

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 responsibilities; 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, balloons or any other means of aerial  
16              locomotion.

17              (3) 'Airport' means an official port of entry as  
18              listed in section 304 of this chapter and amendments  
19              thereto.

20              (4) 'Approved form' means a form approved by the  
21              Secretary of Finance.

22              (5) 'Arrival' means the first time goods or  
23              passengers become subject to Customs control within the  
24              Federated States of Micronesia or any subsequent time  
25              before reaching their final destination.

1                   (6) 'Authorized officer' means a Customs officer  
2                   authorized in writing by the Secretary to exercise the  
3                   powers or perform the functions authorized by this  
4                   chapter.

5                   (7) 'Cannabis' means a cannabis plant, whether  
6                   living or dead, which includes, in any form, any  
7                   flowering or fruiting tops, leaves, seeds, stalks or any  
8                   other part of a cannabis plant and any mixture of parts  
9                   of a cannabis plant.

10                  (8) 'Chief inspector' means the principal officer  
11                  at a port of entry, and includes:

12                   (a) the Commissioner;

13                   (b) a principal officer of Customs performing a  
14                   duty at the time and place in relation to which the  
15                   expression is used;

16                   (c) any officer performing a duty in the matter  
17                   in relation to which the expression is used.

18                   (9) 'Commissioner' means the Commissioner of  
19                   Customs.

20                   (10) 'Congress' means the Congress of the Federated  
21                   States of Micronesia.

22                   (11) 'Container' means an article of transport  
23                   equipment:

24                   (a) of a permanent character and accordingly  
25                   strong enough to be suitable for repeated use;

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1                    (b) specially designed to facilitate the  
2                    transport of goods, by one or more modes of transport,  
3                    without intermediate reloading;

4                    (c) designed to be secured and/or readily  
5                    handled, having corner fittings for these purposes.

6                    (12) 'Controlled substance' means those described  
7                    in sections 1119, 1121, 1123, 1125, and 1127 of title 11  
8                    of the Code of the Federated States of Micronesia.

9                    (13) 'Customs' means the Department of Finance,  
10                   Division of Customs of the Federated States of  
11                   Micronesia.

12                   (14) 'Customs officer' means a person:

13                   (a) employed by the FSM Department of Finance,  
14                   Division of Customs;

15                   (b) authorized in writing by the Secretary  
16                   under this chapter to perform all of the functions of a  
17                   Customs officer; or

18                   (c) deputized in accordance with the provisions  
19                   of section 354 of this chapter.

20                   (15) 'Duty' means any tax payable on the  
21                   importation or exportation of goods, and 'Dutiable  
22                   goods' means those goods subject to tax on their  
23                   importation or exportation.

24                   (16) 'Free on board' means the value of goods when  
25                   shipped for export, and includes all costs and charges

1 up to the time of delivery of the goods on board the  
2 exporting vessel or aircraft.

3 (17) 'FSM' means the Federated States of  
4 Micronesia.

5 (18) 'Goods' means any type of merchandise,  
6 product, commodity, moveable personal property, or  
7 commercial wares.

8 (19) 'Importer' means any person by or for whom any  
9 goods are imported, and includes the consignee and any  
10 other person who is beneficially interested in the  
11 goods.

12 (20) 'Master' means:

13 (a) In relation to a vessel the person in  
14 charge or command of the vessel;

15 (b) In relation to an installation the person  
16 in charge of the installation.

17 (21) 'Narcotic drug' means those described in  
18 subsection (15) of section 1112 title 11 of the Code of  
19 the Federated States of Micronesia.

20 (22) 'On or about the body' means on or within the  
21 body, clothing, footwear, purse, handbag or similar  
22 article.

23 (23) 'Owner' means:

24 (a) In respect of goods, any person being or  
25 holding himself or herself out to be the owner,

1 importer, exporter, consignee, agent or person  
 2 possessed of, or having control of, or power of  
 3 disposition over the goods;

4 (b) In respect of a vessel or aircraft, the  
 5 owner of record, or a person acting as agent on behalf  
 6 of the owner of record.

7 (24) 'Package' includes every means by which goods  
 8 for transportation may be cased, covered, enclosed,  
 9 contained, or packed.

10 (25) 'Person' means any individual, company,  
 11 corporation, partnership, unincorporated association, or  
 12 other business entity.

13 (26) 'Pilot' means the person in charge or in  
 14 command of an aircraft.

15 (27) 'Place' means any location, building or site,  
 16 and includes moveable locations such as a vessel or  
 17 aircraft.

18 (28) 'Port' or 'Port of entry' means an official  
 19 port of entry as listed in section 304 of this chapter  
 20 and amendments thereto.

21 (29) 'President' means the President of the  
 22 Federated States of Micronesia.

23 (30) 'Prohibited goods' means any goods which the  
 24 importation or exportation thereof is prohibited under  
 25 the FSM Code.

(31) 'Regulations' means any regulations promulgated pursuant to this law.

(32) 'Secretary' means the Secretary of the Department of Finance of the Federated States of Micronesia.

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

(34) '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.

(35) 'Unlawfully imported' means any goods imported 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.

(36) 'Vehicle' means every description of carriage or other contrivance used or capable of being used as a means of transport on land.

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

(38) 'Wine gallon' means 128 fluid ounces or 3.785 litres."

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

"Section 303: Administration of Customs.

(1) The Secretary of Finance shall appoint Customs Officers.

(2) Customs locks and seals.

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

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

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

(3) Customs stamps.

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

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

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

13                  (6) Working days and hours. The working days and  
14                  hours of the Division of Customs are Monday through  
15                  Friday, 8 a.m. through 5 p.m., except for National  
16                  holidays or as prescribed by Public Service System  
17                  Regulations.

18                  (a) Except when the working of overtime is  
19                  authorized in advance by the Commissioner, cargo should  
20                  be cleared and passengers landed from a vessel or  
21                  aircraft only on working days and during working hours.

22                  (b) Any person may request that the  
23                  Commissioner arrange for an officer to be made available  
24                  to perform a function at a place outside of the hours  
25                  prescribed under paragraph (a) above. Such person shall



1        pay to the Division of Customs such fee as set by the  
 2        Secretary, reflecting the cost of making officers  
 3        available.

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

7        (8) Annual report. Within 60 days of the end of  
 8        each fiscal year the Division of Customs will provide  
 9        for Congress an annual report on its activities setting  
 10       out the following details:

11                (a) overview;

12                (b) revenue:

13                        (i) revenue collected,

14                        (ii) cost of collection,

15                        (iii) costs recovered,

16                        (iv) entries passed;

17                (c) enforcement:

18                        (i) invoices appraised,

19                        (ii) vessels and aircraft searched,

20                        (iii) goods seized,

21                        (iv) prosecutions and convictions;

22                (d) licensing:

23                        (i) business licenses to import;

24                        (ii) Business licenses to export;

25                (e) Staff;

(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. Ports of entry. Official ports of entry for the boarding of vessels and aircraft for the purpose of entry and clearance by Customs officers, unless amended pursuant to title 18, are;

(1) Yap:

(a) Yap:

(i) Tomil Harbor; and

(ii) Yap International Airport.

(b) Ulithi:

(i) Ulithi Anchorage; and

(ii) Ulithi Airstrip.

(c) Woleai Anchorage.

(2) Chuuk:

(a) Weno:

(i) Weno Anchorage; and

(ii) Chuuk International Airport.

(b) Satawan Anchorage.

(3) Pohnpei:

(a) Kolonia Harbor; and

(b) Pohnpei International Airport.

(4) Kosrae:

1                    (a) Lelu Harbor;

2                    (b) Okat Harbor; and

3                    (c) Kosrae Airstrip."

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

7            "Section 305. Duties of controlling authorities.

8                    (1) The controlling authority of every port,  
9                    airport or transit building shall provide and maintain  
10                   at the port, airport or transit building, to the  
11                   satisfaction of the Secretary the following;

12                   (a) staff accomodation and facilities for the  
13                   use of Customs officers, at such place or places as the  
14                   Secreatry may direct; and

15                   (b) suitable transit buildings as the Secretary  
16                   may declare as necessary in respect to the port or  
17                   airport, together with suitable weighing appliances for  
18                   use by Customs officers.

19                   (2) The controlling authority of every port,  
20                   airport or transit building shall store goods subject to  
21                   the control of Customs in such manner and place as the  
22                   Comissioner or other proper officer of Customs may  
23                   direct.

24                   (3) Any controlling authority who fails to comply  
25                   with any provision of this section commits a National

1 offense.

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

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

8 "Section 306. Cooperation with other National and State  
9 authorities. The Secretary is authorized to enter into  
10 Memorandums of Understanding with other National and  
11 State authorities where the Division of Customs can  
12 provide assistance in the enforcement of any National or  
13 State law.

14 (1) Taxation. The Division of Customs is  
15 authorized to exchange information, subject to the  
16 disclosure of information provisions in section 351 of  
17 this chapter, with other National or State authorities  
18 to ensure the proper and correct collection of taxes.

19 (2) Statistics.

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

24 (b) The Secretary is authorized to introduce  
25 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, 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, 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, enviromental 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, enviromental 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                    (1) Goods subject to Customs control:

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

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

10                   (c) Goods imported through the Post Office are  
 11                   subject to the control of the Customs in the same manner  
 12                   as goods otherwise imported.

13                   (2) Non-routine examinations. Where for the  
 14                   purposes of section 308 of this chapter examination at  
 15                   the dock or airport is impracticable, shipments may,  
 16                   subject to approval by a customs officer of a written  
 17                   undertaking in the approved form, be removed to the  
 18                   owner's premises for examination.

19                   (3) CY-CY containers.

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

23                   (b) The consignee shall notify the Division of  
 24                   Customs of the delivery of the shipment and shall not  
 25                   open the container without the approval of a Customs

1 officer.

2 (c) Customs officers shall be given access to  
3 any CY-CY container or similar shipments at the owner's  
4 premises for the purposes of any section of this  
5 chapter.

6 (4) Removal of goods. Goods removed from the dock  
7 or airport pursuant to subsections (2) and (3) of this  
8 section remain subject to Customs Control until the  
9 examination has been undertaken and a Customs officer  
10 has authorized their release.

11 (5) National offense. Any person who, otherwise  
12 than by authority and in accordance with this chapter,  
13 moves, alters or interferes with goods subject to the  
14 control of Customs, is guilty of a National offense.

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

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

21 "Section 308. Right of examination. A Customs officer  
22 shall have the right to examine all goods subject to  
23 Customs control.

24 (1) Examination of goods. In carrying out the  
25 examination of goods:

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

3                    (b) Where shipments have been removed to the  
4                    owner's premises for examination, Customs officers shall  
5                    be granted access to the shipment for the purposes of  
6                    this section. The expenses of the examination,  
7                    including the cost of removal to the place of  
8                    examination, shall be borne by the owner.

9                    (2) Search of residences, buildings and premises.  
10                   Any officer, subject to an authorised search warrant,  
11                   may enter any residence, building or premise to search  
12                   for and seize smuggled or unlawfully imported goods.

13                   (3) Search of persons.

14                   (a) Where a Customs officer on reasonable  
15                   grounds believes a person who has just landed from a  
16                   vessel or aircraft has dutiable or prohibited goods on  
17                   or about their person, the officer may, subject to the  
18                   following conditions, search and detain that person and  
19                   may use reasonable force to carry out the search.

20                   (b) No search shall be undertaken unless  
21                   another officer or person is present as a witness.

22                   (c) Searches will normally be undertaken by an  
23                   officer or person of the same gender unless there are  
24                   grounds for believing the person being searched may  
25                   resist the search.



(d) Body cavity searches shall be carried out by a qualified medical officer."

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

"Section 309. Use of aids by Customs officers. In exercising any power of examination or search under this chapter, any officer of Customs or any member of the Police assisting him may have with him and use for the purposes of examination or searching, any dog, or any mechanical, electrical, or electronic device."

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

"Section 310. Compensation for loss. The Government of the Federated States of Micronesia is not liable for any loss or damage occasioned to any goods subject to the control of the Customs except by the negligent or willful act of an officer."

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

"Section 311. Owners having possession of dutiable goods. An owner shall be liable for any duty payable where having possession or custody of dutiable goods"

still subject to the control of Customs, if that person fails to;

(1) keep them safely, or

(2) satisfactorily account for them to an officer of customs."

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

"Section 312. Importation of goods.

(1) Business license to import:

(a) No person shall import goods for resale into the Federated States of Micronesia unless they hold a current business license to import issued pursuant to title 32 of the Code of the Federated States of Micronesia.

(b) The issuance of such a license by the Secretary of Resources and Development will act as authority for the person to carry on the business of importing in any State within the Federated States of Micronesia.

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

(d) The application for a business license to

with a non-negotiable bill of lading or an air waybill and vendor's invoices for the imported goods.

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

(i) a proper assessment of the duties on the merchandise;

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

(iii) a determination of whether any other applicable legal requirements have been met.

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

(6) Releasing of goods. Customs personnel shall, on examination of the above documents, and payment of the correct duty, stamp and release the imported goods.

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

(8) Importation defined:

(a) Goods shall, except where otherwise

expressly provided, be deemed to be imported into the Federated States of Micronesia as soon as and in any manner, whether lawfully or unlawfully, they are brought or come within the territorial limits of the Federated States of Micronesia from any country outside those limits.

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

(9) Duty rate. The rate of duty applicable to goods destined for resale in the Federated States of Micronesia applies from the date of arrival of the vessel or aircraft at a designated port of entry.

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

(11) Exempt goods. All tax exempt goods are to be cleared on the official clearance form.

(12) Abandoned goods:

(a) Goods remaining unentered 3 months after the departure of the importing vessel or aircraft will be treated as goods abandoned to the National Government and will be sold by auction.

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

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

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

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

"Section 313. Value for import duty :

(1) The value for the import duty on goods shall be calculated as the free on board amount, which is the value of goods when shipped for export, and includes all costs and charges up to the time of delivery of the

goods on board the exporting vessel or aircraft.

(2) If the Customs officer can reasonably determine the free on board amount of imported goods, then import duty shall be payable on the free on board amount.

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

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

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

(6) Where there is a relationship between the buyer and seller of imported goods the consignee will be required to show that the relationship did not influence the price paid or payable for the goods.

(a) To demonstrate the acceptability of the price paid or payable for the goods the consignee shall supply to Customs details of;

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

3                    (ii) The way in which the price in question  
4                    was arrived at; and

5                    (iii) The price of identical merchandise, or  
6                    similar merchandise, in sales to unrelated buyers in the  
7                    Federated states of Micronesia.

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

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

15                   (8) If the value of imported goods is stated in a  
16                   currency other than United States of America dollars  
17                   then the basis of the import duty of such goods shall be  
18                   calculated according to the ruling rate of exchange at  
19                   the date of export of the goods."

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

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

25                   (1) Pre-sold goods.

(a) Where any person arranges the importation of goods into the Federated States of Micronesia but has them shipped to individual consignees the goods shall be treated as goods for resale upon importation and subject to import duty.

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

(2) Samples and gifts.

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

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

(3) Goods for resale.

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

(b) Goods which are imported as duty-free goods or personal possessions, but which are actually within six months resold or incorporated into a final product, service, meal or other commercial enterprise, are



subject to duty immediately upon resale or commercial use.

(c) Failure to pay duty upon goods imported as being for personal use, but actually resold or otherwise converted to mercantile use, will after ten days of the date of resale subject the goods to forfeiture and the importer to the penalties set forth in section 343.

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

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

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

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

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 specified herein which are imported into the  
 9        Federated states of Micronesia for resale except the  
 10       duties levied under subsections (1), (2), (5), (6), and  
 11       (7) of this section shall apply to products which are  
 12       imported into the Federated States of Micronesia for  
 13       personal use and consumption as well as for resale:

14       (1) cigarettes, at the rate of twenty-five percent  
 15       ad valorem, except that any person may bring into any  
 16       State of the Federated States of Micronesia up to one  
 17       carton or two hundred cigarettes per trip duty-free, if  
 18       such cigarettes are for that person's own use and  
 19       consumption and not for resale;

20       (2) tobacco, other than cigarettes, at the rate of  
 21       fifty percent ad valorem, except that any person may  
 22       bring into any State of the Federated States of  
 23       Micronesia up to one pound of tobacco or twenty cigars  
 24       per trip duty-free, if such tobacco products are for  
 25       that person's own use and consumption and not for

resale;

(3) perfumery, cosmetics, and toiletries, including  
cologne and other toilet waters, articles of perfumery,  
whether in sachets or otherwise, and all preparations  
used as applications to the hair or skin, lipsticks,  
pomades, powders, and other toilet preparations not  
having medicinal properties, at the rate of twenty-five  
percent ad valorem;

(4) soft drinks, drink mixes, drink preparations,  
coffee, tea, and nonalcoholic beverages, at the rate of  
twenty-five percent ad valorem;

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

(6) distilled alcoholic beverages, at the rate of  
ten dollars per wine gallon, except that any person  
permitted by applicable State law to possess, consume,  
and use distilled alcoholic beverages, may bring into  
such State of the Federated States duty free, an amount  
of liquor not to exceed 52 fluid ounces or 1500  
milliliters per trip, if such liquor is for his personal  
use and consumption and not for resale;

(7) wine at the rate of twenty-five percent ad  
valorem except that the duty shall not apply to any  
religious organization which is importing or receiving  
into the Federated States sacramental wine for use in

1        the religious rites of such organization;

2                (8) foodstuffs for human consumption, at the rate  
 3        of three percent ad valorem; provided, however, that  
 4        fresh citrus fruit shall be at the rate of twenty-five  
 5        percent ad valorem;

6                (9) gasoline and diesel fuel, at the rate of five  
 7        cents per gallon;

8                (10) laundry bar soap, at the rate of one hundred  
 9        percent ad valorem; and

10               (11) all other imported products, except those  
 11        specified above, at the rate of four percent ad  
 12        valorem."

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

16        "Section 317. Duty exemption for goods.

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

22               (a) Goods have been damaged or pillaged during  
 23        the voyage;

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

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(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 or to be paid for the goods.

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

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

(a) up to 200 cigarettes per trip;

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

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

(4) Personal and household effects.

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1                    (a) Residents. A returning resident of the FSM  
2                    or a person intending to reside in the FSM may import  
3                    their bona fide personal and household effects duty  
4                    free, provided the goods are for their own personal use  
5                    and not for resale or exchange; and

6                    (b) Visitors. A visitor may import bona fide  
7                    personal effects into the FSM duty free, provided the  
8                    goods are for their own personal use and will be taken  
9                    with the when they leave the country."

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

13           "Section 318. Duty liens. Any duties imposed or  
14           authorized under this chapter upon property shall be a  
15           lien upon the property and may be collected by levy upon  
16           it in the same manner as the levy of an excution."

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

20           "Section 319. Civil action of enforcement. Any duties,  
21           license fees or levies imposed or authorized under this  
22           chapter may also be collected by a civil suit brought in  
23           the name of the Commissioner of Customs. In such civil  
24           suit a signed written statement of the Commissioner of  
25           Customs as to the amount of duty due, the fact it is

1        unpaid, and who is authorized to collect to it, shall be  
2        sufficient evidence of these matters unless the contrary  
3        is expressly shown."

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

7        Section 320. Transactions to be recorded.

8            (1) Every person, firm, corporation, or association  
9            engaging in any transaction subject to a duty, fee, or  
10          levy imposed under this chapter shall keep a full and  
11          accurate record of each transaction engaged in by him  
12          and such record shall be available for examination by  
13          the Secretary of Finance or his authorized  
14          representative for at least three years after the date  
15          of such transaction.

16          (2) Any person, firm, corporation, or association  
17          willfully failing to keep or make available for  
18          examination such records is guilty of a National  
19          offense.

20          (3) Penalty. A person convicted under this section  
21          shall be subject to a fine not exceeding not \$5,000 or  
22          imprisonment of not more than 5 years. In addition  
23          thereto, shall be subject to the immediate revocation of  
24          any existing license to do business in the Fedreated  
25          States of Micronesia.

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

4 "Section 321. Production of documents.

5 (1) Where an officer is not satisfied with the  
 6 facts as presented in documents relating to a particular  
 7 shipment, arrival or departure of a vessel or an  
 8 aircraft the Customs officer may require the owner to  
 9 produce further documents and answer any questions  
 10 relating to them.

11 (2) Summons.

12 (a) For the purpose described under sections  
 13 312, 313, and 314 of this chapter, the Secretary shall  
 14 be authorized to summon the person or persons liable for  
 15 tax under this title to appear before the Secretary or  
 16 his or her designee and at such appearance to produce  
 17 such documents as specified in the summons and to answer  
 18 any questions relating to said documents.

19 (b) The provisions of paragraph (a) of this  
 20 section shall also apply to any officer, employee or  
 21 agent of the person(s) described in paragraph (a) of  
 22 this section, or any third party having possession,  
 23 custody, or care of the documents relating to the goods  
 24 in question."

25 Section 22. Title 54 of the Code of the Federated States of



1 Micronesia is hereby further amended by adding a new section 322  
2 of chapter 3 to read as follows:

3       "Section 322. Distribution of revenues.

4               (1) The Treasurer of the Federated States of  
5       Micronesia shall pay eighty percent of the net duties  
6       collected pursuant to section 316 (9) of this chapter,  
7       and fifty percent of all other net duties collected  
8       pursuant to section 316, into the treasury of the State  
9       government to which the duties are attributable for  
10       appropriation by the state legislature.

11               (2) 'Net duties' as used in subsection (1) of this  
12       section means gross collections of duties, penalties,  
13       or other related charges less refunds and less the cost  
14       of administration.

15               (3) 'Cost of administration' as used in subsection  
16       (2) of this section means the cost determined to be  
17       allocatable to each State by the Congress of the  
18       Federated States of Micronesia when making  
19       appropriations for the operating expenses of the Customs  
20       Division.

21               (4) The revenue office in each State may administer  
22       the taxes of the State in which located, but these  
23       functions shall not interfere with the administration of  
24       duties imposed by the laws of the Federated States of  
25       Micronesia."

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

4               "Section 323. Exportation of Goods.

5               (1) Business license to export:

6               (a) No person shall export goods for sale  
7               outside of the Federated States of Micronesia unless  
8               they hold a current business license to export issued  
9               pursuant to title 32 of the Code of the Federated States  
10              of Micronesia.

11              (b) The issue of such a license by the Secretary  
12              of Resources and Development will act as authority for  
13              the person to carry on the business of exporting in any  
14              State within the Federated States of Micronesia.

15              (c) Customs will provide details, and other  
16              information as required, of persons licensed to engage  
17              in the business of exporting to the appropriate State  
18              authorities.

19              (d) The application for a business license to  
20              export and payment of the relevant fee will be made at  
21              the National Customs office in each State.

22              (2) Procedures for the export of goods:

23              (a) No goods subject to the control of Customs  
24              shall be placed on board any vessel, loaded into any  
25              aircraft or packed into any bulk container to be shipped

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1 for export until entry in the approved form has been  
2 made and passed by Customs.

3 (b) Entry shall be verified by the presentation  
4 to Customs of a completed and signed entry form by the  
5 consignor, or authorized agent of the consignor,  
6 together with a non-negotiable bill of lading or an air  
7 waybill and the shipper's invoice for the goods to be  
8 exported.

9 (c) The consignor shall answer any questions  
10 relating to the goods and upon request of a Customs  
11 officer, furnish any other documentation deemed  
12 necessary for;

13 (i) a determination of whether all legal  
14 requirements have been met; and

15 (ii) the proper collection of accurate  
16 statistics with respect to the merchandise being  
17 exported.

18 (d) The approved entry form shall set forth such  
19 facts in regard to the exportation as the Secretary may  
20 require for verification that all legal requirements  
21 have been met and for the collection of statistics.

22 (e) Customs personnel shall, on examination of  
23 the above documents, stamp and release the goods for  
24 export.

25 (f) Goods that are the personal baggage of

1 passengers in a vessel or aircraft and goods that are  
2 not being exported for sale may be exported without  
3 entry.

4 (3) Goods to be exported. No goods shipped for  
5 export shall be unshipped or landed within the FSM  
6 without the permission of the Commissioner or some other  
7 proper officer of Customs.

8 (4) National offense. Where any goods are  
9 unshipped or landed in breach of this subsection, the  
10 master and owner of the vessel, or the pilot in command  
11 and owner of the aircraft, as the case may be, and every  
12 person knowingly concerned with such unshipment or  
13 landing shall each be guilty of a National offense.

14 (d) Penalty. A person convicted under this  
15 section shall be subject to a fine not exceeding \$1,000  
16 or imprisonment of not more than 1 year. In addition  
17 thereto, the goods shall be forfeited.

18 (5) Time of exportation. The time of exportation  
19 of goods shall be the time at which the exporting vessel  
20 departs from her last port of call in the FSM or at  
21 which the exporting aircraft departs from the last  
22 airport in the FSM immediately before proceeding to a  
23 country outside of the FSM."

24 Section 24. Title 54 of the Code of the Federated States of  
25 Micronesia is hereby further amended by adding a new section 324

1 of chapter 3 to read as follows:

2       "Section 324. Prohibited and restricted exports. It  
 3       shall not be lawful to export from the Federated States  
 4       of Micronesia any goods whose use, sale or possession is  
 5       prohibited or restricted by the FSM or the State from  
 6       which they are being exported, unless the exporter has  
 7       lawfully obtained or holds a valid permit or license to  
 8       export the goods."

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

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

15       (1) Boarding, searching, and answering question.  
 16       A Customs officer may;

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

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

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

1                    (i) the vessel or aircraft, its voyage or  
 2                    flight and its cargo, stores, crew and passengers; or  
 3                    (ii) the presence of those persons on the  
 4                    vessel or aircraft.

5                    (2) Arming of officers.

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

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

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

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

22                   (1) patrol upon and pass freely along and over any  
 23                   part of the seashore or on the shores, banks or beaches  
 24                   of any port, bay or harbor, or over any part of the land  
 25                   immediately adjoining the seashore, shores, or banks,

1       and on any structures extending from the seashore,  
 2       shores, or banks; and

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

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

12       "Section 327. Mooring vessels of Customs. The officer  
 13       in charge of any vessel employed in the service of  
 14       Customs may haul the vessel upon any part of the  
 15       seashore or of the shores or banks of any port, bay, or  
 16       harbor, or upon any part of the land immediately  
 17       adjoining the seashore, shores or banks, and moor the  
 18       vessel there."

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

22       "Section 328. Immunity from civil suit. Any Customs  
 23       officer acting within the provisions of this act shall  
 24       be immune from civil suit."

25       Section 29. Title 54 of the Code of the Federated States of

1 Micronesia is hereby further amended by adding a new section 329  
2 of chapter 3 to read as follows:

3       "Section 329. Stopping of vehicles.

4           (1) A Customs officer or officer of the Federated  
5           States of Micronesia Office of the Attorney General,  
6           Division of Security & Investigation may, on reasonable  
7           suspicion, stop and search any vehicle for the purpose  
8           of ascertaining whether any dutiable or prohibited goods  
9           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 \$5,000 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. Seizure of goods.

22           (1) A Customs officer or officer of the Federated  
23           States of Micronesia Office of the Attorney General,  
24           Division of Security and Investigation or Division of  
25           Marine Surveillance and Drug Enforcement may seize any



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1 forfeited goods or any goods that the officer believes  
2 on reasonable grounds are forfeited goods.

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

6 (3) All seized goods are to be taken to the nearest  
7 National Government warehouse or to such other place of  
8 security as the Commissioner directs.

9 (4) All seized goods must be endorsed on an  
10 appropriate receipt.

11 (5) If the Commissioner determines that any goods  
12 are of a perishable nature or are live animals, such  
13 goods may be sold by the Commissioner without delay."

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 seizure.

18 (1) Where any vessel, aircraft or goods have been  
19 seized as forfeited, the seizing officer shall give  
20 written notice of the seizure and of the cause of it to  
21 the master, pilot or owner of the vessel, aircraft or  
22 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 seizure verbal notice is sufficient.

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

7 "Section 332. Return of seized goods on security. The  
8 Secretary may authorize any vessel, aircraft or goods  
9 seized, other than controlled substances or narcotic  
10 drugs, to be delivered to the owner or agent upon  
11 production of adequate security."

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

15 "Section 333. Bringing to and landing.

16 (1) If the master of a vessel from a place outside  
17 the Federated States of Micronesia bound to or calling  
18 at a port in the Federated States of Micronesia fails to  
19 bring the vessel for boarding at the boarding station  
20 appointed for the port, the master is guilty of an  
21 offense.

22 (2) If the pilot of an aircraft from a place  
23 outside the Federated States of Micronesia bound to or  
24 calling at any place within the Federated States of  
25 Micronesia fails to bring the aircraft for boarding to

1        the airport nearest to the place at which it enters the  
2        country, the pilot is guilty of an offense.

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

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

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

10       (1) If the master of a vessel within three nautical  
11       miles of the coast fails to bring the vessel to for  
12       boarding on being approached by, or hailed or signalled  
13       from:

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

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

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

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

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

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

8                    Section 35. Title 54 of the Code of the Federated States of  
9                    Micronesia is hereby further amended by adding a new section 335  
10                   of chapter 3 to read as follows:

11                   "Section 335. Facilitation of boarding.

12                   (1) Where for the purposes of sections 325 and 334  
13                   of this chapter, a master of a vessel or a pilot of an  
14                   aircraft fails to facilitate by all reasonable means  
15                   boarding by a person authorized under this chapter, such  
16                   master or pilot is guilty of a National offense.

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

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

23                   "Section 336. Report of cargo.

24                   (1) The master, owner or pilot of a vessel or  
25                   aircraft arriving from a place outside the Federated

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1        States of Micronesia is guilty of an offence if that  
2        person fails:

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

7                (b) To answer questions relating to the vessel  
8        or aircraft and her cargo, crew, passengers, stores and  
9        voyage; or

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

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

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

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

19               (1) When any vessel from outside the Federated  
20        States of Micronesia is lost or wrecked upon the coast,  
21        the master or owner shall without delay make report of  
22        the vessel and her cargo to the Customs office nearest  
23        to the place where the vessel was lost or wrecked.

24               (2) When any aircraft arriving from outside the  
25        Federated States of Micronesia is lost or wrecked at any

1           place within the Federated States of Micronesia, the  
 2           pilot or owner shall, without delay, make report of the  
 3           aircraft and cargo to the Customs office nearest to the  
 4           place where the aircraft was lost or wrecked.

5           (3) Any master or owner of a vessel lost or  
 6           wrecked, or pilot or owner of an aircraft lost or  
 7           wrecked, who fails to report such loss or wreck to  
 8           Customs is guilty of a National offense.

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

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

15          "Section 338. Vessels and aircraft adapted for  
 16          smuggling.

17          (1) The master or owner in the case of a vessel, or  
 18          the owner in the case of an aircraft, shall be guilty of  
 19          a National offense if any vessel or aircraft comes or is  
 20          found within the territorial limits of the Federated  
 21          States of Micronesia having;

22                 (a) False bulkheads, bows, sides, or bottoms, or  
 23                 any other secret or disguised place adapted for the  
 24                 purpose of concealing goods; or

25                 (b) Any hole, pipe, or device adapted for the

1            purpose of smuggling or unlawfully importing or  
2            exporting goods.

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

6            Section 39. Title 54 of the Code of the Federated States of  
7            Micronesia is hereby further amended by adding a new section 339  
8            of chapter 3 to read as follows:

9            "Section 339. Forfeited vessels and aircraft. The  
10           following vessels and aircraft may be forfeited to the  
11           Federated States of Micronesia Government:

12           (1) Any vessel or aircraft used in smuggling, or  
13           knowingly used in the unlawful importation, exportation,  
14           or conveyance of any prohibited imports or prohibited  
15           exports;

16           (2) Any vessel the master of which has refused to  
17           permit such vessel to be boarded following a lawfully  
18           made request to do so;

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

21           (4) Any vessel or aircraft from which goods are  
22           thrown overboard, staved or destroyed to prevent seizure  
23           by Customs."

24           Section 40. Title 54 of the Code of the Federated States of  
25           Micronesia is hereby further amended by adding a new section 340

1           "Section 342. Conspiracy for unlawful purposes.

2           (1) If two or more persons conspire for the purpose  
3           of:

4                   (a) Importing prohibited or restricted imports;

5                   (b) Exporting prohibited or restricted exports;

6                   (c) Smuggling; or

7                   (d) Preventing the seizure of any prohibited or  
8                   restricted imports, prohibited or restricted exports, or  
9                   smuggled goods; then each of them is guilty of a  
10                  National offense.

11                  (2) So far as it relates to prohibited and/or  
12                  restricted imports and exports, this section also  
13                  applies to all controlled substances and narcotic drugs.

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

17                  Section 43. Title 54 of the Code of the Federated States of  
18                  Micronesia is hereby further amended by adding a new section 343  
19                  of chapter 3 to read as follows:

20                  "Section 343. Smuggling and unlawful importing and  
21                  exporting.

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

24                           (a) smuggles any goods;  
25



1                    (b) unlawfully imports any prohibited or  
2                    restricted goods;

3                    (c) unlawfully exports any prohibited or  
4                    restricted goods; or

5                    (d) unlawfully conveys or has in his or her  
6                    possession any smuggled goods, prohibited or restricted  
7                    imports or prohibited or restricted exports.

8                    (2) A person commits a National offense if that  
9                    person is the master of a vessel or the pilot of an  
10                   aircraft who uses or knowingly permits the vessel or  
11                   aircraft to be used:

12                   (a) in smuggling; or

13                   (b) for the unlawful importation, exportation,  
14                   or conveyance of any goods in contravention of this  
15                   chapter.

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

19                   Section 44. Title 54 of the Code of the Federated States of  
20                   Micronesia is hereby further amended by adding a new section 344  
21                   of chapter 3 to read as follows:

22                   "Section 344. National offense.

23                   Any person who attempts, solicits, or conspires to  
24                   commit any National offense defined in this chapter  
25                   shall be subject to the penalties provided in chapter 2.

1           of title 11 of this Code except where otherwise provided  
2           in this chapter.

3           Section 45. Title 54 of the Code of the Federated States of  
4   Micronesia is hereby further amended by adding a new section 345  
5   of chapter 3 to read as follows:

6           "Section 345. Bribery. For the purpose of section 531  
7           of title 11 of the Code of the Federated States of  
8           Micronesia, regarding bribery, the following shall  
9           apply:

10           (1) 'Public servant' expressly includes a Customs  
11           officer;

12           (2) Each Customs officer has a 'known legal duty'  
13           to enforce the law, including investigating each  
14           container, vessel or aircraft to the best of that  
15           officer's ability and levying the maximum import or  
16           export tax, as provided by law."

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

20           "Section 346. Offense by Customs officer. For the  
21           purpose of section 501 of title 11 of the Code of the  
22           Federates States of Micronesia, 'the administration of  
23           law or other lawful governmental function of the  
24           Federated States of Micronesia' shall specifically apply  
25           to a Customs officer in the execution of that officer's

1           known legal duty, and such offense shall be considered a  
 2           National offense."

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

6           "Section 347. Offenses in relation to narcotic drugs.

7           (1) Any person is guilty of a National offense who:

8                   (a) Without any reasonable excuse (proof  
 9                   whereof shall lie upon the person) has in his or her  
 10                   possession, on board any vessel or aircraft, any  
 11                   prohibited imports to which this section applies;

12                   (b) Imports or attempts to import any  
 13                   prohibited import to which this section applies;

14                   (c) Exports or attempts to export any  
 15                   prohibited export to which this section applies;

16                   (d) Without reasonable excuse (proof whereof  
 17                   shall lie upon the person) has in his or her possession,  
 18                   or attempts to obtain possession of, any prohibited  
 19                   imports to which this section applies which have been  
 20                   imported into the Federated States of Micronesia in  
 21                   contravention of this chapter;

22                   (e) Conspires with another person or other  
 23                   persons to import, bring, or cause to be brought into  
 24                   the Federated States of Micronesia any prohibited import  
 25                   to which this section applies or to export from the

Introduced by: Claude H. Phillip  
CLAUDE H. PHILLIP