EIGHTEENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST REGULAR SESSION, 2013

CONGRESSIONAL BILL NO. 18-01, C.D.1

PC NO. 18-31

PUBLIC LAW NO. 18-02

AN ACT

To further amend title 11 of the Code of the Federated States of Micronesia, as amended, by creating a new chapter 13 to implement the provisions of the Chemical Weapons Convention at the National level, and for other purposes. BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA: 1 Section 1. Title 11 of the Code of the Federated 2 States of Micronesia, as amended, is hereby further 3 amended by creating a new chapter 13 of title 11 to be entitled "Chemical Weapons". 4 Section 2. Title 11 of the Code of the Federated 5 States of Micronesia, as amended, is hereby further 6 amended by inserting a new section 1301 under chapter 13 7 to read as follows: 8 9 "Section 1301. Short Title. This chapter is known and may be cited as the "Federated States of 10 Micronesia Chemical Weapons Act". 11 Section 3. Title 11 of the Code of the Federated States of 12 13 Micronesia, as amended, is hereby further amended by inserting a new section 1302 under chapter 13 to read as follows: 14 "Section 1302. Definitions. The following terms 15 16 shall have the following meanings for the purposes of this chapter: 17 (1) 'Chemical Weapon' means the following, 18 together or separately: 19

PC NO. 18-31 PUBLIC LAW NO. 18-02

1	(a) Toxic chemicals and their precursors,
2	except where intended for non-prohibited purposes
3	and of types and in quantities consistent with such
4	purposes; and
5	(b) Munitions and devices specifically
6	designed to cause death or other harm through the
7	toxic properties of such toxic chemicals;
8	(c) Any equipment specifically designed
9	for use directly in connection with the employment of
10	such munitions and devices.
11	(2) 'Compliance Purpose' means:
12	(a) the purpose of determining whether the
13	provisions of this chapter and any regulations
14	promulgated thereunder have been or are being
15	complied with; and
16	(b) the purpose of determining whether the
17	conditions applicable to a license have been or are
18	being complied with by the holder of a license.
19	(3) 'Convention' means the Convention on the
20	Prohibition of the Development, Production,
21	Stockpiling and Use of Chemical Weapons and on Their
22	Destruction;
23	(4) 'Discrete organic chemical' means any
24	chemical belonging to the class of chemical compounds
25	consisting of all compounds of carbon except for its

1	oxides, sulfides, and metal carbonates unless:
2	(a) it is an oligomer or polymer, whether
3	or not it contains phosphorus, sulphur, or fluorine;
4	or
5	(b) it contains only carbon and metal.
6	(5) 'Foreign state' means:
7	(a) any country other than the Federated
8	States of Micronesia; and
9	(b) every constituent part of such a
10	country, including a territory, dependency, or
11	protectorate, or political subdivision that
12	administers its own laws relating to international
13	cooperation.
14	(6) `Illegally' means in breach of the
15	applicable national legislation adopted to enforce
16	the Convention.
17	(7) `International inspection team' means an
18	inspector, inspection assistant, or group of
19	inspectors and inspection assistants, designated by
20	OPCW according to the procedures set out in the
21	Verification Annex. It also includes any
22	international observer permitted to observe an
23	inspection pursuant to the Convention.
24	(8) 'National Authority' means the national
25	authority for the implementation of the Convention

1	mandated and established under section 1313 of this
2	chapter.
3	(9) 'National inspector' means any officer of
4	the National Police of the Federated States of
5	Micronesia, designated by the National Authority in
6	writing to be an inspector under this chapter.
7	(10) 'Non-prohibited purpose' means:
8	(a) industrial, agricultural, research,
9	medical, pharmaceutical, or other peaceful purposes;
10	(b) protective purposes, namely those
11	purposes directly related to protection against toxic
12	chemicals and chemical weapons;
13	(c) military purposes not connected with
14	the use of chemical weapons and not dependent on the
15	use of the toxic properties of chemicals as a method
16	of warfare; and
17	(d) law enforcement including domestic
18	riot control purposes.
19	(11) 'OPCW' means the Organization for the
20	Prohibition of Chemical Weapons.
21	(12) 'Person' means any natural or legal person.
22	(13) 'Precursor' means any chemical reactant that
23	takes part at any stage in the production by whatever
24	method of a toxic chemical, including any key
25	component of a binary or multi-component chemical

1	system. Precursors that have been identified for the
2	application of verification measures by OPCW are
3	listed in the Schedules.
4	(14) 'Riot control agent' means any chemical not
5	listed in a schedule and that can produce rapidly in
6	human beings sensory irritation or disabling physical
7	effects that disappear within a short time following
8	termination of exposure.
9	(15) 'Schedule' means one of the three Schedules
10	of Chemicals annexed to the Convention.
11	(16) 'Secretary' means the Secretary of the
12	Department of Justice of the Federated States of
13	Micronesia.
14	(17) `State Party' means any state for which the
15	Convention has entered into force.
16	(18) 'Toxic chemical' means any chemical,
17	regardless of its origin, method of production, or
18	place of production, which through its chemical
19	action on life processes can cause death, temporary
20	incapacitation, or permanent harm to human beings or
21	animals. Toxic chemicals which have been identified
22	for the application of verification measures by OPCW
23	are listed in the Schedules.
24	(19) 'Verification Annex' means the Annex on
25	Implementation and Verification to the Convention.

1	(20) Terms and expressions used and not defined
2	in this Act shall, unless the context otherwise
3	requires, have the same meaning as in the
4	Convention."
5	Section 4. Title 11 of the Code of the Federated States of
6	Micronesia, as amended, is hereby further amended by inserting a
7	new section 1303 under chapter 13 to read as follows:
8	"Section 1303. Chemical weapon prohibitions.
9	(1) A person commits an offense who:
10	(a) develops, produces, otherwise acquires,
11	stockpiles, or retains a chemical weapon;
12	(b) transfers, directly or indirectly, a
13	chemical weapon to any other person;
14	(c) uses a chemical weapon; and
15	(d) engages in any military preparations to
16	use a chemical weapon.
17	(2) Any person who violates subsection (1) of
18	this section shall be punished upon conviction by
19	imprisonment for a term of not more than 20 years, or
20	a fined not more than \$100,000, or both.
21	(3) Any chemical weapon discovered in any place
22	under the jurisdiction of the Federated States of
23	Micronesia:
24	(a) shall be forfeited to the Federated
25	States of Micronesia;

1	(b) may be seized by any law enforcement
2	officer of the Federated States of Micronesia; and
3	(c) shall be stored pending disposal, and
4	disposed of, in a manner determined by the National
5	Authority in accordance with the Convention."
6	Section 5. Title 11 of the Code of the Federated States of
7	Micronesia, as amended, is hereby further amended by inserting a
8	new section 1304 under chapter 13 to read as follows:
9	"Section 1304. Schedule 1 chemical prohibitions.
10	(1) A person commits an offense who knowingly:
11	(a) produces, acquires, retains, or uses
12	Schedule 1 chemicals outside the territory of the
13	Federated States of Micronesia, unless such
14	production, acquisition, retention, or use takes
15	place within the territory of another State Party;
16	(b) illegally produces, acquires, retains,
17	transfers, or uses Schedule 1 chemicals;
18	(c) transfers Schedule 1 chemicals outside
19	the territory of the Federated States of Micronesia
20	to a foreign state other than a State Party;
21	(d) illegally transfers Schedule 1 chemicals
22	to another State Party; or
23	(e) re-transfers to a foreign state Schedule
24	1 chemicals transferred to the Federated States of
25	Micronesia.

1	(2) Any person who violates subsection (1) of
2	this section shall be punished upon conviction by
3	imprisonment for a term of not more than five years,
4	or with a fine not exceeding \$50,000, or both."
5	Section 6. Title 11 of the Code of the Federated States of
6	Micronesia, as amended, is hereby further amended by inserting a
7	new section 1305 under chapter 13 to read as follows:
8	"Section 1305. Schedule 2 chemical prohibitions.
9	(1) A person commits an offense who knowingly:
10	(a) illegally transfers to or receives
11	Schedule 2 chemicals from a foreign state other than
12	a State Party; or
13	(b) illegally produces, processes, consumes,
14	imports, or exports Schedule 2 chemicals.
15	(2) Any person who violates subsection (1) of
16	this section shall be punished upon conviction by
17	imprisonment for a term of not more than three
18	years, or with a fined not more than \$25,000, or
19	both."
20	Section 7. Title 11 of the Code of the Federated States of
21	Micronesia, as amended, is hereby further amended by inserting a
22	new section 1306 under chapter 13 to read as follows:
23	"Section 1306. <u>Schedule 3 chemical prohibitions.</u>
24	(1) A person commits an offense who knowingly:
25	(a) illegally transfers Schedule 3 chemicals

PUBLIC LAW NO. 18-02

1 to a foreign state, other than a State Party; or 2 (b) produces more than 30 tonnes of a Schedule 3 chemical, or imports or exports a 3 Schedule 3 chemical, unless under and in accordance 4 with the conditions of a license granted pursuant to 5 section 1310 of this chapter. 6 7 (2) Any person who violates this section shall 8 be punished upon conviction by imprisonment for a 9 term of not more than three years, or with a fine not exceeding \$25,000, or both." 10 Section 8. Title 11 of the Code of the Federated States of 11 Micronesia, as amended, is hereby further amended by inserting a 12 13 new section 1307 under chapter 13 to read as follows: "Section 1307. Extraterritorial application. This 14 chapter shall extend: 15 (a) to acts or omissions prohibited under this 16 chapter that are committed by a citizen or national 17 of the Federated States of Micronesia outside the 18 Federated States of Micronesia; and 19 20 (b) to acts or omissions prohibited by this 21 chapter that are committed on board sea vessels or aircraft registered in, belonging to, or in the 22 23 possession of the Federated States of Micronesia." Title 11 of the Code of the Federated States of Section 9. 24 25 Micronesia, as amended, is hereby further amended by inserting a

1	new section 1308 under chapter 13 to read as follows:
2	"Section 1308. Legal assistance.
3	(1) The Secretary may collaborate with the
4	authorities of foreign states and international
5	organizations and entities, and coordinate with such
6	authorities to the extent required for the
7	implementation of this chapter or of equivalent
8	foreign laws, subject to the authorities of foreign
9	states or international organizations or entities
10	being bound to official secrecy. The Secretary
11	shall provide notice of such collaboration to the
12	Secretary of Foreign Affairs of the Federated States
13	of Micronesia.
14	(2) The Secretary may request the authorities
15	of foreign states and international organizations or

of foreign states and international organizations or entities to provide relevant data or information pursuant to subsection (1). The Secretary is authorized to receive data as shall be specified in regulations.

(3) If a foreign state has entered into an
appropriate reciprocity agreement with the Federated
States of Micronesia, the Secretary may provide, on
his or her own initiative or on request, the data or
information described in subsection (2) to that
foreign state, provided that the authorities of that

PUBLIC LAW NO. 18-02

state provide assurances that such data or 1 information shall: 2 (a) only be used for purposes consistent 3 with this chapter; and 4 (b) only be used in criminal proceedings 5 on the condition that they are obtained in accordance 6 7 with those provisions governing international 8 judicial cooperation. 9 (4) The Secretary may provide the data or information described in subsection (2) to 10 international organizations or entities if the 11 conditions set forth in subsection (3) are fulfilled, 12 13 in which case the requirement for a reciprocity agreement is waived." 14 Section 10. Title 11 of the Code of the Federated States of 15 Micronesia, as amended, is hereby further amended by inserting a 16 new section 1309 under chapter 13 to read as follows: 17 18 "Section 1309. Mandatory reporting. (1) Any powers under this section may be 19 20 exercised only to ensure that: 21 (a) toxic chemicals and their precursors are only developed, produced, otherwise acquired, 22 23 retained, transferred, or used for non-prohibited 24 purposes; (b) the National Authority has knowledge of 25

PUBLIC LAW NO. 18-02

dealings with scheduled chemicals that facilitates 1 the making of the Federated States of Micronesia's 2 3 annual declarations to OCPW under the Convention; and (c) the Federated States of Micronesia is 4 otherwise able to fulfill its obligations under the 5 6 Convention. 7 (2) Any person who produces, otherwise 8 acquires, processes, consumes, retains, tranfers, or 9 uses any discrete organic chemical or any chemical listed in the Schedules, shall submit declarations 10 and keep records in accordance with regulations 11 pursuant to this chapter. 12 13 (3) Any person reasonably believed by the National Authority to possess documents or other 14 information relevant to the implementation of the 15 Convention or enforcement of this chapter, shall on 16 written notice provide such information he or she 17 18 possesses to the National Authority within a reasonable period. 19 20 (4) A person commits an offense who 21 intentionally refuses or fails to comply with subsection (2) or (3) of this section or who, in any 22 23 document prepared pursuant thereto, knowingly makes a false or misleading statement or omission regarding 24 any material matter, and shall be punished upon 25

PC NO. 18-31 PUBLIC LAW NO. 18-02

1	conviction by imprisonment for a term of not more
2	than three years, or with a fine not exceeding
3	\$25,000, or both."
4	Section 11. Title 11 of the Code of the Federated States
5	of Micronesia, as amended, is hereby further amended by inserting
6	a new section 1310 under chapter 13 to read as follows:
7	"Section 1310. Licensing of scheduled chemicals.
8	(1) No person shall produce, process, acquire,
9	import, export, retain, transfer, or use a Schedule 1
10	chemical except under, and in accordance with the
11	conditions of, a license granted by the National
12	Authority pursuant to the regulations under this
13	chapter.
14	(2) No person shall export a Schedule 2 or
15	Schedule 3 chemical to a foreign state, other than a
16	State Party, except under and in accordance with the
17	conditions of a license granted by the National
18	Authority pursuant to the regulations under this
19	chapter."
20	Section 12. Title 11 of the Code of the Federated States
21	of Micronesia, as amended, is hereby further amended by inserting
22	a new section 1311 under chapter 13 to read as follows:
23	"Section 1311. Inspections.
24	(1) The purpose of this section is to
25	facilitate inspections by national inspectors for a

1	compliance purpose and inspections by an
2	international inspection team in accordance with the
3	Convention.
4	(2) Either with the consent of the person in
5	control of any premises, or under a warrant issued
6	pursuant to chapter 3 of title 12 of the Code of the
7	Federated States of Micronesia, a national inspector
8	may enter the premises and exercise, inter alia, the
9	following inspection powers for a compliance
10	purpose:
11	(a) search any premises;
12	(b) take samples of a matter or thing;
13	(c) examine relevant documents and make
14	copies thereof;
15	(d) interview any person working on the
16	premises, including making recordings of such
17	interviews;
18	(e) have operated any equipment, including
19	electronic equipment, located at the premises; and
20	(f) do anything necessary or expedient for
21	the carrying out of any of the acts referred to in
22	this subsection, including restricting or
23	prohibiting the access of persons and vehicles to or
24	from the premises.
25	(3) International inspections.

PC NO. 18-31 PUBLIC LAW NO. 18-02

1	(a) Either with the consent of the person in
2	control of any premises, or under a warrant issued
3	pursuant to chapter 3 of title 12 of the Code of the
4	Federated States of Micronesia, an international
5	inspection team may enter the premises in order to
6	carry out an international inspection;
7	(b) An international inspection team shall
8	have all powers as laid down in the Convention; and
9	(c) The point of entry for an international
10	inspection team shall be Pohnpei International
11	Airport unless otherwise designated by the National
12	Authority.
13	(4) Inspected persons and their personnel have
14	the duty to facilitate national and international
15	inspections and cooperate during such inspections.
16	(5) The National Authority may promulgate
17	regulations regarding the conduct of inspections by
18	national inspectors and international inspection
19	teams, provided that any regulations with respect to
20	international inspection teams are not inconsistent
21	with the Convention or Verification Annex.
22	(6) Obstruction of verification measures. A
23	person commits an offense who intentionally
24	obstructs any measure of verification of compliance
25	with this chapter and the Convention, that is taken

1	in accordance with this section and regulations
2	thereunder, and shall be punished upon conviction by
3	imprisonment for a term of not more than three
4	years, or with a fine not exceeding \$25,000, or
5	both."
6	Section 13. Title 11 of the Code of the Federated States of
7	Micronesia, as amended, is hereby further amended by inserting a
8	new section 1312 under chapter 13 to read as follows:
9	"Section 1312. <u>Protection of confidential</u>
10	information.
11	(1) Any information obtained pursuant to this
12	chapter or the Convention shall be kept
13	confidential.
14	(2) Such proprietary information may be
15	disclosed only with the consent of the person whose
16	affairs it relates, or for the purpose of:
17	(a) enabling the Federated States of
18	Micronesia to fulfill its obligations under the
19	Convention;
20	(b) enforcing this chapter; or
21	(c) resolving an emergency involving public
22	safety.
23	(3) Any person who fails to comply with this
24	section shall be fined not more than \$10,000."
25	Section 14. Title 11 of the Code of the Federated States

1	of Micronesia, as amended, is hereby further amended by inserting
2	a new section 1313 under chapter 13 to read as follows:
3	"Section 1313. National Authority.
4	(1) The Department of Justice of the Federated
5	States of Micronesia shall be the National Authority
6	for the purposes of implementing the provisions of
7	the Convention and this chapter.
8	(2) The President and the Congress shall direct
9	or assign to the National Authority such powers and
10	budget as may be necessary to implement and enforce
11	the Convention and the national implementing
12	legislation. Inter alia, the National Authority
13	shall have regulatory power as required for
14	effective implementation of this chapter and the
15	Convention."
16	
17	
18	
19	
20	
21	
22	
23	
24	Section 15. This act shall become law upon approval by
25	the President of the Federated States of Micronesia or upon its

1	becoming	law	without	such	approva	1.
2						
3						
4						
5						<u>June 14</u> , 2013
6						
7						
8						
9						
10						/s/ Manny Mori
11						Manny Mori President
12						Federated States of Micronesia
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						