A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by amending section 222 to exempt import duties on certain donated goods donated to directly benefit the FSM National Government or any of the four FSM states or any charitable organization duly established in FSM, and for other purposes.

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

Section 1. Section 222 of title 54 of the Code of the
Federated States of Micronesia, as amended, is hereby further
amended to read as follows:

"Section 222. Exemptions.

(1) Damaged, pillaged or faulty goods. Upon receipt
of a written request within 28 days of the goods' release
from Customs control, the Secretary may authorize a
refund of the whole or part of the duty paid, where any
of the following conditions exist:

(a) goods have been damaged, pillaged, lost or
destroyed during the voyage;

(b) goods have, while subject to the control
of Customs, been damaged, pillaged, lost or
destroyed; or

(c) the Commissioner is satisfied that, owing to
a fault or defect in any goods, the importer has received
a reduction or a refund, in whole or part, of the price
paid for the goods."
(2) Goods imported for subsequent export.

(a) Upon application to and approval by the Secretary, import duty paid on the following goods shall be refunded: goods imported for processing in the FSM, not otherwise used in the FSM, and subsequently exported from the FSM. For purposes of this subsection, raw materials or ingredients which are worked into or otherwise become part of a different or more finished product are deemed exported when that product is exported.

(b) Goods imported for processing are eligible for the duty refund when the finished products which the imported goods were processed into have been loaded on an aircraft or vessel for direct removal from the FSM and that aircraft or vessel has departed from the port. After they have been so loaded, the goods shall again be subject to import duty if they are unloaded or used in the FSM. With respect to importers primarily engaged in importing for processing and subsequent export, the Secretary shall provide for waiving, by regulation rather than collecting and subsequently refunding, duties.

(c) Upon application to and approval by the Secretary, import duty shall be waived on the following goods: goods imported for transshipment through the FSM,
not to be used in the FSM, which are securely stored while in the FSM and which are exported from the FSM within a reasonable time of import to the FSM, as defined by regulation. Should these goods not be exported within a reasonable time, the importer will be subject to a penalty equal to one-quarter of the import duty that would have been due if the goods were to be used in the FSM. Should these goods be removed from the secure storage facility or used in the FSM, they will be subject to the full import duty.

(d) The burden of proving that goods imported are for subsequent export shall be upon the importer/exporter as specified in regulations.

(3) Goods carried in per trip abroad. Each time an individual person enters or returns to the FSM from a foreign jurisdiction, he or she is entitled to bring into the FSM the following goods duty free, provided that such goods are for that person's own personal use or consumption and not for resale or exchange, and provided further that such person is permitted by applicable State law to possess, use, and consume such goods:

(a) up to 200 cigarettes;

(b) up to one pound of tobacco or twenty cigars;

(c) up to 52 fluid ounces or 1500 milliliters of distilled alcoholic beverages; and
(d) up to two hundred dollars ($200) worth of goods other than tobacco products, beer and malt beverages, distilled alcoholic beverages, and wine.

(4) Visitors' personal effects. A visitor to the FSM may import bona fide personal effects into the FSM duty free, provided the goods are for the visitor's own personal use and will be taken with the visitor when he or she leaves the country.

(5) Returning goods. Goods produced or properly entered in the FSM which are subsequently removed from the FSM may be returned to the FSM duty free. The burden shall be on the owner of the goods to establish that the goods were either produced in the FSM or previously and properly entered.

(6) Goods used in foreign aid projects. An international organization, foreign contractor, or other foreign entity may import goods into the FSM duty free in connection with the performance of services or other conduct of business in furtherance of a foreign aid agreement entered into by the FSM, the terms of which require that such import shall not be subject to taxation by the FSM; provided that if and when such goods are subsequently sold in the FSM, import duty shall be due based on the sale amount. The duty, together with penalties and interest, shall be the joint and several
personal liability of the importer and the purchaser and shall be secured by first liens on the goods and on the importer's property as hereinafter provided.

(7) Certain fishing vessels and equipment. Fishing vessels basing in the Federated States of Micronesia under a valid permit or license issued pursuant to title 24 of the Code of the Federated States of Micronesia shall not be subject to the import duty on either the vessel or equipment installed in the vessel. This exemption shall apply to replacement parts and equipment imported by these fishing vessels as well.

(8) Parcels which would generate a de minimis duty. Parcels mailed or otherwise sent into the FSM, which would otherwise generate a de minimis duty, shall be exempt from import duty, provided that such goods are for the recipient's own personal use or consumption and not for resale or exchange. Parcels with values up to the amount specified in subsection (3)(d) of this section, shall be exempt.

(9) Certain Donated Goods.

(a) In General. Goods donated from abroad from an international donor and donated for the benefit of and directly to the Federated States of Micronesia National Government, or to any of the four State
Government (Pohnpei, Kosrae, Chuuk, Yap), or to a charitable organization duly recognized and established in the FSM, shall be exempt from import duties provided that the importer satisfies the conditions set forth under subsection (9). For purposes of subsection (9), the importer is the recipient of the goods: the FSM National Government, the State Governments (Pohnpei, Kosrae, Chuuk, Yap), or a charitable organization duly recognized and established in the FSM. The importer must provide the Secretary of Finance or his designee with notarized documents which certify:

(i) the identify of the international donor;

(ii) the identity of the importer (the recipient government or charitable organization);

(iii) a statement from the international donor identifying the specific goods being donated and the value of said goods;

(iv) a statement from the international donor certifying that the goods are being donated for charitable purposes and not for resale;

(v) a statement from the international donor certifying that the goods are being donated free of charge and that there are no expenses charged to the recipient of the goods;"
(b) Certain Goods Exempted. The Secretary of Finance or his designee may consider an exemption for books, medicine, emergency relief supplies, building or construction materials and supplies, and emergency vehicles solely limited to:

(i) police vehicles

(ii) fire trucks and

(iii) ambulance, as well as equipment and supplies necessary to operate said vehicles; provided these items are being donated from abroad for charitable purposes in compliance with subsection (a) and not for resale. However, if the goods being donated are building or construction supplies and materials, then the Secretary of Finance or his designee has the right to place a limit on any exemption claimed under this Paragraph. Said limitations shall be determined in a separate policy statement issued by the Secretary of Finance. These threshold limitations shall not apply to building or construction supplies and materials donated from abroad to the FSM National Government for emergency situations when there has been a State of Emergency declared by the President of Federated States of Micronesia.

(c) Burden of Proof. The burden of proving compliance with the provisions of this Paragraph is upon
the importer (recipient government or charitable organization), and must be met by clear and convincing evidence.

(d) Subsequent Sale of Goods. If and when goods exempted under subsection 9 are subsequently sold in the FSM, import duty shall be due based on the sale amount.

Section 2. Retroactive. The exemptions specified under section 222(9) of this title shall apply retroactive exclusively to the following specified dates and donated goods:

(1) Two (2) Aircraft Rescue and Firefighting (ARF) Vehicles (fire trucks), equipment and spare parts (accessories for the fire trucks) which arrived in Yap on or about August 6, 2007 as part of the donated goods for the Airport Improvement Project (AIP) in FSM.

(2) Two (2) ARF fire trucks, equipment and spare parts (accessories for the fire trucks) which arrived in Weno, Chuuk State on or about August 16, 2007 as part of the AIP in the FSM;

(3) ARF Vehicles’ equipment and spare parts (accessories to the fire trucks) donated as part of the AIP project, which arrived in Pohnpei on or about January 6, 2008.

(4) ARF Vehicles’ equipment and spare parts (accessories to the fire trucks) donated as part of the AIP in FSM, which arrived in Kosrae on or about January
Section 2. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 5/20/08

Introduced by: /s/ Moses A. Nelson

Moses A. Nelson