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:

Section 1. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by changing the name of said title from "Taxation" to "Taxation and Customs".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the Commissioner:
(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 'dutiable
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.
(24) 'On or about the body' means on or within the body, clothing, footwear, purse, handbag or similar article.

(25) 'Owner' means:

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

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

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

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

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

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

(30) 'Port' or 'Port of entry' means an official port of entry identified in or pursuant to title 18 of
this Code and amendments thereto.

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

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

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

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

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

(36) '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.

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

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

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

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

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

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

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

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

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

  (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 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
valorem."

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

"Section 222. Exemptions.

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

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

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

or

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

(2) Imported goods subsequently exported. Any person who imports goods into the FSM, and then exports them to a buyer who is outside both the exclusive economic zone and the territorial limits of the FSM, is entitled to a refund of any import duty actually paid on such goods, upon application to and approval by the
Secretary. For purposes of this subsection, raw materials or ingredients which are worked into or otherwise become part of a different or more finished product are deemed exported when that product is exported.

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

(a) Up to 200 cigarettes;
(b) Up to one pound of tobacco or twenty cigars;
(c) Up to 52 fluid ounces or 1500 milliliters of distilled alcoholic beverages; and
(d) Up to two hundred dollars ($200) worth of goods other than tobacco products, beer and malt beverages, distilled alcoholic beverages, and wine.

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

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

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

(7) Personal Gifts. Goods claimed as gifts,
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
(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
question was arrived at; and

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

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

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

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

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

Section 13. Title 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 225 to subchapter II of chapter 2 to read as follows:
"Section 225. Personal liability of importer. If any imported goods are removed, whether legally or illegally, from the dock, airport, or post office before payment of the full and correct duties thereon, the importer of the goods shall be personally liable for the payment of any duties not so paid, together with any penalties and interest thereon. If there is more than one importer, all such importers shall be jointly and severally liable."

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

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

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

"Section 227. Civil penalties and interest. The following penalties and interest shall be separate from and in addition to the criminal penalties imposed elsewhere in this chapter. It is the duty of an
the duty of the failure is for not more than one month.

(2) If the amount of duty due is a penalty equal to the following percentage of the amount of duty due, there shall be added to the amount due, a penalty of five percent of the duty due.

(3) Late payment, unless goods are entered and released of the goods or

penalties and interest, on the day and correct duty, including

over and the full and correct duty, including

of the amount, discovered and reported to Customs by an Importer or

of the amount, 100 percent of the Understatement of the

penalties discovered by Customs Officers, before Release of the

penalties, at 100 percent of the Understatement.

(4) Understatement, if the amount of duty due on

however innocent such lack of knowledge may be.

Interests may not be avoided through lack of knowledge,

which be of the Importer, and Civil penalties, and

interest, guarantees, and value of all dutiable goods

importer to know and declare, truth and accurately, the
with an additional 5 percent for each additional month
or fraction thereof during which such failure
continues, not to exceed 100 percent in the aggregate.

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

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

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

"Section 231. 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
Regulation.
Hours of the Division of Customs are Monday through
(4) Working day and hour. The working days and
hours are:

22
21
20
19
18
17
16
15
14
13
12
11
10
9
8
7
6
5
4
3
2
1

Penalty. A person convicted under this

c) National offence. Any person who

(1b) National offence. Any person who

(1a) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

(1) National offence. Any person who

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

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

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

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

(a) overview;

(b) revenue;

(i) revenue collected;

(ii) cost of collection;

(iii) costs recovered;

(iv) entries passed;

(c) enforcement.
(i) invoices appraised;
(ii) vessels and aircraft searched;
(iii) goods seized;
(iv) prosecutions and convictions;
(d) Staff;
(e) Plan for the next year."

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

"Section 232. Duties of controlling authorities.

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

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

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

(2) The controlling authority of every port, airport or transit building shall store goods subject to the control of Customs in such manner and place as the Commissioner or other proper officer of Customs may
Section 54 of the Code of the Federated States of Micronesia is hereby further amended by adding a new section 233 of subchapter III of chapter 2 to read as follows:

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

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

(2) Statistics.

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

(b) The Secretary is authorized to introduce 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 FSM Department of Resources and Development, regarding the empowering
of Customs officers to perform agriculture quarantine inspections, pursuant to section 407 of title 22 of this Code or any successor provision.

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

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

(6) Community, social, environmental 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, environmental and antiquities protection."

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

"Section 234. Customs control of goods."
(1) Goods subject to Customs control:
   (a) Imported goods, from the time of their importation until applicable duties are paid and the goods are released or until their exportation to any country outside of the FSM.
   (b) All goods for export, from the time such goods are brought to any port, airport or other place for export until their exportation to any country outside of the FSM.
   (c) Goods imported or exported through the Post Office are subject to the control of the Customs in the same manner as goods otherwise imported or exported.

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

(3) CY-CY containers.
   (a) CY-CY container shipments or similar shipments may be delivered to a final destination other than the dock, upon the approval of a Customs officer.
   (b) The consignee shall notify the Division of Customs of the delivery of the shipment and shall
not open the container without the approval of a
Customs officer.

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

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

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

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

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

"Section 235. Right of examination. A Customs officer
shall have the right to examine all goods subject to
Customs control."
(1) Examination of goods. In carrying out the examination of goods:

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

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

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

(3) Search of persons.

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

(b) No search shall be undertaken unless another officer or person is present as a witness.
(c) Searches will normally be undertaken by an officer or person of the same gender unless there are grounds for believing the person being searched may resist the search.

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

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

"Section 236. 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 generally used in such activities."

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

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

(1) keep them safely, or

27 of 58