April 20, 2020

The Honorable Wesley W. Simina
Speaker
FSM Congress
Palikir, Pohnpei FM 96941

Dear Speaker Simina:

I transmit herewith a certified copy of Congressional Resolution No. 21-138, C.D.1, C.D.2, which was adopted by the Twenty-First Congress of the Federated States of Micronesia, Fifth Special Session, 2020.

Sincerely,

Liwiana Ramon Ioanis
Chief Clerk
Congress of the Federated States of Micronesia

Enclosures
A RESOLUTION


INTRODUCED BY SENATOR: WESLEY W. SIMINA

DATE: APRIL 13, 2020

ADOPTED: APRIL 17, 2020

Liwiana Ramon Ioams
Chief Clerk, FSM Congress
A RESOLUTION

To further amend the President's Public Health Emergency Declaration dated January 31, 2020, as amended on February 7, 2020, and further amended on March 11, 2020.

1    WHEREAS, on January, 31, 2020, the President issued a Public
2    Health Emergency Declaration; and
3    WHEREAS in accordance to Article X, Section 9 (c) of the FSM
4    Constitution, Congress has the sole authority to revoke, amend or
5    extend the Public Health Emergency Declaration; and
6    WHEREAS, Congress is currently convened for its Fifth Special
7    Session and therefore has the powers under the Constitution to
8    revoke, amend or extend the Declaration; and
9    WHEREAS, Congress has reviewed the Declaration, the
10    amendments, the clarifications and the decrees issued by the
11    President and has reviewed updated information on the COVID-19
12    becoming a pandemic soon after the adoption of the March 11, 2020,
13    amendment to the January 31, 2020, declaration, the facts
14    attending to the declaration, amendments, clarifications and
15    decrees, and has had several public hearings and has met and
16    conferred with the President and has considered the President's
17    requests for Congressional action; now, therefore,
18    BE IT RESOLVED by the Twenty-First Congress of the Federated
19    States of Micronesia, Fifth Special Session, 2020, that:
20    (1) Pursuant to Article X, Section 9 (c) of the FSM
Constitution, Congress has the exclusive
authority to revoke, amend or extend the
Emergency Declaration. The President may not
revoke, amend or extend the Emergency
Declaration. However, should there be a
confirmed case of COVID-19 within the FSM, the
President is authorized to amend the Declaration
to respond to this situation only.

(2) Pursuant to Article X, Section 9 (a) of the FSM
Constitution, the President may issue appropriate
decrees related to the Emergency Declaration,
other than to revoke, amend or extend the
Emergency Declaration. Unless and until this
Emergency Declaration is revoked by Congress, or
it expires of its own term, the President may
not issue an additional or new Emergency
Declaration to address the ongoing COVID-19
Pandemic. The purported declaration issued on
March 14, 2020 by the President is null and void
and all purported amendments, decrees and
clarifications made pursuant to the purported
declaration are also null and void. Most of the
contents of the purported March 14, 2020
declaration and subsequent decrees thereof are
incorporated herein for clarity and comity
purposes. The contents thereof which are not inconsistent or contradictory to the January 31, 2020 declaration as amended and as further amended herein by Congress are hereby deemed ratified as to their effectiveness and implementation, relating back to their date of issuance or implementation.

(3) The President shall discuss with the Governors of all the 4 states the terms of the social distancing requirements and other safety precautions that shall be mandated, within 30 days, for the entire nation.

(4) The Public Health Emergency Declaration in the FSM dated January 31, 2020, is hereby further amended to read:

WHEREAS, the World Health Organization (WHO) has declared on January 30, 2020 (January 31st 2020 Pohnpei time) that the new Coronavirus (COVID-19) is a Public Health Emergency of International Concern (PHEIC); and

WHEREAS, the WHO has declared on March 11, 2020, (March 12, 2020 Pohnpei time) that COVID-19 is a pandemic and this occurred after Congress adopted it’s March 11, 2020 amendment to the January 31, 2020 declaration; and

WHEREAS, the COVID-19 Pandemic exposes the FSM to an undeniable vulnerability from the imminent and likely entry of the
virus to the islands unless the FSM National Government and the
State Governments resolves to implement effective and uniform
counter measures to combat the spread of this rare and deadly
virus across all of our states; and

WHEREAS, the National Government must mitigate the risk
factors associated with the undesirable spread of COVID-19
anywhere in the FSM, and for this purpose, the FSM must fast-track
nationwide, unified capacity building efforts - which remain in
progress, intensify the surveillance and monitoring of
international airports and seaports in the country, and maintain
quarantine and travel restrictions, together and as a whole,
comprising the national efforts of combatting the spread of COVID-
19 as other countries around the world are doing; and

WHEREAS, the number of countries with confirmed and suspected
cases of COVID-19 keeps increasing and the number of deaths due to
COVID-19 have intensified with no signs of receding in the near
future; and

WHEREAS, the citizens and residents of the FSM remain
extremely vulnerable to this outbreak, taking into consideration
the fact that airline travel routes connecting into the FSM
already have confirmed cases of COVID-19 in Hawaii and Guam and
COVID-19 may very likely cause massive and widespread illnesses
and public health disasters that are beyond the ability and
present resources of the FSM National and State Governments to
contain; and
WHEREAS, given the unrelenting global spread of COVID-19, and
the reality that is already a pandemic, it becomes a matter of
legal duty and obligation of the National Government of the FSM,
its leadership and all officials of this Nation, to take all the
emergency precautions, measures and interventions as a matter of
acute emergency and necessity, in order to protect and save lives
of our citizens, especially the most vulnerable members of our
population, the elderly, the sick and the children;

NOW THEREFORE, I, David W. Panuelo, President of the
Federated States of Micronesia, pursuant to the authority vested
upon me under Article X, Section 9 of the FSM Constitution, do
hereby place the entire territory of the Federated States of
Micronesia under a state of emergency to address the effects of
COVID-19 and order as follows:

(1) Immediately, all ports of entry of the FSM shall
be strengthened and are immediately placed under
strict monitoring and surveillance to ensure that
the potential carriers of COVID-19 do not enter
into the FSM. All travellers must be screened
thoroughly for any signs or symptoms of COVID-19,
such as feeling tired, difficulty breathing, high
temperature (fever) and coughing and/or sore
throat.

(2) All National border and security personnel
(Customs, Immigration and Quarantine) are under a
duty to intensify monitoring of the borders of
this Nation and work very closely with the
National and State Task Forces to implement a
unified response.

(3) Given the severity of the situation, as a matter
of national security of this Nation and in the
interest of maintaining good health and safety of
our people, immediately upon its issuance, this
Decree shall be disseminated to the public as
widely as possible throughout the Nation, by
radio, print media and by digital media. The FSM
Emergency Task Force shall monitor the
implementation, enforcement and full compliance
of this emergency declaration and provide timely
reports to the President.

(4) Nationwide, unified travel bans must be enforced
according to the terms of this declaration.
Persons travelling from any infected country,
state or territory, are prohibited from entering
into the FSM for as long as the COVID-19 Pandemic
persists. Rare exceptions may be granted on a
case-by-case basis, for certified health experts,
technicians and workers assigned to assist the
FSM with respect to COVID-19, returning medical
referral patients, premised upon prior favorable
advice, assessment and recommendation by the FSM Emergency Task Force, in consultation with the state task forces, and subject to all screening, detection, quarantine and isolation procedures and protocols of the State of destination.

(5) All FSM Citizens are banned from travelling to any country, state or territory with confirmed cases of COVID-19 until further notice and until such time that a determination is made that the COVID-19 Pandemic is effectively contained. Exceptions may be granted for FSM citizens who will be traveling to affected areas, who are legal residents of an affected area, and are returning to their homes or employment or for urgent medical treatment premised upon favorable advice, assessment and recommendation by the FSM Emergency Task Force.

(6) Other citizens, nationals and residents of the FSM are strongly advised against travel to any country, state or territory with confirmed cases of COVID-19, with the understanding that they may be prohibited from re-entry or may be subject to quarantine procedures upon return to the FSM.

(7) Travel by air or sea between and within the FSM states is permitted, as long as there are no
confirmed cases of COVID-19 within any of the FSM states. Only air and sea travel that originates within the FSM states is permitted, travel that originates outside of the FSM is not permitted. (ie. flights originating in Guam or Hawaii or any other affected area are not permitted and ships originating from any affected area are not permitted). All passengers will be screened at the airport or seaport prior to check in or boarding and are subject to health screening procedures in the FSM state of destination. Any passenger exhibiting symptoms of COVID-19 will not be permitted to board the plane or ship. Any passenger that develops symptoms during transit will be permitted to enter at their final destination, but will subject to quarantine/isolation requirements.

(8) Because of the lack of available quarantine and isolation facilities within the FSM, no passengers shall be permitted to disembark into the FSM from any air or sea vessel that originates outside the FSM, subject to the exceptions in Section 4, for FSM citizens international travel and Section (9) for commercial sea vessels. The authority to
regulate foreign and interstate commerce is expressly granted to Congress in the Constitution, FSM Const. art. IX, § 2(g). FSM Const. art. XIII § 3. requires the national and state governments to uphold the provisions of the Constitution and to advance the principles of unity upon which the Constitution is founded. These travel restrictions may not be amended by the states; they may only be amended by Congressional Resolution if Congress is in session, or by written communication signed by the majority of the Committee of Health and Social Affairs if Congress is not in session.

Commercial sea vessels (defined as: fishing vessels, cargo vessels and oil tankers) traveling to the FSM for the purpose of trade and commerce, are subject to the following:

a. Commercial sea vessels are required to abide at all times with the precautionary measures and protocols set by the FSM National Government in coordination with the National and State task forces.

Fishing vessels, other than the domestic fleet, are subject to the following:

a. With the exception of transshipment
activities in Kosrae by purse seine fishing vessels and of activities falling under section (b) hereof, all transshipment activities are to be carried out in designated transshipment areas to be identified by the National Oceanic Resource and Management Authority (NORMA). A designated transshipment area will be in the territorial waters beyond the three nautical miles zone from baselines. NORMA shall issue appropriate guidelines regulating the transshipment.

b. Carrier vessels supporting transshipment activities of the domestic fleets are permitted to enter the anchorage area for transshipping purposes only, subject to state health screening procedures.

c. Longline (LL) fishing vessels are allowed to come to port for transshipment purposes, subject to the additional measures established by NORMA for the avoidance of COVID-19, and observing the following guidelines:
   i. Fresh LL fishing vessels are allowed to transship at port; PROVIDED, THAT, there
shall be no contact at anytime prior to
the transshipment.

ii. Frozen LL fishing vessels are allowed to
transship at port; PROVIDED, THAT, the
fishing vessels observe the 14-day
quarantine at sea, and no crewmembers are
allowed to disembark at port. The 14-day
quarantine is counted from the date of
last contact.

iii. For the purpose of Section (b) hereof,
and any part of this decree where its
application is deemed relevant, "contact"
refers to human interaction of less than
four (4) feet between a crewmember of one
fishing vessel and another crewmember of
another fishing vessel, or any other
human to human contact external to
fishing vessel operations.

iv. Bartering, trading and local sale of fish
are prohibited. No person is allowed to
approach, in the transshipment and
Anchorage area, any fishing vessel, or
have any contact therewith, at any time
during the effective period of this
declaration.
d. Domestic fishing vessels are allowed to call port in the FSM States for repair, maintenance and provisioning purposes at the Anchorage area, and shall remain in the Anchorage area during repairs, maintenance and provisioning. For the purposes of this section, domestic fishing vessels are fishing vessels that are flagged in the FSM or have a base of operation anywhere in the FSM States. On a case by case basis, NORMA may, in consultation with the states, grant approval for required repairs and maintenance to be completed at the dock for any repairs or maintenance that cannot be carried out at the anchorage area, subject to no human-to-human contact during said repairs. A written plan outlining the safety procedures that will be followed must be submitted to NORMA for approval at least 72 hours prior to the requested repairs.

e. With respect to transshipment at sea,

Immigration and Customs clearance procedures shall be conducted electronically with the intention of avoiding or minimizing contact. For the duration of the emergency procedure
concerning transshipment at sea, quarantine procedures are suspended until further notice.

f. Transshipment at sea shall be monitored thoroughly by the relevant national department or agency, in particular, the Department of Justice (DOJ) and NORMA, to ensure compliance with this directive. NORMA and DOJ, on behalf of the National Emergency Task Force, shall coordinate with the State authorities to ensure that the transshipment activities are not unduly delayed or interfered with by any State-mandated procedures.

g. It is part of these requirements that 72 hours prior to transshipment, notice shall be provided in advance to NORMA and DOJ using applicable forms of reporting. Included in the notice are the body temperatures of all crewmembers of the fishing vessels intending to transship, taken at 24-hour intervals prior to transshipment. (at 72 hours, at 48 hours and at 24 hours). Information on body temperatures may be shared with the State authorities for health assessment and coordination purposes.

h. These restrictions are a temporary emergency
measure, which shall remain in effect until further notice. Any violation of these restrictions shall be subject to penalty set by law pursuant to 11 F.S.M.C. §803. The Secretary of Justice is ordered to take all measures available within the law to ensure enforcement of these restrictions.

(11) A task force is hereby established to coordinate all activities that need to be undertaken and measures that must be formulated and uniformly implemented in connection with the COVID-19 Pandemic. The Department of Health and Social Affairs is designated as the lead department and chair of the Task Force, which will be responsible for setting up plans to provide any necessary measures that will ensure that the movement of people and international travellers do not cause the introduction of COVID-19 anywhere in the FSM. The members of the Task Force are the following:

a. Department of Environment, Climate Change and Emergency Management (DECCEM);
b. Department of Foreign Affairs;
c. Department of Finance and Administration;
d. Department of Transportation, Communications
and Infrastructure (TC&I);
e. Department of Justice;
f. Department of Resources and Development (R&D);
g. Department of Education;
h. FSM Division of Immigration;
i. Representatives of the Private Sector;
j. Representatives of State Governments as recommended by the State Governors;
k. Development Partners;
l. Representatives of Faith Groups; and
m. Representatives of Traditional Leaders.

(12) The Task Force shall convene immediately upon issuance of this order and provide the President with timely reports and updates.

(13) Up to the sum of $700,000, received as balance and available under the Disaster Relief Fund (DRF) accounts set up under Title 55 of the Code of the Federated States of Micronesia (Annotated), from prior declarations of emergencies, is hereby decreed for this Public Health Emergency Declaration. This fund shall be used in any manner necessary to deal with the public health emergency, including the mitigation of costs for people affected by the travel ban instituted by the emergency declaration. The
Emergency Task Force shall develop suitable
criteria for the mitigation of costs for
President's approval.

(14) Other funds received from foreign donors,
including the United States, that are
specifically related to the FSM national response
to the COVID-19 Pandemic may be used for
nationwide capacity building, intensifying the
surveillance and monitoring of international
airports and seaports in the FSM, expanding and
maintaining quarantine and travel restrictions,
and other national efforts to combat the spread
of COVID-19.

(15) Expenditures of the decreed funds are subject to
full accounting. Within 20 days after the end of
the emergency, the Chair of the Task Force, with
the assistance of the Secretary of Finance and
Administration and staff, shall provide the
President with a full report on the expenditure
of funds, and shall submit the report to Congress
no later than 30 days after the emergency is
over.

(16) The Department of Finance shall identify sources
of replenishment for the decreed funds and
recommend to the President, as soon as practical,
additional supplemental budget request to
Congress.

(17) During the emergency, a civil right may be
impaired only to the extent actually required for
the preservation of peace, health or safety. The
normal requirement of competitive bidding is
waived for any procurement made in connection
with this declaration of emergency.

(18) Unless sooner revoked by Congress, this Emergency
Declaration is in effect until May 31, 2020.

(19) All previous amendments and clarifications to the
Public Health Emergency Declaration are hereby
revoked.

BE IT FURTHER RESOLVED, that the President shall disseminate
widely the Public Health Declaration of Emergency as amended by
Congress, and any subsequent decrees and clarifications made by
the President pursuant to this Resolution; and
BE IT FURTHER RESOLVED, that certified copies of this resolution be transmitted to the President of the Federated States of Micronesia, the Chief Justice of the FSM Supreme Court, the Governors of Chuuk, Kosrae, Pohnpei and Yap States, the presiding officers of the four state legislatures, and the heads of the airports and seaports in Chuuk, Kosrae, Pohnpei and Yap.

ADOPTED: April 17, 2020

Wesley W. Simina
Speaker
FSM Congress

ATTEST:

Liwiana Ramon Ioanis
Chief Clerk
FSM Congress