

A BILL FOR AN ACT

To further amend title 54 of the Code of the Federated States of Micronesia, as amended, by changing its title, by repealing chapter 2 and enacting a new chapter 2, by repealing section 801 and by amending section 805, as amended by Public Law No. 7-41, for the purpose of redefining and elaborating customs procedures and the tax on imports, 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 changing the name of said  
3       title from "Taxation" to "Taxation and Customs".

4       Section 2. Title 54 of the Code of the Federated States of  
5       Micronesia is hereby further amended by repealing chapter 2 in its  
6       entirety.

7       Section 3. Title 54 of the Code of the Federated States of  
8       Micronesia is hereby further amended by adding a new chapter 2 to be  
9       entitled "Duties and Customs".

10       Section 4. Title 54 of the Code of the Federated States of  
11       Micronesia is hereby further amended by adding a new subchapter I of  
12       chapter 2 to be entitled "General Provisions".

13       Section 5. Title 54 of the Code of the Federated States of  
14       Micronesia is hereby further amended by adding a new section 211 to  
15       subchapter I of chapter 2 to read as follows:

16               "Section 211. Short title. This chapter may be cited as  
17               the Customs Act of 1996."

18       Section 6. Title 54 of the Code of the Federated States of  
19       Micronesia is hereby further amended by adding a new section 212 to  
20       subchapter I of chapter 2 to read as follows:

21               "Section 212. Definitions. In this chapter, except where  
22               otherwise specified, the following terms shall have the  
23               meanings stated below:

24               (1) 'Ad valorem' (Latin for 'according to the value')  
25               means a tax imposed at a rate equal to a percentage of

1 value.

2 (2) 'Aircraft' includes airplanes, seaplanes,  
3 airships, balloons or any other means of aerial  
4 locomotion.

5 (3) 'Airport' means an official port of entry for  
6 aircraft as identified in or pursuant to title 18 of  
7 this Code and amendments thereto.

8 (4) 'Approved form' means a form approved by the  
9 Secretary of Finance.

10 (5) 'Arrival' means the first time goods or  
11 passengers become subject to Customs control within the  
12 FSM or any subsequent time before reaching their final  
13 destination.

14 (6) 'Authorized officer' means a Customs officer  
15 authorized in writing by the Secretary to exercise the  
16 powers or perform the functions authorized by this  
17 chapter.

18 (7) 'Cannabis' means a cannabis plant, whether  
19 living or dead, which includes, in any form, any  
20 flowering or fruiting tops, leaves, seeds, stalks or  
21 any other part of a cannabis plant and any mixture of  
22 parts of a cannabis plant.

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

25 (a) the Commissioner;

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

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

(9) 'CIF' means 'costs, insurance, and freight' incurred for imported goods, and includes all costs and charges associated with the goods up through the time they are delivered to and unloaded at an FSM port of entry or post office.

(10) 'Commissioner' means the Commissioner of Customs.

(11) 'Congress' means the Congress of the FSM.

(12) 'Container' means an article of transport equipment:

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

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

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

(d) In addition, the following shipping terms used with containers have the following meanings:

(i) 'CY-CY (or FCL)' means all the

goods packed in the container are for the one consignee  
and the container is consigned from container yard to  
another container yard and will not normally be  
unpacked at the wharf;

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

(13) 'Controlled substance' means those described  
in sections 1119, 1121, 1123, 1125, and 1127 of title  
11 of the Code of the FSM.

(14) 'Customs' means the FSM Department of  
Finance, Division of Customs.

(15) 'Customs officer' means a person:  
(a) employed by the FSM Department of  
Finance, Division of Customs;  
(b) authorized in writing by the Secretary  
under this chapter to perform all of the functions of a  
Customs officer; or

(c) deputized in accordance with the  
provisions of section 267 of this chapter.

(16) 'Duty' means any tax payable on the  
importation or exportation of goods, and 'dutiabale  
goods' means those goods subject to tax on their  
importation or exportation.

(17) 'FOB' ('free on board') means 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.

(18) 'Forfeiture' means the surrender of ownership of property to the FSM government following a breach of certain provisions of this chapter; it is independent of and in addition to any penalty imposed by this chapter.

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

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

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

(22) 'Master' means:

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

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

(23) 'Narcotic drug' means those described in subsection (15) of section 1112 of title 11 of the Code of the FSM.

1           (24) 'On or about the body' means on or within the  
2           body, clothing, footwear, purse, handbag or similar  
3           article.

4           (25) 'Owner' means:

5           (a) In respect to goods, any person being or  
6           holding himself or herself out to be the owner,  
7           importer, exporter, consignee, agent or person  
8           possessed of, or having control of, or power of  
9           disposition over the goods;

10           (b) In respect of a vessel or aircraft, the  
11           owner of record, or a person acting as agent on behalf  
12           of the owner of record.

13           (26) 'Package' includes every means by which goods  
14           for transportation may be cased, covered, enclosed,  
15           contained, or packed,

16           (27) 'Person' means any individual, company,  
17           corporation, partnership, unincorporated association,  
18           or other business entity.

19           (28) 'Pilot' means the person in charge or in  
20           command of an aircraft.

21           (29) 'Place' means any location, building or site,  
22           and includes moveable locations such as a vessel or  
23           aircraft.

24           (30) 'Port' or 'Port of entry' means an official  
25           port of entry identified in or pursuant to title 18 of

1 this Code and amendments thereto.

2 (31) 'President' means the President of the FSM.

3 (32) 'Prohibited goods' means any goods the  
4 importation or exportation of which is prohibited under  
5 FSM law.

6 (33) 'Regulations' means any regulations  
7 promulgated pursuant to this chapter.

8 (34) 'Secretary' means the Secretary of the FSM  
9 Department of Finance.

10 (35) 'Smuggling' means any importation or  
11 exportation, attempted importation or exportation, with  
12 the intent to defraud the FSM, or any importation or  
13 exportation that is prohibited or restricted by any  
14 other law of the FSM.

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

20 (37) 'Unlawfully imported' means any goods  
21 imported in breach of the provisions of this chapter,  
22 or any other law of the FSM, or whose sale, possession  
23 or use is prohibited or restricted by the State into  
24 which the importation took place.

25 (38) 'Vehicle' means every description of

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

3 Section 7. Title 54 of the Code of the Federated States of  
4 Micronesia is hereby further amended by adding a new section 213  
5 to subchapter I of chapter 2 to read as follows:

6 "Section 213. Limitations on Liability. A Customs  
7 officer acting within the provisions of this chapter  
8 shall be immune from civil suit. The FSM Government is  
9 not liable for any loss or damage to any goods subject  
10 to the control of Customs except by the gross  
11 negligence or willful wrong of a Customs officer."

12 Section 8. Title 54 of the Code of the Federated States of  
13 Micronesia is hereby further amended by adding a new subchapter  
14 II of chapter 2, to be entitled "Import Duties".

15 Section 9. Title 54 of the Code of the Federated States of  
16 Micronesia is hereby further amended by adding a new section 221  
17 to subchapter II of chapter 2 to read as follows:

18 "Section 221. Levy and rates. The following import  
19 duties are hereby levied on all products specified  
20 herein which are imported into the FSM:

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

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

25 (3) Perfumery, cosmetics, and toiletries,



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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 gallon;

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

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

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

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

(11) All other imported products, except those  
specified above, at the rate of four percent ad

1 valorem."

2 Section 10. Title 54 of the Code of the Federated States of  
3 Micronesia is hereby further amended by adding a new section 222  
4 to subchapter II of chapter 2 to read as follows:

5 "Section 222. Exemptions.

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

11 (a) Goods have been damaged, pillaged, lost  
12 or destroyed during the voyage;

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

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

20 (2) Imported goods subsequently exported. Any  
21 person who imports goods into the FSM, and then exports  
22 them to a buyer who is outside both the exclusive  
23 economic zone and the territorial limits of the FSM, is  
24 entitled to a refund of any import duty actually paid  
25 on such goods, upon application to and approval by the

1 Secretary. For purposes of this subsection, raw  
2 materials or ingredients which are worked into or  
3 otherwise become part of a different or more finished  
4 product are deemed exported when that product is  
5 exported.

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

15 (a) Up to 200 cigarettes;

16 (b) Up to one pound of tobacco or twenty  
17 cigars;

18 (c) Up to 52 fluid ounces or 1500  
19 milliliters of distilled alcoholic beverages; and

20 (d) Up to two hundred dollars (\$200) worth  
21 of goods other than tobacco products, beer and malt  
22 beverages, distilled alcoholic beverages, and wine.

23 (4) Visitors' personal effects. A visitor to the  
24 FSM may import bona fide personal effects into the FSM  
25 duty free, provided the goods are for the visitor's own

1 personal use and will be taken with the visitor when he  
2 or she leaves the country.

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

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

24 (7) Personal Gifts. Goods claimed as gifts,  
25 valued at one hundred dollars (\$100) or less, and

received by persons within the FSM from sources outside  
the FSM shall not be subject to import duty provided  
the goods are for the recipient's own personal use or  
consumption and not for resale or exchange. There  
shall be a rebuttable presumption that goods received  
from outside the FSM are not gifts."

Section 11. Title 54 of the Code of the Federated States of  
Micronesia is hereby further amended by adding a new section 223  
to subchapter II of chapter 2 to read as follows:

"Section 223. Basis of import duty.

(1) For purposes of determining the basis of  
import duties levied by this subchapter, the term 'ad  
valorem' shall mean the CIF price of the subject item.

(2) If the Customs officer can reasonably  
determine the CIF price of imported goods, the import  
duty shall be payable on the CIF price.

(3) If the Customs officer cannot reasonably  
determine the CIF price of imported goods, the value  
for payment of duty shall be determined by the first of  
the following methods which is reasonably available to  
the Customs officer:

(a) FOB price plus actual insurance,  
freight, and other charges from the FOB location to the  
CIF location;

(b) The value of identical goods at the CIF

location; or

(c) The value of identical goods at an earlier point plus actual insurance, freight, and other charges from that point to the CIF location.

(4) If the Customs officer cannot determine the CIF price or its equivalent through one of the foregoing methods, the value for payment of 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 CIF 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 may be required to provide reasonable proof 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:

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

(ii) The way in which the price in

1 question was arrived at; and

2 (iii) The price of identical merchandise,  
3 or similar merchandise, in sales to unrelated buyers in  
4 the FSM.

5 .. (b) Where Customs officials determine that  
6 the relationship has influenced the price paid or  
7 payable the CIF shall be determined by appraisement,  
8 the cost of which shall be borne by the owner.

9 (7) If the value of imported goods is stated in a  
10 currency other than that of the FSM, then the basis of  
11 the import tax of such goods shall be calculated  
12 according to the ruling rate of exchange at the date of  
13 export of the goods."

14 Section 12. Title 54 of the Code of the Federated States of  
15 Micronesia is hereby further amended by adding a new section 224  
16 to subchapter II of chapter 2 to read as follows:

17 "Section 224. Lien on imported goods. All duties  
18 imposed on goods under this chapter, together with any  
19 penalties and interest thereon, shall constitute a lien  
20 on those goods having priority over all other claims  
21 and liens, and may be collected by levy upon those  
22 goods in the same manner as the levy of an execution."

23 Section 13. Title 54 of the Code of the Federated States of  
24 Micronesia is hereby further amended by adding a new section 225  
25 to subchapter II of chapter 2 to read as follows:

1        "Section 225. Personal liability of importer. If any  
2        imported goods are removed, whether legally or  
3        illegally, from the dock, airport, or post office  
4        before payment of the full and correct duties thereon,  
5        the importer of the goods shall be personally liable  
6        for the payment of any duties not so paid, together  
7        with any penalties and interest thereon. If there is  
8        more than one importer, all such importers shall be  
9        jointly and severally liable."

10       Section 14. Title 54 of the Code of the Federated States of  
11       Micronesia is hereby further amended by adding a new section 226  
12       to subchapter II of chapter 2 to read as follows:

13       "Section 226. Lien on importer's property. The  
14       personal liability of an importer provided for in this  
15       chapter shall be secured by a lien on any property of  
16       that importer having priority over all other claims and  
17       liens, and may be collected by levy upon such property  
18       in the same manner as the levy of an execution."

19       Section 15. Title 54 of the Code of the Federated States of  
20       Micronesia is hereby further amended by adding a new section 227  
21       to subchapter II of chapter 2 to read as follows:

22       "Section 227. Civil penalties and interest. The  
23       following penalties and interest shall be separate from  
24       and in addition to the criminal penalties imposed  
25       elsewhere in this chapter. It is the duty of an



1 importer to know and declare, fully and accurately, the  
 2 types, quantities, and values of all dutiable goods  
 3 which he or she imports, and civil penalties and  
 4 interest may not be avoided through lack of knowledge,  
 5 however innocent such lack of knowledge may be.  
 6 (1) Understatement. If the amount of duty due on  
 7 goods is understated when reasonably calculated on the  
 8 basis of the documentary and other information provided  
 9 to Customs officers, there shall be added to the amount  
 10 of the understatement a penalty equal to the following  
 11 percentage of the amount of the understatement:  
 12 (a) 100 percent if the understatement is  
 13 discovered by Customs officials before release of the  
 14 goods;  
 15 (b) 100 percent if the understatement is  
 16 discovered and reported to Customs by an importer or  
 17 owner and the full and correct duty, including  
 18 penalties and interest, is paid within 10 days after  
 19 release of the goods; or  
 20 (c) 200 percent otherwise.  
 21 (2) Late payment. Unless goods are entered and  
 22 the duty thereon is paid within the time limit for  
 23 entry established in section 238 of this chapter, there  
 24 shall be added to the amount of duty due 5 percent of  
 25 the duty if the failure is for not more than one month.

1 with an additional 5 percent for each additional month  
2 or fraction thereof during which such failure  
3 continues, not to exceed 100 percent in the aggregate.

4 (3) Interest. Any duty which is not paid before  
5 the earlier of the time limit for entry or release of  
6 the goods shall thereafter bear interest at the rate of  
7 18 percent per annum until paid."

8 Section 16. Title 54 of the Code of the Federated States of  
9 Micronesia is hereby further amended by adding a new subchapter  
10 III to chapter 2, to be entitled "Customs Procedures and  
11 Offenses".

12 Section 17. Title 54 of the Code of the Federated States of  
13 Micronesia is hereby further amended by adding a new section 231  
14 to subchapter III of chapter 2 to read as follows:

15 "Section 231. Administration of Customs.

16 (1) The Secretary of Finance shall appoint  
17 Customs officers.

18 (2) Customs locks and seals.

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

24 (b) National offense. Any person who  
25 disregards, alters, breaks, or interferes with a

1 lawfully affixed Customs lock or seal is guilty of a

2 National offense.

3 (c) Penalty. A person convicted under this

4 subsection shall be subject to a fine not exceeding

5 \$1,000, or imprisonment of not more than 1 year, or

6 both.

7 (3) Customs stamps.

8 (a) Stamped impression. All courts and all

9 persons shall take notice of a stamped impression made

10 by an officer during the course of his/her duties and

11 shall presume, until shown otherwise, that the

12 impression was made by the proper authority.

13 (b) National offense. Any person who

14 disregards, alters or attempts to alter, or unlawfully

15 duplicates a Customs stamp is guilty of a National

16 offense.

17 (c) Penalty. A person convicted under this

18 subsection shall be subject to a fine not exceeding

19 \$1,000, or imprisonment of not more than 1 year, or

20 both.

21 (4) Working days and hours. The working days and

22 hours of the Division of Customs are Monday through

23 Friday, 8 a.m. through 5 p.m., except for National

24 holidays or as prescribed by Public Service System

25 Regulations.

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

5                   (b) Any person may request that the  
6                   Commissioner arrange for an officer to be made  
7                   available to perform a function at a place outside of  
8                   the hours prescribed under paragraph (a) above. Such  
9                   person shall pay to the FSM Government such fee as is  
10                   set by the Secretary, reflecting the cost of making  
11                   officers available.

12                   (5) Insurance. The Commissioner is authorized to  
13                   provide insurance coverage for Customs officers who  
14                   undertake hazardous duties.

15                   (6) Annual report. Within 60 days of the end of  
16                   each fiscal year the Division of Customs will provide  
17                   for Congress an annual report on its activities setting  
18                   out the following details:

19                   (a) overview;

20                   (b) revenue:

21                   (i) revenue collected;

22                   (ii) cost of collection;

23                   (iii) costs recovered;

24                   (iv) entries passed;

25                   (c) enforcement:

- 1 (i) invoices appraised;
- 2 (ii) vessels and aircraft searched;
- 3 (iii) goods seized;
- 4 (iv) prosecutions and convictions;
- 5 (d) Staff;
- 6 (e) Plan for the next year."

7 Section 18. Title 54 of the Code of the Federated States of  
8 Micronesia is hereby further amended by adding a new section 232  
9 to subchapter III of chapter 2 to read as follows:

10 "Section 232. Duties of controlling authorities.

11 (1) The controlling authority of every port,  
12 airport or transit building shall provide and maintain  
13 at the port, airport or transit building, to the  
14 satisfaction of the Secretary the following:

15 (a) staff accommodation and facilities for  
16 the use of Customs officers, at such place or places as  
17 the Secretary may direct; and

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

22 (2) The controlling authority of every port,  
23 airport or transit building shall store goods subject  
24 to the control of Customs in such manner and place as  
25 the Commissioner or other proper officer of Customs may

1           direct."

2           Section 19. Title 54 of the Code of the Federated States of  
3   Micronesia is hereby further amended by adding a new section 233  
4   of subchapter III of chapter 2 to read as follows:

5           "Section 233. Cooperation with other National and  
6           State authorities. The Secretary is authorized to  
7           enter into Memorandums of Understanding with other  
8           National and State authorities to allow the Division of  
9           Customs to provide assistance in the enforcement of any  
10          National or State law.

11          (1) Taxation. The Division of Customs is  
12          authorized to exchange information with other National  
13          or State authorities to ensure the proper and correct  
14          collection of taxes.

15          (2) Statistics.

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

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

23               (3) Quarantine. The Secretary may accept an  
24               appointment made by the Secretary of the FSM Department  
25               of Resources and Development, regarding the empowering

1 of Customs officers to perform agriculture quarantine  
2 inspections, pursuant to section 407 of title 22 of  
3 this Code or any successor provision.

4 (4) Food safety. The Secretary may accept an  
5 appointment by the Secretary of the FSM Department of  
6 Health Services regarding the empowering of Customs  
7 officers to perform food safety inspections pursuant to  
8 section 13 of Public Law No. 7-116, the National Food  
9 Safety Act or any successor provision.

10 (5) Immigration. The Secretary may accept an  
11 appointment made by the FSM Office of the Attorney  
12 General regarding the empowering of Customs officers to  
13 perform immigration inspections pursuant to section 108  
14 of title 50 of this Code or any successor provision.

15 (6) Community, social, environmental and  
16 antiquities protection. The Division of Customs will  
17 monitor imports and exports on behalf of other National  
18 and State agencies to ensure compliance with  
19 legislation and international agreements, ratified by  
20 the FSM, dealing with community, social, environmental  
21 and antiquities protection."

22 Section 20. Title 54 of the Code of the Federated States of  
23 Micronesia is hereby further amended by adding a new section 234  
24 of subchapter III of chapter 2 to read as follows:

25 "Section 234. Customs control of goods.

1                   (1) Goods subject to Customs control:

2                   (a) Imported goods, from the time of their  
3                   importation until applicable duties 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 such  
7                   goods are brought to any port, airport or other place  
8                   for export until their exportation to any country  
9                   outside of the FSM.

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

14                  (2) Non-routine examinations. Where, for the  
15                  purposes of section 235 of this chapter, examination at  
16                  the dock or airport is impracticable, shipments may,  
17                  subject to approval by a customs officer of a written  
18                  undertaking in the approved form, be removed to the  
19                  owner's premises for examination.

20                  (3) CY-CY containers.

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

24                  (b) The consignee shall notify the Division  
25                  of Customs of the delivery of the shipment and shall



1 not open the container without the approval of a  
2 Customs officer.

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

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

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

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

20 Section 21. Title 54 of the Code of the Federated States of  
21 Micronesia is hereby further amended by adding a new section 235  
22 to subchapter III of chapter 2 to read as follows:

23 "Section 235. Right of examination. A Customs officer  
24 shall have the right to examine all goods subject to  
25 Customs control.

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

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

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

11                   (2) Search of residences, buildings and premises.  
12                   Any officer, pursuant to a search warrant when required  
13                   by law, may enter any residence, building or premise to  
14                   search for and seize smuggled or unlawfully imported  
15                   goods.

16                   (3) Search of persons.

17                   (a) Where a Customs officer on reasonable  
18                   grounds believes a person who has just landed from or  
19                   is about to board a vessel or aircraft has taxable or  
20                   prohibited goods on or about his or her person, the  
21                   officer may, subject to the following conditions,  
22                   search and detain that person and may use reasonable  
23                   force to carry out the search.

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

1                    (c) Searches will normally be undertaken by  
2                    an officer or person of the same gender unless there  
3                    are grounds for believing the person being searched may  
4                    resist the search.

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

7                    Section 22. Title 54 of the Code of the Federated States of  
8                    Micronesia is hereby further amended by adding a new section 236  
9                    to subchapter III of chapter 2 to read as follows:

10                   "Section 236. Use of aids by Customs officers. In  
11                   exercising any power of examination or search under  
12                   this chapter, any officer of Customs or any member of  
13                   the Police assisting him may have with him and use for  
14                   the purposes of examination or searching, any dog, or  
15                   any mechanical, electrical, or electronic device  
16                   generally used in such activities."

17                   Section 23. Title 54 of the Code of the Federated States of  
18                   Micronesia is hereby further amended by adding a new section 237  
19                   to subchapter III of chapter 2 to read as follows:

20                   "Section 237. Owners having possession of dutiable  
21                   goods. An owner shall be personally liable for any  
22                   duty payable when, while in possession or custody of  
23                   goods subject to the control of Customs, that person  
24                   fails to;

25                   (1) keep them safely, or