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A BILL FOR AN ACT

To amend chapter 2 of title 54 of the Code of the Federated States of Micronesia (Annotated), by amending sections 211, 212, 222, 231, 232, 233, 234, 235, 238, 242, 249, 250, 253, 254, 256, 258, 267 and 269; repealing and re-enacting section 221; repealing sections 241, 257, 261, 264, 265 and 270; and enacting a new section 271; for the purpose of establishing the Customs and Duty Standardization Act of 2019; 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 (Annotated) is hereby  
4 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 2019".

8           Section 2. Section 212 of chapter 2 of title 54 of the Code  
9 of the Federated States of Micronesia (Annotated) is hereby  
10 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  
9 passengers become subject to Customs control within the  
10 FSM or any subsequent time before reaching their final  
11 destination.

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

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

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

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

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1 entry or post office.

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

3 [~~(9)~~] (10) 'Congress' means the Congress of the FSM.

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

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

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

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

13 (d) in addition, the following shipping term  
14 used with containers has the following meaning: 'CY-CY'  
15 means all the goods packed in the container are for the  
16 one consignee and the container is consigned from  
17 container yard to another container yard and will not  
18 normally be unpacked at the wharf.

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

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

25 [~~(13)~~] (14) 'Customs Officer' means [~~a person~~]:

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1 (a) a person employed by the [~~FSM Department of~~  
2 ~~Finance~~] Unified Revenue Authority, Division of Customs;

3 (b) a revenue officer appointed under section  
4 732 of this title authorized in writing by the  
5 [~~Secretary~~] CEO under this chapter to perform all of the  
6 functions of a Customs officer; or

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

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

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

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

21 [~~(17)~~] (18) '*FSM*' means the Federated States of  
22 Micronesia.

23 [~~(18)~~] (19) '*Goods*' means any type of merchandise,  
24 product, commodity, vehicle, moveable personal property,  
25 or commercial wares.

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1            [~~(19)~~] (20) '*Importer*' means, in relation to goods, the  
2            owner of the goods, any person by or for whom any goods  
3            are imported, and includes the consignee and any other  
4            person who is beneficially interested in the goods.

5            [~~(20)~~] (21) '*Master*' means:

6                    (a) In relation to a vessel the person in charge  
7                    or command of the vessel;

8                    (b) In relation to an installation the person in  
9                    charge of the installation.

10           [~~(21)~~] (22) '*Narcotic drug*' means those described in  
11           subsection (15) of section 1112 of title 11 of this code  
12           or successor provision of law.

13           [~~(22)~~] (23) '*On or about the body*' means on or within  
14           the body, clothing, footwear, purse, handbag, or similar  
15           article.

16           [~~(23)~~] (24) '*Owner*' means:

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

22                    (b) In respect of a vessel or aircraft, the  
23                    owner of record, or a person acting as agent on behalf  
24                    of the owner of record.

25           [~~(24)~~] (25) '*Package*' includes every means by which

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1 goods for transportation may be cased, covered,  
2 enclosed, contained, or packed.

3 [~~(25)~~] (26) '*Person*' means any individual, company,  
4 corporation, partnership, unincorporated association, or  
5 other business entity.

6 [~~(26)~~] (27) '*Pilot*' means the person in charge or in  
7 command of an aircraft.

8 [~~(27)~~] (28) '*Place*' means any location, building or  
9 site, and includes moveable locations such as a vessel  
10 or aircraft.

11 [~~(28)~~] (29) '*Port*' or '*Port of entry*' means an official  
12 port of entry identified in or pursuant to title 18 of  
13 this code and amendments thereto.

14 [~~(29)~~] (30) '*President*' means the President of the FSM.

15 [~~(30)~~] (31) '*Prohibited goods*' means any goods the  
16 importation or exportation of which is prohibited under  
17 FSM law.

18 [~~(31)~~] (32) '*Regulations*' means any regulations  
19 promulgated pursuant to this chapter.

20 [~~(32)~~] (33) '*Secretary*' means the Secretary of the FSM  
21 Department of Finance and Administration.

22 [~~(33)~~] (34) '*Smuggling*' means any importation or  
23 exportation, attempted importation or exportation, with  
24 the intent to defraud the FSM.

25 [~~(34)~~] (35) '*Stamp*' means device or instrument used by

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1 a Customs officer to make a distinctive impression or  
2 imprint, to identify and evidence the clearance of  
3 imported or exported goods and the clearance of vessels  
4 or aircraft.

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

14 [~~36~~] (37) '*Vehicle*' means every description of  
15 motorized carriage or other contrivance used or capable  
16 of being used as a means of transport on land.

17 Section 3. Sections 241, 257, 261, 264, 265 and 270 of  
18 chapter 2 of title 54 of the Code of the Federated States of  
19 Micronesia (Annotated) are hereby repealed in their entirety.

20 Section 4. Section 221 of chapter 2 of title 54 of the Code  
21 of Federated States of Micronesia (Annotated) is hereby repealed  
22 in its entirety and re-enacted to read as follows:

23 "Section 221. Levy and rates. An import duty is  
24 hereby levied on all goods which are imported into the  
25 FSM at the rate of ten percent (10%) ad valorem."

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1           Section 5. Section 222 of chapter 2 of title 54 of the Code  
2 of the Federated States of Micronesia (Annotated) is hereby  
3 amended to read as follows:

4           “Section 222. Exemptions.

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

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

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

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

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

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

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1 product are deemed exported when that product is  
2 exported.

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

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

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1           secure storage facility or used in the FSM, they will be  
2           subject to the full import duty.

3                   (d) The burden of proving that goods imported  
4           are for subsequent export shall be upon the  
5           importer/exporter as specified in regulations.

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

15                   (a) up to 200 cigarettes;

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

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

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

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

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1 or she leaves the country.

2 (5) *Returning goods.* Goods produced or properly  
3 entered in the FSM which are subsequently removed from  
4 the FSM may be returned to the FSM duty free. The  
5 burden shall be on the owner of the goods to establish  
6 that the goods were either produced in the FSM or  
7 previously and properly entered.

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

23 (7) *Certain fishing vessels and equipment.* Fishing  
24 vessels basing in the Federated States of Micronesia  
25 under a valid permit or license issued pursuant to title

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1           24 of the Code of the Federated States of Micronesia  
2           shall not be subject to the import duty on either the  
3           vessel or equipment installed in the vessel. This  
4           exemption shall apply to replacement parts and equipment  
5           imported by these fishing vessels as well.

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

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

1           hereinafter provided.”

2           Section 6. Section 231 of chapter 2 of title 54 of the Code  
3 of the Federated States (Annotated) of Micronesia is hereby  
4 amended to read as follows:

5           “Section 231. Administration of Customs.

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

8           (2) *Customs locks and seals.*

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

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

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

22           (3) *Customs stamps.*

23           (a) *Stamped impression.* All courts and all  
24 persons shall take notice of a stamped impression made  
25 by an officer during the course of his/her duties and

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1 shall presume, until shown otherwise, that the  
2 impression was made by the proper authority.

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

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

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

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

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

1 officers available.

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

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

9 ~~(a) overview;~~

10 ~~(b) revenue:~~

11 ~~(i) revenue collected;~~

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

13 ~~(iii) costs recovered;~~

14 ~~(iv) entries passed;~~

15 ~~(c) enforcement:~~

16 ~~(i) invoices appraised;~~

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

18 ~~(iii) goods seized;~~

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

20 ~~(d) Staff;~~

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

22 ~~[(7)] (6) *Customs officers' authority to arrest.*~~

23 (a) When authorized by the [Secretary] CEO, a  
24 Customs officer shall have the authority given to a  
25 policeman under section 211 of title 12, or successor

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1 provision of law, to make an arrest without warrant for  
2 an offense defined under this chapter.

3 (b) The [~~Secretary~~] CEO shall, on consultation  
4 with the [~~Attorney General~~] Secretary of the FSM  
5 Department of Justice, establish procedures for arrest  
6 and disposition of criminal suspects by Customs  
7 officers."

8 Section 7. Section 232 of chapter 2 of title 54 of the Code  
9 of the Federated States of Micronesia (Annotated) is hereby  
10 amended to read as follows:

11 "Section 232. Duties of controlling authorities.

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

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

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

23 (2) The controlling authority of every port, airport  
24 or transit building shall store goods subject to the  
25 control of Customs in such manner and place as the

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1           ~~[Commissioner or other proper officer of Customs]~~ CEO  
2           may direct."

3           Section 8. Section 233 of chapter 2 of title 54 of the Code  
4 of the Federated States of Micronesia (Annotated) is hereby  
5 amended to read as follows:

6           "Section 233. Cooperation with other National and State  
7 authorities.

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

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

17 ~~[(2)]~~ (1) Statistics.

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

22           (b) The ~~[Secretary]~~ CEO is authorized to  
23 introduce classification schedules, including the  
24 Harmonized Commodity Description and Coding System HS  
25 and its subsequent revisions, and associated computer

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1 software to assist with this function.

2 [~~(3)~~] (2) Quarantine. The [~~Secretary~~] CEO may accept  
3 an appointment made by the Secretary of the FSM  
4 Department of Resources and Development, regarding the  
5 empowering of Customs officers to perform agriculture  
6 quarantine inspections, pursuant to section 407 of title  
7 22 of this code or any successor provision.

8 [~~(4)~~] (3) Food safety. The [~~Secretary~~] CEO may accept  
9 an appointment by the Secretary of the FSM Department of  
10 Health Services regarding the empowering of Customs  
11 officers to perform food safety inspections pursuant to  
12 [~~41 F.S.M.C. 1013~~] section 1013 of title 41 of this  
13 code (National Food Safety Act) or any successor  
14 provision.

15 [~~(5)~~] (4) Immigration. The [~~Secretary~~] CEO may accept  
16 an appointment made by the Secretary of the FSM [~~Office~~  
17 ~~of the Attorney General~~] Department of Justice regarding  
18 the empowering of Customs officers to perform  
19 immigration inspections pursuant to section 108 of title  
20 50 of this code or any successor provision.

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

1           by the FSM, dealing with community, social,  
2           environmental and antiquities protection.

3           Section 9. Section 234 of chapter 2 of title 54 of the Code  
4 of the Federated States of Micronesia (Annotated) is hereby  
5 amended to read as follows:

6           "Section 234. Customs control of goods.

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

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

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

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

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

25                    (3) *CY-CY Containers.*

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

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

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

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

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

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

24 Section 10. Section 235 of chapter 2 of title 54 of the Code  
25 of the Federated States of Micronesia (Annotated) is hereby

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1 amended to read as follows:

2           “Section 235. Right of examination.

3           A Customs officer shall have the right to examine all  
4           goods subject to Customs control.

5           (1) *Examination of goods.* In carrying out the  
6           examination of goods:

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

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

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

21           (3) *Search of persons.*

22                   (a) Where a Customs officer on reasonable  
23                   grounds believes a person who has just landed from or is  
24                   about to board a vessel or aircraft has dutiable or  
25                   prohibited goods on or about his or her person, the

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1 officer may, subject to the following conditions, search  
2 and detain that person and may use reasonable force to  
3 carry out the search.

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

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

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

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

16 Section 11. Section 238 of chapter 2 of title 54 of the Code  
17 of the Federated States of Micronesia (Annotated) is hereby  
18 amended to read as follows:

19 "Section 238. Importation of goods.

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

24 (a) Copies of the manifest; and

25 (b) All bills of lading and air waybills for

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1 cargo to be discharged at that particular port.

2 (2) *Time limit for entry.* Each consignee of imported  
3 goods shall make entry of those goods at the local  
4 Customs office within 15 days after departure of the  
5 importing vessel or aircraft, exclusive of Sundays and  
6 FSM national holidays. To enter goods means to notify  
7 [~~Customs officials~~] the CEO of the arrival of those  
8 goods and to comply with all Customs requirements in  
9 connection therewith.

10 (3) *Verification of entry:*

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

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

20 (i) a proper assessment of the duties on  
21 the merchandise;

22 (ii) the proper collection of accurate  
23 statistics with respect to the merchandise being  
24 imported; and

25 (iii) a determination of whether any other

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1 applicable legal requirements have been met.

2 (c) The approved entry form shall set forth such  
3 facts in regard to the importation as the [~~Secretary~~]  
4 CEO may require for the inspection, appraisement,  
5 payment of import taxes and for the collection of  
6 statistics.

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

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

14 (6) *Importation defined:*

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

23 (b) Goods whose destination is outside the  
24 territorial limits of the FSM, including ship's stores  
25 and aircraft stores, shall not be deemed to be imported

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1           unless, while they are within those limits, they are  
2           removed from the vessel or aircraft in which they  
3           arrived there.

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

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

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

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

25                   (9) *Exempt goods.* All tax exempt goods shall be

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1 identified and cleared on the official clearance form.

2 (10) *Abandoned goods:*

3 (a) Goods remaining unentered three months after  
4 the departure of the importing vessel or aircraft shall  
5 be treated as goods abandoned to the National Government  
6 and may be sold by public auction, destroyed, or  
7 otherwise disposed of as the CEO may direct.

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

13 Section 12. Section 242 of chapter 2 of title 54 of the Code  
14 of the Federated States of Micronesia (Annotated) is hereby  
15 amended to read as follows:

16 "Section 242. Boarding and searching vessels and  
17 aircraft on arrival.

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

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

23 (b) search any vessel or aircraft on arrival in  
24 the FSM;

25 (c) require all persons found on the vessel or

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1 aircraft to answer questions, and produce documents in  
2 relation to:

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

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

7 (2) *Arming of officers.*

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

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

16 Section 13. Section 249 of chapter 2 of title 54 of the Code  
17 of the Federated States of Micronesia (Annotated) is hereby  
18 amended to read as follows:

19 "Section 249. Report of cargo.

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

23 (a) to report, within one day after the arrival  
24 at a port or airport, the vessel or aircraft and her  
25 cargo by delivering to [~~Customs~~] the Authority an inward

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1 manifest, in duplicate, of goods for the port or  
2 airport;

3 (b) to answer questions relating to the vessel  
4 or aircraft and her cargo, crew, passengers, stores and  
5 voyage; or

6 (c) to produce documents relating to the vessel  
7 or aircraft and her cargo.

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

11 Section 14. Section 250 of chapter 2 of title 54 of the Code  
12 of the Federated States of Micronesia (Annotated) is hereby  
13 amended to read as follows:

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

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

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

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

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

9           Section 15. Section 253 of chapter 2 of title 54 of the Code  
10          of the Federated States of Micronesia (Annotated) is hereby  
11          amended to read as follows:

12                 "Section 253. Forfeited goods.

13                 The following goods may be forfeited to the FSM  
14                 Government:

15                         (1) All goods which are unlawfully imported,  
16                         exported, or carried;

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

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

25                         (4) All goods which are, as specified by statute or

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1 as directed by a Customs officer, to be moved or dealt  
2 with in any way and which are not moved or dealt with in  
3 any way and which are not moved or dealt with  
4 accordingly;

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

8 (6) All goods, except a passenger's baggage, found on  
9 any vessel or aircraft after clearance and not specified  
10 or referred to in the outward [~~manifested~~] manifest and  
11 not accounted for to the satisfaction of the  
12 [~~Commissioner~~] CEO;

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

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

15 (a) not included in the clearance documents; or

16 (b) so packed as to deceive the officer.

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

24 [~~(11)~~] (10) Any stolen or counterfeit goods."

25 Section 16. Section 254 of chapter 2 of title 54 of the Code

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

3 "Section 254. Seizure of goods.

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

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

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

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

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

20 Section 17. Section 256 of chapter 2 of title 54 of the Code  
21 of the Federated States of Micronesia (Annotated) is hereby  
22 amended to read as follows:

23 "Section 256. Return of seized goods on security.

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

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

3           Section 18. Section 258 of chapter 2 of title 54 of the Code  
4 of the Federated States of Micronesia (Annotated) is hereby  
5 amended to read as follows:

6           “Section 258. Disposal of forfeited goods, aircraft,  
7           and vessels.”

8           All forfeited goods, aircraft, and vessels shall become  
9 the property of the National Government and shall be  
10 sold, destroyed, or otherwise disposed of as the  
11 ~~[Secretary or Commissioner]~~ CEO may direct.”

12          Section 19. Section 267 of chapter 2 of title 54 of the Code  
13 of the Federated States of Micronesia (Annotated) is hereby  
14 amended to read as follows:

15          “Section 267. Regulations.”

16           (1) The Secretary [of Finance may adopt, amend or  
17 repeal] shall, subject to the approval of the  
18 President, prescribe such regulations necessary for the  
19 [administration] enforcement of this chapter, and such  
20 regulations shall have the force and effect of law if  
21 they are not in conflict with the express provisions of  
22 this chapter or other laws of the FSM.”

23           (2) Such regulations shall be promulgated pursuant to  
24 chapter 1 of title 17 of this code.”

25          Section 20. Section 269 of chapter 2 of title 54 of the Code

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

3 "Section 269. Implementation.

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

6 (a) draw up and implement procedures and  
7 guidelines;

8 (b) distribute such procedures and guidelines to  
9 interested parties;

10 (c) appoint appraisers in each of the States to  
11 examine invoices presented to Customs[+];

12 (d) introduce the Harmonized Commodity  
13 Description and Coding System (HS) and its subsequent  
14 revisions.

15 (2) The [~~Division of Customs~~] Authority is authorized  
16 to become a member of and to send representatives to  
17 meetings of[+]:

18 (a) organizations that foster cooperation  
19 between Pacific Island Nations Customs Divisions;

20 (b) organizations that will increase the  
21 expertise and efficiency of the Customs Division."

22 Section 21. Title 54 of the Code of the Federated States of  
23 Micronesia (Annotated) is hereby amended by enacting a new section  
24 271 to subchapter III of chapter 2 to read as follows:

25 "Section 271. Commencement of administration.

