
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 2010; 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 2010".

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

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.

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~~

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,

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

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:

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

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

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

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

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

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

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

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

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 and associated
21 computer software to assist with this function.

22 ([3] 2) *Quarantine.* The [Secretary] CEO may accept
23 an appointment made by the Secretary of the FSM
24 Department of Resources and Development, regarding the
25 empowering of Customs officers to perform agriculture

1 quarantine inspections, pursuant to section 407 of title
2 22 of this code or any successor provision.

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

10 ([5]4) *Immigration*. The [Secretary] CEO may accept
11 an appointment made by the Secretary of the FSM [~~Office~~
12 ~~of the Attorney General~~] Department of Justice regarding
13 the empowering of Customs officers to perform
14 immigration inspections pursuant to section 108 of title
15 50 of this code or any successor provision.

16 ([6]5) *Community, social, environmental and*
17 *antiquities protection*. The [~~Division of Customs~~]
18 Authority will monitor imports and exports on behalf of
19 other National and State agencies to ensure compliance
20 with legislation and international agreements, ratified
21 by the FSM, dealing with community, social,
22 environmental and antiquities protection.

23 Section 9. Section 234 of chapter 2 of title 54 of the
24 Code of the Federated States of Micronesia is hereby
25 amended to read as follows:

1 "Section 234. Customs control of goods.

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

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

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

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

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

20 (3) *CY-CY Containers.*

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

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

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

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

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

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

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

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

22 "Section 235. Right of examination.

23 A Customs officer shall have the right to examine all
24 goods subject to Customs control.

25 (1) *Examination of goods.* In carrying out the

1 examination of goods:

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

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

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

16 (3) *Search of persons.*

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

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

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

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

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

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

14 "Section 238. Importation of goods.

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

19 (a) Copies of the manifest; and

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

22 (2) *Time limit for entry.* Each consignee of imported
23 goods shall make entry of those goods at the local
24 Customs office within 15 days after departure of the
25 importing vessel or aircraft, exclusive of Sundays and

1 FSM national holidays. To enter goods means to notify
2 [~~Customs officials~~] the CEO of the arrival of those
3 goods and to comply with all Customs requirements in
4 connection therewith.

5 (3) *Verification of entry:*

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

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

15 (i) a proper assessment of the duties on the
16 merchandise;

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

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

22 (c) The approved entry form shall set forth such
23 facts in regard to the importation as the [~~Secretary~~]
24 CEO may require for the inspection, appraisement,
25 payment of import taxes and for the collection of

1 statistics.

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

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

9 (6) *Importation defined:*

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

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

24 (c) Imported goods intended for use, sale, or
25 other disposition within the territorial sea or internal

1 waters of the FSM must first be brought to a port of
2 call and cleared through Customs.

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

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

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

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

22 (10) *Abandoned goods:*

23 (a) Goods remaining unentered three months after
24 the departure of the importing vessel or aircraft shall
25 be treated as goods abandoned to the National Government

1 and may be sold by public auction, destroyed, or
2 otherwise disposed of as the CEO may direct.

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

8 Section 12. Section 242 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 242. Boarding and searching vessels and
12 aircraft on arrival.

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

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

18 (b) Search any vessel or aircraft on arrival in
19 the FSM;

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

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

25 (ii) the presence of those persons on the

1 vessel or aircraft.

2 (2) *Arming of officers.*

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

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

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

14 "Section 249. Report of cargo.

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 [~~Customs~~] the Authority an inward
21 manifest, in duplicate, of goods for the port or
22 airport;

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

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

3 (2) *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 14. Section 250 of chapter 2 of title 54 of the Code
7 of the Federated States of Micronesia is hereby amended to read as
8 follows:

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

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

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

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

25 (4) *Penalty.* A person convicted under this section

1 shall be subject to a fine not exceeding \$1,000, or
2 imprisonment of not more than one year, or both."

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

6 "Section 253. Forfeited goods.

7 The following goods may be forfeited to the FSM
8 Government:

9 (1) All goods which are unlawfully imported, exported,
10 or carried;

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

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

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

23 (5) Any vehicle or animal used in smuggling or in the
24 unlawful importation, exportation, or conveyance of any
25 goods;

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

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

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

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

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

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

17 (~~11~~) 10) Any stolen or counterfeit goods."

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

21 "Section 254. Seizure of goods.

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

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

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

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

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

13 Section 17. Section 256 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 256. Return of seized goods on security.
17 The [~~Secretary~~] CEO may authorize any vessel, aircraft
18 or goods seized, other than controlled substances or
19 narcotic drugs, to be delivered to the owner or agent
20 upon production of adequate security."

21 Section 18. Section 258 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 258. Disposal of forfeited goods, aircraft,
25 and vessels.

1 All forfeited goods, aircraft, and vessels shall become
2 the property of the National Government and shall be
3 sold, destroyed, or otherwise disposed of as the
4 [~~Secretary or Commissioner~~] CEO may direct."

5 Section 19. Section 267 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 267. Regulations.

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

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

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

21 Section 20. Section 269 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 269. Implementation.

25 (1) To give effect to the provisions of this chapter

1 the [~~Secretary~~] CEO is authorized to:

2 (a) Draw up and implement procedures and
3 guidelines;

4 (b) Distribute such procedures and guidelines to
5 interested parties;

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

8 (2) The [~~Division of Customs~~] Authority is authorized
9 to become a member of and to send representatives to
10 meetings of [†]:

11 (a) Organizations that foster cooperation between
12 Pacific Island Nations Customs Divisions;

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

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

18 "Section 271. Commencement of administration.
19 Administration of this act shall commence eighteen (18)
20 months after the commencement of administration date of
21 the Unified Revenue Authority Act as determined by
22 section 769 of this title."

23 Section 22. This act shall become law upon approval by the
24 President of the Federated States of Micronesia or upon its
25 becoming law without such approval.

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2 Date: 11/17/10

Introduced by: /s/ Joe N. Suka

Joe N. Suka
(by request)

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