

---

A BILL FOR AN ACT

To further amend chapter 2 of Title 54 of the Code of the Federated States of Micronesia, as amended by Public Law No. 9-139, Public Law No. 13-60, Public Law No. 15-58, by amending section 211, by adding new definitions under section 212, by repealing sections 213, 221, 222, 223, 224, 225, 226, 227, 266, 267, 268, 269 and 270, and enacting new sections 221, 222, 223, 224, 225, 226 and 227, and amending sections 241 to 265 of subchapter III of chapter 2, for the purpose of establishing a National Value Added Tax Act of 2010, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1           Section 1. Chapter 2 of title 54 of the Code of the  
2 Federated States of Micronesia is hereby further amended to be  
3 cited as "National Value Added Tax Act of 2010".

4           Section 2. Section 211 of chapter 2 of Title 54 of the Code  
5 of the Federated States of Micronesia, as amended by Public Law  
6 No. 9-139, is hereby further amended to read as follows:

7                   "Section 211. Short Title. This chapter may be cited  
8                   as the "National Value Added Tax Act of 2010".

9           Section 3. Section 212 of chapter 2 of Title 54 of the Code  
10 of the Federated States of Micronesia, as amended by Public Law  
11 No. 9-139, is hereby further amended to read as follows:

12                   "Section 212. Definitions. In this chapter, except  
13                   where otherwise specified, the following terms have the  
14                   meaning stated below:

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

18                   (2) 'Aircraft' includes airplanes, seaplanes,

---

1 airships, balloons or any other means of aerial  
2 locomotion.

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

6 (4) "Approved form" means a form approved by the  
7 Secretary of Finance.

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

11 [~~(6) "Cannabis" means a cannabis plant, whether living or~~  
12 ~~dead, which includes, in any form, any flowering or~~  
13 ~~fruiting tops, leaves, seeds, stalks or any other part~~  
14 ~~of a cannabis plant and any mixture of parts of a~~  
15 ~~cannabis plant.] (6) "Authority" means the Federated~~

16 States of Micronesia Unified Revenue Authority  
17 established by section 711.

18 (7) ~~"CIF" means "costs, insurance, and freight"~~  
19 ~~incurred for imported goods, and includes all costs and~~  
20 ~~charges associated with the goods up through the time~~  
21 ~~they are delivered to and unloaded at an FSM port of~~  
22 ~~entry or post office.] "Cannabis" means a cannabis  
23 plant, whether living or dead, which includes, in any  
24 form, any flowering or fruiting tops, leaves, seeds,  
25 stalks or any other part of a cannabis plant and any~~

---

1 mixture of parts of a cannabis plant.

2 (8) [~~"Commissioner" means the Commissioner of~~  
3 ~~Customs.~~] "CEO" means the means the Chief Executive  
4 Officer appointed under section 731 of this Title.

5 ~~(8) ["Congress" means the Congress of the FSM.] (9)~~  
6 "CIF" means "costs, insurance, and freight" incurred for  
7 imported goods, and includes all costs and charges  
8 associated with the goods up through the time they are  
9 delivered to and unloaded at an FSM port of entry or  
10 post office.

11 (10) [~~"Container" means an article of transport~~  
12 ~~equipment:~~

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

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

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

20 ~~(d) in addition, the following shipping term used~~  
21 ~~with containers has the following meaning:~~

22 ~~(i) "CY-CY" means all the goods packed in~~  
23 ~~the container are for the one consignee and the~~  
24 ~~container is consigned from container yard to another~~  
25 ~~container yard and will not normally be unpacked at the~~

---

1 ~~wharf.]~~ "Congress" means the Congress of the FSM.

2 (11) [ ~~"Controlled substance" means those described in~~  
3 ~~sections 1119, 1121, 1123, 1125, and 1127 of title 11 of~~  
4 ~~this code or successor provision of law.]~~ "Container"  
5 means an article of transport equipment:

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

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

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

14 (d) in addition, the following shipping term used  
15 with containers has the following meaning:

16 (i) "CY-CY" means all the goods packed in  
17 the container are for the one consignee and the  
18 container is consigned from container yard to another  
19 container yard and will not normally be unpacked at the  
20 wharf.

21 ~~(11) ["Customs" means the FSM Department of Finance,~~  
22 ~~Division of Customs.]~~ (12) "Controlled substance" means  
23 those described in sections 1119, 1121, 1123, 1125, and  
24 1127 of title 11 of this code or successor provision of  
25 law.

1            (13) "Customs officer" means a~~person;~~

2            ~~(a) employed by the FSM Department of Finance,~~  
3            ~~Division of Customs;~~

4            ~~(b) authorized in writing by the Secretary under~~  
5            ~~this chapter to perform all of the functions of a~~  
6            ~~Customs officer; or~~

7            ~~(c) deputized in accordance with the provisions~~  
8            ~~of section 268 of this chapter.~~

9            revenue officer appointed under section 732 authorized  
10           in writing by the CEO under this chapter to perform all  
11           of the functions of a Customs officer, [and includes a  
12           person] deputized in accordance with the provisions of  
13           section 263 of this chapter.

14           (14) "Duty" means any tax payable on the importation of  
15           goods, and "dutiable goods" means those goods subject to  
16           tax on their importation.

17           (15) "Exempt import" has the meaning in section 222.

18           ~~[(15)]~~ (16) "FOB" ("free on board") means the value of  
19           goods when shipped for export, and includes all costs  
20           and charges up to the time of delivery of the goods on  
21           board the exporting vessel or aircraft.

22           ~~[(16)]~~ (17) "Forfeiture" means the surrender of ownership  
23           of property to the FSM government following a breach of  
24           certain provisions of this chapter; it is independent of  
25           and in addition to any penalty imposed by this chapter.

1 ~~{17}~~(18) "FSM" means the Federated States of Micronesia.

2 ~~{(18)}~~(19) [~~"Importer" means any person by or for whom~~  
3 ~~any goods are imported, and includes the consignee and~~  
4 ~~any other person who is beneficially interested in the~~  
5 ~~goods.~~] "Goods" means any type of merchandise, product,  
6 commodity, vehicle, moveable personal property, or  
7 commercial wares.

8 (20) [~~"Master" means:~~

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

11 ~~(b) In relation to an installation the~~  
12 ~~person in charge of the installation.]~~

13 "Import value", in relation to imported goods, means the  
14 import value of the goods as determined under section  
15 224."

16 (21) ["Narcotic drug" means those described in  
17 subsection (15) of section 1112 of title 11 of this code  
18 or successor provision of law.] "Importer", in relation  
19 to goods, means the owner of the goods, any person by or  
20 for whom any goods are imported, and includes the  
21 consignee and any other person who is beneficially  
22 interested in the goods.

23 (22) ["On or about the body" means on or within the  
24 body, clothing, footwear, purse, handbag, or similar  
25 article.] "Master" means:

---

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

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

5           (23) ["Owner" means:

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

11           ~~(b) In respect of a vessel or aircraft, the owner~~  
12           ~~of record, or a person acting as agent on behalf of the~~  
13           ~~owner of record.] "Narcotic drug" means those described~~  
14           ~~in subsection (15) of section 1112 of title 11 of this~~  
15           ~~code or successor provision of law.~~

16           ~~(24) ["Package" includes every means by which goods for~~  
17           ~~transportation may be cased, covered, enclosed,~~  
18           ~~contained, or packed.] "National VAT" means value added~~  
19           ~~tax imposed under section 221.~~

20           ~~(25) ["Person" means any individual, company,~~  
21           ~~corporation, partnership, unincorporated association, or~~  
22           ~~other business entity.] "On or about the body" means on~~  
23           ~~or within the body, clothing, footwear, purse, handbag,~~  
24           ~~or similar article.~~

25           ~~(26) ["Pilot" means the person in charge or in command~~

---

1 ~~of an aircraft.]~~ "Owner" means:

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

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

10 ~~(27) ["Place" means any location, building or site, and~~  
11 ~~includes moveable locations such as a vessel or~~  
12 ~~aircraft.]~~ "Package" includes every means by which goods  
13 for transportation may be cased, covered, enclosed,  
14 contained, or packed.

15 ~~(28) ["Port" or "Port of entry" means an official port~~  
16 ~~of entry identified in or pursuant to title 18 of this~~  
17 ~~code and amendments thereto.]~~ "Person" means any  
18 individual, company, corporation, partnership,  
19 unincorporated association, or other business entity.

20 ~~(29) ["President" means the President of the FSM.]~~  
21 "Pilot" means the person in charge or in command of an  
22 aircraft.

23 ~~(30) ["Prohibited goods" means any goods the~~  
24 ~~importation or exportation of which is prohibited under~~  
25 ~~FSM law.]~~ "Place" means any location, building or site,

---

1           and includes moveable locations such as a vessel or  
2           aircraft.

3           ~~(31) ["Regulations" means any regulations promulgated~~  
4           ~~pursuant to this chapter.]~~ "Port" or "Port of entry"  
5           means an official port of entry identified in or  
6           pursuant to title 18 of this code and amendments  
7           thereto.

8           ~~(32) ["Secretary" means the Secretary of the FSM~~  
9           ~~Department of Finance.]~~ "President" means the President  
10           of the FSM.

11       ~~(30)-(33) ["Smuggling" means any importation or~~  
12       ~~exportation, attempted importation or exportation, with~~  
13       ~~the intent to defraud the FSM.]~~ "Prohibited goods" means  
14       any goods the importation or exportation of which is  
15       prohibited under FSM law.

16       ~~(31)-(34) ["Stamp" means device or instrument used by a~~  
17       ~~Customs officer to make a distinctive impression or~~  
18       ~~imprint, to identify and evidence the clearance of~~  
19       ~~imported or exported goods and the clearance of vessels~~  
20       ~~or aircraft.]~~ "Regulations" means any regulations  
21       promulgated pursuant to this chapter.

22       ~~(32)-(35) ["Unlawfully imported, exported, or carried~~  
23       ~~goods" means any smuggled goods and any goods imported,~~  
24       ~~exported, or carried in breach of the provisions of this~~  
25       ~~chapter, or any other law of the FSM, or whose sale,~~

---

1 ~~possession or use is prohibited or contrary to~~  
2 ~~restrictions imposed by the State into which the~~  
3 ~~importation took place. The above defined phrase~~  
4 ~~carries a like meaning wherever similarly stated in this~~  
5 ~~chapter.]~~ "Secretary" means the Secretary of the FSM  
6 Department of Finance.

7 ~~(33)~~ (36) [~~"Vehicle" means every description of motorized~~  
8 ~~carriage or other contrivance used or capable of being~~  
9 ~~used as a means of transport on land.] "Smuggling" means  
10 any importation or exportation, attempted importation or  
11 exportation, with the intent to defraud the FSM.~~

12 ~~(34)~~ (37) "Stamp" means device or instrument used by a  
13 Customs officer to make a distinctive impression or  
14 imprint, to identify and evidence the clearance of  
15 imported or exported goods and the clearance of vessels  
16 or aircraft.

17 ~~(35)~~ (38) "Taxable Amount" has the meaning as defined  
18 in section 225.

19 (39) "Taxable import" means an import of goods other  
20 than a VAT-exempt import.

21 (40) "Unlawfully imported, exported, or carried goods"  
22 means any smuggled goods and any goods imported,  
23 exported, or carried in breach of the provisions of this  
24 chapter, or any other law of the FSM, or whose sale,  
25 possession or use is prohibited or contrary to

---

1           restrictions imposed by the State into which the  
2           importation took place. The above defined phrase  
3           carries a like meaning wherever similarly stated in this  
4           chapter.

5           ~~(36)~~(41) "VAT-exempt import" means -

6                     (a) an exempt import; and

7                     (b) an import of goods that, if supplied in the  
8           State into which the goods have been imported, the  
9           supply would be an exempt or VAT-free under the Value  
10          Added Tax Act of the State.

11          (42) "Vehicle" means every description of motorized  
12          carriage or other contrivance used or capable of being  
13          used as a means of transport on land."

14          Section 4. Section 213 of chapter 2 of Title 54 of the Code  
15 of the Federated States of Micronesia, as amended by Public Law  
16 No. 9-139 is hereby repealed in its entirety.

17          Section 5. Sections 221, 222, 223, 224, 225, 226 and 227 of  
18 chapter 2 of title 54 of the Code of the Federated States of  
19 Micronesia are hereby repealed in their entirety.

20          Section 6. Title 54 of the Code of the Federated States of  
21 Micronesia is hereby amended by enacting a new Section 221 of  
22 chapter 2 entitled "Imposition of National VAT" as follows:

23                 "Section 221. Imposition of National VAT.

24                     (1)Value added tax (referred to as "National VAT")  
25           is hereby levied on a taxable import.

---

1           (2) The National VAT payable on a taxable import is  
2           [10%] of the taxable amount.

3           (3) Subject to this Chapter, the National VAT on a  
4           taxable import is payable by the importer at the time of  
5           import.

6           (4) An import of goods occurs -

7                   (a) if the goods come under Customs control under  
8                   section 234, on the date on which they first come under  
9                   Customs control; or

10                   (b) in any other case, on the date the goods are  
11                   brought into the FSM."

12           Section 7. Title 54 of the Code of the Federated States of  
13 Micronesia is hereby amended by enacting a new Section 222 of  
14 chapter 2 entitled "Exempt Import" as follows:

15           "Section 222. Exempt Import.

16                   (1) The following imports are exempt imports -

17                           (a) an import of goods for transshipment through  
18                   FSM, if the goods are -

19                                   (i) not to be used in FSM;

20                                   (ii) securely stored while in FSM; and

21                                   (iii) exported from FSM within a reasonable  
22                   time of import into FSM as determined under regulations;

23                           (b) subject to subsection (4), an import of goods  
24                   accompanying a person arriving by sea or air into FSM if  
25                   the goods are for the person's own personal use or

---

1           consumption subject to the following limitations -

2                   (i) up to 200 cigarettes;

3                   (ii) up to one pound of tobacco or twenty  
4           cigars;

5                   (iii) up to 52 fluid ounces or 1500  
6           milliliters of distilled alcoholic beverages; and

7                   (iv) up to two hundred dollars (\$200) worth  
8           of goods, other than goods covered by paragraphs (i)-

9           (iii)

10                   (c) an import of goods as bona fide personal  
11           effects by a visitor to FSM if the goods are for the  
12           visitor's own personal use and are to be removed from  
13           FSM with the visitor when he or she leaves FSM;

14                   (d) an import of goods if the import is not  
15           permitted to be subject to tax in FSM under an  
16           international agreement but only to the extent provided  
17           for in the agreement, provided that if and when such  
18           goods are subsequently sold in the FSM, National VAT  
19           shall be due based on the sale amount;

20                   (e) an import of a fishing vessel the subject of  
21           a valid permit or license issued pursuant to Title 24 of  
22           this Code, and replacement parts and equipment for  
23           such vessel;

24                   (f) an import of goods by mail if the value of  
25           the import does not exceed the amount

---

1 specified in paragraph (b) (iv); and

2 (g) an import of goods by a diplomatic or  
3 consular mission, or by a diplomat or member of the  
4 diplomat's family forming part of the diplomat's  
5 household in the FSM if the import is not permitted to  
6 be subject to tax in FSM under the provisions of FSMC  
7 Title 10, Chapter 2 International Organization  
8 Immunities but only to the extent provide for in that  
9 Title.

10 (h) an import of health, education and welfare  
11 related goods donated for humanitarian use. Upon  
12 application to and approval by the CEO, the National VAT  
13 on goods related to health, education or welfare donated  
14 without cost for humanitarian purposes, and not for  
15 resale, shall be waived or refunded; provided, however,  
16 that if and when any of such goods are subsequently sold  
17 in the FSM, National VAT shall be due based on the sale  
18 amount.

19 (2) An import of goods that would be an exempt import  
20 under subsection (1) (a) except that they were not  
21 exported within a reasonable time as determined under  
22 regulations is still treated as exempt import but the  
23 importer is subject to a penalty equal to one-quarter of  
24 the National VAT that would have been paid if the goods  
25 were to be used in FSM.

---

1           (3) Goods that are imported for transshipment through  
2           FSM but which are removed from the secure storage  
3           facility or otherwise used in FSM are subject to  
4           National VAT under section 221.

5           (4) Subsection (1)(b)(i)-(iii) does not apply to a  
6           person who is not permitted under applicable State law  
7           to possess, use, and consume the goods listed in those  
8           sub-paragraphs.”

9           Section 8. Title 54 of the Code of the Federated States of  
10          Micronesia is hereby amended by enacting a new Section 223 of  
11          chapter 2 entitled “Temporarily Imported Goods” as follows:

12           “Section 223. Temporarily Imported Goods.

13           (1) Upon application to, and approval by the  
14           Secretary, the National VAT paid on temporarily imported  
15           goods is refunded to the importer.

16           (2) Temporarily imported goods are eligible for a  
17           refund of National VAT when the finished goods that the  
18           imported goods were processed into have been loaded on  
19           an aircraft or vessel for direct removal from FSM and  
20           the aircraft or vessel has departed FSM.

21           (3) If temporarily imported goods have been loaded on  
22           an aircraft or ship for removal from FSM but are  
23           subsequently unloaded or used in FSM, the goods are  
24           liable for National VAT.

25           (4) If an importer is engaged in the business of

---

1 importing temporarily imported goods, an import of  
2 temporarily imported goods is, upon application to, and  
3 approval by the Secretary, treated as an exempt import.

4 (5) The burden of proving that goods imported are for  
5 subsequent export is on the importer/ exporter as  
6 specified in regulations."

7 Section 9. Title 54 of the Code of the Federated States of  
8 Micronesia is hereby amended by enacting a new Section 224 of  
9 chapter 2 entitled "Import Value" as follows:

10 "Section 224. Import Value.

11 (1) Subject to this section, the "import value" of  
12 goods imported into FSM is the CIF price of the goods.

13 (2) If the CEO cannot reasonably determine the CIF  
14 price of imported goods, the import value shall be  
15 determined by the first of the following methods which  
16 is reasonably available to the CEO:

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

19 (b) The value of identical goods at the CIF  
20 location; or

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

24 (3) If the CEO cannot determine the CIF price or its  
25 equivalent through one of the foregoing methods, the

---

1 import value shall be determined by the appraisement,  
2 the cost of which shall be borne by the owner.

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

7 (5) Where there is a relationship between the buyer  
8 and seller of imported goods the consignee may be  
9 required to provide reasonable proof that the  
10 relationship did not influence the price paid or payable  
11 for the goods.

12 (a) To demonstrate the acceptability of the price  
13 paid or payable for the goods, the consignee shall  
14 supply to the CEO details of:

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

17 (ii) The way in which the price in question  
18 was arrived at; and

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

22 (b) Where the CEO determines that the  
23 relationship has influenced the price paid or payable,  
24 the CIF price shall be determined by appraisement, the  
25 cost of which shall be borne by the owner.

---

1           (6) If the CIF or FOB price of an import of goods is  
2           stated other than in United States dollars, the price  
3           must be translated to United States dollars at the  
4           ruling exchange rate at the time of import.

5           (7) If goods are re-imported after being exported for  
6           the purpose of undergoing repair, renovation, or  
7           improvement, and the form or character of the goods has  
8           not changed, the import value is the amount of the  
9           increase in value of the goods as a result of the  
10           repair, renovation, or improvement."

11           Section 10. Title 54 of the Code of the Federated States of  
12 Micronesia is hereby amended by enacting a new Section 225 of  
13 chapter 2 entitled "Taxable Amount" as follows:

14           "Section 225. Taxable Amount. The Taxable amount of a  
15           taxable import for the purposes of section 221(2) is the  
16           sum of -

17                   (a) the import value as defined in section 224;

18                   (b) to the extent not included under paragraph

19           (a), the cost of services that are ancillary or  
20           incidental to the import; and

21                   (c) the amount of any import duty or other fiscal  
22           charge (other than National VAT) payable in respect of  
23           the import."

24           Section 11. Title 54 of the Code of the Federated States of  
25 Micronesia is hereby amended by enacting a new Section 226 of

---

1 chapter 2 entitled "Lien on importer's property" as follows:

2       "Section 226. Lien on importer's property. The  
3       personal liability of an importer provided for in this  
4       chapter shall be secured by a lien on any personal  
5       property of that importer having priority over all other  
6       claims and liens, with the exception of liens imposed  
7       pursuant to subsection (2) of section 135 of this title,  
8       and may be collected by levy upon such property in the  
9       same manner as the levy of an execution. The amount that  
10       an importer is liable for under this section is treated  
11       as if it were tax payable by the importer for the  
12       purposes of Subchapters V and VI of Chapter 8, and  
13       section 891 of this Title."

14       Section 12. Title 54 of the Code of the Federated States of  
15 Micronesia is hereby amended by enacting a new Section 227 of  
16 chapter 2 entitled "Civil penalties and interest" as follows:

17       "Section 227. Civil penalties and interest. The  
18       following penalties and interest shall be separate from  
19       and in addition to the criminal penalties imposed  
20       elsewhere in this chapter. It is the duty of an  
21       importer to know and declare, fully and accurately, the  
22       types, quantities, and values of all dutiable goods  
23       which he or she imports, and civil penalties and  
24       interest may not be avoided through lack of knowledge,  
25       however innocent such lack of knowledge may be."

---

---

1           (1) Understatement. If the amount of duty and or  
2           National VAT due on goods is understated when reasonably  
3           calculated on the basis of the documentary and other  
4           information provided to Customs officers, there shall be  
5           added to the amount of the understatement a penalty  
6           equal to the following percentage of the amount of the  
7           understatement:

8                   (a) 100% if the understatement is discovered by  
9                   Customs officials before release of the goods;

10                   (b) 100% if the understatement is discovered and  
11                   reported to Customs by an importer or owner and the full  
12                   and correct duty and or National VAT, including  
13                   penalties and interest, is paid within 10 days after  
14                   release of the goods; or

15                   (c) 200% otherwise.

16           (2) Late payment. Unless goods are entered and the  
17           duty and or National VAT thereon is paid within the time  
18           limit for entry established in section 238 of this  
19           chapter, there shall be added to the amount of duty and  
20           or National VAT due five percent of the duty and or  
21           National VAT if the failure is for not more than one  
22           month, with an additional five percent for each  
23           additional month or fraction thereof during which such  
24           failure continues, not to exceed 100% in the aggregate.

25           (3) Interest. Any duty and or National VAT which is

---

1           not paid before the earlier of the time limit for entry  
2           or release of the goods shall thereafter bear interest  
3           at the rate of 18% per annum until paid."

4           Section 13. Section 231 of chapter 2 of Title 54 of the Code  
5 of the Federated States of Micronesia, as amended by Public Law  
6 No. 9-139, is hereby further amended to read as follows:

7           "Section 231. Administration of Customs.

8           (1) The CEO may designate officers appointed under  
9           section 732 as Customs officers.

10          (2) Customs locks and seals.

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

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

20           (c) Penalty. A person convicted under this  
21           subsection shall be subject to a fine not exceeding  
22           \$1,000, or imprisonment of not more than one year, or  
23           both.

24          (3) Customs stamps.

25           (a) Stamped impression. All courts and all

---

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

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

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

13 (4) Working days and hours. The working days and  
14 hours of the Authority are Monday through Friday, 8 a.m.  
15 through 5 p.m., except for National holidays.

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

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

---

1           (5) Insurance. The CEO is authorized to provide  
2           insurance coverage for Customs officers who undertake  
3           hazardous duties.

4           (6) Customs officers' authority to arrest.

5           (a) When authorized by the CEO, a Customs officer  
6           shall have the authority given to a police officer under  
7           section 211 of title 12, or successor provision of law,  
8           to make an arrest without warrant for an offense defined  
9           under this chapter.

10          (b) The CEO shall, on consultation with the  
11          Secretary of Justice, establish procedures for arrest  
12          and disposition of criminal suspects by Customs  
13          officers."

14          Section 14. Section 232 of chapter 2 of Title 54 of the Code  
15 of the Federated States of Micronesia, as amended by Public Law  
16 No. 9-139, is hereby further amended to read as follows:

17          "Section 232. Duties of controlling authorities.

18          (1) The controlling authority of every port, airport  
19          or transit building shall provide and maintain at the  
20          port, airport or transit building, to the satisfaction  
21          of the CEO the following;

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

25                 (b) suitable transit buildings as the CEO may

---

1           declare as necessary in respect to the port or airport,  
2           together with suitable weighing appliances for use by  
3           Customs officers.

4           (2) The controlling authority of every port, airport  
5           or transit building shall store goods subject to the  
6           control of Customs in such manner and place as the CEO  
7           may direct."

8           Section 15. Section 233 of chapter 2 of Title 54 of the Code  
9 of the Federated States of Micronesia, as amended by Public Law  
10 No. 9-139, is hereby further amended to read as follows:

11           "Section 233. Cooperation with other National and State  
12           authorities.

13           The CEO is authorized to enter into Memorandums of  
14           Understanding with other National and State authorities  
15           to allow the Authority to provide assistance in the  
16           enforcement of any National or State law.

17           (1) Statistics.

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

22           (b) The CEO is authorized to introduce  
23           classification schedules and associated computer  
24           software to assist with this function.

25           (2) Quarantine. The CEO may accept an appointment

---

1 made by the Secretary of the FSM Department of Resources  
2 and Development, regarding the empowering of Customs  
3 officers to perform agriculture quarantine  
4 inspections, pursuant to section 407 of title 22 of  
5 this code or any successor provision.

6 (3) Food safety. The CEO may accept an appointment by  
7 the Secretary of the FSM Department of Health Services  
8 regarding the empowering of Customs officers to perform  
9 food safety inspections pursuant to 41 F.S.M.C. 1013  
10 (National Food Safety Act) or any successor provision.

11 (4) Immigration. The CEO may accept an appointment  
12 made by the FSM Department of Justice regarding the  
13 empowering of Customs officers to perform immigration  
14 inspections pursuant to section 108 of title 50 of this  
15 code or any successor provision.

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

22 Section 16. Section 234 of chapter 2 of Title 54 of the Code  
23 of the Federated States of Micronesia, as amended by Public Law  
24 No. 9-139, is hereby further amended 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 duty and National VAT are  
4 paid and the goods are released or until their  
5 exportation to any 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 Post  
11 Office are subject to the control of the Customs in the  
12 same manner as goods otherwise imported or exported.

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

19           (3) CY-CY Containers.

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

24                   (b) The consignee shall notify the Authority of  
25 the delivery of the shipment and shall not open the

---

1           container without the approval of a Customs officer.

2                   (c) Customs officers shall be given access to any  
3           CY-CY container or similar shipment 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 or  
7           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 than  
12           by authority and in accordance with this chapter, moves,  
13           alters or interferes with goods subject to the control  
14           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 five years, or both."

18           Section 17. Section 235 of chapter 2 of Title 54 of the Code  
19 of the Federated States of Micronesia, as amended by Public Law  
20 No. 9-139, is hereby further amended to read as follows:

21           "Section 235. 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, shipment has 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 the  
8           examination, shall be borne by the owner.

9           (2) Search of residences, building and premises.  
10          Any officer, with legally sufficient grounds to believe  
11          goods that may be forfeited pursuant to section 252 of  
12          this chapter are present and, pursuant to a search  
13          warrant required by law, may enter any residence,  
14          building or premise to search for and seize such goods.

15          (3) Search of persons.

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

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

25          (c) Searches shall be undertaken by an officer or

---

1 person of the same gender unless there are reasonable  
2 grounds for believing the person being searched may  
3 resist the search or, despite diligent efforts to  
4 procure an officer or person of the same gender, no such  
5 person is available to undertake the search.

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

8 (4) The powers in this section are in addition to the  
9 powers in subchapter VII of Chapter 8 of this title."

10 Section 18. Section 236 of chapter 2 of Title 54 of the Code  
11 of the Federated States of Micronesia, as amended by Public Law  
12 No. 9-139, is hereby further amended to read as follows:

13 "Section 236. Use of aids by Customs officers.  
14 In exercising any power of examination or search under  
15 this chapter, any officer of Customs or any member of  
16 the Police assisting him may have with him and  
17 reasonably use for the purposes of examination or  
18 searching, any trained animal, or any mechanical,  
19 electrical, or electronic device generally accepted for  
20 use in such activities."

21 Section 19. Section 237 of chapter 2 of Title 54 of the Code  
22 of the Federated States of Micronesia, as amended by Public Law  
23 No. 9-139, is hereby further amended to read as follows:

24 "Section 237. Owners having possession of goods subject  
25 to National VAT. An owner shall be personally liable

---

1           for any duty and National VAT payable when, while in  
2           possession or custody of goods subject to the control of  
3           Customs, that person fails to;

4           (1) keep them safely, or

5           (2) satisfactorily account for them to an officer of  
6           Customs."

7           Section 20. Section 238 of chapter 2 of Title 54 of the Code  
8 of the Federated States of Micronesia, as amended by Public Law  
9 No. 9-139, is hereby further amended to read as follows:

10           "Section 238. Importation of goods.

11           (1) Arrival procedures. On arrival of a vessel or an  
12           aircraft at any port in the FSM the master or pilot of  
13           such vessel or aircraft shall deliver to the CEO:

14                   (a) Copies of the manifest; and

15                   (b) All bills of lading and air waybills for  
16           cargo to be discharged at that particular port.

17           (2) Time limit for entry.

18           Each consignee of imported goods shall make entry of  
19           those goods at the local Customs office within 15 days  
20           after departure of the importing vessel or aircraft,  
21           exclusive of Sundays and FSM national holidays. To  
22           enter goods means to notify CEO of the arrival of those  
23           goods and to comply with all Customs requirements in  
24           connection therewith.

25           (3) Verification of entry.

---

1           (a) Entry shall be verified by the presentation  
2           to the Authority by the consignee, or authorized agent  
3           of the consignee, of a completed and signed entry form  
4           together with a non-negotiable bill of lading or an air  
5           waybill and vendor's invoices for the imported goods.

6           (b) The consignee shall answer any questions  
7           relating to the goods and, upon request of the CEO,  
8           furnish any other documentation deemed necessary for:

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

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

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

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

20           (4) Releasing of goods.

21           The CEO shall, on satisfactory examination of the above  
22           documents, and payment of the correct duty and or  
23           National VAT, stamp and release the imported goods.

24           (5) Personal Baggage.

25           Goods that are the personal baggage of passengers in a

---

1 vessel or aircraft and are not taxable goods may be  
2 released without entry.

3 (6) Importation defined:

4 (a) Goods shall, except where otherwise expressly  
5 provided, be deemed to be imported into the FSM as soon  
6 as and in any manner, whether lawfully or unlawfully,  
7 they are brought or come within the territorial limits  
8 of the FSM from any country outside those limits. For  
9 purposes of this chapter, the territorial limits of the  
10 FSM include the territorial sea, as defined in chapter 1  
11 of title 18 of this code.

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

18 (c) Imported goods intended for use, sale, or  
19 other disposition within the territorial sea or internal  
20 waters of the FSM must first be brought to a port of  
21 call and cleared through Customs.

22 (d) Vessels or aircraft entering into the  
23 territorial limits of the FSM solely in transit or for  
24 loading, unloading, transshipping, provisioning,  
25 refueling, other resupply, equipping, maintenance,

---

1           repair, overhaul, and other like purposes shall not be  
2           deemed to be goods imported into the FSM unless such  
3           vessels or aircraft thereafter become based in the FSM.

4           (7) Clearing goods prior to arrival. Each consignee  
5           of imported goods, may, provided he or she has the  
6           required documentation, clear those goods prior to  
7           arrival of the vessel or aircraft. This does not waive  
8           or limit the authority of the Authority or the CEO to  
9           examine those goods on arrival.

10          (8) Exempt imports. All exempt imports and VAT-exempt  
11          imports shall be identified and cleared on the official  
12          clearance form.

13          (9) Abandoned goods:

14               (a) Goods remaining unentered three months after  
15               the departure of the importing vessel or aircraft shall  
16               be treated as goods abandoned to the National Government  
17               and may be sold by public auction, destroyed, or  
18               otherwise disposed of as the CEO may direct.

19               (b) Proceeds of such sale shall be used first to  
20               pay expenses of sale, duties, storage charges, and any  
21               lien for freight charges, in said order. Surplus  
22               proceeds may be paid to the owner upon proof of his or  
23               her interest therein."

24          Section 21. Section 239 of chapter 2 of Title 54 of the Code  
25 of the Federated States of Micronesia, as amended by Public Law

---

1 No. 9-139, is hereby further amended to read as follows:

2 "Section 239. Prohibited and restricted imports.

3 It shall be unlawful to import into the FSM any goods  
4 whose use, sale, possession or import is prohibited or  
5 contrary to restrictions imposed by the FSM or the State  
6 into which the goods are imported, unless the importer  
7 has a valid permit or license to import such goods."

8 Section 22. Section 240 of chapter 2 of Title 54 of the Code  
9 of the Federated States of Micronesia, as amended by Public Law  
10 No. 9-139, is hereby further amended to read as follows:

11 "Section 240. Prohibited and restricted exports.

12 It shall be unlawful to export from the FSM any goods  
13 whose use, sale, possession or export is prohibited or  
14 contrary to restrictions imposed by the FSM or the State  
15 from which they are being exported, unless the exporter  
16 has a valid permit or license to export such goods."

17 Section 23. Section 241 of chapter 2 of Title 54 of the Code  
18 of the Federated States of Micronesia, as amended by Public Law  
19 No. 9-139, is hereby further amended to read as follows:

20 "Section 241. [~~Production of Documents~~] Boarding and  
21 searching vessels and aircraft on arrival.

22 ~~(1) Where a Customs officer is not satisfied with the~~  
23 ~~facts as presented in documents relating to a particular~~  
24 ~~shipment or arrival or departure of a vessel or an~~  
25 ~~aircraft, the officer may require the owner to produce~~

---

1 further documents and answer any questions relating to  
2 them.

3 ~~(2) *Summons.*~~

4 ~~(a) For the purpose of enforcing this chapter and~~  
5 ~~determining the amount of duty due, the Secretary shall~~  
6 ~~be authorized to summon the importer or owner of~~  
7 ~~imported goods to appear before the Secretary or his~~  
8 ~~designee and at such appearance to produce such~~  
9 ~~documents as specified in the summons and to answer any~~  
10 ~~questions relating to said documents.~~

11 ~~(b) The provisions of paragraph (a) of this~~  
12 ~~subsection shall also apply to any officer, employee or~~  
13 ~~agent of the person(s) described in paragraph (a) of~~  
14 ~~this subsection, or any third party having possession,~~  
15 ~~custody, or care of the documents relating to the goods~~  
16 ~~in question.]~~

17 (1) Boarding, searching, and answering questions. The  
18 CEO may:

19 (a) Board any vessel or aircraft on its arrival  
20 in the FSM. The hoisting or displaying of a foreign flag  
21 will be taken as consent to board;

22 (b) Search any vessel or aircraft on arrival in  
23 the FSM;

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

1 relation to:

2 (i) the vessel or aircraft, its voyage or flight,  
3 and its cargo, stores, crew and passengers; or

4 (ii) the presence of those persons on the vessel  
5 or aircraft.

6 (2) Arming of officers.

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

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

14 Section 24. Section 242 of chapter 2 of Title 54 of the Code  
15 of the Federated States of Micronesia, as amended by Public Law  
16 No. 9-139, is hereby further amended to read as follows:

17 "Section 242. (1) [Boarding and searching vessels and  
18 aircraft on arrival]Patrolling of coasts and inspections  
19 of airports and ports.

20 [A Customs officer may:

21 (a) Board any vessel or aircraft on its arrival  
22 in the FSM. The hoisting or displaying of a foreign  
23 flag will be taken as consent to board;

24 (b) Search any vessel or aircraft on arrival in  
25 the FSM;

---

1           ~~(c) Require all persons found on the vessel or~~  
2           ~~aircraft to answer questions, and produce documents in~~  
3           ~~relation to:~~

4           ~~(i) the vessel or aircraft, its voyage or~~  
5           ~~flight, and its cargo, stores, crew and passengers; or~~

6           ~~(ii) the presence of those persons on the~~  
7           ~~vessel or aircraft.~~

8           ~~(2) Arming of officers.~~

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

14          ~~(b) All occasions when Customs officers are armed~~  
15          ~~while boarding shall be reported to the FSM Office of~~  
16          ~~the Attorney General.]~~

17          Any Customs officer and any person acting in his aid  
18          may, at any time and using such means of transport as  
19          the officer, or person, considers appropriate:

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

---

---

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

7           Section 25. Section 243 of chapter 2 of Title 54 of the Code  
8 of the Federated States of Micronesia, as amended by Public Law  
9 No. 9-139, is hereby further amended to read as follows:

10           ~~"Section 243. [Patrolling of coasts and inspection of~~  
11           ~~airports and ports.] Mooring vessels of Customs.~~

12           ~~[Any Customs officer and any person acting in his aid~~  
13           ~~may, at any time and using such means of transport as~~  
14           ~~the officer, or person, considers appropriate:~~

15           ~~(1) patrol upon and pass freely along and over any~~  
16           ~~part of the seashore or on the shores, banks or beaches~~  
17           ~~of any port, bay or harbor, or over any part of the~~  
18           ~~land immediately adjoining the seashore, shores, or~~  
19           ~~banks, and on any structures extending from the~~  
20           ~~seashore, shores, or banks; and~~

21           ~~(2) Enter and inspect any airport or port, their~~  
22           ~~facilities and goods therein; and may remain in any such~~  
23           ~~area to carry out investigations and to exercise~~  
24           ~~surveillance for the detection of offenses against this~~  
25           ~~chapter and for these purposes may make use of any~~

---

1 ~~examination or surveillance aids.]~~

2 The officer in charge of any vessel employed in the  
3 service of Customs may haul the vessel upon any part of  
4 the seashore or of the shores or banks of any port, bay,  
5 or harbor, or upon any part of the land immediately  
6 adjoining the seashore, shores or banks, and moor the  
7 vessel there."

8 Section 26. Section 244 of chapter 2 of Title 54 of the Code  
9 of the Federated States of Micronesia, as amended by Public Law  
10 No. 9-139, is hereby further amended to read as follows:

11 "Section 244. [Mooring vessels of Custom] Stopping of  
12 vehicles.

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

19 (1) A Customs officer or officer of the FSM National  
20 Police may, on reasonable suspicion, stop and search any  
21 vehicle for the purpose of ascertaining whether any  
22 dutiabale or prohibited goods are contained therein.

23 (2) The driver shall stop and permit such search when  
24 signaled to do so.

25 (3) Any driver who willfully fails to stop and permit

---

1           such search, when signaled to do so, is guilty of a  
2           National offense.

3           (4) 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 five years, or both."

6           Section 27. Section 245 of chapter 2 of Title 54 of the Code  
7 of the Federated States of Micronesia, as amended by Public Law  
8 No. 9-139, is hereby further amended to read as follows:

9           "Section 245. [Stopping of Vehicles]

10           Bringing to or landing other than at official port of  
11           entry.

12           ~~[(1) A Customs officer or officer of the FSM National~~  
13           ~~Police may, on reasonable suspicion, stop and search any~~  
14           ~~vehicle for the purpose of ascertaining whether any~~  
15           ~~dutiabale or prohibited goods are contained therein.~~

16           ~~(2) The driver shall stop and permit such search when~~  
17           ~~signaled to do so.~~

18           ~~(3) Any driver who willfully fails to stop and permit~~  
19           ~~such search, when signaled to do so, is guilty of a~~  
20           ~~National offense.~~

21           ~~(4) Penalty. A person convicted under this section~~  
22           ~~shall be subject to a fine not exceeding \$5,000, or~~  
23           ~~imprisonment of not more than five years, or both.]~~

24           (1) The master of a vessel or pilot of an aircraft who  
25           willfully fails to comply with section 201 of title 18

---

1           of this Code is guilty of a National offense.

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

5           Section 28. Section 246 of chapter 2 of Title 54 of the Code  
6 of the Federated States of Micronesia, as amended by Public Law  
7 No. 9-139, is hereby further amended to read as follows:

8           "Section 246. [Bring to or landing other than at  
9           official port of entry] Bringing to or Landing on Signal  
10           [ (1) The master of a vessel or pilot of an aircraft who  
11           willfully fails to comply with section 201 of title 18  
12           of this code is guilty of a National offense.

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

16           (1) If the master of a vessel within the territorial  
17           limits of the FSM willfully fails to bring the vessel  
18           for boarding on being approached by, or hailed or  
19           signaled from:

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

22           (b) A vessel or aircraft in the service of the  
23           FSM Government, that has hoisted the proper ensign and  
24           pendant or displays the proper signal; the master is  
25           guilty of a National offense.

1           (2) If the pilot of an aircraft within the territorial  
2           limits of the FSM willfully fails to bring the aircraft  
3           to the nearest airport for boarding on being approached  
4           by, or hailed or signaled from:

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

7                   (b) A vessel or aircraft in the service of the  
8                   FSM Government that has hoisted the proper ensign and  
9                   pendant or displays the proper signal; the pilot is  
10                  guilty of a National offense.

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

14           Section 29. Section 247 of chapter 2 of Title 54 of the Code  
15 of the Federated States of Micronesia, as amended by Public Law  
16 No. 9-139, is hereby further amended to read as follows:

17           "Section 247. [Bringing to or landing on signal]

18           Facilitation of Boarding

19           ~~[(1) If the master of a vessel within the territorial~~  
20           ~~limits of the FSM willfully fails to bring the vessel to~~  
21           ~~for boarding on being approached by, or hailed or~~  
22           ~~signaled from:~~

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

25                   ~~(b) A vessel or aircraft in the service of the~~

---

1 ~~FSM Government, that has hoisted the proper ensign and~~  
2 ~~pendant or displays the proper signal; the master is~~  
3 ~~guilty of a National offense.~~

4 ~~(2) If the pilot of an aircraft within the territorial~~  
5 ~~limits of the FSM willfully fails to bring the aircraft~~  
6 ~~to the nearest airport for boarding on being approached~~  
7 ~~by, or hailed or signaled from:~~

8 ~~(a) A vessel or aircraft in the service of~~  
9 ~~Customs, that has hoisted the Customs flag; or~~

10 ~~(b) A vessel or aircraft in the service of the~~  
11 ~~FSM Government that has hoisted the proper ensign and~~  
12 ~~pendant or displays the proper signal; the pilot is~~  
13 ~~guilty of a National offense.~~

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

17 (1) Where for the purposes of sections 241 and 246 of  
18 this chapter, a master of a vessel or a pilot of an  
19 aircraft willfully fails to facilitate by all reasonable  
20 means boarding by a person authorized under this  
21 chapter, such master or pilot is guilty of a National  
22 offense.

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

---

1 Section 30. Section 248 of chapter 2 of Title 54 of the Code  
2 of the Federated States of Micronesia, as amended by Public Law  
3 No. 9-139, is hereby further amended to read as follows:

4 "Section 248. [Facilitation of boarding] Report of  
5 Cargo

6 [~~(1) Where for the purposes of sections 242 and 247 of~~  
7 ~~this chapter, a master of a vessel or a pilot of an~~  
8 ~~aircraft willfully fails to facilitate by all reasonable~~  
9 ~~means boarding by a person authorized under this~~  
10 ~~chapter, such master or pilot is guilty of a National~~  
11 ~~offense.~~

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 five years, or both.]~~

15 (1) The master, owner or pilot of a vessel or aircraft  
16 arriving from a place outside the FSM is guilty of a  
17 National offense if that person willfully fails:

18 (a) To report, within one day after the arrival  
19 at a port or airport, the vessel or aircraft and her  
20 cargo by delivering to the Authority an inward manifest,  
21 in duplicate, of goods for the port or airport;

22 (b) To answer questions relating  
23 to the vessel or aircraft and her cargo, crew,  
24 passengers, stores and voyage; or

25 (c) To produce documents relating to the vessel

---

1           or aircraft and her cargo.

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

5           Section 31. Section 249 of chapter 2 of Title 54 of the Code  
6 of the Federated States of Micronesia, as amended by Public Law  
7 No. 9-139, is hereby further amended to read as follows:

8           "Section 249. [Report of Cargo] Report of wrecked  
9           vessel or aircraft

10           ~~[(1) The master, owner or pilot of a vessel or aircraft~~  
11           ~~arriving from a place outside the FSM is guilty of a~~  
12           ~~National offense if that person willfully fails:~~

13                   ~~(a) To report, within one day after the arrival~~  
14                   ~~at a port or airport, the vessel or aircraft and her~~  
15                   ~~cargo by delivering to Customs an inward manifest, in~~  
16                   ~~duplicate, of goods for the port or airport;~~

17                   ~~(b) To answer questions relating to the vessel or~~  
18                   ~~aircraft and her cargo, crew, passengers, stores and~~  
19                   ~~voyage; or~~

20                   ~~(c) To produce documents relating to the vessel or~~  
21                   ~~aircraft and her cargo.~~

22           ~~(2) Penalty. A person convicted under this section~~  
23           ~~shall be subject to a fine not exceeding \$5,000, or~~  
24           ~~imprisonment of not more than five years, or both. ]~~

25           (1) When any vessel from outside the FSM is lost or

---

1           wrecked upon the coast, the master or owner shall  
2           without unreasonable delay make report of the vessel and  
3           her cargo to the Customs office nearest to the place  
4           where the vessel was lost or wrecked.

5           (2) When any aircraft arriving from outside the FSM is  
6           lost or wrecked at any place within the FSM, the pilot  
7           or owner shall, without unreasonable delay, make report  
8           of the aircraft and cargo to the Customs office nearest  
9           to the place where the aircraft was lost and wrecked.

10          (3) Any master or owner of a vessel lost or wrecked,  
11          or pilot or owner of an aircraft lost or wrecked, who  
12          fails to report such loss or wreck as required by this  
13          section is guilty of a National offense.

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

17          Section 32. Section 250 of chapter 2 of Title 54 of the Code  
18 of the Federated States of Micronesia, as amended by Public Law  
19 No. 9-139, is hereby further amended to read as follows:

20          "Section 250. [Report of Wrecked vessel or aircraft]  
21          Vessel and Aircraft Adapted for Smuggling

22          [~~(1) When any vessel from outside the FSM is lost or~~  
23          ~~wrecked upon the coast, the master or owner shall~~  
24          ~~without unreasonable delay make report of the vessel and~~  
25          ~~her cargo to the Customs office nearest to the place~~

---

1           ~~where the vessel was lost or wrecked.~~

2           ~~(2) When any aircraft arriving from outside the FSM is~~  
3           ~~lost or wrecked at any place within the FSM, the pilot~~  
4           ~~or owner shall, without unreasonable delay, make report~~  
5           ~~of the aircraft and cargo to the Customs office nearest~~  
6           ~~to the place where the aircraft was lost and wrecked.~~

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

11          ~~(4) *Penalty.* A person convicted under this section~~  
12          ~~shall be subject to a fine not exceeding \$1,000, or~~  
13          ~~imprisonment of not more than one year, or both. ]~~

14          (1) The master or owner of a vessel or the pilot or  
15          owner of an aircraft shall be guilty of a National  
16          offense if the vessel or aircraft comes or is found  
17          within the territorial limits of the FSM having;

18                 (a) False bulkheads, bows, sides, or bottoms, or  
19                 any other secret or disguised place adapted for the  
20                 purpose of concealing goods; or

21                 (b) Any hole, pipe, or device adapted  
22                 for the purpose of unlawfully importing or exporting  
23                 goods.

24          (2) *Penalty.* A person convicted under this section  
25          shall subject to a fine not exceeding \$5,000, or

1 imprisonment of not more than five years, or both."

2 Section 33. Section 251 of chapter 2 of Title 54 of the Code  
3 of the Federated States of Micronesia, as amended by Public Law  
4 No. 9-139, is hereby further amended to read as follows:

5 "Section 251. [~~Vessel and aircraft adapted for~~  
6 ~~smuggling~~] Forfeited Vessels and Aircraft

7 [~~(1) The master or owner of a vessel or the pilot or~~  
8 ~~owner of an aircraft shall be guilty of a National~~  
9 ~~offense if the vessel or aircraft comes or is found~~  
10 ~~within the territorial limits of the FSM having;~~

11 ~~(a) False bulkheads, bows, sides, or bottoms, or~~  
12 ~~any other secret or disguised place adapted for the~~  
13 ~~purpose of concealing goods; or~~

14 ~~(b) Any hole, pipe, or device adapted for the~~  
15 ~~purpose of unlawfully importing or exporting goods.~~

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

19 The following vessels and aircraft may be forfeited to  
20 the FSM Government:

21 (1) Any vessel or aircraft used to unlawfully import,  
22 export, or carry any goods, where an owner or master  
23 knew or, but for the intentional disregard of objective  
24 facts, should have known, that such vessel was so used;

25 (2) Any vessel the master of which has refused to

---

1           permit such vessel to be boarded following a lawfully  
2           made request to do so;

3           (3) Any aircraft failing to land at an airport, or the  
4           master of which has refused to permit such aircraft to  
5           be boarded, after being properly requested to do so; and

6           (4) Any vessel or aircraft from which goods are thrown  
7           overboard, staved or destroyed to prevent seizure by  
8           Customs."

9           Section 34. Section 252 of chapter 2 of Title 54 of the Code  
10 of the Federated States of Micronesia, as amended by Public Law  
11 No. 9-139, is hereby further amended to read as follows:

12           ~~"Section 252. [Forfeited vessels and aircraft]~~

13           Forfeited Goods

14           ~~[The following vessels and aircraft may be forfeited to~~  
15           ~~the FSM Government:~~

16           ~~(1) Any vessel or aircraft used to unlawfully import,~~  
17           ~~export, or carry any goods, where an owner or master~~  
18           ~~knew or, but for the intentional disregard of objective~~  
19           ~~facts, should have known, that such vessel was so used;~~

20           ~~(2) Any vessel the master of which has refused to~~  
21           ~~permit such vessel to be boarded following a lawfully~~  
22           ~~made request to do so;~~

23           ~~(3) Any aircraft failing to land at an airport, or the~~  
24           ~~master of which has refused to permit such aircraft to~~  
25           ~~be boarded, after being properly requested to do so; and~~

---

1           ~~(4) Any vessel or aircraft from which goods are thrown~~  
2           ~~overboard, staved or destroyed to prevent seizure by~~  
3           ~~Customs. ]~~

4           The following goods may be forfeited to the FSM  
5           Government:

6           (1) All goods which are unlawfully imported, exported,  
7           or carried;

8           (2) All goods found on any vessel or aircraft after  
9           arrival in any port or airport which are not specified  
10           or referred to in the inward manifest and are not  
11           baggage belonging to crew or passengers and have not  
12           been satisfactorily accounted for;

13           (3) All goods subject to the control of Customs that  
14           are moved, altered or interfered with in violation of  
15           the provisions of this chapter;

16           (4) All goods which are, as specified by statute or as  
17           directed by a Customs officer, to be moved or dealt with  
18           in any way and which are not moved or dealt with in any  
19           way and which are not moved or dealt with accordingly;

20           (5) Any vehicle or animal used in smuggling or in the  
21           unlawful importation, exportation, or conveyance of any  
22           goods;

23           (6) All goods, except a passenger's baggage, found on  
24           any vessel or aircraft after clearance and not specified  
25           or referred to in the outward manifested and not

---

1           accounted for to the satisfaction of the CEO;

2           (7) All goods subject to duty or National VAT  
3           concealed in any manner;

4           (8) Any package in which there are concealed goods:

5                 (a) Not included in the clearance documents; or

6                 (b) So packed as to deceive the officer.

7           (9) All goods subject to duty or National VAT found in  
8           the possessions or in the baggage of any person who has  
9           got out of, landed from or gone on board any vessel or  
10           aircraft and who has denied that he or she has any  
11           dutiable goods in his or her possession, or who when  
12           questioned by a Customs officer has not fully disclosed  
13           that such goods are in his or her possession or baggage;

14           (10) Any stolen or counterfeit goods.”

15           Section 35. Section 253 of chapter 2 of Title 54 of the Code  
16 of the Federated States of Micronesia, as amended by Public Law  
17 No. 9-139, is hereby further amended to read as follows:

18           “Section 253. [Forfeited Goods] Seizure of Goods

19           ~~[The following goods may be forfeited to the FSM~~  
20           ~~Government:~~

21                 ~~(1) All goods which are unlawfully imported, exported,~~  
22                 ~~or carried;~~

23                 ~~(2) All goods found on any vessel or aircraft after~~  
24                 ~~arrival in any port or airport which are not specified~~  
25                 ~~or referred to in the inward manifest and are not~~

---

1 ~~baggage belonging to crew or passengers and have not~~  
2 ~~been satisfactorily accounted for;~~

3 ~~(3) All goods subject to the control of Customs that~~  
4 ~~are moved, altered or interfered with in violation of~~  
5 ~~the provisions of this chapter;~~

6 ~~(4) All goods which are, as specified by statute or as~~  
7 ~~directed by a Customs officer, to be moved or dealt with~~  
8 ~~in any way and which are not moved or dealt with in any~~  
9 ~~way and which are not moved or dealt with accordingly;~~

10 ~~(5) Any vehicle or animal used in smuggling or in the~~  
11 ~~unlawful importation, exportation, or conveyance of any~~  
12 ~~goods;~~

13 ~~(6) All goods, except a passenger's baggage, found on~~  
14 ~~any vessel or aircraft after clearance and not specified~~  
15 ~~or referred to in the outward manifested and not~~  
16 ~~accounted for to the satisfaction of the Commissioner;~~

17 ~~(7) All dutiable goods concealed in any manner;~~

18 ~~(8) Any package in which there are concealed goods:~~

19 ~~(a) Not included in the clearance documents; or~~

20 ~~(b) So packed as to deceive the officer.~~

21 ~~(9) All dutiable goods found in the possessions or in~~  
22 ~~the baggage of any person who has got out of, landed~~  
23 ~~from or gone on board any vessel or aircraft and who has~~  
24 ~~denied that he or she has any dutiable goods in his or~~  
25 ~~her possession, or who when questioned by a Customs~~

---

1 ~~officer has not fully disclosed that such goods are in~~  
2 ~~his or her possession or baggage;~~

3 ~~-(10) Any stolen or counterfeit goods.-]~~

4 (1) A Customs officer or officer of the FSM National  
5 Police may seize any forfeited goods or any goods that  
6 the officer believes on reasonable grounds are forfeited  
7 goods.

8 (2) The power to seize goods under subsection (1) of  
9 this section may, without limiting the power of that  
10 subsection, be exercised at sea or in any other waters.

11 (3) All seized goods shall be taken to the nearest  
12 National Government warehouse or to such other place of  
13 security as the CEO directs.

14 (4) All seized goods must be endorsed on an  
15 appropriate receipt.

16 (5) If the CEO determines that any goods are of a  
17 perishable nature or are live animals, such goods may be  
18 sold by the CEO without delay."

19 Section 36. Section 254 of chapter 2 of Title 54 of the Code  
20 of the Federated States of Micronesia, as amended by Public Law  
21 No. 9-139, is hereby further amended to read as follows:

22 "Section 254. [Seizure of Goods] Notice of Seizure

23 [~~(1) A Customs officer or officer of the FSM National~~  
24 ~~Police may seize any forfeited goods or any goods that~~  
25 ~~the officer believes on reasonable grounds are forfeited~~

---

1 goods.

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

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

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

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

13 (1) Where any vessel, aircraft or goods have been  
14 seized as forfeited, the seizing officer shall give  
15 written notice of the seizure and of the cause of it to  
16 the master, pilot or owner of the vessel, aircraft or  
17 goods delivering the notice:

18 (a) Personally; or

19 (b) By letter addressed to him or her and  
20 transmitted by post to or delivered at his or her last  
21 known place of abode or business.

22 (2) If the master, pilot or owner is present at the  
23 time of the seizure verbal notice is sufficient."

24 Section 37. Section 255 of chapter 2 of Title 54 of the Code  
25 of the Federated States of Micronesia, as amended by Public Law

---

1 No. 9-139, is hereby further amended to read as follows:

2 "Section 255. [Notice of Seizure] Return of Seized  
3 Goods on Security.

4 [~~(1) Where any vessel, aircraft or goods have been~~  
5 ~~seized as forfeited, the seizing officer shall give~~  
6 ~~written notice of the seizure and of the cause of it to~~  
7 ~~the master, pilot or owner of the vessel, aircraft or~~  
8 ~~goods delivering the notice:~~

9 ~~(a) Personally; or~~

10 ~~(b) By letter addressed to him or her and~~  
11 ~~transmitted by post to or delivered at his or her last~~  
12 ~~known place of abode or business.~~

13 ~~(2) If the master, pilot or owner is present at the~~  
14 ~~time of the seizure verbal notice is sufficient.]~~

15 The CEO may authorize any vessel, aircraft or goods  
16 seized, other than controlled substances or narcotic  
17 drugs, to be delivered to the owner or agent upon  
18 production of adequate security."

19 Section 38. Section 256 of chapter 2 of Title 54 of the Code  
20 of the Federated States of Micronesia, as amended by Public Law  
21 No. 9-139, is hereby further amended to read as follows:

22 "Section 256. [Return of seized goods on security]  
23 Disposal of Forfeited Goods, Aircraft, and Vessels

24 ~~[The Secretary may authorize any vessel, aircraft or~~  
25 ~~goods seized, other than controlled substances or~~

1           ~~narcotic drugs, to be delivered to the owner or agent~~  
2           ~~upon production of adequate security.]~~

3           All forfeited goods, aircraft, and vessels shall become  
4           the property of the National Government and shall be  
5           sold, destroyed, or otherwise disposed of as the CEO may  
6           direct."

7           Section 39. Section 257 of chapter 2 of Title 54 of the Code  
8 of the Federated States of Micronesia, as amended by Public Law  
9 No. 9-139, is hereby further amended to read as follows:

10           ~~"Section 257. [Appeal procedures on the forfeiture of~~  
11           ~~goods]~~ Conspiracy for Unlawful Purposes.

12           ~~[(1) Any person claiming an interest in goods, or~~  
13           ~~acting on behalf of a person claiming an interest in~~  
14           ~~goods, may appeal their forfeiture.~~

15           ~~(2) Form and time of appeal:~~

16           ~~(a) The Secretary or his designee may prescribe~~  
17           ~~the form of the notice of appeal and statement of claim.~~

18           ~~(b) Notice of appeal, supported by a statement of~~  
19           ~~claim, shall be filed with the Secretary or his designee~~  
20           ~~within 30 days of the date of issuance of the notice of~~  
21           ~~seizure.~~

22           ~~(c) With the permission of the Secretary or his~~  
23           ~~designee, the appellant may file supplementary documents~~  
24           ~~after the 30 day period lapses.~~

25           ~~(d) Every statement of claim shall set out the~~

---

1 ~~interest of the appellant in the goods and shall be~~  
2 ~~accompanied by proof of the existence and nature of the~~  
3 ~~interest. In addition to this the statement will set~~  
4 ~~forth clear and specific reasons why forfeiture should~~  
5 ~~not proceed.~~

6 ~~(3) On any such appeal, the Secretary or his designee~~  
7 ~~may waive the forfeiture either in whole or in part, and~~  
8 ~~may impose conditions on the waiver of forfeiture.~~

9 ~~(4) Any such waiver may require that there shall be~~  
10 ~~paid to the National Government in respect of the goods,~~  
11 ~~a sum equal to the whole or any part of any one or more~~  
12 ~~of the following:~~

13 ~~(a) Any costs or expenses incurred by the~~  
14 ~~Customs;~~

15 ~~(b) Any duty (including penalties and interest)~~  
16 ~~not already paid;~~

17 ~~(c) Any duty (including penalties and interest)~~  
18 ~~already refunded.~~

19 ~~(5) Goods seized shall be deemed to be forfeited to~~  
20 ~~the National Government, if no notice of appeal and~~  
21 ~~statement of claim is filed with the Secretary or his~~  
22 ~~designee within 30 days of the date of issuance of the~~  
23 ~~seizure notice.~~

24 ~~(6) Any decision of the Secretary or his designee in~~  
25 ~~respect of forfeiture may be appealed to the Trial~~

---

1 ~~Division of the Supreme Court within 60 days after the~~  
2 ~~decision is rendered.]~~

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

5 (a) Importing prohibited or restricted imports;

6 (b) Exporting prohibited or restricted exports;

7 (c) Smuggling; or

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

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

15 (3) Penalty. A person convicted under this section  
16 shall be subject to a fine not exceeding \$10,000, or  
17 imprisonment of not more than five years, or both."

18 Section 40. Section 258 of chapter 2 of Title 54 of the Code  
19 of the Federated States of Micronesia, as amended by Public Law  
20 No. 9-139, is hereby further amended to read as follows:

21 "Section 258. [Disposal of forfeited goods, aircraft  
22 and vessels] Smuggling and Unlawful Importing and  
23 Exporting

24 [All forfeited goods, aircraft, and vessels shall become  
25 the property of the National Government and shall be

---

1 ~~sold, destroyed, or otherwise disposed of as the~~  
2 ~~Secretary or Commissioner may direct.]~~

3 (1) A person commits a National offense if that person  
4 willfully smuggles or otherwise unlawfully imports,  
5 exports or carries goods.

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

10 (a) in smuggling; or

11 (b) for the other unlawful importation,  
12 exportation, or carriage of any goods.

13 (3) Penalty. A person convicted under this section  
14 will be subject to a fine not exceeding \$10,000, or  
15 imprisonment of not more than five years, or both."

16 Section 41. Section 259 of chapter 2 of Title 54 of the Code  
17 of the Federated States of Micronesia, as amended by Public Law  
18 No. 9-139, is hereby further amended to read as follows:

19 "Section 259. [~~Conspiracy for unlawful importing and~~  
20 exporting] Bribery

21 [~~(1) If two or more persons willfully conspire for the~~  
22 purpose of:

23 ~~(a) Importing prohibited or restricted imports;~~

24 ~~(b) Exporting prohibited or restricted exports;~~

25 ~~(c) Smuggling; or~~

---

1                   ~~(d) Preventing the seizure of any prohibited or~~  
2                   ~~restricted imports, prohibited or restricted exports, or~~  
3                   ~~smuggled goods, then each of them is guilty of a~~  
4                   ~~National offense.~~

5                   ~~(2) So far as it relates to prohibited and/or~~  
6                   ~~restricted imports and exports, this section also~~  
7                   ~~applies to all controlled substances and narcotic drugs.~~

8                   ~~(3) Penalty. A person convicted under this section~~  
9                   ~~shall be subject to a fine not exceeding \$10,000, or~~  
10                   ~~imprisonment of not more than five years, or both.]~~

11                   For the purpose of section 531 of title 11 of this code,  
12                   regarding bribery, or its successor provision, each  
13                   Customs officer has a "known legal duty" to enforce the  
14                   law, including investigating each container, vessel or  
15                   aircraft to the best of that officer's ability and  
16                   levying the correct amount of import duty and National  
17                   VAT, as provided by law."

18                   Section 42. Section 260 of chapter 2 of Title 54 of the Code  
19 of the Federated States of Micronesia, as amended by Public Law  
20 No. 9-139, is hereby further amended to read as follows:

21                   "Section 260. [Smuggling and unlawful importing and  
22                   exporting] Offenses in Relation to Drugs

23                   ~~[(1) A person commits a National offense if that person~~  
24                   ~~willfully smuggles or otherwise unlawfully imports,~~  
25                   ~~exports or carries goods as defined in section 212 of~~

---

1           ~~this chapter.~~

2           ~~(2) A person commits a National offense if that person~~  
3           ~~is the owner or master of a vessel or the owner or pilot~~  
4           ~~of an aircraft who uses or willfully permits the vessel~~  
5           ~~or aircraft to be used:~~

6                     ~~(a) in smuggling; or~~

7                     ~~(b) for the other unlawful importation,~~  
8           ~~exportation, or carriage of any goods as defined by~~  
9           ~~section 212 of this chapter.~~

10           ~~(3) Penalty. A person convicted under this section~~  
11           ~~will be subject to a fine not exceeding \$10,000, or~~  
12           ~~imprisonment of not more than five years, or both.]~~

13           (1) A person is guilty of a National offense who:

14                     (a) Without any reasonable excuse has in his or  
15           her possession, on board any vessel or aircraft, any  
16           controlled substances, cannabis, or narcotic drugs;

17                     (b) Imports or attempts to import any controlled  
18           substances, cannabis, or narcotic drugs;

19                     (c) Exports or attempts to export any controlled  
20           substances, cannabis, or narcotic drugs;

21                     (d) Without reasonable excuse has in his or her  
22           possession, or attempts to obtain possession of, any  
23           controlled substances, cannabis, or narcotic drugs which  
24           have been imported into the FSM in contravention of this  
25           chapter;

---

1           (e) Conspires with another person or other  
2           persons to import, bring, or cause to be brought into  
3           the FSM any controlled substances, cannabis, or narcotic  
4           drugs;

5           (f) Knowingly aids, abets, counsels or procures,  
6           or is in any way concerned in, the importation or  
7           exportation into the FSM of any controlled substances,  
8           cannabis, or narcotic drugs;

9           (g) Fails to disclose to a Customs officer on  
10          demand any knowledge in that person's possession or  
11          power concerning the importation or exportation, or  
12          intended importation or exportation, into the FSM of any  
13          controlled substances, cannabis, or narcotic drugs;

14          (2) 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 five years, or both."

17          Section 43. Section 261 of chapter 2 of Title 54 of the Code  
18 of the Federated States of Micronesia, as amended by Public Law  
19 No. 9-139, is hereby further amended to read as follows:

20          "Section 261. [Attempts, solicitations, conspiracies]  
21          Written Authority of Agents

22          [Any person who willfully attempts, solicits, or  
23          conspires to commit any National offense defined in this  
24          chapter shall be subject to the penalties provided in  
25          chapter 2 of title 11 of this code except where

---

1 ~~otherwise provided in this chapter.]~~

2 Any Customs officer may require any person acting as or  
3 claiming to act as the agent of any person in any matter  
4 relating to this chapter to produce written authority  
5 from his principal, and if such authority is not  
6 produced the officer may refuse to recognize the  
7 agency."

8 Section 44. Section 262 of chapter 2 of Title 54 of the Code  
9 of the Federated States of Micronesia, as amended by Public Law  
10 No. 9-139, is hereby further amended to read as follows:

11 "Section 262. [Bribery] Regulations

12 ~~[For the purpose of section 531 of title 11 of this~~  
13 ~~code, regarding bribery, or its successor provision,~~  
14 ~~each Customs officer has a "known legal duty" to enforce~~  
15 ~~the law, including investigating each container, vessel~~  
16 ~~or aircraft to the best of that officer's ability and~~  
17 ~~levying the correct duties, as provided by law.]~~

18 (1) The Secretary shall, subject to approval of the  
19 President, prescribe and have printed reasonable  
20 regulations for the enforcement of this Chapter and such  
21 regulations have force and effect of law if they are not  
22 in conflict with the express provisions of this Chapter  
23 or other laws of the FSM.

24 (2) The regulations shall also provide for matters  
25 prescribed under the Chapter to be made by regulation.

---

1           (3) Such regulations shall be promulgated in  
2           accordance with Chapter 1 of Title 17 of this code."

3           Section 45. Section 263 of chapter 2 of Title 54 of the Code  
4 of the Federated States of Micronesia, as amended by Public Law  
5 No. 9-139, is hereby further amended to read as follows:

6           "Section 263. [Offense in relation to drugs] Assistance  
7           From the Public

8           ~~[(1) A person is guilty of a National offense who:~~

9                   ~~(a) Without any reasonable excuse has in his or~~  
10                   ~~her possession, on board any vessel or aircraft, any~~  
11                   ~~controlled substances, cannabis, or narcotic drugs;~~

12                   ~~(b) Imports or attempts to import any controlled~~  
13                   ~~substances, cannabis, or narcotic drugs;~~

14                   ~~(c) Exports or attempts to export any controlled~~  
15                   ~~substances, cannabis, or narcotic drugs;~~

16                   ~~(d) Without reasonable excuse has in his or her~~  
17                   ~~possession, or attempts to obtain possession of, any~~  
18                   ~~controlled substances, cannabis, or narcotic drugs which~~  
19                   ~~have been imported into the FSM in contravention of this~~  
20                   ~~chapter;~~

21                   ~~(e) Conspires with another person or other~~  
22                   ~~persons to import, bring, or cause to be brought into~~  
23                   ~~the FSM any controlled substances, cannabis, or narcotic~~  
24                   ~~drugs;~~

25                   ~~(f) Knowingly aids, abets, counsels or procures,~~

1 ~~or is in any way concerned in, the importation or~~  
2 ~~exportation into the FSM of any controlled substances,~~  
3 ~~cannabis, or narcotic drugs;~~

4 ~~(g) Fails to disclose to a Customs officer on~~  
5 ~~demand any knowledge in that person's possession or~~  
6 ~~power concerning the importation or exportation, or~~  
7 ~~intended importation or exportation, into the FSM of any~~  
8 ~~controlled substances, cannabis, or narcotic drugs;~~

9 ~~(2) Penalty. A person convicted under this section~~  
10 ~~shall be subject to a fine not exceeding \$5,000, or~~  
11 ~~imprisonment of not more than five years, or both.]~~

12 (1) Where necessary, a Customs officer may call upon  
13 and deputized any member of the public to assist in the  
14 execution of that officer's duty under this chapter.

15 (2) Any such member of the public, so deputized,  
16 shall have the same powers and immunity as the officer  
17 such person is assisting."

18 Section 46. Section 264 of chapter 2 of Title 54 of the Code  
19 of the Federated States of Micronesia, as amended by Public Law  
20 No. 9-139, is hereby further amended to read as follows:

21 "Section 264. [Miscellaneous offenses] Implementation

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

24 ~~(a) Evades any duty that is payable;~~

25 ~~(b) Willfully prepares, passes, alters or~~

---

1 ~~presents a document purporting to be a genuine invoice~~  
2 ~~that is not in fact a genuine invoice;~~

3 ~~(c) Willfully makes, in a declaration or document~~  
4 ~~produced to a Customs officer, a statement that is~~  
5 ~~untrue in any particular;~~

6 ~~(d) Willfully produces or delivers to a Customs~~  
7 ~~officer a declaration or document containing a statement~~  
8 ~~that is untrue in any particular;~~

9 ~~(e) Willfully misleads any Customs officer in any~~  
10 ~~particular likely to affect the discharge of the~~  
11 ~~officer's duty; or~~

12 ~~(f) Refuses or fails to answer questions to the~~  
13 ~~best of that person's knowledge and belief, or to~~  
14 ~~produce all documents relating to the concerned subject.~~

15 ~~(2) Penalty. A person convicted under this section~~  
16 ~~shall be subject to a fine not exceeding \$1,000, or~~  
17 ~~imprisonment of not more than one year, or both.]~~

18 (1) To give effect to the provisions of this chapter  
19 the CEO is authorized to:

20 (a) Draw up and implement procedures and  
21 guidelines;

22 (b) Distribute such procedures and guidelines to  
23 interested parties;

24 (c) Appoint appraisers in each of the States to  
25 examine invoices presented to Customs.

---

1           (2) The Authority is authorized to become a member of  
2           and to send representatives to meetings of;

3           (a) Organizations that foster cooperation between  
4           Pacific Island Nations Customs Divisions;

5           (b) Organizations that will increase the  
6           expertise and efficiency of the Authority in relation to  
7           customs matters."

8           Section 47. Section 265 of chapter 2 of Title 54 of the Code  
9 of the Federated States of Micronesia, as amended by Public Law  
10 No. 9-139, is hereby further amended to read as follows:

11           "Section 265. [~~Liability of principal for acts of~~  
12           ~~agents]~~. Effective Date.

13           ~~[(1) Every act done by an agent in the course of his~~  
14           ~~agency in relation to the provisions of this chapter,~~  
15           ~~shall be deemed to have been made or done by his or her~~  
16           ~~principal also, and the principal shall be liable~~  
17           ~~accordingly for all civil penalties imposed by this~~  
18           ~~chapter.]~~

19           ~~[(2) For the purpose of this section the knowledge and~~  
20           ~~intent of the agent within the course and scope of his~~  
21           ~~agency shall be attributed to the principal in addition~~  
22           ~~to his own.]~~

23           This Act shall become law upon approval by the President  
24           of the Federated States of Micronesia or upon its  
25           becoming law without such approval, and this Act shall

1           take effect thirty (30) months after the effective date  
2           of the FSM Unified Revenue Authority Act 2010."

3           Section 48. Sections 266, 267, 268, 269 and 270 of chapter 2  
4 of Title 54 of the Code of the Federated States of Micronesia, as  
5 amended by Public Law No. 9-139, is hereby repealed in its  
6 entirety.

7

8 Date: 3/26/10

Introduced by: /s/ Joe N. Suka

Joe N. Suka  
(by request)

9

10

11

12

13