
1 chapter 13 to read as follows:

2 "Section 1303. Definitions. The following terms shall
3 have the following meanings for the purposes of this
4 chapter:

5 (1) **act of violence** means an act or omission outside
6 the Federated States of Micronesia that, if done or
7 omitted in the Federated States of Micronesia would
8 constitute a felony;

9 (2) **aircraft** means any aircraft, whether or not a the
10 Federated States of Micronesia-controlled aircraft,
11 other than an aircraft in the military, customs or
12 police services.

13 (3) **authorized officer** means:

14 (a) the Chief of Police; or

15 (b) a police officer authorized by the Chief of
16 Police for a provision of this Chapter; or

17 (c) a person authorized by the Attorney General
18 for a provision of this Act.

19 (4) **child** means a person under 18 years.

20 (5) **commander**, for an aircraft, means the person who
21 is for the time being in command of the aircraft.

22 (6) **commercial carrier** includes a corporation, or the
23 owner, operator, or person in charge of any means of
24 transport that engages in the transport of goods or
25 people for commercial gain.

26 (7) **consular officer** means a consular officer of the

1 Federated States of Micronesia, including a consul-
2 general, consul, pro-consul and consular agent of [the
3 Federated States of Micronesia].

4 (8) **Convention country** means a country that is
5 declared by the Attorney General, by Order, to be a
6 party to a Convention.

7 (9) **counter terrorism convention** means an instrument
8 mentioned in Schedule 1.

9 (10) **the Federated States of Micronesia-controlled**
10 **aircraft** means an aircraft that is for the time being
11 registered in the Federated States of Micronesia.

12 (11) **Court** means the Supreme Court of the Federated
13 State of Micronesia.

14 (12) **craft** includes any aircraft, ship, boat or other
15 machine or vessel used or capable of being used for the
16 carriage or transportation of persons or goods, or both,
17 by air or water or over or under water.

18 (13) **detection agent** means a substance mentioned in the
19 table to Part 2 of the Technical Annex to the Plastic
20 Explosives Convention.

21 (14) **entity** means a person, group, trust, corporation,
22 partnership, fund or an unincorporated association or
23 organization.

24 (15) **exploitation** includes all forms of sexual
25 exploitation (including sexual servitude and

1 exploitation of another person's prostitution), forced
2 labour or services, slavery or practices similar to
3 slavery, servitude and the removal of organs.

4 (16) **explosive or other lethal device** means:

5 (a) an explosive or other incendiary weapon or
6 device that is designed or has the capability to cause
7 death, serious bodily injury or substantial material
8 damage; or

9 (b) a weapon or device that is designed or has
10 the capability to cause death, serious bodily injury or
11 substantial material damage through the release,
12 dissemination or impact of toxic chemicals, biological
13 agents, toxins or similar substances or radiation or
14 radioactive materials.

15 (17) **financial institution** means a person that carries
16 on a business of any of the following:

17 (a) accepting deposits and other repayable funds
18 from the public;

19 (b) lending, including consumer credit, mortgage
20 credit, factoring (with or without recourse) and
21 financing of commercial transactions;

22 (c) financial leasing;

23 (d) providing money transmission services;

24 (e) issuing and administering means of payment

1 (for example, credit cards, travellers' cheques and
2 bankers' drafts);

3 (f) entering into guarantees and commitments;

4 (g) trading for the institution's own account, or
5 for account of customers, in money market instruments
6 (for example, cheques, bills and certificates of
7 deposit), foreign exchange, financial futures and
8 options, exchange and interest rate instruments, and
9 transferable securities;

10 (h) underwriting share issues and participation
11 in such issues;

12 (i) giving advice to undertakings on capital
13 structure, industrial strategy and related questions,
14 and advice and services relating to mergers and the
15 purchase of undertakings;

16 (j) money-broking;

17 (k) providing portfolio management and advice;

18 (l) safekeeping and administration of securities;

19 (m) providing credit reference services;

20 (n) providing safe custody services;

21 (o) insurance, insurance intermediation,
22 securities dealing or futures broking;

23 (p) trustee administration or investment
24 management of a superannuation scheme, other than a

1 closed-end scheme;

2 (q) dealing in bullion;

3 (r) operating a gambling house, casino or
4 lottery, including over the Internet;

5 (s) a trustee or manager of a unit trust;

6 (t) a trust or corporation service provider;

7 (u) a legal practitioner when helping to plan or
8 execute, for his or her client, any of the following
9 transactions:

10 (i) depositing or investing funds;

11 (ii) buying or selling real property or a
12 business entity;

13 (iii) managing assets;

14 (iv) opening or managing an account with a
15 financial institution;

16 (v) managing contributions necessary for the
17 creation, operation or management of a corporation;

18 (vi) creating, operating or managing a trust
19 or corporation; or

20 (v) a legal practitioner when acting for a
21 client in a financial or real estate transaction, to the
22 extent that he or she receives funds in the course of
23 his or her business for deposit or investment, or to
24 settle a real estate transaction;

1 (w) an accountant, to the extent that he or
2 she receives funds in the course of his or her business
3 for deposit or investment;

4 (x) dealing in real estate or high value
5 items, including antiques;

6 (y) any other business prescribed by law or
7 regulation.

8 (18) **Financial Intelligence Unit** has the meaning given
9 by the *Financial Transactions Reporting Act 2007*.

10 (19) **fixed platform** means an artificial island,
11 installation or structure permanently attached to the
12 sea bed for the purposes of exploration or exploitation
13 of resources or for other economic purposes.

14 (20) **forfeiture order** means an order made by the Court
15 under section 1327.

16 (21) **fraudulent travel or identity document** means a
17 travel or identity document that:

18 (a) has been made, or altered in any way, by
19 a person other than a person or agency lawfully
20 authorised to make or issue the travel or identity
21 document on behalf of a country; or

22 (b) has been issued or obtained through
23 misrepresentation, corruption or duress or in any other
24 unlawful manner; or

1 (c) is being used by a person other than the
2 lawful holder.

3 (22) **Hague Convention** means the Convention for the
4 Suppression of Unlawful Seizure of Aircraft, done at The
5 Hague on 16 December 1970.

6 (23) **Hostage Convention** means the International
7 Convention Against the Taking of Hostages adopted by the
8 General Assembly of the United Nations on 17 December
9 1979.

10 (24) **illegal entry** means entering the Federated States
11 of Micronesia or any other country without complying
12 with the requirements for lawful entry of that country.

13 (25) **international nuclear transport** means the carriage
14 of a consignment of nuclear material by any means of
15 transportation intended to go beyond the territory of
16 the country where the shipment originates:

17 (a) beginning with the departure from a facility
18 of the shipper in the country; and

19 (b) ending with the arrival at a facility of the
20 receiver within the country of ultimate destination.

21 (26) **international organisation** means any organisation
22 of States or Governments of States or any organ or any
23 agency of any organisation of that kind.

24 (27) **internationally protected person** means:

1 (a) any of the following persons while in a
2 foreign country, including a member of the person's
3 family accompanying him or her:

4 (i) a Head of State (including any member of
5 a collegial body performing the functions of a Head of
6 State);

7 (ii) a Head of Government;

8 (iii) a Minister responsible for Foreign
9 Affairs; or

10 (b) a representative or official of a country or
11 an official or other agent of an international
12 organization of an inter-governmental character who,
13 when and where a crime against the person or the
14 person's official premises, private accommodation or
15 means of transport is committed, is entitled under
16 international law to special protection from attack on
17 the person's freedom or dignity, as well as on the
18 person's family forming part of that person's household.

19 (28) **landing** includes alighting on water.

20 (29) **material benefit** includes any type of financial or
21 non-financial inducement, payment, bribe, reward,
22 advantage or service.

23 (30) **means of delivery** means missiles, rockets and
24 other unmanned systems capable of delivering nuclear,
25 chemical and biological weapons that are specifically

1 designed for delivering those weapons.

2 (31) **military aircraft** means an aircraft of the naval,
3 military or air forces of any country.

4 (32) **military device** includes a shell, bomb,
5 projectile, mine, missile, rocket, charge, grenade or
6 perforator, lawfully manufactured exclusively for
7 military or police purposes.

8 (33) **military service** includes naval and air force
9 service.

10 (34) **Montreal Convention** means the Convention for the
11 Suppression of Unlawful Acts Against the Safety of Civil
12 Aviation, done at Montreal on 23 September 1971.

13 (35) **New York Convention** means the Convention on the
14 Prevention and Punishment of Crimes Against
15 Internationally Protected Persons, Including Diplomatic
16 Agents, done at New York on 14 December 1973.

17 (36) **Nuclear, chemical, or biological weapon** means:

18 (a) nuclear weapons and other nuclear explosive
19 devices:

20 (b) chemical weapons which are, together or
21 separately:

22 (i) toxic chemicals and their precursors,
23 except where intended for:

24 (aa) industrial, agricultural, research,

1 medical pharmaceutical, or other peaceful purposes; or
2 (bb) protective purposes, namely those
3 purposes directly related to protection against toxic
4 chemicals and to protection against chemical weapons; or

5 (cc) military purposes not connected
6 with the use of chemical weapons and not dependent on
7 the use of the toxic properties of chemicals as a method
8 of warfare; or

9 (dd) law enforcement including domestic
10 riot control purposes, as long as the types and
11 quantities are consistent with such purposes:

12 (ii) munitions and devices specifically
13 designed to cause death or other harm through the toxic
14 properties of those toxic chemicals specified in
15 subparagraph (i), which would be released as a result of
16 the employment of such munitions and devices:

17 (iii) any equipment specifically designed for
18 use directly in connection with the employment of
19 munitions and devices specified in subparagraph (ii):

20 (c) biological weapons which are:

21 (i) microbial or other biological agents, or
22 toxins whatever their origin or method of production, of
23 types and in quantities that have no justification for
24 prophylactic, protective, or other peaceful purposes; or

1 (ii) weapons, equipment or means of delivery
2 designed to use such agents or toxins for hostile
3 purposes or in armed conflict.

4 (37) **nuclear facility** means:

5 (a) any nuclear reactor, including reactors
6 installed on vessels, vehicles, aircraft (whether or not
7 used for military, customs or police services) or space
8 objects for use as an energy source in order to propel
9 the vessels, vehicles, aircraft or space objects of for
10 any other purpose;

11 (b) any plant or convenience being used for the
12 production, storage or processing or transport of
13 radioactive material.

14 (38) **nuclear material** means any of the following:

15 (a) plutonium with an isotopic concentration of
16 not more than 80% in plutonium-238;

17 (b) uranium-233;

18 (c) uranium containing uranium-233 or uranium-235
19 or both;

20 (d) uranium with a naturally occurring isotopic
21 concentration, other than uranium in the form of ore or
22 ore residue;

23 (e) a substance containing nuclear material.

24 (39) **Nuclear Material Convention** means the Convention

1 for the Physical Protection of Nuclear Material, done at
2 Vienna and New York on 3 March 1980.

3 (40) **Nuclear Terrorism Convention** means the
4 International Convention for the Suppression of Acts of
5 Nuclear Terrorism, adopted by the General Assembly of
6 the United Nations on 13 April 2005.

7 (41) **operator**, for a craft, means the owner, operator
8 or person having for the time being command or charge of
9 the craft, other than a pilot of a ship, a harbour
10 master or a law enforcement officer acting in the course
11 of his or her duties.

12 (42) **organised criminal group** means a group of at least
13 3 persons, existing for a period of time, that acts
14 together with an objective of obtaining material
15 benefits from the commission of offences that are
16 punishable by a maximum penalty of at least 4 years
17 imprisonment.

18 (43) **people smuggling** means the arranging or assisting
19 of an unauthorised person's illegal entry into any
20 country.

21 (44) **People Smuggling Protocol** means the Protocol
22 Against the Smuggling of Migrants by Land, Sea and Air,
23 Supplementing the United Nations Convention Against
24 Transnational Organised Crime.

25 (45) **People Trafficking Protocol** means the Protocol to

1 Prevent, Suppress and Punish Trafficking in Persons,
2 Especially Women and Children, Supplementing the United
3 Nations Convention Against Transnational Organised
4 Crime.

5 (46) **plastic explosive** means an explosive that:

6 (a) is formulated with 1 or more high explosives
7 that in their pure form have a vapour pressure less than
8 10 Pa at a temperature of 25; and

9 (b) is formulated with a binder material; and

10 (c) is, when mixed, malleable or flexible at
11 normal room temperature.

12 (47) **Plastic Explosives Convention** means the Convention
13 on the Marking of Plastic Explosives for the Purpose of
14 Identification, done at Montreal on 1 March 1991.

15 (48) **premises** includes the whole or any part of a
16 structure, building, craft or vehicle;

17 (49) **privileged communication** means a confidential
18 communication, whether made directly or indirectly
19 through an agent:

20 (a) between:

21 (i) a lawyer in his or her professional
22 capacity and another lawyer in the same capacity; or

23 (ii) a lawyer in his or her professional
24 capacity and his or her client; and

25 (b) to obtain or give legal advice or assistance;

1 and

2 (c) not for the purpose of committing or
3 assisting the commission of an illegal or wrongful act.

4 (50) **property** includes:

5 (a) assets of every kind, whether corporeal or
6 incorporeal, moveable or immovable, tangible or
7 intangible; and

8 (b) legal documents or instruments in any form
9 including electronic or digital, evidencing title to, or
10 interest in, such assets, including but not limited to
11 bank credits, travellers cheques, bank cheques, money
12 orders, shares, securities, bonds, drafts and letters of
13 credit.

14 (51) **public official** includes a person who provides a
15 public service.

16 (52) **radioactive device** means:

17 (a) any nuclear explosive device; or

18 (b) any radioactive material dispersal or
19 radiation-emitting device which may, owing to its
20 radiological properties, cause death, serious bodily
21 injury or substantial damage to property or to the
22 environment.

23 (53) **radioactive material** means nuclear material and
24 other radioactive substances which contain nuclides
25 which undergo spontaneous disintegration (a process

1 accompanied by emission of one or more types of ionising
2 radiation, such as alpha-, beta-, neutron particles and
3 gamma rays) and which may, owing to their radiological
4 or fissile properties, cause death, serious bodily
5 injury or substantial damage to property or to the
6 environment.

7 (54) **receiving country** means:

8 (a) for people smuggling – the country into which
9 the unauthorised person's entry is arranged; or

10 (b) for people trafficking – the country into
11 which a trafficked person is brought as part of an act
12 of trafficking in persons.

13 (55) **registrable property** means property the title to
14 which is passed by registration on a register kept under
15 a law in force in the Federated States of Micronesia.

16 (56) **ship** means a vessel that is not permanently
17 attached to the sea bed:

18 (a) including a hovercraft, hydrofoil, submarine
19 or other floating craft; but

20 (b) not including a warship, a ship owned or
21 operated by a state and being used as a naval auxiliary
22 or for customs or police purposes or a ship that has
23 been withdrawn from navigation.

24 (57) **specified entity** means a person or entity:

25 (a) that is a United Nations listed entity as

1 described in section 1304; or

2 (b) for which a declaration under section 1305
3 has been made.

4 (58) **specified means** means any of the following:

5 (a) threat;

6 (b) use of force or other forms of coercion;

7 (c) abduction;

8 (d) fraud;

9 (e) deception;

10 (f) abuse of power or of a position of
11 vulnerability;

12 (g) giving or receiving payments or benefits to
13 achieve the consent of a person having control over
14 another person.

15 (59) **terrorist act** has the meaning given by subsection
16 (72).

17 (60) **terrorist group** means:

18 (a) an entity that has as one of its activities
19 or purposes committing, or facilitating the commission
20 of, a terrorist act; or

21 (b) a specified entity.

22 (61) **terrorist property** means:

23 (a) property that has been, is being, or is
24 likely to be used to commit a terrorist act; or

25 (b) property that has been, is being, or is
26 likely to be used by a terrorist group; or

1 (c) property owned or controlled, or derived or
2 generated from property owned or controlled, by or on
3 behalf of a specified entity.

4 (62) **Tokyo Convention** means the Convention on Offences
5 and Certain Other Acts Committed on Board Aircraft, done
6 at Tokyo on 14 September 1963.

7 (63) **trafficked person** means a person who is the victim
8 of trafficking in persons.

9 (64) **trafficking in persons** means the recruitment,
10 transportation, transfer, harbouring or receipt of a
11 person for the purpose of exploitation.

12 (65) **unauthorised person**, for a country, means a person
13 who is not a citizen of the country or is not in
14 possession of all the documents required by the law of
15 the country for the person's lawful entry into the
16 country.

17 (66) **unlawful employee**, for an employer, means a person
18 whom the employer knows, or ought reasonably to know, is
19 not entitled to lawfully undertake employment in the
20 employer's service.

21 (67) **unmarked plastic explosive** mean a plastic
22 explosive that:

23 (a) does not contain a detection agent; or

24 (b) at the time of manufacture, does not contain
25 the minimum concentration level of a detection agent
26 mentioned in the table to Part 2 of the Technical Annex

1 to the Plastic Explosives Convention.

2 (68) **weapon** includes a firearm, chemical, biological or
3 nuclear weapon.

4 (69) For this Chapter:

5 (a) the period during which an aircraft is in
6 flight is taken to include:

7 (i) any period from the moment when all its
8 external doors are closed following embarkation until
9 the moment when any door is opened for disembarkation;
10 and

11 (ii) for a forced landing – any period until
12 the competent authorities take over responsibility for
13 the aircraft and for persons and property on board; and

14 (b) an aircraft is taken to be in service:

15 (i) during the whole of the period that
16 begins with the pre-flight preparation of the aircraft
17 for a flight and ends 24 hours after the aircraft lands
18 having completed that flight; and

19 (ii) at any time (outside that period) while,
20 in accordance with paragraph (a), the aircraft is in
21 flight.

22 (70) For this chapter a reference to an aircraft in
23 flight includes a reference to an aircraft during any
24 period when it is on the surface of the sea or land but
25 not within the territorial limits of any country.

26 (71) For this Chapter: unless the context otherwise

1 requires, a reference to a country or the territorial
2 limits of a country is taken to include a reference to
3 the territorial waters, if any, of the country.

4 (72) **For this Chapter:**

5 **terrorist act** means an act or omission in or outside the
6 Federated States of Micronesia that:

7 (a) constitutes an offence within the scope of a
8 counter terrorism convention; or

9 (b) is mentioned in subsection (73).

10 (73) For subsection (72) (1) (b), the act or omission:

11 (a) must:

12 (i) involve death or serious bodily injury
13 to a person; or

14 (ii) involve serious damage to property; or

15 (iii) endanger a person's life; or

16 (iv) create a serious risk to the health or
17 safety of the public or a section of the public; or

18 (v) involve the use of weapons; or

19 (vi) involve introducing into the
20 environment, distributing or exposing the public to any:

21 (aa) dangerous, hazardous, radioactive
22 or harmful substance; or

23 (bb) toxic chemical; or

24 (cc) microbial or other biological agent
25 or toxin; or

26 (vii) involve serious disruption to any system

1 or the provision of services directly related to
2 essential infrastructure; and

3 (b) must be intended or, by its nature and
4 context, reasonably be regarded as being intended:

5 (i) to intimidate the public or a section of
6 the public; or

7 (ii) to compel a government or an
8 international organization to do, or refrain from doing,
9 any act; and

10 (c) must be made for the purpose of advancing a
11 political, ideological, or religious cause.

12 (74) However, an act or omission mentioned in
13 subsection (73) does not include an act or omission
14 that:

15 (a) is committed as part of an advocacy, protest,
16 demonstration, dissent or industrial action and is not
17 intended to result in any harm mentioned in subsection
18 (73) (i), (ii), (iii), (iv), (v), or (vi); or

19 (b) occurs in a situation of armed conflict and
20 is, at the time and in the place it occurred, in
21 accordance with rules of international law applicable to
22 the conflict.

23 **SPECIFIED ENTITIES**

24 **United Nations listed entities to be specified entities**

25 "Section 1304:

26 (1) For the purposes of this Chapter, the entities

1 listed from time to time by the Security Council of the
2 United Nations as terrorist entities are "specified
3 entities".

4 (2) The Attorney General must give notice of the list
5 of terrorist entities referred to in subsection (1), and
6 continue to give notice as and when the security council
7 of the United Nations adds or removes any terrorist
8 entity from that list.

9 (3) A list of the United Nations terrorist entities
10 prepared and certified by the Attorney General is deemed
11 to be prima facie evidence that the list is a correct
12 list of entities by the security council of the United
13 Nations as terrorist entities.

14 **Section 1305: Declarations that certain entities are**
15 **SPECIFIED ENTITIES**

16 (1) Subject to subsection (2), the Attorney General
17 may declare an entity to be a specified entity.

18 (2) In acting under subsection (1) the Attorney
19 General must have reasonable grounds to believe that:

20 (a) an entity has knowingly committed, attempted
21 to commit, participated in committing or facilitated the
22 commission of a terrorist act; or

23 (b) an entity is knowingly acting on behalf of,
24 at the direction of, or in association with an entity
25 mentioned in paragraph(a): or

26 (c) an entity (other than an individual) is

1 wholly owned or effectively controlled directly or
2 indirectly by an entity mentioned in paragraph (a) or
3 (b)

4 (3) The declaration must be published by notice.

5 **Section 1306 Revocation of Declaration**

6 (1) The Attorney General must revoke a declaration
7 under section 1305 where there are reasonable grounds to
8 do so.

9 (2) A revocation under subsection (1) must be
10 published by notice.

11 **Section 1307 Judicial Review**

12 (1) Upon application by a specified entity the Court
13 may revoke a declaration under section 1305 concerning
14 the specified entity.

15 (2) The Court must:

16 (a) If the Court decides that there are
17 reasonable grounds for the Attorney General's actions
18 under section 1305, dismiss the application.

19 (b) If the Court decides that there are no
20 reasonable grounds for the Attorney General's actions
21 under section 1305, revoke the declaration.

22 (3) Where the Court revokes a declaration the Attorney
23 General must publish notice of the revocation.

24 **Section 1308 Procedure**

25 For a hearing under sections 1307 and 1309.

26 (1) The specified entity must give reasonable written

1 notice of the application to the Attorney General.

2 (2) The Court must:

3 (a) hear from the Attorney General;

4 (b) may hear any evidence or information
5 presented by the Attorney General in the absence of the
6 specified entity or counsel representing the specified
7 entity, or the public, if the Court thinks that
8 disclosure of the information would prejudice national
9 security or endanger the safety of any person;

10 (c) may receive in evidence anything that would
11 not otherwise be admissible as evidence (including
12 information from any source) that the Court thinks is
13 reliable and relevant; and

14 (d) where the Court acts under paragraph(b), give
15 the specified entity a statement summarizing the
16 information available to the Court, without disclosing
17 any information that the Court thinks could prejudice
18 national security or endanger the safety of any person.

19 **Section 1309 Appeal**

20 The Attorney General or a specified entity may appeal to
21 the Appellate Division of the Supreme Court against a
22 decision made by a Court under section 1307.

23 **SPECIFIED ENTITIES OFFENCES**

24 **Section 1310 Terrorism financing**

25 (1) A person must not provide or collect, by any
26 means, directly or indirectly, any property, intending,

1 knowing or having reasonable grounds to believe that the
2 property will be used, in full or in part, to carry out
3 a terrorist act.

4 (2) A person must not provide or collect, by any
5 means, directly or indirectly, any property intending,
6 knowing, or having reasonable grounds to believe that
7 they will benefit an entity that the person knows is a
8 specified entity.

9 (3) In a prosecution for an offence against subsection
10 (1), it is not necessary for the prosecutor to prove
11 that the property collected or provided was actually
12 used, in full or in part, to carry out a terrorist act.
13 Maximum penalty: imprisonment for 15 years.

14 **Section 1311 Terrorist act**

15 A person commits an offence who engages in a terrorist
16 act.

17 Maximum penalty: imprisonment for life.

18 **Section 1312 Provision of property or services to**
19 **specified entity**

20 (1) A person must not, directly or indirectly,
21 knowingly make available property or financial or other
22 related services to, or for the benefit of, a specified
23 entity.

24 Maximum penalty: imprisonment for 10 years.

25 (2) Subsection (1) does not apply if the provision of

1 the property or service is of a kind that is authorised
2 by a resolution of the United Nations Security Council.

3 **Section 1313 Dealing with terrorist property**

4 (1) A person must not knowingly:

5 (a) deal, directly or indirectly, in any
6 terrorist property; or

7 (b) collect or acquire or possess terrorist
8 property; or

9 (c) enter into, or facilitate, directly or
10 indirectly, any transaction in respect of terrorist
11 property; or

12 (d) convert, conceal or disguise terrorist
13 property.

14 Maximum penalty: imprisonment for 10 years.

15 (2) A person does not commit an offence under
16 paragraph (1) (a), (b) or (c) if the person:

17 (a) tells the Attorney-General, in writing, as soon as
18 the person becomes aware that the property is terrorist
19 property; and

20 (b) acts in accordance with any directions of the
21 Attorney-General concerning the property.

22 **Section 1314 Harboursing of persons committing terrorist**
23 **acts:**

24 A person must not harbour or conceal, or prevent, hinder
25 or interfere with the apprehension of, any other person
26 knowing or having reason to believe that the other

1 person:

2 (a) has committed or is planning or likely to
3 commit a terrorist act; or

4 (b) is a member of a specified entity.

5 Maximum penalty: imprisonment for 10 years.

6 **Section 1315 Provision of weapons to terrorist groups**

7 A person must not knowingly offer to provide, or
8 provide, a weapon or explosive or other lethal device
9 to:

10 (a) a specified entity; or

11 (b) a member of a specified entity; or

12 (c) any other person for use by, or for the
13 benefit of, a specified entity or a member of a
14 specified entity.

15 Maximum penalty: imprisonment for 20 years.

16 **Section 1316 Participation in terrorist group**

17 A person must not participate (whether as a member,
18 associate member or prospective member) in a terrorist
19 group that is a specified entity, knowing that it is a
20 specified entity.

21 Maximum penalty: imprisonment for 15 years.

22 **Section 1317 Recruitment of persons to be members of**
23 **terrorist groups or to participate in terrorist acts**

24 A person must not knowingly agree to recruit, or
25 recruit, another person:

26 (a) to be a member of a terrorist group; or

1 (b) to participate in the commission of a
2 terrorist act.

3 Maximum penalty: imprisonment for 15 years.

4 **Section 1318 Nuclear terrorism**

5 (1) A person must not:

6 (a) unlawfully possess radioactive material or
7 make or possess a radioactive device:

8 (i) with the intent to cause death or
9 serious bodily injury; or

10 (ii) with the intent to cause substantial
11 damage to property or to the environment;

12 (b) unlawfully use in any way radioactive
13 material or a radioactive device, or use or damage a
14 nuclear facility in a manner which causes a release or
15 increases the risk of the release of radioactive
16 material:

17 (i) with the intent to cause death or
18 serious bodily injury; or

19 (ii) with the intent to cause substantial
20 damage to property or to the environment; or

21 (iii) with the intent to compel a person,
22 State or an international organization to do or refrain
23 from doing any act.

24 (1) A person must not:

25 (a) threaten to commit an offence mentioned in
26 subsection (1)(b); or

1 (b) unlawfully and intentionally make a demand
2 supported by a threat or use of force:

3 (i) for the supply of radioactive material
4 or a radioactive device; or

5 (ii) for a nuclear facility to be made
6 available or for access to a nuclear facility.

7 (3) A threat referred to in subsection (2) must be
8 made in circumstances which indicate the credibility of
9 the threat. Maximum penalty: imprisonment for 20 years.

10 **MANAGEMENT AND FORFEITURE OF PROPERTY OF SPECIFIED**
11 **ENTITIES**

12 **Section 1319 Direction to take control of property**

13 (1) The Attorney-General may direct the Court Clerk to
14 take custody and control of property if the Attorney
15 General has reasonable grounds to believe that the
16 property is terrorist property.

17 (2) The direction:

18 (a) must specify the property concerned; and

19 (b) may be subject to conditions.

20 (3) A person who has custody or control of property
21 mentioned in the direction must allow the Court Clerk to
22 take custody and control of the property in accordance
23 with the direction.

24 **Section 1320 Notice of direction**

25 (1) Notice of the making of a direction under section
26 1319 and 1321 must be given:

1 (a) as soon as possible to the person who owns or
2 controls the property, if practicable, if the person or
3 a representative of the person is in the Federated
4 States of Micronesia; and

5 (b) to any other person that the Attorney-General
6 thinks may have an interest in the property.

7 (2) Failure to comply with subsection (1) does not
8 affect the validity of the direction.

9 **Section 1321 Variation, revocation, or expiry of**
10 **direction**

11 (1) The Attorney General may:

12 (a) make another direction under section 1319
13 varying the conditions of the direction or the property
14 that is subject to the direction.

15 (b) revoke the direction.

16 (2) Notice of any direction under this section must be
17 given in accordance with the provisions of section 1320.

18 (3) If not earlier revoked, a direction under section
19 1319 or this section expires if:

20 (a) for property of a specified entity—the entity
21 ceases to be a specified entity; or

22 (b) a forfeiture order is made under section 1327
23 in relation to the property.

24 **Section 1322 Judicial review and appeal**

25 (1) Upon application by a person who owns or controls
26 property subject to a direction under section 1319 or

1 1321, the Court may vary or revoke the direction.

2 (2) The Court must:

3 (a) if the Court decides that there are
4 reasonable grounds for the Attorney General's actions
5 under section 1319 or 1321, dismiss the application.

6 (b) if the Court decides that there are no
7 reasonable grounds for the Attorney General's actions
8 under section 1319 or 1321, revoke the direction.

9 (3) Reasonable written notice of an application under
10 subsection (1) must be given to the Attorney General by
11 the applicant.

12 (4) Before deciding on the application, the Court must
13 hear from the Attorney General.

14 (5) If the Court revokes the direction, the Attorney
15 General must:

16 (a) tell the person who owns or controls the
17 property in writing; and

18 (b) publish a notice of revocation.

19 (6) The Attorney General or a person whose property is
20 subject to a direction may appeal to the Appellate
21 Division of the Supreme Court.

22 **Section 1323 Further provisions on management of**
23 **property of specified entities**

24 Subject to this chapter the provisions of the Money
25 Laundering and Proceeds of Crime Act 2000 apply, with
26 all necessary modifications, to property that is the

1 subject of a direction under section 1319 or 1321, as if
2 the direction were a restraining order under the Money
3 Laundrying and Proceeds of Crime Act 2000.

4 **Section 1324 Third parties may apply for relief**

5 (1) A person, other than the person who owns or
6 controls the property, who claims an interest in
7 property that is subject to a direction under section
8 1319 or 1321 may apply to the Court for an order under
9 section 1325.

10 (2) The person must give written notice of the
11 application to the Attorney-General, who is a party to
12 any proceedings on the application.

13 **Section 1325 Court may grant relief to third party**

14 (1) Subsection (2) applies if:

15 (a) a person makes an application under section
16 1324; and

17 (b) the Court is satisfied that the person's
18 claim to the interest is valid.

19 (2) The Court must make an order:

20 (a) declaring the nature, extent, and value of
21 the person's interest in the property; and

22 (a) declaring that the interest is no longer
23 subject to the order under section 1319 or 1321; and

24 (b) if the interest is held by the Court Clerk:

25 (i) directing the Court Clerk to transfer
26 the interest to the person; or

1 (ii) declaring that there is payable by the
2 Court Clerk to the person an amount equal to the value
3 of the interest declared by the Court.

4 (3) However, the Court may, if it thinks fit, refuse
5 to make an order if it is satisfied that:

6 (a) the person was knowingly involved in any way
7 in the carrying out of the terrorist acts that are the
8 basis of the designation of the entity as a specified
9 entity, or is an entity that is wholly owned or
10 effectively controlled, directly or indirectly, by the
11 specified entity; or

12 (b) if the person acquired the interest at the
13 time of or after the designation of the entity as a
14 specified entity, the applicant did not acquire the
15 interest in the property in good faith and for value,
16 without knowing or having reason to believe that the
17 property was, at the time of the acquisition, property
18 subject to a direction under section 1319 or 1321.

19 **Section 1326 Application for forfeiture order**

20 (1) The Attorney-General may apply to the Court for a
21 forfeiture order against terrorist property.

22 (2) The Attorney-General must:

23 (a) name as respondents to the application only
24 those persons who are known to own or control the
25 property the subject of the application; and

26 (b) give notice of the application to each

1 respondent in the manner directed by the Court.

2 (3) The Court may, at any time before the final
3 determination of the application, make orders for:

4 (a) service of the application on any person whom
5 the Court thinks has an interest in the property; and

6 (b) publication of notice of the application.

7 (4) Any person who claims an interest in the property
8 may appear and present evidence at the hearing of the
9 application.

10 **Section 1327 Making forfeiture order**

11 (1) If the Court is satisfied, on the balance of
12 probabilities, that the property the subject of the
13 application is terrorist property, the Court must order
14 that the property be forfeited to the Federated States
15 of Micronesia.

16 (2) If the Court is satisfied that a person mentioned
17 in paragraph 1326 (2) (a) or (3) (a):

18 (a) has an interest in the property the subject
19 of the application; and

20 (b) has exercised reasonable care to ensure that
21 the property is not terrorist property; and

22 (c) is not a member of a specified entity;

23 the Court must order that the interest is not a
24 affected by the order and declare the nature and extent
25 of the interest.

26 (3) If the Court makes a forfeiture order, the Court

1 may give any directions that are necessary or convenient
2 to give effect to the order.

3 (4) If the Court refuses to make a forfeiture order,
4 the Court must make an order that describes the property
5 and declare that it is not terrorist property.

6 **Section 1328 Effect of forfeiture order**

7 (1) If the Court makes a forfeiture order against
8 property (other than registrable property), the order
9 vests the property absolutely in the Federated States of
10 Micronesia.

11 (2) If the Court makes a forfeiture order against
12 registrable property:

13 (a) the order vests the property in the Federated
14 States of Micronesia in equity, but does not vest it in
15 the Federated States of Micronesia at law until the
16 applicable registration requirements have been complied
17 with; and

18 (b) the Federated States of Micronesia is
19 entitled to be registered as owner of the property; and

20 (c) the Attorney-General may do, or authorise the
21 doing of, anything necessary or convenient to obtain the
22 registration of the Federated States of Micronesia as
23 owner, including the execution of any necessary
24 instrument; and

25 (d) the Attorney-General may do anything
26 necessary or convenient to give notice of, or otherwise

1 protect, the Federated States of Micronesia equitable
2 interest in the property; and

3 (e) anything done by the Attorney-General under
4 paragraph (d) is not a dealing for paragraph (3) (a).

5 (3) If the Court makes a forfeiture order against
6 property (including registrable property):

7 (a) the property must not, except with the leave
8 of the Court and in accordance with any directions of
9 the Court, be disposed of, or otherwise dealt with, by
10 or for the Federated States of Micronesia, before 6
11 months after the forfeiture order was made; and

12 (b) the property may be disposed of, and the
13 proceeds applied or otherwise dealt with as the
14 Attorney-General directs, after 6 months after the
15 forfeiture order was made.

16 **Section 1329 Protection of third parties**

17 (1) A person who claims an interest in property that
18 has been forfeited and who has not been given notice
19 under paragraph 1326 (2) (a) or (3) (a) may apply to the
20 Court, within 6 months after the forfeiture order was
21 made, for an order under subsection (4).

22 (2) The person must give reasonable written notice of
23 the application to the Attorney-General.

24 (3) The Attorney-General:

25 (a) is a party to the proceedings in an
26 application under subsection (1); and

1 (b) may make an application under subsection (1)
2 for a person.

3 (4) If a person applies to the Court for an order
4 about the person's interest in property, the Court must
5 make an order declaring the nature, extent and value (as
6 at the time the order is made) of the person's interest
7 if the Court is satisfied in accordance with subsection
8 1327 (2).

9 (5) An appeal lies to the Appellate Division of the
10 Supreme Court from an order under subsection (4).

11 **Section 1330 Return of property**

12 (1) The Attorney-General must, on application by a
13 person who has obtained an order under subsection
14 1329 (4), if the period for appeals has expired and any
15 appeal from that order has been determined or has
16 lapsed:

17 (a) return the property, or the part of it to
18 which the interest of the applicant relates, to the
19 applicant; or

20 (b) if the interest in the property is no longer
21 vested in the Federated States of Micronesia, pay an
22 amount equal to the value of the interest of the
23 applicant, as declared in the order, to the applicant.

24 (2) Subsection (1) does not apply to any property
25 returned, or amount paid, to the person under section
26 1325.

1 **Section 1331 Appeal**

2 The Attorney-General or a person affected by a decision
3 made by the Court under this Chapter may appeal to the
4 Appellate Division of the Supreme Court against the
5 decision.

6 **Section 1332 Disclosure of information**

7 (1) A financial institution must immediately tell the
8 Attorney General about the existence of any property in
9 its possession or control:

10 (a) that is owned or controlled, directly or
11 indirectly, by or for a specified entity, including
12 property derived or generated from that property; or

13 (b) for which there are reasonable grounds to
14 suspect is property of a kind mentioned in paragraph
15 (a).

16 (2) The Attorney General may tell the financial
17 intelligence authority or other appropriate authority of
18 a foreign country about any information it has about any
19 property of the kind mentioned in subsection (1), if the
20 authority thinks the information would be relevant to
21 the foreign country.

22 (3) Information may be given under subsection (2)
23 subject to any conditions that the Attorney General
24 determines.

25 (4) A financial institution must tell the Financial
26 Intelligence Unit about every dealing that occurs in the

1 course of its activities and for which there are
2 reasonable grounds to suspect is related to the
3 commission of a terrorist act.

4 (5) No civil or criminal proceedings lie against a
5 person for making a disclosure or report, in good faith,
6 under subsection (1), (2) or (4).

7 (6) Nothing in subsection (1) or (4) requires a lawyer
8 to disclose a privileged communication, other than
9 information about a financial transaction recorded for a
10 trust account of the lawyer.

11 (7) A person who receives information under subsection
12 (1), (2) or (4) must not disclose the information or its
13 source except:

14 (a) for the purposes of:

15 (i) the enforcement of this chapter; or

16 (ii) the detection, investigation or
17 prosecution of an offence under this chapter; or

18 (iii) providing assistance under the Mutual
19 Assistance in Criminal Matters Act 2000; or

20 (b) in accordance with an order of a court.

21 (8) A person must not contravene subsection (1) or
22 (4).

23 Maximum penalty: imprisonment for 5 years.

24 **GENERAL POWERS**

25 **Section 1332 Controlled delivery of property**

26 (1) This section applies to an authorised officer who

1 has reasonable grounds to believe that a person has
2 committed, is committing or is about to commit an
3 offence under this chapter.

4 (2) The authorised officer may allow property, that
5 the authorised officer reasonably suspects has been, is
6 being or may be used to commit an offence under this
7 chapter, to enter, leave or move through the Federated
8 States of Micronesia for the purpose of gathering
9 evidence to identify a person or to facilitate a
10 prosecution for the offence.

11 (3) An authorised officer does not commit an offence
12 under this chapter if:

13 (a) the authorised officer is engaged in
14 investigation of a suspected offence under this chapter;
15 and

16 (b) the offence involves property that the
17 authorised officer reasonably suspects has been, is
18 being or may be used to commit an offence under this
19 chapter; and

20 (c) the authorised officer does not take action,
21 that the authorised officer would otherwise be required
22 to take under this chapter, for the purpose of the
23 investigation.

24 **Section 1333 Provision of information relating to**
25 **persons, goods or craft entering or leaving the country**

26 (1) The operator of a craft:

1 (a) arriving in or departing from the Federated
2 States of Micronesia; or

3 (b) registered in the Federated States of
4 Micronesia, departing from any place outside the
5 Federated States of Micronesia;
6 must give the Secretary of Justice any information in
7 his or her possession, relating to persons or goods on
8 board, or expected to be on board, the craft.

9 (2) A person must not contravene subsection (1).
10 Maximum penalty: 3 years.

11 (3) The Secretary of Justice may give the competent
12 authority in a foreign country any information:

13 (a) in his or her possession relating to persons
14 entering or leaving the Federated States of Micronesia;
15 and

16 (b) that is required by the laws of the foreign
17 country.

18 (4) The provision of information under subsection (1)
19 or

20 (3) is taken not to be a contravention of any
21 provision of law prohibiting the disclosure of the
22 information.

23 (5) No information provided to the Secretary of
24 Justice under subsection (1) may be used or disclosed by
25 the Secretary of Justice except for the purpose of
26 protecting border security, national security or public

1 safety.

2 (6) The President may make regulations generally to
3 give effect to the purposes of this section, including
4 regulations prescribing the types or classes of
5 information that may be:

6 (a) provided under this section; or

7 (b) disclosed to the competent authority of a
8 foreign country.

9 **Section 1334 Power to prevent entry and order the**
10 **removal of persons**

11 (1) An authorised officer must not grant an
12 endorsement or other authority permitting a person to
13 enter the Federated States of Micronesia if he or she
14 has reasonable grounds to suspect that that person has
15 been, is, or will be, involved in the commission of a
16 terrorist act.

17 (2) If the Secretary of Justice has reasonable grounds
18 to suspect that a person, other than a citizen, in the
19 Federated States of Micronesia has been, is or will be,
20 involved in the commission of a terrorist act, he or she
21 may make an order requiring the person to leave the
22 Federated States of Micronesia and to remain out of the
23 Federated States of Micronesia.

24 (3) A person against whom an order under subsection
25 (2) is made must leave the Federated States of
26 Micronesia and must, so long as the order is in force,

1 remain out of the Federated States of Micronesia.

2 (4) A person against whom an order under subsection
3 (2) is made may be:

4 (a) detained in such manner as may be directed by
5 the Secretary of Justice for no more than 7 days, or any
6 longer period that is reasonably needed to arrange for
7 the person's removal from the Federated States of
8 Micronesia; and

9 (b) placed on a craft leaving the Federated
10 States of Micronesia.

11 **Section 1335 Exchange of information relating to**
12 **terrorist groups and terrorist acts**

13 (1) The Attorney General may disclose to the
14 appropriate authority of a foreign country any
15 information in his or her possession relating to any of
16 the following:

17 (a) the actions or movements of terrorist groups
18 or
19 persons suspected of involvement in the commission of
20 terrorist acts;

21 (b) the use of forged or falsified travel papers
22 by persons suspected of involvement in the commission of
23 terrorist acts;

24 (c) traffic in explosives or other lethal devices
25 by terrorist groups or persons suspected of involvement
26 in the commission of terrorist acts;

1 (d) the use of communication technologies by
2 terrorist groups; and if the disclosure is not
3 prohibited by any provision of law and will not, in the
4 Attorney General's view, prejudice national security or
5 public safety.

6 **Section 1336 Regulations**

7 The President may make regulations in relation to all
8 matters for which regulations are required or authorised
9 to be made by this chapter, including the power to add
10 or omit items to or from Schedule 1.

11 **Section 1337 Detention of goods suspected to be**
12 **terrorist property**

13 (1) An authorised officer may, without warrant, seize
14 and detain goods if-

15 (a) the goods came to his or her attention, or
16 into his or her possession, during a search, inspection,
17 audit, or examination under -

18 (i) the any relevant customs law; or

19 (ii) the Financial Transactions Reporting Act
20 of 2007.

21 (b) the goods are in the Federated States of
22 Micronesia and he or she is satisfied that they either:

23 (i) are being, or are intended to be,
24 exported into the Federated States of Micronesia; or

25 (ii) are being, or have been, imported into
26 the Federated States of Micronesia; and

1 (c) he or she has good cause to suspect that the
2 goods are terrorist property.

3 **Section 1338 Return of cash necessary to satisfy**
4 **essential human needs**

5 (1) The power to detain goods under section 1337 does
6 not extend to, and the authorised officer must if
7 practicable return immediately, cash seized under
8 section 1337 if the authorised officer is satisfied that
9 the cash is (or things for which it might be exchanged
10 are) necessary to satisfy the essential human needs:

11 (a) of (or of a dependant of) an individual from
12 whom the cash has been seized; and

13 (b) arising on, or within 7 days after, the date
14 on which the detention would otherwise be effected.

15 (2) Nothing in subsection (1) requires the authorised
16 officer to return any cash that the authorised officer
17 is satisfied is not necessary for the purpose specified
18 in that subsection.

19 (3) If the 7 day period referred to in section
20 1340(1)(a) is extended under section 1341, subsection
21 (1) applies to the extension, and the reference in
22 subsection (1)(b) to 7 days must be read as a reference
23 to the number of days (not exceeding 21) of that 7 day
24 period as extended.

25 **Section 1339 Further provisions about detention under**
26 **section 1337**

1 (1) Reasonable force may be used if it is necessary
2 for any of the following purposes:

3 (a) to seize goods under section 1337:

4 (b) to detain goods under section 1337.

5 (2) If the person for whom the goods have been seized
6 and detained under section 1337 is identified but is not
7 present when the seizure and detention occurs (for
8 example, because the goods concerned are in mail or
9 cargo or in unaccompanied baggage), the authorised
10 officer must make all reasonable efforts to notify that
11 person of the detention and seizure as soon as
12 practicable.

13 (3) Goods detained under section 1337 must be taken to
14 such a place of security as an authorised officer
15 directs, and there detained, unless section 1342
16 applies.

17 (4) An authorised officer or a person lawfully
18 assisting an authorised officer is not liable for the
19 loss of or damage to any property occasioned by anything
20 done or omitted to be done or purported to have been
21 done by an authorised officer or person lawfully
22 assisting in the exercise of any power conferred on him
23 or her under sections 1337 to 1342.

24 (5) Nothing in section 1337 limits or affects powers
25 Under customs and other laws concerning powers of
26 detention and seizure.

1 **Section 1340 Return of goods detained under section 1337**

2 (1) In this section, investigation period, in relation
3 to goods seized and detained under section 1337:

4 (a) means the period of 7 days after the date on
5 which the goods were seized and detained; and

6 (b) includes any extension of that period granted
7 by the Court under section 1341.

8 (2) Goods seized and detained under section 1337 must
9 be returned to the person from whom they were seized as
10 soon as practicable after whichever of the following
11 occurs first:

12 (a) the completion of all relevant
13 investigations, if they show that the goods are not
14 terrorist property; or

15 (b) the expiry of the investigation period.

16 (3) However, the authorised officer need not return
17 the goods as provided in subsection (2), and may
18 continue to detain them pending a decision by the
19 Attorney General under sections 1319 or 1321, if the
20 authorised officer is advised by, or on behalf of, the
21 Attorney-General that the goods are terrorist property.

22 **Section 1341 Extension of 7 day period in section**
23 **1340 (1) (a)**

24 (1) The 7 day period in section 1340(1) (a) may be
25 extended (but once only) by order of the Court for a
26 reasonable period up to a further 14 days if, on an

1 application for the purpose made before the expiry of
2 that 7 day period, that Court is satisfied:

3 (a) that the good cause to suspect required by
4 section 1337(1)(c) exists; and

5 (b) that the extension to be granted is necessary
6 to enable investigations in or outside the Federated
7 States of Micronesia in relation to the goods or entity
8 to be completed.

9 (2) The application must be made in writing and served
10 on the person from whom the goods were seized (if that
11 person can be identified and located), and must include
12 the following particulars:

13 (a) a description of the goods detained:

14 (b) the date on which the detention commenced:

15 (c) a statement of the facts supporting the good
16 cause to suspect required by section 1337(1)(c); and

17 (d) a statement of the reasons why the extension
18 sought is necessary to enable investigations in or
19 outside the Federated States of Micronesia in relation
20 to the goods or entity to be completed.

21 (3) The person from whom the goods were seized is
22 entitled to appear and be heard on the application.

23 (4) The authorised officer must make all reasonable
24 efforts to notify the person from whom the goods were
25 seized, at least 24 hours before the hearing of the
26 application, of the time and place of that hearing.

1 **Section 1342 Custody of certain good detained under**
2 **section 1337**

3 (1) If goods detained under section 1337 are a craft,
4 vehicle or animal, an authorised officer may leave those
5 goods in the custody of either:

6 (a) the person from whom the goods have been
7 seized; or

8 (b) any other person authorised by the authorised
9 officer and who consents to having such custody.

10 (2) Every person who has the custody of goods under
11 subsection (1) must, until a final decision is made
12 under section 1340 as to whether or not they are to be
13 returned, hold them in safekeeping, without charge to
14 the Federated States of Micronesia and in accordance
15 with any reasonable conditions that may be imposed by
16 the authorised officer.

17 (3) A person to whom subsection (2) applies must also:

18 (a) make the goods available to an authorised
19 officer on request; and

20 (b) not alter, or dispose of, or remove the goods
21 from the Federated States of Micronesia, unless he or
22 she is authorised to do so by the authorised officer;
23 and

24 (c) return the goods on demand to the custody of
25 the authorised officer.

26 **Section 1343 Offences in relation to certain detained**

1 **Section 1345 Specified aircraft**

2 If the Attorney General is satisfied that the
3 requirements of Article 18 of the Tokyo Convention have
4 been satisfied, the Attorney General may, by notice,
5 declare that a specified aircraft is taken to be
6 registered in a specified Convention country.

7 **Section 1346 General powers of commander of aircraft**

8 (1) The commander of an aircraft in flight may take
9 any reasonable measures necessary for the purposes
10 mentioned in subsection (2) in relation to any person on
11 board the aircraft, including restraint of the person
12 and the use of force, if the commander has reasonable
13 grounds to believe:

14 (a) that the person has done or is about to do
15 any act on the aircraft while it is in flight that
16 jeopardises or may jeopardise:

17 (i) the safety of the aircraft or of persons
18 or property on board the aircraft; or

19 (ii) good order and discipline on board the
20 aircraft; or

21 (b) that the person has done on the aircraft
22 while in flight any act that in the opinion of the
23 commander is a serious offence under a law in force in
24 the country in which the aircraft is registered, not
25 being a law of a political nature or based on racial or
26 religious discrimination.

1 (2) The purposes mentioned in subsection (1) are:

2 (a) to protect the safety of the aircraft or of
3 persons or property on board the aircraft; or

4 (b) to maintain good order and discipline on
5 board the aircraft; or

6 (c) to enable the commander to disembark or
7 deliver that person in accordance with subsection (5).

8 (3) For paragraph (1) (b), a Federated States of
9 Micronesia controlled aircraft is taken to be registered
10 in the Federated States of Micronesia, whether or not it
11 is so registered and whether or not it is registered in
12 another country.

13 (4) A member of the crew of an aircraft and any other
14 person on board the aircraft may, at the request or with
15 the authority of the commander of the aircraft, and a
16 member must if required by the commander, render
17 assistance in restraining any person whom the commander
18 is entitled under subsection (1) to restrain.

19 (5) At any time when the aircraft is in flight, a
20 member of the crew of the aircraft or any other person
21 may, without obtaining the authority of the commander,
22 take any measures mentioned in subsection (1) in
23 relation to any person on board the aircraft that the
24 member or other person has reasonable grounds to believe
25 are immediately necessary to protect the safety of the
26 aircraft or of persons or property on board the

1 aircraft.

2 **Section 1347 Restraint of persons on aircraft**

3 (1) Any restraint imposed on a person on board an
4 aircraft under section 1347 may be continued after the
5 time when the aircraft first ceases to be in flight only
6 if:

7 (a) the aircraft first ceases to be in flight in
8 the territory of a country that is not a party to the
9 Tokyo Convention and its authorities refuse to permit
10 the disembarkation of the person in order to deliver
11 that person to the competent authorities of the country;
12 or

13 (b) the aircraft makes a forced landing and the
14 commander is unable to deliver that person to the
15 competent authorities; or

16 (c) the person agrees to continued restraint for
17 onward carriage.

18 (2) The commander must as soon as is reasonably
19 practicable, and if possible before landing in a
20 country's territory, cause notification to be given to
21 the appropriate authority of the country where the
22 aircraft ceases to be in flight of the fact that a
23 person on board the aircraft is under restraint and of
24 the reasons for the restraint.

25 (3) Subject to the notification mentioned in
26 subsection (2), restraint may be continued after the

1 aircraft first ceases to be in flight:

2 (a) for any period (including the period of any
3 further flight) between that time and the first occasion
4 on which the commander is able with any requisite
5 consent of the appropriate authorities to disembark or
6 deliver the person under restraint in accordance with
7 section 1348; or

8 (b) if the person under restraint agrees to
9 continue his or her journey under restraint on board
10 that aircraft.

11 **Section 1348 Disembarkation and delivery of person**

12 (1) The commander of an aircraft may disembark any
13 person on board an aircraft in any country in which the
14 aircraft may be if, for any person on board the
15 aircraft, the commander:

16 (a) has reasonable grounds to believe that the
17 person is about to do any act mentioned in paragraph
18 1346 (1) (a); and

19 (b) believes that it is necessary to do so in
20 order to protect the safety of the aircraft or of
21 persons or property on board the aircraft or to maintain
22 good order and discipline on board the aircraft.

23 (2) For any person on board the aircraft that the
24 commander of an aircraft has reasonable grounds to
25 believe as mentioned in paragraph 1346 (1) (b), the
26 commander may deliver the person:

1 (a) in the Federated States of Micronesia to a
2 police officer; or

3 (b) in any other country that is a party to the
4 Tokyo Convention, to an officer having functions
5 corresponding to the functions of either a police
6 officer or of an immigration officer in the Federated
7 States of Micronesia.

8 **Section 1349 Reporting and notification obligations**

9 (1) The commander of an aircraft:

10 (a) if he or she disembarks a person under
11 subsection 1348 (1), for a Federated States of
12 Micronesia controlled aircraft, in any country or, for
13 any other aircraft, in the Federated States of
14 Micronesia, must report the fact of, and the reason for,
15 the disembarkation to:

16 (i) an appropriate authority in the country
17 of disembarkation; or

18 (ii) the appropriate diplomatic or consular
19 office of the country of nationality of that person; and

20 (b) if he or she intends to deliver a person under
21 section 1348 in the Federated States of Micronesia or,
22 for a Federated States of Micronesia controlled
23 aircraft, in any other country that is a Convention
24 country, must, before or as soon as reasonably
25 practicable after landing, give notification of his or
26 her intention and of the reasons:

1 (i) if the country is the Federated States
2 of Micronesia, to a police officer or immigration
3 officer or, for any other country, to an officer having
4 functions corresponding to the functions either of a
5 police officer or of an immigration officer in the
6 Federated States of Micronesia; and

7 (ii) in either case to the appropriate
8 diplomatic or consular office of the country of
9 nationality of the person.]; and

10 (c) must give to the appropriate authority
11 evidence in his or her possession about the person's
12 behaviour.

13 (2) A commander of an aircraft who, without reasonable
14 cause, fails to comply with the requirements of this
15 section commits an offence.

16 Maximum penalty: imprisonment for 3 years.

17 (3) If the person is delivered to a police officer:

18 (a) the police officer must take the person into
19 custody unless he or she has reasonable grounds to
20 believe that the person has not committed the offence;
21 and

22 (b) if the police officer refuses to take the
23 person into custody – give written reasons for the
24 refusal.

25 **Section 1350 Indemnity for actions under sections 1344**
26 **to 1349**

1 of Micronesia.

2 (3) Subsection (1) applies to an act committed in
3 relation to an aircraft used in military, customs or
4 police service only if:

5 (a) the act is committed in or over the Federated
6 States of Micronesia; or

7 (b) if the act is committed outside [the
8 Federated States of Micronesia], the person committing
9 the act is a citizen of [the Federated States of
10 Micronesia].

11 **MONTREAL CONVENTION AND PROTOCOL – CIVIL AVIATION**
12 **Section 1352 Offence to destroy, damage or endanger**
13 **safety of aircraft**

14 (1) A person must not unlawfully and intentionally:

15 (a) destroy an aircraft in service or so damage
16 an aircraft as to render it incapable of flight or as to
17 be likely to endanger its safety in flight; or

18 (b) commit on board an aircraft in flight an act
19 of violence that is likely to endanger the safety of the
20 aircraft.

21 Maximum penalty: imprisonment for 25 years.

22 (2) A person must not unlawfully and intentionally
23 place or cause to be placed on an aircraft in service a
24 device or substance that is likely to destroy the
25 aircraft or is likely to damage it so as to render it
26 incapable of flight or so as to be likely to endanger

1 its safety in flight.

2 Maximum penalty: imprisonment for 25 years.

3 (3) Subsections (1) and (2) apply to an act committed
4 in relation to an aircraft used in military, customs or
5 police service only if:

6 (a) the act is committed in or over the Federated
7 States of Micronesia; or

8 (b) if the act is committed outside the Federated
9 States of Micronesia, the person committing the act is a
10 citizen of the Federated States of Micronesia.

11 **Section 1353 Offences involving other acts endangering**
12 **or likely to danger the safety of aircraft**

13 (1) A person must not unlawfully and intentionally
14 destroy or damage any property to which this section
15 applies or interfere with the operation of that
16 property, if the destruction, damage or interference is
17 likely to endanger the safety of aircraft in flight.
18 Maximum penalty: imprisonment for 25 years.

19 (2) Without limiting the application of subsection
20 (1), subsection (1) applies to any property used for the
21 provision of air navigation facilities including any
22 land, building, aircraft, ship, craft, apparatus or
23 equipment, whether it is on board an aircraft or
24 elsewhere.

25 (3) A person must not intentionally communicate any
26 information which he or she knows to be false,

1 misleading or deceptive in a material particular, if the
2 communication of the information endangers the safety of
3 an aircraft in flight or is likely to endanger the
4 safety of an aircraft in flight.

5 Maximum penalty: imprisonment for 25 years.

6 (4) Subsections (1) and (3) applies to the commission
7 of an act only if:

8 (a) the act is committed in the Federated States
9 of Micronesia, or

10 (b) if the act is committed outside the Federated
11 States of Micronesia:

12 (i) the person committing the act is a
13 citizen of the Federated States of Micronesia; or

14 (ii) the commission of the act endangers or
15 is likely to endanger the safety in flight of an
16 aircraft registered in the Federated States of
17 Micronesia or chartered by demise to a lessee whose
18 principal place of business, or (if none) whose
19 permanent residence, is in the Federated States of
20 Micronesia; or

21 (iii) the act is committed on board an
22 aircraft that is registered or chartered the Federated
23 States of Micronesia; or

24 (iv) the act is committed on board an
25 aircraft that lands in the Federated States of
26 Micronesia with the person who committed the act still

1 on board; or

2 (v) the person is present in the Federated
3 States of Micronesia.

4 (5) Subsection (1) also applies to an act committed
5 outside the Federated States of Micronesia and that is
6 committed in relation to property that is situated
7 outside the Federated States of Micronesia and is not
8 used for the provision of air navigation facilities in
9 connection with international air navigation, only if
10 the person committing the act is a citizen of the
11 Federated States of Micronesia.

12 **Section 1354 Offences involving acts of violence at**
13 **airports serving international civil aviation**

14 (1) A person must not unlawfully and intentionally,
15 using any device, substance or weapon:

16 (a) perform an act of violence, against a person
17 at an airport serving international civil aviation, that
18 causes or is likely to cause serious injury or death; or

19 (b) destroy or seriously damage the facilities of
20 an airport serving international civil aviation or an
21 aircraft not in service located there or disrupt the
22 services of the airport;

23 if the act endangers or is likely to endanger safety at
24 the airport.

25 Maximum penalty: imprisonment for 25 years.

26 **INTERNATIONALLY PROTECTED PERSONS**

1 **Section 1355 Offences against internationally protected**
2 **person**

3 (1) A person must not intentionally:

4 (a) commit murder, kidnapping or other attack on
5 the person or liberty of an internationally protected
6 person; or

7 (b) commit a violent attack on the official
8 premises, private accommodation or means of transport,
9 of an internationally protected person, likely to
10 endanger that person or that person's liberty; or

11 (c) threaten to commit an attack.

12 Maximum penalty: imprisonment for life years.

13 **HOSTAGES**

14 **Section 1356 Offence of taking hostage**

15 (1) A person must not:

16 (a) seize or detain another person; and

17 (b) threaten to kill, injure or continue to
18 detain the other person;

19 with intent to compel the government of a country, an
20 international organization or a person or group of
21 persons to act or refrain from acting as an explicit or
22 implicit condition for the safety or release of the
23 other person.

24 Maximum penalty: imprisonment for 25 years.

25 **NUCLEAR MATERIAL**

26 **Section 1357 Movement of nuclear material**

1 (1) A person must not knowingly import or export
2 nuclear material to or from the Federated States of
3 Micronesia except in accordance with a license or
4 written permit given by Secretary of Justice.
5 Maximum penalty: imprisonment for 10 years.

6 (2) A person must not knowingly, without licence or
7 written permission from Secretary of Justice, transport
8 nuclear material:

9 (a) over the territory of the Federated States of
10 Micronesia; or

11 (b) through any of its seaports or airports.
12 Maximum penalty: imprisonment for 10 years.

13 (3) A person must not knowingly transport nuclear
14 material between 2 places in the Federated States of
15 Micronesia, through international waters or airspace,
16 without licence or written permission from Secretary of
17 Justice.
18 Maximum penalty: imprisonment for 10 years.

19 (4) A licence or written permission mentioned in
20 subsection (1), (2) or (3) may be given only if the
21 Secretary of Justice has received a written assurance
22 from the person that the material will, during
23 international nuclear transport, be protected at the
24 levels mentioned in the Nuclear Material Convention.

25 (5) A person must not knowingly make a false statement
26 or provide a false assurance to the Secretary of Justice

1 under subsection (1), (2) or (3).

2 Maximum penalty: imprisonment for 5 years.

3 **Section 1358 Offences relating to nuclear material**

4 (1) A person must not:

5 (a) without lawful authority intentionally
6 receive, possess, use, transfer, alter, dispose of or
7 disperse nuclear material in a way that causes or is
8 likely to cause death or serious injury to a person or
9 substantial damage to property or to the environment; or

10 (b) steal nuclear material; or

11 (c) embezzle or fraudulently obtain nuclear
12 material; or

13 (d) demand nuclear material by threat or use of
14 force or any other form of intimidation; or

15 (e) threaten:

16 (i) to use nuclear material to cause death
17 or serious injury to any person or substantial damage to
18 any property or to the environment; or

19 (ii) to steal nuclear material to compel a
20 person, state or an international organization to do or
21 refrain from doing any act; or

22 (f) without lawful authority commit an act, or
23 threaten to commit an act against a nuclear facility, or
24 interfere with a nuclear facility in a way that causes
25 or is likely to cause death or serious injury to a
26 person or substantial damage to property or to the

1 environment.

2 Maximum penalty: imprisonment for 25 years.

3 **MARITIME SAFETY**

4 **Section 1359 Offences**

5 (1) A person must not unlawfully and intentionally:

6 (a) seize, or exercise control over, a ship or
7 fixed platform by force or threat of force or other form
8 of intimidation; or

9 (b) commit an act of violence, against a person
10 on board a ship or fixed platform, that is likely to
11 endanger the safe navigation of the ship or safety of
12 the fixed platform; or

13 (c) destroy a ship or fixed platform; or

14 (d) cause damage, to a ship or its cargo or a
15 fixed platform, that is likely to endanger the safe
16 navigation of the ship or safety of the fixed platform;
17 or

18 (e) place, or cause to be placed, on a ship or
19 fixed platform a device or substance, likely:

20 (i) for a ship – to destroy the ship, or to
21 cause damage to the ship or its cargo likely to endanger
22 the safe navigation of the ship; or

23 (ii) for a fixed platform – to destroy the
24 fixed platform or to endanger its safety; or

25 (f) destroy or seriously damage maritime
26 navigational facilities or seriously interfere with

1 their operation in a way that is likely to endanger the
2 safe navigation of a ship; or

3 (g) communicate information, that he or she knows
4 to be false, endangering the safe navigation of a ship;
5 or

6 (h) injure or kill a person in connection with
7 the commission, or attempted commission, of an offence
8 mentioned in paragraph (a), (b), (c), (d), (e), (f), or
9 (g).

10 Maximum penalty: imprisonment for 25 years.

11 (2) A person must not, with the intention of
12 compelling another person to do or to refrain from doing
13 any act, threaten to commit an offence mentioned in
14 paragraph (1) (b), (c), (d) or (f) in relation to a ship
15 or fixed platform, if the threat is likely to endanger
16 the safety of the ship or fixed platform.

17 Maximum penalty: imprisonment for 15 years.

18 **Section 1360 Protocol offences**

19 (1) A person must not unlawfully and intentionally:

20 (a) with the intention of intimidating a
21 population or compelling a government or international
22 organization to do or to refrain from doing any act:

23 (i) use against or on or discharge from a
24 fixed platform or ship any nuclear, chemical, or
25 biological weapon or radioactive or nuclear material in
26 a manner that causes or is likely to cause death or

1 serious injury or damage:

2 (ii) discharge from a fixed platform or ship
3 oil, liquefied natural gas, or other hazardous or
4 noxious substance, which is not covered by paragraph

5 (a) (i) in such quantity or concentration that causes or
6 is likely to cause death or serious injury or damage:

7 (aa) use a ship in a manner that causes
8 death or serious injury or damage:

9 (bb) threaten to commit an offence in
10 paragraphs (a) (i), (ii) or (iii):

11 (b) transport on a craft:

12 (i) any explosive or radioactive material
13 knowing that it is intended to cause or threatened to be
14 used to cause death or serious injury or damage with the
15 intention to intimidate a population or compel a
16 government or international organization to do or
17 refrain for doing any act:

18 (ii) any nuclear, chemical, or biological
19 weapon:

20 (iii) any source material, special fissionable
21 material, or equipment or material especially designed
22 or prepared for the processing use or production of
23 special fissionable material knowing that it is intended
24 to be used in a nuclear explosive activity or in any
25 other nuclear activity not under safeguard pursuant to
26 an International Atomic Energy Agency comprehensive

1 safeguards agreement:

2 (iv) any equipment, material, or software or
3 related technology that is intended to significantly
4 contribute to the design, manufacture, or delivery of a
5 nuclear, chemical or biological weapon:

6 (v) a person who has committed an act that
7 constitutes and offence under this section with the
8 intent to assist that person to avoid criminal
9 prosecution:

10 (c) injure or cause the death of another person
11 in connection with the commission of any offence under
12 this section.

13 Maximum Penalty: imprisonment for 25 years.

14 **Section 1361 Arrest and delivery**

15 (1) The master of a ship registered in the Federated
16 States of Micronesia who has reasonable grounds to
17 believe that a person has committed an offence under
18 section 1360 against, or on board, any ship may:

19 (a) arrest and detain the person; and

20 (b) deliver the person to the appropriate
21 authorities in any other Convention State.

22 (2) The master of the ship must:

23 (a) notify the authorities in the other
24 Convention State before delivering the person; and

25 (b) give to the authorities evidence in his or
26 her possession that the person has committed the

1 offence.

2 Maximum penalty: imprisonment for 3 years.

3 (3) If the person is delivered to a police officer:

4 (a) the police officer must take the person into
5 custody unless he or she has reasonable grounds to
6 believe that the person has not committed the offence;
7 and

8 (b) if the police officer refuses to take the
9 person into custody – give written reasons for the
10 refusal.

11 **PLASTIC EXPLOSIVES**

12 **Section 1362 Plastics explosives offences**

13 (1) A person must not manufacture unmarked plastic
14 explosives, knowing that they are unmarked.

15 Maximum penalty: imprisonment for 10 years.

16 (2) A person must not possess or transport unmarked
17 plastic explosives, knowing that they are unmarked.

18 Maximum penalty: imprisonment for [*length - X years*].

19 (3) Subject to subsection (5), it is not an offence
20 under subsections (1) or (2) if:

21 (a) the person manufactures or holds unmarked
22 plastic explosives in a quantity approved in writing by
23 Secretary of Justice solely for use:

24 (i) in research, development or testing of
25 new or modified explosives; or

26 (ii) in training in explosives detection or

1 in the development or testing of explosives detection
2 equipment; or

3 (iii) for forensic science purposes; or

4 (b) the unmarked plastic explosives are destined
5 to be, and are incorporated as, an integral part of duly
6 authorised military devices in [the Federated States of
7 Micronesia] within 3 years after the coming into force
8 of the Plastic Explosives Convention in the Federated
9 States of Micronesia.

10 (4) It is not an offence under subsection (2) if the
11 person possesses or transports unmarked plastic
12 explosives in a quantity approved in writing by the
13 Secretary of Justice solely for a use mentioned in
14 subsection (3).

15 (5) If unmarked plastic explosives have been
16 manufactured in, or imported into, the Federated States
17 of Micronesia before the commencement of this chapter:

18 (a) if they are held by authorities performing
19 military or police functions and are not incorporated as
20 an integral part of a military device, they must be
21 destroyed, marked or rendered permanently ineffective
22 within 15 years after the commencement of this chapter;
23 and

24 (b) if they are held by any other person, they
25 must be destroyed, marked or rendered permanently
26 ineffective within 3 years after the commencement of

1 this Chapter.

2 (6) A person must not import or export unmarked
3 plastic explosives.

4 Maximum penalty: imprisonment for 10 years.

5 **Section 1363 Power of entry**

6 (1) An officer authorised in writing by the Attorney
7 General may enter premises where he or she has
8 reasonable grounds to believe that explosives are being
9 manufactured, kept or stored and do any of the
10 following:

11 (b) investigate and make inquiries on the
12 premises to find out whether an offence under section
13 1362 is being committed;

14 (c) inspect any records, documents or equipment
15 found on the premises;

16 (d) take copies of, or extracts from, the records
17 or documents.

18 (2) A person must not:

19 (a) resist or obstruct an officer authorised for
20 subsection (1) exercising the powers mentioned in
21 subsection (1); or

22 (b) knowingly give false information in response
23 to an inquiry under subsection (1); or

24 (c) suppress any material information in response
25 to an inquiry under subsection (1).

26 Maximum penalty: imprisonment for 5 years.

TERRPROST BOMBING

Section 1364 Terrorist bombing offences

(1) Subsection (2) applies to an action that is intended by a person:

(a) to cause death or serious bodily injury; or

(b) to cause extensive damage to a place mentioned in paragraph (2) (a) or (b), a facility mentioned in paragraph (2) (c) or a system mentioned in paragraph (2) (d), if the damage results in or is likely to result in major economic loss.

(2) The person must not unlawfully and intentionally deliver, place, discharge or detonate an explosive or other lethal device in, into or against:

(a) a part of a building, land, street or waterway or other location that is accessible or open to members of the public, whether continuously, periodically or occasionally, including a commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place; or

(b) a facility or conveyance that is used or occupied, in connection with his or her official duties, by:

(i) a representative of any Government; or

(ii) the Head of State of any country; or

(iii) the Prime Minister or a Minister or a

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- 1 cabinet member of any country; or
2 (iv) a member of the legislature of any
3 country; or
4 (v) a judge of any country; or
5 (vi) an official or employee of a Government
6 or public authority or an inter-governmental
7 organization; or
8 (c) a facility, conveyance or instrumentality,
9 whether public or privately owned, that is used in or
10 for a publicly available service for the transportation
11 of persons or cargo; or
12 (d) a publicly or privately owned facility
13 providing or distributing services for the benefit of
14 the public, such as water, energy, fuel or
15 communications.

16 Maximum penalty: imprisonment for life.

17 **NUCLEAR TERRORISM**

18 **Section 1365 Nuclear terrorism**

19 (1) A person must not:

20 (a) unlawfully possess radioactive material or
21 make or possess a radioactive device:

22 (i) with the intent to cause death or
23 serious bodily injury; or

24 (ii) with the intent to cause substantial
25 damage to property or to the environment;

26 (iii) unlawfully use in any way radioactive

1 material or a radioactive device, or use or damage a
2 nuclear facility in a manner which causes a release or
3 increases the risk of the release of radioactive
4 material:

5 (aa) with the intent to cause death or
6 serious bodily injury; or

7 (bb) with the intent to cause
8 substantial damage to property or to the environment;

9 (cc) with the intent to compel a person,
10 State or an international organization to do or refrain
11 from doing any act.

12 (1) A person must not:

13 (a) threaten to commit an offence mentioned in
14 subsection (1) (b); or

15 (b) unlawfully and intentionally make a demand
16 supported by a threat or use of force:

17 (i) for the supply of radioactive material
18 or a radioactive device; or

19 (ii) for a nuclear facility to be made
20 available or for access to a nuclear facility.

21 (2) A threat referred to in subsection (2) must be
22 made in circumstances which indicate the credibility of
23 the threat.

24 Maximum penalty: imprisonment for life.

25 **TRANSNATIONAL ORGANISED CRIME**

26 **Section 1366 Participation in organized criminal group**

1 (1) A person must not participate (whether as a
2 member, associate member or prospective member) in an
3 organised criminal group, knowing that it is an
4 organised criminal group:

5 (a) knowing that his or her participation
6 contributes to the occurrence of criminal activity; or

7 (b) reckless as to whether his or her
8 participation contributes to the occurrence of criminal
9 activity.]

10 Maximum penalty: imprisonment for 20 years.

11 (2) A group of people is capable of being an organised
12 criminal group for the purposes of this section whether
13 or not:

14 (a) some of them are subordinates or employees of
15 others; or

16 (b) only some of the people involved in it at a
17 particular time are involved in the planning,
18 arrangement or execution at that time of any particular
19 action, activity, or transaction; or

20 (c) its membership changes from time to time.

21 **Section 1367 Corruption**

22 (1) A person must not intentionally promise, offer or
23 give to a public official, directly or indirectly, an
24 undue advantage, for the official or for another person,
25 for the official to act or refrain from acting in the
26 exercise of his or her official duties.

1 Maximum penalty: imprisonment for 15 years.

2 (2) A public official must not intentionally solicit
3 or accept, directly or indirectly, an undue advantage,
4 for the official or for another person, for the official
5 to act or refrain from acting in the exercise of
6 official duties.

7 Maximum penalty: imprisonment for 15 years.

8 **PEOPLE TRAFFICKING**

9 **Section 1368 Offence of trafficking in persons**

10 A person must not engage in trafficking in a person or
11 be involved in the arranging of trafficking in a person,
12 knowing that the person's entry into the Federated
13 States of Micronesia or any other state is or was
14 arranged by specified means.

15 Maximum penalty: imprisonment for 20 years.

16 **Section 1369 Offence of trafficking in children**

17 A person must not intentionally engage in trafficking in
18 a person who is a child or be involved in the arranging
19 of trafficking in a person who is a child, regardless of
20 whether the child's entry into the Federated States of
21 Micronesia or any other state is or was arranged by
22 specified means.

23 Maximum penalty: imprisonment for 20 years.

24 **Section 1370 Exploitation of people not legally entitled**
25 **to work**

26 (1) An employer who allows an unlawful employee to

1 undertake employment in the employer's service must not
2 take an action with the intention of preventing or
3 hindering the employee from:

4 (a) leaving the Federated States of Micronesia;
5 or

6 (b) as certaining or seeking that person's
7 entitlement under the law of the Federated States of
8 Micronesia; or

9 (c) disclosing to any person the circumstances of
10 that person's employment by the employer.

11 (2) Without limiting the generality of subsection (1),
12 the following are examples of actions of the kind
13 mentioned in that subsection:

14 (a) taking or retaining possession or control of
15 a person's passport, any other travel or identity
16 document, or travel tickets;

17 (b) preventing or hindering a person from:

18 (i) having access to a telephone; or

19 (ii) using a telephone; or

20 (iii) using a telephone privately; or

21 (iv) leaving premises; or

22 (v) leaving premises unaccompanied;

23 (c) preventing or hindering any labour inspector
24 of official from entering or having access to any place
25 or premises to which the person is entitled to have
26 access under any law.

1 Maximum penalty: imprisonment for 10 years.

2 **Section 1371 Consent of trafficked person**

3 (1) For sections 1368 and 1369 it is not a defence:

4 (a) that the trafficked person consented to the
5 intended exploitation; or

6 (b) that the intended exploitation did not occur.

7 **Section 1372 Offence relating to fraudulent travel**
8 **documents**

9 (1) A person must not knowingly, in order to obtain a
10 material benefit:

11 (a) produce a fraudulent travel or identity
12 document; or

13 (b) procures, provide or possess a fraudulent
14 travel or identity document.

15 Maximum penalty: imprisonment for 10 years.

16 **Section 1373 Protection for trafficked persons**

17 (1) A trafficked person is not liable to criminal
18 prosecution for:

19 (a) the act of trafficking in persons or being a
20 party to an offence of trafficking in persons; or

21 (b) the person's illegal entry into the Federated
22 States of Micronesia, in connection with the act of
23 trafficking in person if the Federated States of
24 Micronesia is the receiving country; or

25 (c) the person's period of unlawful residence in
26 the Federated States of Micronesia after being

1 trafficked, if the Federated States of Micronesia is the
2 receiving country; or

3 (d) the person's procurement or possession of any
4 fraudulent travel or identity documents that the person
5 obtained, or with which the person was supplied, for the
6 purpose of entering the receiving country in connection
7 with the act of trafficking in persons.

8 (2) Subsection (1) does not prevent the removal of a
9 trafficked person in accordance with [applicable
10 *immigration laws*].

11 **Section 1374 Obligation on commercial carriers**

12 (1) A commercial carrier must not transport a person
13 into a receiving country if, on entry into the receiving
14 country, the person does not have the travel documents
15 required for lawful entry into that country.

16 Maximum penalty: fine of \$100,000.

17 (2) A commercial carrier is not guilty of an offence
18 under subsection (1) if:

19 (a) the commercial carrier had reasonable grounds
20 to believe that the documents that the person has are
21 the travel documents required for lawful entry of that
22 person into the receiving country; or

23 (b) the person possessed the travel documents
24 required for lawful entry into the receiving country
25 when that person boarded, or last boarded, the means of
26 transport to travel to the receiving country; or

1 (c) entry into the receiving country occurred
2 only because of illness of or injury to a person on
3 board, emergency, stress of weather or other
4 circumstances beyond the control of the commercial
5 carrier.

6 (3) A commercial carrier that is guilty of an offence
7 under this section is liable to pay the costs of the
8 person's detention in, and removal from, the receiving
9 country.

10 **PEOPLE SMUGGLING**

11 **Section 1375 Offence of people smuggling**

12 (1) A person must not, in order to obtain a material
13 benefit, engage in people smuggling either knowing or
14 being reckless as to the fact that the entry of the
15 person being or to be smuggled into the country is
16 illegal.

17 Maximum penalty: imprisonment for 20 years.

18 (2) Subsection (1) applies whether or not the person
19 being smuggled enters or arrives in the receiving
20 country.

21 **Section 1376 Offence to facilitate stay of an** 22 **unauthorised person**

23 A person must not knowingly facilitate the continued
24 presence of an unauthorised person in a receiving
25 country in order to obtain a material benefit.

26 Maximum penalty: imprisonment for 15 years.

1 **Section 1377 Offence related to fraudulent travel or**
2 **identity documents**

3 (1) A person must not knowingly, in order to obtain a
4 material benefit:

5 (a) produce a fraudulent travel or identity
6 document; or

7 (b) procure, provide or possess a fraudulent
8 travel or identity document.

9 Maximum penalty: imprisonment for 10 years.

10 **Section 1378 Aggravated offences**

11 (1) A person commits an aggravated offence of any of
12 the offences mentioned in subsection (2) who commits
13 that offence in one or more of the following
14 circumstances:

15 (a) the unauthorised person is subjected to
16 torture or to any other cruel, inhuman or degrading
17 treatment (including exploitation);

18 (b) the life or safety of the person being
19 smuggled is, or is likely to be, endangered.

20 (2) Aggravated offences are offences against sections
21 1375, 1376 and 1377.

22 Maximum penalty: imprisonment for 25 years.

23 **Section 1379 Protection for smuggled persons**

24 (1) An unauthorised person is not liable to
25 prosecution for an offence under sections 1375-1381, by
26 reason only of the fact that the person is the object of

1 the following conduct:

2 (a) people smuggling;

3 (b) when committed for the purpose of enabling
4 people smuggling, an offence under section 1377;

5 (c) an offence under section 1376.

6 (2) For the avoidance of doubt, nothing in subsection
7 (1) prevents proceedings being taken against an
8 unauthorised person for an act or omission that
9 constitutes an offence under any other law.

10 **Section 1380 Obligation on commercial carriers**

11 (1) A commercial carrier must not transport a person
12 into a receiving country if, on entry into the receiving
13 country, the person does not have the travel documents
14 required for lawful entry into that country.

15 Maximum penalty: fine of \$100,000.

16 (2) A commercial carrier is not guilty of an offence
17 under subsection (1) if:

18 (a) the commercial carrier had reasonable grounds
19 to believe that the documents that the person has are
20 the travel documents required for lawful entry of that
21 person into the receiving country; or

22 (b) the person possessed the travel documents
23 required for lawful entry into the receiving country
24 when that person boarded, or last boarded, the means of
25 transport to travel to the receiving country; or

26 (c) entry into the receiving country occurred

1 only because of illness of or injury to a person on
2 board, emergency, stress of weather or other
3 circumstances beyond the control of the commercial
4 carrier.

5 (3) A commercial carrier that is guilty of an offence
6 under this section is liable to pay the costs of the
7 person's detention in, and removal from, the receiving
8 country.

9 **Section 1381 Boarding, search and detention of craft**

10 (1) This section applies to a craft that is a ship,
11 boat, or other machine or vessel used or capable of
12 being used for the carriage of persons by water or over
13 water, except for a foreign warship.

14 (2) An authorised officer may stop and board the craft
15 within the Federated States of Micronesia if the
16 authorised officer has reasonable grounds to believe the
17 craft:

18 (a) is being used to commit an offence against
19 section 1375; and

20 (b) the craft is in:

21 (i) the Federated States of Micronesia; or

22 (ii) the contiguous zone of the Federated
23 States of Micronesia.

24 (3) The authorised officer may, when reasonably
25 necessary for the exercise of his or her functions in
26 connection with an offence against section 1375:

1 (a) direct the craft to stay where it is, or
2 direct it to be taken to a suitable place in the
3 Federated States of Micronesia, for the purpose of
4 search; and

5 (b) search and detain the craft, anyone on it and
6 anything on it; and

7 (c) question any person on board the craft; and

8 (d) require the production of any documents
9 relating to the craft or any travel or identity
10 documents of a person on the craft; and

11 (e) take a copy of any documents produced; and

12 (f) seize and detain anything found on the craft
13 that appears to him or her to be evidence of an offence
14 against this charter; and

15 (g) remain on the craft for such period as is
16 reasonably necessary for the purpose of boarding,
17 searching and directing the craft or carrying out an
18 investigation for an offence against section 1375.

19 (4) If the craft fails to stop at the request of an
20 authorised officer, the officer may pursue it into
21 international waters and take any action that is
22 reasonably necessary to stop the craft to enable it to
23 be boarded (other than in the territorial sea of another
24 country).

25 (5) The authorised officer may require the person in
26 charge of the craft, a member of the crew or any person

1 on board to take any action that may be directed by the
2 officer for paragraph (3) (a).

3 (6) The person in charge of the craft must give any
4 authorised officer who remains on board the craft proper
5 and sufficient food and suitable accommodation without
6 charge.

7 (7) A person must comply with a direction of the
8 authorised officer under paragraph (3) (a).

9 Maximum penalty: imprisonment for 3 years.

10 **GENERAL PROVISIONS**

11 **Section 1382 Jurisdiction**

12 (1) Unless otherwise provided for under this chapter,
13 proceedings may be brought for an offence under this
14 chapter:

15 (a) if the act or omission:

16 (i) is committed in the Federated States of
17 Micronesia; or

18 (ii) is committed on board a ship or aircraft
19 registered in the Federated States of Micronesia; or

20 (iii) is committed by a person who is in the
21 Federated States of Micronesia; and

22 (b) whether or not the act or omission
23 constituting the offence is committed in or outside the
24 Federated States of Micronesia, if the act or omission:

25 (i) is committed by a citizen of the
26 Federated States of Micronesia or a citizen of any

1 country who is ordinarily resident in the Federated
2 States of Micronesia; or

3 (ii) is committed in order to compel the
4 Government of the Federated States of Micronesia to do
5 or abstain from doing any act; or

6 (iii) is committed against a citizen of the
7 Federated States of Micronesia; or

8 (iv) is committed by a person who is, after
9 the commission of the offence, present in the Federated
10 States of Micronesia; or

11 (v) is intended to be committed in the
12 Federated States of Micronesia; or

13 (vi) originates in or transits the Federated
14 States of Micronesia.

15 **Section 1383 Aiding, abetting etc commission of an**
16 **offence**

17 (1) A person who aids, abets, counsels or procures the
18 commission of an offence under this chapter by another
19 person is taken to have committed the offence and is
20 punishable as if the offence had been committed by that
21 person.

22 (2) A person does not commit an offence under
23 subsection (1) if, before the offence was committed, the
24 person:

25 (a) terminated the person's involvement; and

26 (b) took all reasonable steps to prevent the

1 commission of the offence.

2 **Section 1384 Incitement to commit an offence**

3 (1) A person who urges the commission of an offence
4 under this chapter commits an offence.

5 Maximum penalty: imprisonment for 10 years.

6 (2) A person commits an offence under subsection (1)
7 even if committing the offence incited is impossible.

8 **Section 1385 Conspiring to commit an offence**

9 (1) A person who conspires with another person,
10 whether inside or outside the Federated States of
11 Micronesia, to commit an offence under this chapter
12 commits the offence of conspiracy and is punishable as
13 if the offence to which the conspiracy relates had been
14 committed.

15 (2) A person is not guilty of conspiracy to commit an
16 offence if, before the taking of action under the
17 agreement, the person:

18 (a) withdrew from the agreement; and

19 (b) took all reasonable steps to prevent the
20 commission of the offence.

21 (3) A person is not guilty of conspiracy to commit an
22 offence if:

23 (a) all other parties to the agreement have been
24 acquitted of the conspiracy and a finding of guilt would
25 be inconsistent with their acquittal; or

26 (b) the person is a person for whose benefit or

1 protection the offence exists.

2 **Section 1386 Attempting to commit an offence**

3 A person who attempts to commit an offence under this
4 chapter commits an offence and is punishable as if the
5 offence attempted had been committed, provided that the
6 person's conduct is more than merely preparatory to the
7 commission of the offence.

8 **Section 1387 Liability of a corporation**

9 (1) This chapter applies to a corporation in the same
10 way as it applies to an individual and a corporation may
11 be found guilty of any of the offences set out in this
12 chapter, in addition to the liability of any person for
13 the same offence.

14 (2) For an offence under this chapter, the conduct or
15 state of mind of an employee, agent or officer of a
16 corporation is taken to be attributed to the corporation
17 if that person is acting:

18 (a) within the scope of the person's employment;

19 or

20 (b) within the scope of the person's actual or
21 apparent authority; or

22 (c) with the consent or agreement (express or
23 implied) of a director, servant or agent of the
24 corporation, and giving that consent is within the
25 actual or apparent authority of the director, servant or
26 agent.

1 (3) A reference in this section to the state of mind
2 of a person includes the person's knowledge, intention,
3 opinion, belief or purpose, and the person's reasons for
4 that intention, opinion, belief or purpose.

5 **Section 1388 Obligation to extradite or prosecute**

6 If the Attorney-General refuses a request from another
7 country to extradite a person under the Extradition Act,
8 and the extradition request relates to an act or
9 omission listed in Schedule 1, the Attorney-General must
10 submit the matter to the Police.

11 **Section 1389 Consent of Attorney-General**

12 (1) Proceedings for any offence under this chapter,
13 for which jurisdiction is claimed under subparagraph
14 1382 (a) (ii) for an offence committed on board an
15 aircraft while in flight, or a vessel, elsewhere than in
16 or over the Federated States of Micronesia or for any
17 other offence committed outside the Federated States of
18 Micronesia may only be instituted with the consent of
19 the Attorney-General.

20 (2) Subsection (1) do not prevent the arrest, or the
21 issue of a warrant for the arrest, of any person for any
22 offence, or the remanding in custody or on bail of any
23 person charged with any offence.

24 **Section 1390 Restricted grounds for refusal to extradite**
25 **or provide mutual assistance**

26 (1) Despite anything in the Extradition Act 2007 or

1 Mutual Assistance in Criminal Matters Act 2000, an
2 offence under this or any other title, where the act or
3 omission constituting the offence also constitutes a
4 terrorist act, is taken, for the purposes of extradition
5 or mutual assistance, not to be:

6 (a) an offence of a political character or
7 an offence connected with a political offence or an
8 offence inspired by political motives; or

9 (b) a fiscal offence.

10 (2) Despite anything in the Mutual Assistance in
11 Criminal Matters Act 2000, no request for mutual
12 assistance in relation to an offence under this chapter
13 may be declined solely on the basis of bank secrecy.

14 **Section 1391 Responsibility for enforcement of this**
15 **chapter**

16 The **Secretary of Justice has primary enforcement for**
17 **this** chapter.

18 **Section 1392 Court jurisdiction**

19 Despite any other law the court has jurisdiction
20 concerning all matters under or relating to this
21 chapter.

22 Section 1393 No limitation of time for prosecutions.

23 Despite any other law there is no limitation of time on
24 when a prosecution for an offence established under this
25 chapter may be brought.

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Section 1394. This Act becomes law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval, which event occurs first.

Date: _____ Introduced by: _____
Joe N. Suka
(by request)