the cost determined to be
9 allocable to each State by the Congress of the Federated
10 States of Micronesia when making appropriations for the
11 operating expenses of the Customs Division.

12 (4) The revenue office in each State may administer
13 the taxes of the State in which located, but these
14 functions shall not interfere with the administration of
15 duties imposed by the laws of the Federated States of
16 Micronesia."

17 Section 23. Title 54 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 323
19 of chapter 3 to read as follows:

20 "Section 323. Exportation of goods.

21 (1) Business license to export.

22 (a) No person shall export goods for sale
23 outside of the Federated States of Micronesia unless
24 that person holds or has been issued a current business
25 license to export issued pursuant to title 32 of the

1 Code of the Federated States of Micronesia.

2 (b) The issuance to a person of such a license
3 by the Secretary of Resources and Development is
4 authority for that person to carry on the business of
5 exporting in any State within the Federated States of
6 Micronesia.

7 (c) Customs will provide to the appropriate
8 State authorities, details and other information as
9 required, of persons licensed to engage in the business
10 of exporting to the appropriate State authorities.

11 (d) Application for a business license to
12 export and payment of the relevant fee will be made at
13 the National Customs office in each State.

14 (2) Procedures for the export of goods.

15 (a) No goods subject to the control of Customs
16 shall be placed on board any vessel, loaded into any
17 aircraft, or packed into any bulk container to be
18 shipped for export until entry in the prescribed form
19 has been made and passed by Customs.

20 (b) Entry shall be verified by the
21 presentation to Customs of a completed and signed entry
22 form by the consignor, or authorized agent of the
23 consignor, together with a non-negotiable bill of lading
24 or an air waybill and the shipper's invoice for the
25 goods to be exported.

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1 (c) The consignor shall answer any questions
2 relating to the goods and upon request of a Customs
3 officer, furnish any other documentation deemed
4 necessary for:

5 (i) Determination of whether all legal
6 requirements have been met; and

7 (ii) The proper collection of accurate
8 statistics with respect to the merchandise being
9 exported.

10 (d) The prescribed entry form shall require
11 such facts in regard to exportation as the Secretary may
12 require for verification that all legal requirements
13 have been met and for the collection of statistics.

14 (e) Customs personnel shall, upon examination
15 and approval of the above documents, stamp and release
16 the goods for export.

17 (f) Goods that are the personal baggage of
18 passengers in a vessel or aircraft and goods that are
19 not being exported for sale may be exported without
20 entry.

21 (3) Goods to be exported.

22 (a) No goods shipped for export shall be
23 unshipped or landed within the FSM without the
24 permission of the Commissioner or his designee.

25 (b) National offense. Where any goods are

unshipped or landed in breach of this subsection, the master and owner of the vessel, or the pilot in command and owner of the aircraft, as the case may be, and every person willfully concerned with such unshipment or landing shall each be guilty of a National offense.

(c) Penalty. A person convicted under this subsection shall be subject to a fine not exceeding \$2,000 or imprisonment of not more than 1 year. In addition thereto, the goods shall be forfeited.

(4) Time of exportation. The time of exportation of goods shall be the time at which the exporting vessel departs from her last port of call in the FSM or at which the exporting aircraft departs from the last airport in the FSM immediately before proceeding to a country outside of the FSM.

(5) Clearance of vessels and aircraft.

(a) Unless he has received from the Commissioner, or his designee, a certificate of clearance in the form prescribed:

(i) The master of any vessel, having on board goods subject to the control of Customs, shall not depart with his vessel from any port; and

(ii) The pilot in command of any aircraft shall not depart from any airport for any country outside of the Federated States of Micronesia.

1 (b) National offense. If any provision of
2 this subsection is contravened, the master and the owner
3 of the vessel, or, as the case maybe, the pilot in
4 command and the owner of the aircraft shall each be
5 guilty of a National offense.

6 (c) Penalty. A person convicted under this
7 subsection shall be subject to a fine not exceeding
8 \$2,000 or imprisonment of not more than 1 year.

9 (6) Entitlement to clearance. Subject to the
10 provisions of this and any other Act, any vessel or
11 aircraft shall be entitled to a certificate of clearance
12 when:

13 (a) Prior notice of 24 hours for the clearance
14 has been given to the Commissioner, or his designee; and

15 (b) All inward cargo and stores of the vessel
16 or aircraft have been duly accounted for and all other
17 requirements of the law in regard to the vessel or
18 aircraft and her inward and outward cargo and stores
19 have been duly complied with.

20 (c) Nothing in this subsection shall prevent
21 the Commissioner, or his designee, from granting the
22 certificate at any time after application has been made,
23 if he is satisfied that the provisions of subsection
24 (6)(b) have been duly complied with."

25 Section 24. Title 54 of the Code of the Federated States of

1 Micronesia is hereby further amended by adding a new section 324
2 of chapter 3 to read as follows:

3 "Section 324. Prohibited and restricted exports. It is
4 unlawful to export from the Federated States of
5 Micronesia any goods whose use, sale or possession is
6 prohibited or restricted by the FSM or the State from
7 which they are being exported, unless the exporter has
8 lawfully obtained or holds a valid permit or license to
9 export the goods."

10 Section 25. Title 54 of the Code of the Federated States of
11 Micronesia is hereby further amended by adding a new section 325
12 of chapter 3 to read as follows:

13 "Section 325. Boarding and searching vessels and
14 aircraft on arrival in the Federated States of
15 Micronesia.

16 (1) Boarding, searching, and answering questions.
17 A Customs officer may;

18 (a) Board any vessel or aircraft on its
19 arrival in the Federated States of Micronesia. The
20 hoisting or displaying of a foreign flag will be taken
21 as consent to board.

22 (b) Search any vessel or aircraft on arrival
23 in the Federated States of Micronesia.

24 (c) Require all persons found on the vessel or
25 aircraft to answer questions, and produce documents in

1 relation to;

2 (i) The vessel or aircraft, its voyage
3 or flight and its cargo, stores, crew and passengers; or

4 (ii) The presence of any persons on the
5 vessel or aircraft.

6 (2) Arming of officers.

7 (a) Where the Commissioner has reasonable
8 cause to believe any person(s) on board any vessel or
9 aircraft bear(s) firearms, the Commissioner is
10 authorized to direct that the officers boarding the
11 vessel or aircraft be armed.

12 (b) All occasions when Customs officers are
13 armed while boarding shall be reported to the FSM office
14 of the Attorney General."

15 Section 26. Title 54 of the Code of the Federated States of
16 Micronesia is hereby further amended by adding a new section 326
17 of chapter 3 to read as follows;

18 "Section 326. Patrolling of coasts and inspection of
19 airports and ports. While acting within the reasonable
20 scope of his duties, any Customs officer and any person
21 acting in his aid, may at any time and using such means
22 of transport as the officer, or person, considers
23 appropriate:

24 (1) Patrol upon and pass freely along and over any
25 part of the seashore or on the shores, banks or beaches

of any port, bay or harbor, or over any part of the land
immediately adjoining the seashore, shores, or banks,
and on any structures extending from the seashore,
shores, or banks; and

(2) Enter and inspect any airport or port, their
facilities and goods therein; and may remain in any such
area to carry out investigations and to exercise
surveillance for the detection of offenses against this
act and for these purposes may make use of any
examination or surveillance aids."

Section 27. Title 54 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 327
of chapter 3 to read as follows:

"Section 327. Mooring vessels of Customs. The officer
in charge of any vessel employed by Customs in
patrolling and surveillance may, for a reasonable period
of time, haul the vessel upon any part of the seashore
or of the shores or banks of any port, bay, or harbor,
or upon any part of the land immediately adjoining the
seashore, shores or banks, and moor the vessel there."

Section 28. Title 54 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 328
of chapter 3 to read as follows:

"Section 328. Immunity from civil suit. Any Customs
officer acting in good faith and within the provisions

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1 of this act shall be immune from civil suit."

2 Section 29. Title 54 of the Code of the Federated States of
3 Micronesia is hereby further amended by adding a new section 329
4 of chapter 3 to read as follows:

5 "Section 329. Stopping of vehicles.

6 (1) A Customs officer or officer of the National
7 Police may, on reasonable suspicion, stop and search any
8 vehicle for the purpose of ascertaining whether any
9 dutiable or prohibited goods are contained therein.

10 (2) The driver shall stop and permit such search
11 when signalled to do so.

12 (3) Any driver who fails to stop and permit such
13 search, when signalled to do so, is guilty of a National
14 offense.

15 (4) Penalty. A person convicted under this section
16 shall be subject to a fine not exceeding \$10,000 or
17 imprisonment of not more than 5 years."

18 Section 30. Title 54 of the Code of the Federated States of
19 Micronesia is hereby further amended by adding a new section 330
20 of chapter 3 to read as follows:

21 "Section 330. Impoundment of goods.

22 (1) A Customs officer or officer of the National
23 Police may impound any forfeited goods or any goods that
24 the officer believes on reasonable grounds are forfeited
25 goods.

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1 (2) The power to impound goods under subsection (1)
2 may, without limiting the power of that subsection, be
3 exercised at sea or in any other waters.

4 (3) All goods impounded under the provisions of
5 this chapter shall be taken to the nearest National
6 Government warehouse or to such other place of security
7 as the Commissioner directs.

8 (4) All impounded goods must be endorsed on an
9 appropriate receipt.

10 (5) If the Commissioner determines that impounded
11 goods are of a perishable nature or are live animals,
12 such goods shall be sold by the Commissioner as soon as
13 practicable."

14 Section 31. Title 54 of the Code of the Federated States of
15 Micronesia is hereby further amended by adding a new section 331
16 of chapter 3 to read as follows:

17 "Section 331. Notice of impoundment.

18 (1) Where any vessel, aircraft or goods have been
19 impounded pending forfeiture, the impounding officer
20 shall give written notice of the impoundment and of the
21 cause of it to the master, pilot or owner of the vessel,
22 aircraft or goods by delivering the notice:

23 (a) Personally; or

24 (b) By letter addressed to him or her and
25 transmitted by post to or delivered at his or her last

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1 known place of abode or business.

2 (2) If the master, pilot or owner is present at the
3 time of the impoundment, verbal notice is sufficient.

4 (3) Forfeiture will occur 30 days after the date of
5 issuance of the Notice of Impoundment, unless a timely
6 appeal pursuant to section 355 is filed with the
7 Commissioner."

8 Section 32. Title 54 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new section 332
10 of chapter 3 to read as follows:

11 "Section 332. Return of impounded goods on security.

12 (1) The Secretary may authorize any vessel,
13 aircraft or goods impounded, other than controlled
14 substances or narcotic drugs, to be delivered to the
15 owner or agent upon production of adequate security.

16 (2) Adequate Security in the case of:

17 (a) Impounded goods will be payment to the FSM
18 Treasury of a sum equal to their duty-paid value as
19 determined by the Commissioner.

20 (b) Impounded aircraft or vessels will be
21 payment to the FSM Treasury of a sum the Commissioner
22 determines sufficient for the payment of any penalties
23 and costs that may have been imposed or may be imposed
24 on that owner or pilot or master in respect of the
25 offence which caused the detention of the aircraft or

1 vessel."

2 Section 33. Title 54 of the Code of the Federated States of
3 Micronesia is hereby further amended by adding a new section 333
4 of chapter 3 to read as follows:

5 "Section 333. Bringing to and landing.

6 (1) If the master of a vessel from a place outside
7 the Federated States of Micronesia bound to or calling
8 at a port in the Federated States of Micronesia fails to
9 bring the vessel for boarding at the boarding station
10 appointed for the port, the master is guilty of a
11 National offense.

12 (2) If the pilot of an aircraft from a place
13 outside the Federated States of Micronesia bound to or
14 calling at any place within the Federated States of
15 Micronesia fails to bring the aircraft for boarding to
16 the airport of destination, the pilot is guilty of a
17 National offense.

18 (3) Penalty. A person convicted under this section
19 shall be subject to a fine not exceeding \$10,000 or
20 imprisonment of not more than 5 years."

21 Section 34. Title 54 of the Code of the Federated States of
22 Micronesia is hereby further amended by adding a new section 334
23 of chapter 3 to read as follows:

24 "Section 334. Bringing to or landing on signal.

25 (1) If the master of a vessel within three nautical

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miles of the coast fails to bring the vessel to for
boarding upon being approached by, or hailed or
signalled from:

(a) A vessel or aircraft in the service of
Customs, that has hoisted the Customs flag; or

(b) A vessel or aircraft in the service of the
Federated States of Micronesia Government, that has
hoisted the proper ensign and pendant or displays the
proper signal; the master is guilty of a National
offense.

(2) If the pilot of an aircraft within three
nautical miles of the coast fails to bring the aircraft
to the nearest airport for boarding on being approached
by, or hailed or signalled from:

(a) A vessel or aircraft in the service of
Customs, that has hoisted the Customs flag; or

(b) A vessel or aircraft in the service of the
Federated States of Micronesia Government that has
hoisted the proper ensign and pendant or displays the
proper signal; the pilot is guilty of a National
offense.

(3) Penalty. A person convicted under this section
shall be subject to a fine not exceeding \$10,000 or
imprisonment of not more than 5 years."

Section 35. Title 54 of the Code of the Federated States of

1 Micronesia is hereby further amended by adding a new section 335
2 of chapter 3 to read as follows:

3 "Section 335. Facilitation of boarding.

4 (1) Where for the purposes of sections 325 and 334
5 of this chapter, a master of a vessel or a pilot of an
6 aircraft fails to facilitate by all reasonable means
7 boarding by a person authorized under this chapter, such
8 master or pilot is guilty of a National offense.

9 (2) Penalty. A person convicted under this section
10 shall be subject to a fine not exceeding \$10,000 or
11 imprisonment of not more than 5 years."

12 Section 36. Title 54 of the Code of the Federated States of
13 Micronesia is hereby further amended by adding a new section 336
14 of chapter 3 to read as follows:

15 "Section 336. Report of cargo.

16 (1) The master, owner or pilot of a vessel or
17 aircraft arriving from a place outside the Federated
18 States of Micronesia is guilty of a National offense if
19 that person fails:

20 (a) To report, within one day after the
21 arrival at a port or airport, the vessel or aircraft and
22 her cargo by delivering to Customs an inward manifest,
23 in duplicate, of goods for the port or airport;

24 (b) To answer questions relating to the vessel
25 or aircraft and her cargo, crew, passengers, stores and

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1 voyage; or

2 (c) To produce documents relating to the
3 vessel or aircraft and her cargo.

4 (2) Penalty. A person convicted under this section
5 shall be subject to a fine not exceeding \$10,000 or
6 imprisonment of not more than 5 years."

7 Section 37. Title 54 of the Code of the Federated States of
8 Micronesia is hereby further amended by adding a new section 337
9 of chapter 3 to read as follows:

10 "Section 337. Report of wrecked vessel or aircraft.

11 (1) When any vessel carrying goods not yet
12 delivered from Customs control is lost or wrecked within
13 the territorial limits of the FSM, the master or owner
14 shall, as soon as practicable, make report of the vessel
15 and her cargo to the Customs office nearest to the place
16 where the vessel was lost or wrecked.

17 (2) When any aircraft carrying goods not yet
18 delivered from Customs control is lost or wrecked within
19 the territorial limits of the FSM, the pilot or owner
20 shall, as soon as practicable, make report of the
21 aircraft and cargo to the Customs office nearest to the
22 place where the aircraft was lost or wrecked.

23 (3) Any master or owner of a vessel lost or
24 wrecked, or pilot or owner of an aircraft lost or
25 wrecked, who fails to report such loss or wreck to

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1 Customs is guilty of a National offense.

2 (4) Penalty. A person convicted under this section
3 shall be subject to a fine not exceeding \$2,000 or
4 imprisonment of not more than 1 year."

5 Section 38. Title 54 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new section 338
7 of chapter 3 to read as follows:

8 "Section 338. Vessels and aircraft adapted for
9 smuggling.

10 (1) The master or owner in the case of a vessel, or
11 the owner in the case of an aircraft, shall be guilty of
12 a National offense if any vessel or aircraft comes or is
13 found within the territorial limits of the Federated
14 States of Micronesia having:

15 (a) False bulkheads, bows, sides, or bottoms,
16 or any other secret or disguised place adapted for the
17 purpose of concealing goods; or

18 (b) Any hole, pipe, or device adapted for the
19 purpose of smuggling or unlawfully importing or
20 exporting goods.

21 (2) Penalty. A person convicted under this section
22 shall be subject to a fine not exceeding \$10,000 or
23 imprisonment of not more than 5 years."

24 Section 39. Title 54 of the Code of the Federated States of
25 Micronesia is hereby further amended by adding a new section 339

1 of chapter 3 to read as follows:

2 "Section 339. Forfeited vessels and aircraft. The
3 following vessels and aircraft may be forfeited to the
4 Federated States of Micronesia Government:

5 (1) Any vessel or aircraft used in smuggling, or
6 willfully used in the unlawful importation, exportation,
7 or carriage of any prohibited imports or prohibited
8 exports;

9 (2) Any vessel the master of which has refused to
10 permit such vessel to be boarded following a lawful
11 request to do so;

12 (3) Any aircraft failing to land at an airport for
13 boarding after being properly requested to do so; and

14 (4) Any vessel or aircraft from which goods are
15 thrown overboard, staved or destroyed to prevent
16 impoundment by Customs."

17 Section 40. Title 54 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 340
19 of chapter 3 to read as follows:

20 "Section 340. Forfeited goods. The following goods may
21 be forfeited to the Federated States of Micronesia
22 Government:

23 (1) All goods which are smuggled, or unlawfully
24 imported, exported, or carried;

25 (2) Unlawfully imported prohibited and restricted

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1 goods;

2 (3) All goods found on any vessel or aircraft after
3 arrival in any port or airport which are not specified
4 or referred to in the inward manifest and are not
5 baggage belonging to crew or passengers and have not
6 been satisfactorily accounted for;

7 (4) All goods subject to the control of Customs
8 that are moved, altered or interfered with in violation
9 of the provisions of this chapter;

10 (5) All goods which are, as specified by statute or
11 as directed by a Customs officer, to be moved or dealt
12 with in any way and which are not moved or dealt with
13 accordingly;

14 (6) Any vehicle or animal used in smuggling or in
15 the unlawful importation, exportation, or conveyance of
16 any goods;

17 (7) All goods, except a passenger's baggage, found
18 on any vessel or aircraft after clearance and not
19 specified or referred to in the outward manifest and not
20 accounted for to the satisfaction of the Commissioner;

21 (8) Unlawfully exported prohibited and restricted
22 goods;

23 (9) All dutiable goods concealed in any manner;

24 (10) Any package in which there are concealed goods:

25 (a) Not included in the clearance documents;

1 or

2 (b) So packed as to deceive the officer.

3 (11) All dutiable goods found in the possession or
 4 in the baggage of any person who has got out of, landed
 5 from or gone on board any vessel or aircraft and who has
 6 denied that he or she has any dutiable goods in his or
 7 her possession, or who when questioned by a Customs
 8 officer has not fully disclosed that such goods are in
 9 his or her possession or baggage;

10 (12) Any stolen or counterfeit goods."

11 Section 41. Title 54 of the Code of the Federated States of
 12 Micronesia is hereby further amended by adding a new section 341
 13 of chapter 3 to read as follows:

14 "Section 341. Disposal of forfeited goods, aircraft,
 15 and vessels. All forfeited goods, aircraft, and vessels
 16 shall become the property of the National Government and
 17 shall be sold, destroyed, or otherwise disposed of as
 18 the Secretary or Commissioner may direct."

19 Section 42. Title 54 of the Code of the Federated States of
 20 Micronesia is hereby further amended by adding a new section 342
 21 of chapter 3 to read as follows:

22 "Section 342. Conspiracy for unlawful purposes.

23 (1) If two or more persons willfully conspire for
 24 the purpose of:

25 (a) Importing prohibited or restricted

1 Micronesia is hereby further amended by adding a new section 345
2 of chapter 3 to read as follows:

3 "Section 345. Duties of and offenses by Customs
4 Officers.

5 (1) Duties. Every Customs officer will:

6 (a) Serve as the first line of defense to
7 secure the borders of the FSM against the unlawful
8 importation or exportation of goods;

9 (b) Perform his duties in a firm, impartial,
10 polite, and professional manner;

11 (c) Levy the correct import or export duty on
12 goods, as provided by the law;

13 (d) Obtain applications for business licenses
14 and collect applicable fees from persons required to be
15 licensed for the import and/or export of goods;

16 (e) Account for all import or export duties
17 and licenses fees collected;

18 (f) Carry out checks to ensure all imported
19 goods are accounted for;

20 (g) Clear all aircraft and vessels on their
21 arrival and departure;

22 (h) Obtain all documentation required under
23 this act, on the arrival or departure of aircraft or
24 vessels, and on the importation or exportation of goods;

25 (i) Obtain sufficient information to enable

accurate statistics to be compiled on imports and exports;

(j) Treat as confidential any information obtained during the performance of his duties;

(k) Search as required or directed, aircraft, vessels, imported or exported goods, containers, packages, persons, buildings, residences, premises, and vehicles, for smuggled or unlawfully imported goods;

(l) Immediately notify the National and State police of any cannabis, narcotic drugs, controlled substances, or firearms, located during a search;

(m) Immediately notify the National and State Agriculture and Quarantine authorities of any plants, seeds, animals, or animal by-products, located during a search;

(n) Impound any goods located during a search the officer believes are forfeited under this act, and give notice of impoundment to the owner;

(o) Promptly report to the Commissioner, any irregularity on the arrival or departure of an aircraft or vessel, or on the importation or exportation of goods;

(p) Refuse any bribe offered and promptly notify the Commissioner of the attempt;

(q) Wear a badge or other visible emblem

1 identifying him as a Customs officer, when performing
2 duties outside of the Customs office;

3 (r) As directed or requested, provide
4 assistance to any member of the National Police or
5 Immigration Division;

6 (s) Undertake other duties as directed.

7 (2) National offense. Every officer is guilty of a
8 National offense, who:

9 (a) Solicits, accepts, or agrees to accept any
10 bribe in relation to the exercise or performance of any
11 power or duty under this act;

12 (b) Otherwise willfully neglects his official
13 duties.

14 (3) Penalty. A person convicted under this section
15 shall be subject to a fine not exceeding \$10,000 or
16 imprisonment of not more than 5 years, in addition to
17 loss of employment pursuant to subchapter V of chapter 1
18 of title 52."

19 Section 46. Title 54 of the Code of the Federated States of
20 Micronesia is hereby further amended by adding a new section 346
21 of chapter 3 to read as follows:

22 "Section 346. Obstructing Customs officers. Every
23 person is guilty of a National offense, who;

24 (1) By bribery, demands, or threats, attempts to
25 influence or does influence any officer of Customs in

the discharge of his duties;

(2) Assaults, or by force resists, obstructs, intimidates, or attempts to intimidate, any officer of Customs or any person acting in his aid, in the execution of his duties;

(3) Otherwise willfully obstructs any officer of Customs in the exercise or performance of any power or duty under this act.

(4) Penalty. A person convicted under this section shall be subject to a fine not exceeding \$10,000 or imprisonment of not more than 5 years."

Section 47. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 347 of chapter 3 to read as follows:

"Section 347. Offenses in relation to controlled substances, marihuana, and narcotic drugs.

(1) Any person who willfully and without reasonable excuse has in their possession any controlled substances, marihuana, or narcotic drugs, is guilty of a National offense.

(2) Any person who unlawfully imports or attempts to import, exports or attempts to export, any controlled substances, marihuana, or narcotic drugs, is guilty of a National offense.

(3) Any person who conspires with another person or

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other persons to unlawfully import, bring, or cause to be brought into the FSM, or to unlawfully export from the FSM, any controlled substances, marihuana, or narcotic drugs, is guilty of a National offense.

(4) Any person who aids, abets, counsels or procures in, the unlawful importation or bringing into the FSM, or the unlawful exportation from the FSM, of any controlled substances, marihuana, or narcotic drugs, is guilty of a National offense.

(2) Penalty. A person convicted under this section shall be subject to a fine not exceeding \$10,000 or imprisonment of not more than 5 years."

Section 48. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 348 of chapter 3 to read as follows:

"Section 348. Miscellaneous offenses.

(1) A person commits a National offense if that person:

(a) Evades any duty that is payable;

(b) Willfully prepares, passes, alters or presents a document purporting to be a genuine invoice that is not in fact a genuine invoice;

(c) Willfully makes, in a declaration or document produced to a Customs officer, a statement that is untrue in any particular;

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(d) Willfully produces or delivers to a Customs officer a declaration or document containing a statement that is untrue in any particular;

(e) Willfully misleads any Customs officer in any particular likely to affect the discharge of the officer's duty; or

(f) Refuses or fails to produce all documents relating to the aircraft, vessels, or goods.

(2) Penalty. A person convicted under this section shall be subject to a fine not exceeding \$2,000 or imprisonment of not more than 1 year."

Section 49. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 349 of chapter 3 to read as follows:

"Section 349. Liability of principal for acts of agents.

(1) Every act done by the agent within the course and scope of his agency in relation to the provisions of the Customs Act, shall be deemed to have been made or done by his principal also, and the principal shall be liable accordingly to all penalties imposed by the Customs Act.

(2) For the purpose of this section the knowledge and intent of the agent within the course and scope of his agency shall be attributed to the principal in

1 addition to his own."

2 Section 50. Title 54 of the Code of the Federated States of
3 Micronesia is hereby further amended by adding a new section 350
4 of chapter 3 to read as follows:

5 "Section 350. Written authority of agents. Any Customs
6 officer may require any person acting as or claiming to
7 act as the agent of any person in any matter relating to
8 the Customs Act to produce written authority from his
9 principal, and if such authority is not produced the
10 officer may refuse to recognize the agency."

11 Section 51. Title 54 of the Code of the Federated States of
12 Micronesia is hereby further amended by adding a new section 351
13 of chapter 3 to read as follows:

14 "Section 351. Preservation and disclosure of
15 information.

16 (1) All reports and returns required by this
17 chapter shall be preserved for 3 years, or for a longer
18 period if the Secretary so orders.

19 (2) All officers shall keep confidential all
20 matters relating to this chapter which come to their
21 knowledge and shall communicate such matters only for
22 the purpose of carrying into effect this chapter or any
23 other National Government or State government enactment.

24 (3) Any person receiving information pursuant to
25 subsection (2) of this section shall disclose the

information received only for the specific purpose of ensuring compliance with a National Government or State government enactment.

(4) Confidential information set forth or disclosed in any report or return required under this chapter may be supplied to a committee appointed by the Congress, on the following conditions:

(a) Specific returns of an importer or exporter shall only be provided to a closed hearing of the committee.

(b) No person present at the closed hearing shall disclose any details of a specific return of an importer or exporter provided to the committee.

(5) The Attorney General or other legal representative of the Government of the Federated States of Micronesia may inspect all documentation required under this act.

(6) Nothing herein shall prevent Customs from:

(a) Providing information to the Office of Statistics to enable the compilation of statistics on imports and exports; and

(b) Compiling and publishing information generally, provided the information does not divulge the contents of any one return.

(7) Source of information need not be disclosed.

Where such reports or information are not used as evidence in a criminal proceeding, no Customs officer or member of the Police in any prosecution for an offense against the Customs Act, or in proceedings relative to the impoundment of vessels, aircraft, or goods under this act, shall be compelled to disclose its nature or source.

(8) National offense. Any person who willfully discloses or unlawfully uses any information contrary to the provisions of this section is guilty of a National offense.

(9) Penalty. A person convicted under this section shall be subject to a fine not exceeding \$2,000 or imprisonment of not more than 1 year."

Section 52. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 352 of chapter 3 to read as follows:

"Section 352. Regulations. The Secretary of Finance may adopt, amend, or rescind regulations for the administration of this chapter pursuant to chapter 1 of title 17 of the Code of the Federated States of Micronesia."

Section 53. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 353 of chapter 3 to read as follows:

1 "Section 353. Assistance from the public.

2 (1) When necessary, a Customs officer may call upon
3 and deputize any member of the public to assist in the
4 execution of that officer's duty under this chapter.

5 (2) Any such member of the public, so deputized,
6 shall have the same powers and immunity as the officer
7 such person is assisting."

8 Section 54. Title 54 of the Code of the Federated States of
9 Micronesia is hereby further amended by adding a new section 354
10 of chapter 3 to read as follows:

11 "Section 354. Implementation.

12 (1) To give effect to the provisions of this
13 chapter the Secretary is authorized to:

14 (a) Draw up and implement procedures and
15 guidelines;

16 (b) Distribute such procedures and guidelines
17 to interested parties;

18 (c) Appoint appraisers in each of the States
19 to examine invoices presented to Customs.

20 (2) The Division of Customs is authorized to become
21 a member of and to send representatives to meetings of;

22 (a) Organizations that foster cooperation
23 between Pacific Island Nations Customs Divisions;

24 (b) Organizations that will increase the
25 expertise and efficiency of the Customs Division."

Section 55. Title 54 of the Code of the Federated States of
Micronesia is hereby further amended by adding a new section 355
of chapter 3 to read as follows:

"Section 355. Appeal procedures on the forfeiture of
goods.

(1) Any person claiming an interest in the goods,
or acting on behalf of a person claiming an interest in
the goods, may appeal their forfeiture.

(2) Form and time of appeal.

(a) The Commissioner may prescribe the form of
the notice of appeal and statement of claim.

(b) Notice of appeal, supported by a statement
of claim, shall be filed with the Commissioner within 30
days of the date of issuance of the impoundment notice.

(c) With the permission of the Commissioner,
the appellant may file supplementary documents after the
30 day period lapses.

(d) Every statement of claim shall set out the
interest of the appellant in the goods and shall be
accompanied by proof of the existence and nature of the
interest. In addition to this, the statement will set
forth clear and specific reasons why forfeiture should
not proceed.

(4) On any such appeal, the Commissioner may waive
the forfeiture either in whole or in part, and may

impose conditions on the waiver of forfeiture.

(5) Any such waiver, by the Commissioner, may require that there shall be paid to the National Government in respect of the goods, a sum equal to the whole or any part of any one or more of the following:

(a) Any costs or expenses incurred by the Customs;

(b) Any duty not already paid;

(c) Any duty already refunded.

(6) The goods impounded shall be deemed to be forfeited to the National Government, if no notice of appeal and statement of claim is filed with the Commissioner within 30 days of the date of issuance of the impoundment notice.

(7) Any decision of the Commissioner with respect to forfeiture may be appealed to the Trial Division of the Supreme Court."

Section 56. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 356 of chapter 3 to read as follows:

"Section 356. Protests against the decision of a Customs officer. Decisions of the appropriate Customs officer are final and conclusive upon all parties unless a protest is filed. The following conditions apply:

(1) A protest must set forth clearly and

1 specifically:

2 (a) Each decision by a Custom officer to which
3 the protest is made;

4 (b) Each category of merchandise affected by
5 each such decision to which the protest is made;

6 (c) The nature of each objection and the
7 reasons therefor; and

8 (d) The correct amount of duty payable, if the
9 protest were upheld.

10 (2) The protest shall be lodged with the Customs
11 office where the decision under protest was made.

12 (3) The protest must be filed within 30 calendar
13 days after the date of the decision that is protested.

14 (4) Failure to pay the duty in full will be a basis
15 for denial of the protest. If the protest is upheld, any
16 excessive levy of import duty will be returned to the
17 importer.

18 (5) Procedures for administrative review of
19 protests will be established by the Secretary of
20 Finance, who is the final arbiter of protest claims."

21 Section 57. Chapter 2 of title 54 of the Code of the
22 Federated States of Micronesia is hereby repealed in its
23 entirety.

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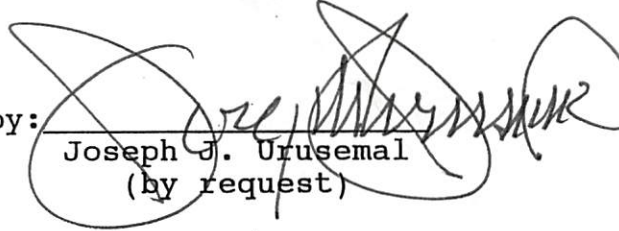
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1 Section 58. This act shall become law upon approval by the
2 President of the Federated States of Micronesia or upon its
3 becoming law without such approval.

4

5 Date: 10/31/94

Introduced by:


Joseph J. Urusemal
(by request)

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