July 14, 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. 21-175, which was adopted by the Twenty-First Congress of the Federated States of Micronesia, Sixth Special Session, 2020.

Sincerely,

[Signature]

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

Enclosures
A RESOLUTION


INTRODUCED BY SENATOR: WESLEY W. SIMINA

DATE: JULY 10, 2020

ADOPTED: JULY 10, 2020

Liwiana Ramon Ioani
Chief Clerk, FSM Congress
A RESOLUTION


1. WHEREAS, on January, 31, 2020, the President issued a Public Health Emergency Declaration; and
2. WHEREAS in accordance to Article X, Section 9 (c) of the FSM Constitution, Congress has the sole authority to revoke, amend or extend the Public Health Emergency Declaration; and
3. WHEREAS, Congress is currently convened for its Sixth Special Session and therefore has the powers under the Constitution to revoke, amend or extend the Declaration; and
4. WHEREAS, Congress has reviewed the Declaration, the amendments, the clarifications and the decrees issued by the President and has reviewed updated information on the COVID-19 becoming a pandemic soon after the adoption of the March 11, 2020, amendment to the January 31, 2020, declaration, the facts attending to the declaration, amendments, clarifications and decrees, and has had several public hearings and has met and conferred with the President and has considered the President’s requests for Congressional action; now, therefore,

BE IT RESOLVED by the Twenty-First Congress of the Federated States of Micronesia, Sixth Special Session, 2020, that:

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 it's 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 hereinby Congress are hereby deemed ratified as to their effectiveness and implementation, relating back to their date of issuance or implementation.

(3) The President is urged to coordinate and consult with the state governors and their task forces, with a view towards setting a national standard of social distancing measures, and the National Task Force shall support the states mandated implementation of the guidelines. The social distancing standards and measures shall be widely publicized throughout the 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,
hightemperature (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, including if applicable, the remains of a deceased and the medical and/or family attendants and immediate family members and FSM governmental officials whose duties are critical, vital and indispensable to the functioning of any branch of any FSM state or the FSM national government, 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 for: essential personnel as determined by the state for whom the personnel is needed; people who are returning to their state of residence, employment, or location of their educational institution; or for a family emergency, 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, by domestic air or sea carriers, is permitted, and any travel that originates outside of the FSM is not permitted, except as provided in this Declaration. 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.

i. However, the National Task Force shall work
in consultation with each of the states for the
purpose of establishing and further developing
their quarantine and isolation facilities
standards and capabilities. When the facilities
within any of the states are developed to
acceptable standards, the states will work with
the National Task Force to develop a plan for
repatriation of FSM citizens, FSM students and
the return of FSM residents. The repatriation of
FSM citizens shall be prioritized and only after
our citizens have been repatriated, further plans
may be implemented to allow for non-citizens to
enter the FSM. The National Task Force shall
work with international air carriers to notify
them of the procedures that will be followed
including scheduling of arrivals, pre-screening,
screening upon arrival and quarantine and
isolation requirements.

ii. 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 government 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.

(9) 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.

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

a. All transshipment activities are to be carried out in designated transshipment areas to be identified by the National Oceanic Resource Management Authority (NORMA). A designated transshipment area will be in port areas or in 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 September 30, 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: July 10, 2020

Wesley W. Simina
Speaker
FSM Congress

ATTEST:

Liwiana Ramon Ioanis
Chief Clerk
FSM Congress