

STANDING COMMITTEE REPORT NO. 18-03

RE: C.B. NO. 18-01/J&GO

SUBJECT: FEDERATED STATES OF MICRONESIA CHEMICAL
WEAPONS ACT

MAY 23, 2013

The Honorable Dohsis Halbert
Speaker, Eighteenth Congress
Federated States of Micronesia
First Regular Session, 2013

Dear Mr. Speaker:

Your Committee on Judiciary & Governmental Operations, to which was jointly referred C.B. No. 18-01, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 11 OF THE
CODE OF THE FEDERATED STATES OF MICRONESIA BY
CREATING A NEW CHAPTER 13 TO IMPLEMENT THE
PROVISIONS OF THE CHEMICAL WEAPONS CONVENTION AT
THE NATIONAL LEVEL, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title.

Your Committee on Judiciary & Governmental Operations met on May 22, 2013. Your Committee on Judiciary & Governmental Operations conducted a thorough review of the proposed bill.

CB No. 18-01 proposes to enlarge the Title 11 Crimes portion of the Code of the Federated States of Micronesia by adding a new section (Chapter 13) on Chemical Weapons with the law itself known as the "Federated States of Micronesia Chemical Weapons Act." The law would make use, transfer, production, development, acquisition, etc., of a chemical weapon or weapons punishable by up to 20 years in prison and/or a fine of up to \$100,000 (Section 1303). This section also

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provides for forfeiture and seizure without warrant of said chemical weapons for disposal. The bill pertains to the Chemical Weapons Convention ("CWC"). The CWC and relevant information are available at <http://www.opcw.org/chemical-weapons-convention/> online.

The FSM National Government elected to join the Chemical Weapons Convention. Your Committee thus sees enforcement of that accord as a necessity. Passage of this legislation is a step in that direction.

The CWC has three "Schedules" of chemicals. The Schedule lists are available at: <http://www.opcw.org/chemical-weapons-convention/annex-on-chemicals/b-schedules-of-chemicals/online>. Schedule 1 lists several chemicals including, Sarin, Ricin, and mustard gas. Production, use, transfer, acquisition, etc., of Schedule 1 chemicals is punishable by up to 5 years in prison and/or a fine of up to \$50,000 (Section 1304). Producing, processing, importing, etc., Schedule 2 chemicals is punishable by up to 3 years in prison and/or a fine of up to \$25,000 (Section 1305). It is prohibited to produce more than 30 tonnes of Schedule 3 chemicals, import or export them without a license, or transfer to a foreign state that is not a party to the CWC (Section 1306). This is punishable by up to 3 years in prison and/or a fine of up to \$25,000. These prohibitions are extended to FSM citizens or nationals outside of FSM, including on boating vessels or aircraft registered in the FSM and belonging to the FSM (Section 1307).

The FSM Department of Justice is made the "National Authority" on chemical weapons (Section 1313). The National Authority is in charge of issuing licenses pertaining to production, transfer, export, etc., of the Scheduled chemicals. (Section 1310). Exporting Schedule 2 or 3 chemicals to a foreign state that is not a State Party to the CWC requires a license; dealing in almost any way with Schedule 1 chemicals will require a license. Furthermore, "any person who produces, otherwise acquires, processes, consumes, retains, transfers, or uses any discrete organic chemical or any chemical listed in the Schedules, shall submit declarations and keep records in accordance with regulations pursuant to this chapter."¹ (Section 1309(2),

¹"Discrete organic chemical" is defined as "any chemical belonging to the class of chemical compounds consisting of all compounds of carbon

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emphasis added). These records must be produced upon written request, and failure to fully and truthfully comply is punishable by up to 3 years in prison and/or a fine of up to \$25,000.

The Secretary of the Department of Justice may also cooperate and collaborate with foreign states, international organizations and entities, and foreign authorities in implementing this Chapter (Section 1308). Notification of such cooperation must be given to the Secretary of Foreign Affairs. The Department of Justice will also promulgate regulations relating to national inspectors and international inspection teams in accordance with the CWC (Section 1311). Such inspections require consent of the person or a warrant. Information acquired through inspections or other means pursuant to this Chapter shall be confidential, except where necessary to enforce this Chapter and for public safety (Section 1312).

Your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 18-01 and recommends its passage on First Reading and that it be placed on the calendar for Second and Final Reading in the form attached hereto as C.B. No. 18-01.

except for its oxides, sulfides, and metal carbonites unless: (a) it is an oligomer or polymer, whether or not it contains phosphorous, sulphur, or fluorine; or (b) it contains only carbon and metal." (Section 1302(4)).

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Respectfully submitted,

/s/ Wesley W. Simina
Wesley Simina, chairman

/s/ Berney Martin
Berney Martin, vice chairman

/s/ Isaac V. Figir
Isaac V. Figir, member

/s/ Yosiwo P. George
Yosiwo P. George, member

/s/ Tiwiter Aritos
Tiwiter Aritos, member

/s/ Dohsis Halbert
Dohsis Halbert, member

/s/ Bonsiano F. Nethon
Bonsiano F. Nethon, member