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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 Laws Nos. 9-139, 13-60, and 15-58, by amending sections 211, 212, 222, 231, 232, 233, 234, 235, 238, 242, 249, 250, 253, 254, 256, 258, 267 and 269 thereof; by repealing section 221 and inserting a new section 221 in lieu thereof; by repealing sections 241, 257, 261, 264, 265 and 270; and by adding a new section 271 thereto; for the purpose of establishing the Customs and Duty Standardization Act of 2011; and for other purposes.

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

2           Section 1. Section 211 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 211. Short title.

6                   This chapter may be cited as the [~~"Customs Act of 1996]~~  
7                   Customs and Duty Standardization Act of 2011".

8           Section 2. Section 212 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 212. Definitions.

12                   In this chapter, except where otherwise specified, the  
13 following terms shall have the meanings stated below:

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

17                   (2) '*Aircraft*' includes airplanes, seaplanes,  
18 airships, balloons or any other means of aerial

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1 locomotion.

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

5 (4) '*Approved form*' means a form approved by the  
6 Secretary of the FSM Department of Finance and  
7 Administration.

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) 'Authority' means the Federated States of  
12 Micronesia Unified Revenue Authority established by  
13 section 711 of this title.

14 (~~6~~7) '*Cannabis*' means a *cannabis* plant, whether living  
15 or dead, which includes, in any form, any flowering or  
16 fruiting tops, leaves, seeds, stalks or any other part  
17 of a *cannabis* plant and any mixture of parts of a  
18 *cannabis* plant.

19 (8) 'CEO' means the Chief Executive Officer appointed  
20 under section 731 of this title.

21 (~~7~~9) '*CIF*' means '*costs, insurance, and freight*'  
22 incurred for imported goods, and includes all costs and  
23 charges associated with the goods up through the time  
24 they are delivered to and unloaded at an FSM port of  
25 entry or post office.

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1           ~~[(8) "Commissioner" means the Commissioner of Customs]~~

2           ([9]10) '*Congress*' means the Congress of the FSM.

3           ([10]11) '*Container*' means an article of transport  
4           equipment:

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

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

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

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

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

19           ([11]12) '*Controlled substance*' means those described in  
20           sections 1119, 1121, 1123, 1125, and 1127 of title 11 of  
21           this code or successor provision of law.

22           ([12]13) '*Customs*' means ~~[the FSM Department of Finance]~~  
23           the Unified Revenue Authority, Division of Customs.

24           ([13]14) '*Customs Officer*' means ~~[a person]~~:

25                          (a) a person employed by the ~~[FSM Department of~~

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1           ~~Finance~~] Unified Revenue Authority, Division of Customs;  
2                   (b) a revenue officer appointed under section 732  
3           of this title authorized in writing by the [~~Secretary~~]  
4           CEO under this chapter to perform all of the functions  
5           of a Customs officer; or

6                   (c) a person deputized in accordance with the  
7           provisions of section 268 of this chapter.

8           (~~14~~15) '*Duty*' means any tax payable on the importation  
9           of goods, and "*dutiable goods*" means those goods subject  
10          to tax on their importation.

11          (~~15~~16) '*FOB*' ('*free on board*') means the value of  
12          goods when shipped for export, and includes all costs  
13          and charges up to the time of delivery of the goods on  
14          board the exporting vessel or aircraft.

15          (~~16~~17) '*Forfeiture*' means the surrender of ownership  
16          of property to the FSM Government following a breach of  
17          certain provisions of this chapter; it is independent of  
18          and in addition to any penalty imposed by this chapter.

19          (~~17~~18) '*FSM*' means the Federated States of Micronesia.

20          (~~18~~19) '*Goods*' means any type of merchandise, product,  
21          commodity, vehicle, moveable personal property, or  
22          commercial wares.

23          (~~19~~20) '*Importer*' means, in relation to goods, the owner  
24          of the goods, any person by or for whom any goods are  
25          imported, and includes the consignee and any other

1 person who is beneficially interested in the goods.

2 (~~20~~21) 'Master' means:

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

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

7 (~~21~~22) '*Narcotic drug*' means those described in  
8 subsection (15) of section 1112 of title 11 of this code  
9 or successor provision of law.

10 (~~22~~23) '*On or about the body*' means on or within the  
11 body, clothing, footwear, purse, handbag, or similar  
12 article.

13 (~~23~~24) '*Owner*' means:

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

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

22 (~~24~~25) '*Package*' includes every means by which goods  
23 for transportation may be cased, covered, enclosed,  
24 contained, or packed.

25 (~~25~~26) '*Person*' means any individual, company,

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1 corporation, partnership, unincorporated association, or  
2 other business entity.

3 (~~26~~27) '*Pilot*' means the person in charge or in  
4 command of an aircraft.

5 (~~27~~28) '*Place*' means any location, building or  
6 site, and includes moveable locations such as a vessel  
7 or aircraft.

8 (~~28~~29) '*Port*' or '*Port of entry*' means an official port  
9 of entry identified in or pursuant to title 18 of this  
10 code and amendments thereto.

11 (~~29~~30) '*President*' means the President of the FSM.

12 (~~30~~31) '*Prohibited goods*' means any goods the  
13 importation or exportation of which is prohibited under  
14 FSM law.

15 (~~31~~32) '*Regulations*' means any regulations  
16 promulgated pursuant to this chapter.

17 (~~32~~33) '*Secretary*' means the Secretary of the FSM  
18 Department of Finance and Administration.

19 (~~33~~34) '*Smuggling*' means any importation or  
20 exportation, attempted importation or exportation, with  
21 the intent to defraud the FSM.

22 (~~34~~35) '*Stamp*' means device or instrument used by a  
23 Customs officer to make a distinctive impression or  
24 imprint, to identify and evidence the clearance of  
25 imported or exported goods and the clearance of vessels

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1           or aircraft.

2           (~~[35]~~[36]) '*Unlawfully imported, exported, or carried*  
3           *goods*' means any smuggled goods and any goods imported,  
4           exported, or carried in breach of the provisions of this  
5           chapter, or any other law of the FSM, or whose sale,  
6           possession or use is prohibited or contrary to  
7           restrictions imposed by the State into which the  
8           importation took place. The above defined phrase  
9           carries a like meaning wherever similarly stated in this  
10          chapter.

11          (~~[36]~~[37]) '*Vehicle*' means every description of  
12          motorized carriage or other contrivance used or capable  
13          of being used as a means of transport on land.

14          Section 3. Sections 241, 257, 261, 264, 265 and 270 of  
15          chapter 2 of title 54 of the Code of the Federated States of  
16          Micronesia are hereby repealed in their entirety.

17          Section 4. Section 221 of chapter 2 of title 54 of the Code  
18          of Federated States of Micronesia is hereby repealed in its  
19          entirety and a new section 221 is established to read as follows:

20                 "Section 221. Levy and rates. Import duty is hereby  
21                 levied on all goods which are imported into the FSM at  
22                 the rate of ten percent (10%) ad valorem."

23          Section 5. Section 222 of chapter 2 of title 54 of the Code  
24          of the Federated States of Micronesia, as amended by Public Law  
25          No. 15-58, is hereby further amended to read as follows:

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1           "Section 222. Exemptions.

2           (1) *Damaged, pillaged or faulty goods.* Upon receipt  
3 of a written request within 28 days of the goods'  
4 release from Customs control, the [~~Secretary~~] CEO may  
5 authorize a refund of the whole or part of the duty  
6 paid, where any of the following conditions exist:

7           (a) goods have been damaged, pillaged, lost or  
8 destroyed during the voyage;

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

11           (c) the [~~Commissioner~~] CEO is satisfied that,  
12 owing to a fault or defect in any goods, the importer  
13 has received a reduction or a refund, in whole or part,  
14 of the price paid for the goods.

15           (2) *Goods imported for subsequent export.*

16           (a) Upon application to and approval by the  
17 [~~Secretary~~] CEO, import duty paid on the following goods  
18 shall be refunded: goods imported for processing in the  
19 FSM, not otherwise used in the FSM, and subsequently  
20 exported from the FSM. For purposes of this subsection,  
21 raw materials or ingredients which are worked into or  
22 otherwise become part of a different or more finished  
23 product are deemed exported when that product is  
24 exported.

25           (b) Goods imported for processing are eligible



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1 for the duty refund when the finished products which the  
2 imported goods were processed into have been loaded on  
3 an aircraft or vessel for direct removal from the FSM  
4 and that aircraft or vessel has departed from the port.  
5 After they have been so loaded, the goods shall again be  
6 subject to import duty if they are unloaded or used in  
7 the FSM. With respect to importers primarily engaged in  
8 importing for processing and subsequent export, the  
9 Secretary shall provide for waiving, by regulation  
10 rather than collecting and subsequently refunding,  
11 duties.

12 (c) Upon application to and approval by the  
13 [~~Secretary~~] CEO, import duty shall be waived on the  
14 following goods: goods imported for transshipment  
15 through the FSM, not to be used in the FSM, which are  
16 securely stored while in the FSM and which are exported  
17 from the FSM within a reasonable time of import to the  
18 FSM, as defined by regulation. Should these goods not be  
19 exported within a reasonable time, the importer will be  
20 subject to a penalty equal to one-quarter of the import  
21 duty that would have been due if the goods were to be  
22 used in the FSM. Should these goods be removed from the  
23 secure storage facility or used in the FSM, they will be  
24 subject to the full import duty.

25 (d) The burden of proving that goods imported are

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1 for subsequent export shall be upon the  
2 importer/exporter as specified in regulations.

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

12 (a) up to 200 cigarettes;

13 (b) up to one pound of tobacco or twenty cigars;

14 (c) up to 52 fluid ounces or 1500 milliliters of  
15 distilled alcoholic beverages; and

16 (d) up to two hundred dollars (\$200) worth of  
17 goods other than tobacco products, beer and malt  
18 beverages, distilled alcoholic beverages, and wine.

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

24 (5) *Returning goods.* Goods produced or properly  
25 entered in the FSM which are subsequently removed from

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1 the FSM may be returned to the FSM duty free. The  
2 burden shall be on the owner of the goods to establish  
3 that the goods were either produced in the FSM or  
4 previously and properly entered.

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

20 (7) *Certain fishing vessels and equipment.* Fishing  
21 vessels basing in the Federated States of Micronesia  
22 under a valid permit or license issued pursuant to title  
23 24 of the Code of the Federated States of Micronesia  
24 shall not be subject to the import duty on either the  
25 vessel or equipment installed in the vessel. This

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1 exemption shall apply to replacement parts and equipment  
2 imported by these fishing vessels as well.

3 (8) *Parcels which would generate a de minimis duty.*  
4 Parcels mailed or otherwise sent into the FSM, which  
5 would otherwise generate a de minimis duty, shall be  
6 exempt from import duty, provided that such goods are  
7 for the recipient's own personal use or consumption and  
8 not for resale or exchange. Parcels with values up to  
9 the amount specified in subsection (3)(d) of this  
10 section, shall be exempt.

11 (9) *Health, education and welfare related goods*  
12 *donated for humanitarian use.* Upon application to and  
13 approval by the [~~Secretary~~] CEO, the import duty on  
14 goods related to health, education or welfare donated  
15 without cost for humanitarian purposes, and not for  
16 resale, shall be waived or refunded; PROVIDED, HOWEVER,  
17 that if and when any of such goods are subsequently sold  
18 in the FSM, import duty shall be due based on the sale  
19 amount. The duty, together with penalties and interest,  
20 shall be the joint and several personal liability of the  
21 importer and the purchaser and shall be secured by first  
22 liens on the goods and on the importer's property as  
23 hereinafter provided."

24 Section 6. Section 231 of chapter 2 of title 54 of the Code  
25 of the Federated States of Micronesia is hereby amended to read as

1 follows:

2 "Section 231. Administration of Customs.

3 (1) The [~~Secretary of Finance~~] CEO shall appoint  
4 Customs officers.

5 (2) *Customs locks and seals.*

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

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

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

19 (3) *Customs stamps.*

20 (a) *Stamped impression.* All courts and all  
21 persons shall take notice of a stamped impression made  
22 by an officer during the course of his/her duties and  
23 shall presume, until shown otherwise, that the  
24 impression was made by the proper authority.

25 (b) *National offense.* Any person who willfully

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1           disregards, alters or attempts to alter, or unlawfully  
2           duplicates a Customs stamp is guilty of a National  
3           offense.

4                   (c) *Penalty.* A person convicted under this  
5           subsection shall be subject to a fine not exceeding  
6           \$1,000, or imprisonment of not more than one year, or  
7           both.

8                   (4) *Working days and hours.* The working days and  
9           hours of [~~the Division of~~] Customs are Monday through  
10          Friday, 8 a.m. through 5 p.m., except for National  
11          holidays [~~or as prescribed by Public Service System~~  
12          ~~Regulations~~].

13                   (a) Except when the working of overtime is  
14           authorized in advance by the [~~Commissioner~~] CEO, cargo  
15           should be cleared and passengers landed from vessel or  
16           aircraft only on working days and during working hours.

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

24                   (5) *Insurance.* The Commissioner is authorized to  
25           provide insurance coverage for Customs officers who

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1 undertake hazardous duties.

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

6 ~~(a) overview;~~

7 ~~(b) revenue:~~

8 ~~(i) revenue collected;~~

9 ~~(ii) cost of collection;~~

10 ~~(iii) costs recovered;~~

11 ~~(iv) entries passed;~~

12 ~~(c) enforcement:~~

13 ~~(i) invoices appraised;~~

14 ~~(ii) vessels and aircraft searched;~~

15 ~~(iii) goods seized;~~

16 ~~(iv) prosecutions and convictions;~~

17 ~~(d) Staff;~~

18 ~~(e) Plan for the next year.]~~

19 ~~([7]6) Customs officers' authority to arrest.~~

20 (a) When authorized by the [Secretary] CEO, a  
21 Customs officer shall have the authority given to a  
22 policeman under section 211 of title 12, or successor  
23 provision of law, to make an arrest without warrant for  
24 an offense defined under this chapter.

25 (b) The [Secretary] CEO shall, on consultation

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1 with the [~~Attorney General~~] Secretary of the FSM  
2 Department of Justice, establish procedures for arrest  
3 and disposition of criminal suspects by Customs  
4 officers."

5 Section 7. Section 232 of chapter 2 of title 54 of the Code  
6 of the Federated States of Micronesia is hereby amended to read as  
7 follows:

8 "Section 232. Duties of controlling authorities.

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

13 (a) staff accommodation and facilities for the  
14 use of Customs officers, at such place or places as the  
15 [~~Secretary~~] CEO may direct; and

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

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

25 Section 8. Section 233 of chapter 2 of title 54 of the Code



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1 of the Federated States of Micronesia is hereby amended to read as  
2 follows:

3 "Section 233. Cooperation with other National and State  
4 authorities.

5 The [Secretary] CEO is authorized to enter into  
6 Memorandums of Understanding with other National and  
7 State authorities to allow the [Division of Customs]  
8 Authority to provide assistance in the enforcement of  
9 any National or State law.

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

14 ([2]1) *Statistics.*

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

19 (b) The [Secretary] CEO is authorized to  
20 introduce classification schedules, including the  
21 Harmonized Commodity Description and Coding System HS  
22 and its subsequent revisions, and associated computer  
23 software to assist with this function.

24 ([3]2) *Quarantine.* The [Secretary] CEO may accept  
25 an appointment made by the Secretary of the FSM

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

5 ([4]3) *Food safety*. The [Secretary] CEO may accept  
6 an appointment by the Secretary of the FSM Department of  
7 Health Services regarding the empowering of Customs  
8 officers to perform food safety inspections pursuant to  
9 ~~[41 F.S.M.C. 1013]~~ section 1013 of title 41 of this  
10 code (National Food Safety Act) or any successor  
11 provision.

12 ([5]4) *Immigration*. The [Secretary] CEO may accept  
13 an appointment made by the Secretary of the FSM [~~Office~~  
14 ~~of the Attorney General~~] Department of Justice regarding  
15 the empowering of Customs officers to perform  
16 immigration inspections pursuant to section 108 of title  
17 50 of this code or any successor provision.

18 ([6]5) *Community, social, environmental and*  
19 *antiquities protection*. The [~~Division of Customs~~]  
20 Authority will monitor imports and exports on behalf of  
21 other National and State agencies to ensure compliance  
22 with legislation and international agreements, ratified  
23 by the FSM, dealing with community, social,  
24 environmental and antiquities protection.

25 Section 9. Section 234 of chapter 2 of title 54 of the Code

1 of the Federated States of Micronesia is hereby amended to read as  
2 follows:

3           "Section 234. Customs control of goods.

4                   (1) *Goods subject to Customs control:*

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

9                   (b) All goods for export, from the time such  
10 goods are brought to any port, airport or other place  
11 for export until their exportation to any country  
12 outside of the FSM.

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

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

22                   (3) *CY-CY Containers.*

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

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1 (b) The consignee shall notify the [~~Division of~~  
2 ~~Customs~~] Authority of the delivery of the shipment and  
3 shall not open the container without the approval of a  
4 Customs officer.

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

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

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

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

21 Section 10. Section 235 of chapter 2 of title 54 of the Code  
22 of the Federated States of Micronesia is hereby amended to read as  
23 follows:

24 "Section 235. Right of examination.

25 A Customs officer shall have the right to examine all

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1 goods subject to Customs control.

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

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

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

12 (2) *Search of residences, building and premises.* Any  
13 officer, with legally sufficient grounds to believe  
14 goods that may be forfeited pursuant to section 253 of  
15 this chapter are present and, pursuant to a search  
16 warrant required by law, may enter any residence,  
17 building or premise to search for and seize such goods.

18 (3) *Search of persons.*

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

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

3                   (c) Searches shall be undertaken by an officer or  
4                   person of the same gender unless there are reasonable  
5                   grounds for believing the person being searched may  
6                   resist the search or, despite diligent efforts to  
7                   procure an officer or person of the same gender, no such  
8                   person is available to undertake the search.

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

11                  (4) The powers in this section are in addition to the  
12                  powers in subchapter VII of chapter 8 of this title."

13                  Section 11. Section 238 of chapter 2 of title 54 of the Code  
14 of the Federated States of Micronesia is hereby amended to read as  
15 follows:

16                  "Section 238. Importation of goods.

17                  (1) *Arrival procedures.* On arrival of a vessel or an  
18                  aircraft at any port in the FSM the master or pilot of  
19                  such vessel or aircraft shall deliver to the Customs  
20                  officer:

21                         (a) Copies of the manifest; and

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

24                  (2) *Time limit for entry.* Each consignee of imported  
25                  goods shall make entry of those goods at the local

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1 Customs office within 15 days after departure of the  
2 importing vessel or aircraft, exclusive of Sundays and  
3 FSM national holidays. To enter goods means to notify  
4 [~~Customs officials~~] the CEO of the arrival of those  
5 goods and to comply with all Customs requirements in  
6 connection therewith.

7 (3) *Verification of entry:*

8 (a) Entry shall be verified by the presentation  
9 to Customs by the consignee, or authorized agent of the  
10 consignee, of a completed and signed entry form together  
11 with a non-negotiable bill of lading or an air waybill  
12 and vendor's invoices for the imported goods.

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

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

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

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

24 (c) The approved entry form shall set forth such  
25 facts in regard to the importation as the [~~Secretary~~]

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1           CEO may require for the inspection, appraisement,  
2           payment of import taxes and for the collection of  
3           statistics.

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

8           (5) *Personal Baggage.* Goods that are the personal  
9           baggage of passengers in a vessel or aircraft and are  
10          not taxable goods may be released without entry.

11          (6) *Importation defined:*

12                 (a) Goods shall, except where otherwise expressly  
13                 provided, be deemed to be imported into the FSM as soon  
14                 as and in any manner, whether lawfully or unlawfully,  
15                 they are brought or come within the territorial limits  
16                 of the FSM from any country outside those limits. For  
17                 purposes of this chapter, the territorial limits of the  
18                 FSM include the territorial sea, as defined in chapter 1  
19                 of title 18 of this code.

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



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

5 (d) Vessels or aircraft entering into the  
6 territorial limits of the FSM solely in transit or for  
7 loading, unloading, transshipping, provisioning,  
8 refueling, other resupply, equipping, maintenance,  
9 repair, overhaul, and other like purposes shall not be  
10 deemed to be goods imported into the FSM unless such  
11 vessels or aircraft thereafter become based in the FSM.

12 (7) *Import tax rate.* Dutiable goods shall be liable  
13 to the duty rates at the time when the aircraft or  
14 vessel first arrives at a designated port of entry  
15 within the FSM.

16 (8) *Clearing goods prior to arrival.* Each consignee  
17 of imported goods, may, provided he or she has the  
18 required documentation, clear those goods prior to  
19 arrival of the vessel or aircraft. This does not waive  
20 or limit the authority of Customs to examine those goods  
21 on arrival.

22 (9) *Exempt goods.* All tax exempt goods shall be  
23 identified and cleared on the official clearance form.

24 (10) *Abandoned goods:*

25 (a) Goods remaining unentered three months after

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1           the departure of the importing vessel or aircraft shall  
2           be treated as goods abandoned to the National Government  
3           and may be sold by public auction, destroyed, or  
4           otherwise disposed of as the CEO may direct.

5                   (b) Proceeds of such sale shall be [~~deposited in~~  
6           ~~the General Fund and~~] used first to pay expenses of  
7           sale, duties, storage charges, and any lien for freight  
8           changes, in said order. Surplus proceeds may be paid to  
9           the owner upon proof of his or her interest therein."

10          Section 12. Section 242 of chapter 2 of title 54 of the Code  
11 of the Federated States of Micronesia is hereby amended to read as  
12 follows:

13           "Section 242. Boarding and searching vessels and  
14           aircraft on arrival.

15                   (1) *Boarding, searching, and answering questions.* A  
16 Customs officer may:

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

20                   (b) Search any vessel or aircraft on arrival in  
21 the FSM;

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

25                   (i) the vessel or aircraft, its voyage or

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

4 (2) *Arming of officers.*

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

10 (b) All occasions when Customs officers are armed  
11 while boarding shall be reported to the FSM [~~Office of~~  
12 ~~the Attorney General~~] Department of Justice."

13 Section 13. Section 249 of chapter 2 of title 54 of the Code  
14 of the Federated States of Micronesia is hereby amended to read as  
15 follows:

16 "Section 249. Report of cargo.

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

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

25 (b) To answer questions relating to the vessel or

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1 aircraft and her cargo, crew, passengers, stores and  
2 voyage; or

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

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

8 Section 14. Section 250 of chapter 2 of title 54 of the Code  
9 of the Federated States of Micronesia is hereby amended to read as  
10 follows:

11 "Section 250. Report of wrecked vessel or aircraft.

12 (1) When any vessel from outside the FSM is lost or  
13 wrecked upon the coast, the master or owner shall  
14 without unreasonable delay make report of the vessel and  
15 her cargo to the Customs office nearest to the place  
16 where the vessel was lost or wrecked.

17 (2) When any aircraft arriving from outside the FSM is  
18 lost or wrecked at any place within the FSM, the pilot  
19 or owner shall, without unreasonable delay, make report  
20 of the aircraft and cargo to the Customs office nearest  
21 to the place where the aircraft was lost and wrecked.

22 (3) Any master or owner of a vessel lost or wrecked,  
23 or pilot or owner of an aircraft lost or wrecked, who  
24 fails to report such loss or wreck [~~to Customs~~] as  
25 required by this section is guilty of a National

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1 offense.

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

5 Section 15. Section 253 of chapter 2 of title 54 of the Code  
6 of the Federated States of Micronesia is hereby amended to read as  
7 follows:

8 "Section 253. Forfeited goods.

9 The following goods may be forfeited to the FSM  
10 Government:

11 (1) All goods which are unlawfully imported, exported,  
12 or carried;

13 (2) All goods found on any vessel or aircraft after  
14 arrival in any port or airport which are not specified  
15 or referred to in the inward manifest and are not  
16 baggage belonging to crew or passengers and have not  
17 been satisfactorily accounted for;

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

21 (4) All goods which are, as specified by statute or as  
22 directed by a Customs officer, to be moved or dealt with  
23 in any way and which are not moved or dealt with in any  
24 way and which are not moved or dealt with accordingly;

25 (5) Any vehicle or animal used in smuggling or in the

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1 unlawful importation, exportation, or conveyance of any  
2 goods;

3 (6) All goods, except a passenger's baggage, found on  
4 any vessel or aircraft after clearance and not specified  
5 or referred to in the outward manifest~~ed~~ and not  
6 accounted for to the satisfaction of the [~~Commissioner~~  
7 CEO];

8 (7) All dutiable goods concealed in any manner;

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

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

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

12 (9) All dutiable goods found in the possessions or in  
13 the baggage of any person who has got out of, landed  
14 from or gone on board any vessel or aircraft and who has  
15 denied that he or she has any dutiable goods in his or  
16 her possession, or who when questioned by a Customs  
17 officer has not fully disclosed that such goods are in  
18 his or her possession or baggage;

19 (~~11~~10) Any stolen or counterfeit goods."

20 Section 16. Section 254 of chapter 2 of title 54 of the Code  
21 of the Federated States of Micronesia is hereby amended to read as  
22 follows:

23 "Section 254. Seizure of goods.

24 (1) A Customs officer or officer of the FSM National  
25 Police may seize any forfeited goods or any goods that

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

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

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

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

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

15          Section 17. Section 256 of chapter 2 of title 54 of the Code  
16          of the Federated States of Micronesia is hereby amended to read as  
17          follows:

18          "Section 256. Return of seized goods on security.  
19          The [~~Secretary~~] CEO may authorize any vessel, aircraft  
20          or goods seized, other than controlled substances or  
21          narcotic drugs, to be delivered to the owner or agent  
22          upon production of adequate security."

23          Section 18. Section 258 of chapter 2 of title 54 of the Code  
24          of the Federated States of Micronesia is hereby amended to read as  
25          follows:

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1            "Section 258. Disposal of forfeited goods, aircraft,  
2            and vessels.

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  
6            ~~[Secretary or Commissioner]~~ CEO may direct."

7            Section 19. Section 267 of chapter 2 of title 54 of the Code  
8 of the Federated States of Micronesia is hereby amended to read as  
9 follows:

10           "Section 267. Regulations.

11           (1) The Secretary [of Finance may adopt, amend or  
12           ~~repeal]~~ shall, subject to the approval of the  
13           President, prescribe and have printed reasonable  
14           regulations for the [administration] enforcement of this  
15           chapter and such regulations shall have the force and  
16           effect of law if they are not in conflict with the  
17           express provisions of this chapter or other laws of the  
18           FSM.

19           (2) The regulations shall also provide for matters  
20           prescribed under the chapter to be made by regulation.

21           (3) Such regulations shall be promulgated pursuant to  
22           chapter 1 of title 17 of this code."

23           Section 20. Section 269 of chapter 2 of title 54 of the Code  
24 of the Federated States of Micronesia is hereby amended to read as  
25 follows:



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1           "Section 269. Implementation.

2           (1) To give effect to the provisions of this chapter  
3 the [~~Secretary~~] CEO is authorized to:

4           (a) Draw up and implement procedures and  
5 guidelines;

6           (b) Distribute such procedures and guidelines to  
7 interested parties;

8           (c) Appoint appraisers in each of the States to  
9 examine invoices presented to Customs[~~+~~];

10           (d) introduced the Harmonized Commodity  
11 Description and Coding System (HS) and its subsequent  
12 revisions.

13           (2) The [~~Division of Customs~~] Authority is authorized  
14 to become a member of and to send representatives to  
15 meetings of[~~+~~];

16           (a) Organizations that foster cooperation between  
17 Pacific Island Nations Customs Divisions;

18           (b) Organizations that will increase the  
19 expertise and efficiency of the Customs Division."

20           Section 21. Title 54 of the Code of the Federated States of  
21 Micronesia is hereby amended by adding a new section 271 to  
22 subchapter III of chapter 2 to read as follows:

23           "Section 271. Commencement of administration.

24           Administration of this act shall commence eighteen (18)  
25 months after the commencement of administration date of

