

## CUSTOMS

All aircraft entering FSM ports of entry are subject to immigration inspection, customs inspections, agricultural inspections and quarantines, and other administrative inspections authorized by law. In Chuuk, the Chuuk International Airport is the only port of entry for aircraft. FSM v. Joseph, 9 FSM R. 66, 70 (Chk. 1999).

Customs officers have the right to examine all goods subject to customs control, and it is unlawful to import into the FSM any goods whose use, possession or import is prohibited or contrary to restrictions imposed by the FSM or the state into which the goods are imported. FSM v. Joseph, 9 FSM R. 66, 70 (Chk. 1999).

The Customs Act of 1996 gives the FSM the authority to investigate and perform post-audits of declared CIF values after the release of the goods. Ruben v. FSM, 15 FSM R. 508, 514 (Pon. 2008).

An importer has the responsibility of fully and accurately declaring the value of all dutiable goods. The amount of penalties for understating the value of the imported goods depends on who discovers the understatement and the timing of the discovery in relation to the release of the goods. If the FSM discovers the understatement before the release of the goods, a 100% penalty applies. A 100% penalty also applies if the importer or owner discovers and reports the understatement within 10 days of the release of the goods. A 200% penalty applies in all other cases of understatement. Ruben v. FSM, 15 FSM R. 508, 514 (Pon. 2008).

While the statute is not explicit, instances where a 200% penalty will apply include when the importer or owner discovers and reports the understatement more than 10 days after the release of the goods and when the FSM discovers the understatement anytime after the release of the goods. Ruben v. FSM, 15 FSM R. 508, 514 (Pon. 2008).

The FSM is within its statutory authority to conduct a post-audit investigation after the goods have been released. Ruben v. FSM, 15 FSM R. 508, 514 (Pon. 2008).

Appraisement is just one of the valuation methods set forth in Section 223; there are several other preferred methods for arriving at an equivalent CIF price when the CIF price cannot be reasonably determined. For instance, an equivalent CIF price can be established through the value of identical goods at the CIF location. Only when all other preferable methods fail to render an equivalent CIF price does the statute permit the use of appraisement to arrive at the CIF price. Ruben v. FSM, 15 FSM R. 508, 516 (Pon. 2008).

Civil penalties and interest for understating the amount of duty due on imported goods cannot be avoided through lack of knowledge, however innocent the importer's lack of knowledge may be. Laxmi Enterprises v. FSM Dep't of Fin. & Admin., 21 FSM R. 601, 603 (Chk. 2018).

Unlike most goods, the customs duty for cigarettes is based on the number of cigarettes imported, not on the imported cigarettes' monetary value. Laxmi Enterprises v. FSM Dep't of Fin. & Admin., 21 FSM R. 601, 603 n.1 (Chk. 2018).

If an importer, correctly reporting the types, quantities, and values of the dutiable goods, were to prove that it was affirmatively misled by customs officials to understate the amount of duty due, it may have an equitable estoppel claim against the government. Laxmi Enterprises v. FSM Dep't of Fin. & Admin., 21 FSM R. 601, 603 (Chk. 2018).

A Customs officer has the right to examine all goods subject to Customs control, and among the goods subject to Customs control are all goods for export, from the time such goods are brought to any port, airport, or other place for export until their exportation to any country outside of the FSM. In re Wrecked/Damaged Helicopter, 22 FSM R. 447, 461 (Pon. 2020).

A facility that is not itself a port or airport, but is in close proximity to both the port and airport, can be considered an "other place for export" to the extent that it is a container yard – it stores packed containers ready for shipment abroad. In re Wrecked/Damaged Helicopter, 22 FSM R. 447, 461 (Pon. 2020).

A CY-CY container is a container in which all goods packed in it are for the one consignee and the container is consigned from one container yard to another container yard and will not normally be unpacked at the wharf. CY-CY containers are typically subjected to customs inspection, not on the wharf, but at a container yard. In re Wrecked/Damaged Helicopter, 22 FSM R. 447, 461 (Pon. 2020).

That an examination was not done by a customs officer, but by the national police, a different FSM law enforcement agency, but one that is tasked with the general enforcement of all FSM national law, instead of the narrow specialized area that customs officers are restricted to, should not invalidate the examination when it was one that was permissible for Customs officers to do. In re Wrecked/Damaged Helicopter, 22 FSM R. 447, 461 (Pon. 2020).

Ports, airports, and other places for export such as a container yard are functional equivalents of a border. Border searches and searches at the functional equivalent of a border are an exception to the warrant requirement of section 5 of the FSM Declaration of Rights. In re Wrecked/Damaged Helicopter, 22 FSM R. 447, 461 (Pon. 2020).

The border search exception to the constitutional search warrant requirement applies equally to persons and goods leaving the country as it does to persons and goods entering the country. A border search, or a search at the functional equivalent of a border, of outgoing passengers or goods requires neither a warrant nor probable cause. In re Wrecked/Damaged Helicopter, 22 FSM R. 447, 461 (Pon. 2020).