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A BILL FOR AN ACT

To enact a new law to prohibit terrorism in accordance with: United Nations Security Council Resolution 1373 calling for international cooperation to combat threats of international peace and security caused by terrorist acts; the Special Recommendations on Terrorist Financing issued by the Financial Action Task Force on Money Laundering; and the international terrorism conventions to which Palau has become a party.

**THE PEOPLE OF PALAU REPRESENTED IN THE OLBIL ERA KELULAU DO ENACT AS FOLLOWS:**

**CHAPTER 1  
TERRORISM**

**Subchapter I  
General Provisions**

**Section 1.** Findings. The Olbil Era Kelulau finds that:

(a) The world-wide escalation of terrorism in all its forms and manifestations endangers and takes innocent human lives, jeopardizes fundamental freedoms and seriously impairs the dignity of human beings;

(b) Everyone has the right to life, liberty and security of person;

(c) United Nations Security Council Resolution 1373 of September 28, 2001 mandates that all UN member States take specific and immediate measures to prohibit and criminalize the financing of terrorism;

(d) The Special Recommendations on Terrorist Financing issued by the Financial Action Task Force on Money Laundering on October 31, 2001, as amended, call for taking action to detect, prevent and suppress the financing of terrorism;

(e) Enactment of counter-terrorism legislation is necessary in order to protect the rights of individuals to live in peace, freedom, and security and to fulfill the mandate for enhanced international cooperation to combat terrorism.

**Section 2.** Short title, purpose and objective. This Act shall be called the "Counter-Terrorism Act of 2005." The Olbil Era Kelulau enacts this legislation for the purpose of implementing, in Palau national law:

(a) the international terrorism conventions to which Palau is a party, and relevant criminal provisions of related international conventions;

(b) United Nations Security Council Resolutions 1373 and 1526; and

(c) the Financial Action Task Force Special Recommendations on Terrorist Financing, This legislation creates a comprehensive legal framework covering all aspects of terrorism, both domestic and international, dedicated to the prevention, repression and elimination of

1 terrorism in all its forms and manifestations in Palau.

2 **Section 3. Definitions.** For the purposes of this Act:

3 (a) “Alleged offender” means a person as to whom there is sufficient evidence to  
4 determine *prima facie* that such person has engaged in terrorism or any person who is listed  
5 by the United Nations 1267 Sanctions Committee, listed on the Committee List as referenced  
6 in the United Nations Security Resolution 1526, listed on any such list officially adopted or  
7 approved by the United Nations Security Council, or listed under United States Executive  
8 Order 13224.

9 (b) A “biological agent” means any micro-organism, virus, infectious substance, or  
10 biological product that may be engineered as a result of biotechnology, or any naturally  
11 occurring or bio-engineered component of any such microorganism, virus, infectious  
12 substance, or biological product, capable of causing:

13 (1) death, disease, or other biological malfunction in a human, an animal, a  
14 plant, or another living organism; or

15 (2) deterioration of food, water, equipment, supplies, or material of any kind;

16 or

17 (3) deleterious alteration of the environment.

18 (c) “biological weapon” means the following, together or separately, a:

19 (1) biological agent; and/or

20 (2) toxin; and/or

21 (3) delivery system;

22 that has been developed, produced, transferred, acquired, retained, or possessed for use  
23 as a weapon; provided, however, for purposes of this section, the term “for use as a  
24 weapon” does not include the development, production, transfer, acquisition, retention,  
25 or possession of any biological agent, toxin or delivery system for prophylactic,  
26 protective, or other peaceful purposes.

27 (d) “chemical weapon” means, together or separately:

28 (1) a toxic chemical and its precursors, except where intended for a purpose  
29 not prohibited by law as long as the type and quantity is consistent with such a  
30 purpose;

31 (2) a munition or device, specifically designed to cause death or other harm  
32 through toxic properties of those toxic chemicals specified in subsection (a), which  
33 would be released as a result of the employment of such munition or device; or

1 (3) any equipment specifically designed for use directly in connection with the  
2 employment of munitions or devices specified in subsection (b).

3 (e) “crime(s) established by this Act” means:

4 (1) the terrorist act offense established by section 5 under the General  
5 Provisions of subchapter I;

6 (2) the offenses established under other subchapters of this Act giving effect  
7 to the criminal provisions of the international terrorism conventions, including:  
8 financing of terrorism (section 23); weapons of mass destruction offenses (section 28);  
9 internationally protected persons offenses (section 30); hostage-taking offenses  
10 (section 32); terrorist bombing offenses (section 34); plastic explosive offenses  
11 (section 36); civil aviation offenses (section 38); maritime offenses (section 44);  
12 nuclear material offenses (section 45); or

13 (3) the criminal complicity and inchoate offenses established by subsection (3)  
14 of section 6.

15 (f) “delivery system” means, with respect to biological weapons:

16 (1) any apparatus, equipment, device, or means of delivery specifically  
17 designed to deliver or disseminate a biological agent, toxin, or vector; or

18 (2) any vector.

19 (g) “destructive device” means any explosive, incendiary, poison gas, or projectile-  
20 expelling weapon, capable of causing serious bodily injury or death, that has been developed,  
21 produced, transferred, acquired, retained, or possessed for use as a weapon, or any  
22 combination of parts or pieces thereof which could be used or converted for such purposes.

23 (h) “engage(s) in” with respect to terrorist acts, terrorism offenses and terrorism,  
24 means, in an individual capacity or as a member of an organization:

25 (1) to perpetrate, commit or carry out, or to incite to commit or carry out; or

26 (2) to threaten, attempt, solicit, or conspire to carry out or commit; or

27 (3) to prepare or plan; or

28 (4) to gather information on potential targets for; or

29 (5) to solicit, collect or provide property or other things of value, with the  
30 knowledge or intention that the property or other things of value will be used:

31 (A) for terrorism; or

32 (B) by a terrorist organization;

33 (6) to solicit, recruit, or train any person:

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- 1 (A) to engage in terrorism;
- 2 (B) to engage in conduct otherwise described in this section; or
- 3 (C) for membership in a terrorist organization;
- 4 (7) to commit or carry out an act that the actor knows, or reasonably should
- 5 know, affords material support, including a safe house, transportation,
- 6 communications, property, transfer of property or other material benefit, false
- 7 documentation or identification, weapons (including, without limitation, chemical,
- 8 biological, or radiological weapons), explosives, or training:
- 9 (A) for terrorism; or
- 10 (B) to any individual who the actor knows, or reasonably should know,
- 11 engages in terrorism; or
- 12 (C) for a terrorist organization.
- 13 (i) “fixed platform” means an artificial island, installation or structure permanently
- 14 attached to the seabed for the purpose of exploration or exploitation of resources or for other
- 15 economic purposes;
- 16 (j) “foreign national” means a natural person who is neither a citizen nor a national of
- 17 the Republic of Palau;
- 18 (k-1) “foreign State” means:
- 19 (1) any country other than the Republic of Palau; and
- 20 (2) every constituent part of such country, including a territory, dependency
- 21 or protectorate which administers its own laws;
- 22 (k-2) “foreign government” means any foreign State or nation, or any agency,
- 23 instrumentality or political subdivision of any such government or nation, whether or not it is
- 24 engaging in legal activities or is operating legally or in a lawful manner.
- 25 (l) “property” means real and personal property of every kind whatsoever.
- 26 (m) “in flight” means, with respect to aircraft, at any time from the moment when all
- 27 the external doors are closed following embarkation until the moment when any such door is
- 28 opened for disembarkation; provided, however, in the case of a forced landing, the flight shall
- 29 be deemed to continue until the competent authorities take over the responsibility for the
- 30 aircraft and for persons and property on board;
- 31 (n) “in service” means with respect to aircraft, from the beginning of the preflight
- 32 preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-
- 33 four hours after any landing; and, the period of service shall, in any event, extend for the entire

1 period during which the aircraft is in flight;

2 (o) “international terrorism conventions” means and includes:

3 (1) The “Convention on Offences and Certain Other Acts Committed on Board  
4 Aircraft”, done at Tokyo on 14 September 1963 (deposited with the International Civil  
5 Aviation Organization);

6 (2) The “Convention for the Suppression of Unlawful Seizure of Aircraft”,  
7 done at The Hague on 16 December 1970 (deposited with the International Civil  
8 Aviation Organization);

9 (3) The “Convention for the Suppression of Unlawful Acts against the Safety  
10 of Civil Aviation”, done at Montreal on 23 September 1971 (deposited with the  
11 International Civil Aviation Organization);

12 (4) The “Convention on the Prevention and Punishment of Crimes against  
13 Internationally Protected Persons, including Diplomatic Agents”, adopted by the  
14 General Assembly of the United Nations on 14 December 1973 (deposited with the  
15 Secretary-General of the United Nations);

16 (5) The “International Convention against the Taking of Hostages”, adopted  
17 by the General Assembly of the United Nations on 17 December 1979 (deposited with  
18 the Secretary-General of the United Nations);

19 (6) The “Convention on the Physical Protection of Nuclear Material”, opened  
20 for signature at New York and Vienna on 3 March 1980 (deposited with the Director  
21 General of the International Atomic Energy Agency);

22 (7) The “Protocol for the Suppression of Unlawful Acts of Violence at  
23 Airports Serving International Civil Aviation, done at Montreal on 24 February 1988,  
24 and supplementary to the 1971 Convention for the Suppression of Unlawful Acts  
25 against the Safety of Civil Aviation” (deposited with the International Civil Aviation  
26 Organization);

27 (8) The “Convention for the Suppression of Unlawful Acts against the Safety  
28 of Maritime Navigation”, done at Rome on 10 March 1988 (deposited with the  
29 International Maritime Organization);

30 (9) The “Protocol for the Suppression of Unlawful Acts against the Safety of  
31 Fixed Platforms located on the Continental Shelf”, done at Rome on 10 March 1988  
32 (deposited with the International Maritime Organization);

33 (10) The “Convention on the Marking of Plastic Explosives for the Purpose

1 of Detection”, done at Montreal on 1 March 1991 (deposited with the International  
2 Civil Aviation Organization);

3 (11) The “International Convention for the Suppression of Terrorist  
4 Bombings”, adopted by the General Assembly of the United Nations on 15 December  
5 1997 (deposited with the Secretary-General of the United Nations);

6 (12) The “International Convention for the Suppression of the Financing of  
7 Terrorism”, adopted by the General Assembly of the United Nations on 9 December  
8 1999 (deposited with the Secretary-General of the United Nations);

9 (13) Any conventions regarding terrorism to which Palau becomes a State  
10 Party.

11 (p) “internationally protected person” means and includes:

12 (1) a Head of State, including any member of a collegial body  
13 performing the functions of a Head of State under the constitution of the State  
14 concerned, a Head of Government or a Minister of Foreign Affairs, whenever  
15 any such person is in a foreign State, as well as members of such person's  
16 family who accompany him or her;

17 (2) any representative or official of the Republic of Palau or of a  
18 foreign State, or any official or other agent of an international organization of  
19 an intergovernmental character who, at the time when and in the place where  
20 a crime against such person, the person's official premises, private  
21 accommodation or means of transport is committed, is entitled pursuant to  
22 international law to special protection from any attack on his or her person,  
23 freedom or dignity, as well as members of such person's family forming part  
24 of the person's household;

25 (q) “infrastructure facility” means any publicly or privately owned facility providing  
26 or distributing services for the benefit of the public, such as water, sewage, energy, fuel or  
27 communications;

28 (r) “key component of a binary or multi-component chemical system” means, with  
29 respect to precursors and chemical weapons, the precursor that plays the most important role  
30 in determining the toxic properties of the final product and reacts rapidly with other chemicals  
31 in the binary or multi-component system;

32 (s) “Minister of Justice” means the Minister of Justice of the Republic of Palau, and  
33 includes any person to whom the Minister of Justice delegates authority to carry out the duties

1 and responsibilities of the Minister of Justice established by this Act;

2 (t) “nuclear material” has the same meaning as defined in the Convention on the  
3 Physical Protection of Nuclear Material;

4 (u) “Palau” means the Republic of Palau, and every part of the territory of Palau,  
5 including the marine space and the territorial sea and the airspace above the territory of Palau,  
6 and also includes all governments of Palau;

7 (v) “person” means and includes both natural and legal persons and any foreign  
8 government or nation or any agency, instrumentality or political subdivision of any such  
9 government or nation, whether or not it is engaging in legal activities or is operating legally  
10 and in a lawful manner;

11 (w) “place of public use” means those parts of any building, land, street, waterway or  
12 other location that are accessible or open to members of the public, whether continuously,  
13 periodically or occasionally, and encompasses any commercial, business, cultural, historical,  
14 educational, religious, governmental, entertainment, recreational or similar place that is so  
15 accessible or open to the public;

16 (x) “plastic explosive” means an explosive material in flexible or elastic sheet form  
17 formulated with one or more high explosives which in their pure form has a vapor pressure  
18 less than  $10^{-4}$  Pa at a temperature of  $25^{\circ}\text{C}$ ., is formulated with a binder material, and is as a  
19 mixture malleable or flexible at normal room temperature;

20 (y) “precursor” means, with respect to chemical weapons, any chemical reactant that  
21 takes part at any stage in the production by whatever method of a toxic chemical, and includes  
22 any key component of a binary or multi-component chemical system;

23 (z) “proceeds” means any property derived from or obtained, directly or indirectly,  
24 through or from terrorism;

25 (aa) “public transportation system” means all facilities, conveyances and  
26 instrumentalities, whether publicly or privately owned, that are used in or for publicly  
27 available services for the transportation of persons or cargo;

28 (bb) “purpose not prohibited by law” means, with respect to chemical  
29 weapons:

30 (1) any peaceful purpose related to an industrial, agricultural, research,  
31 medical, or pharmaceutical activity or other activity;

32 (2) any purpose directly related to protection against toxic chemicals  
33 and to protection against chemical weapons;

1 (3) any military purpose of Palau that is not connected with the use of  
2 a chemical weapon or that is not dependent on the use of the toxic or poisonous  
3 properties of the chemical weapon to cause death or other harm;

4 (4) any law enforcement purpose, including any domestic riot control  
5 purpose;

6 (cc) “ship” means a vessel of any type whatsoever not permanently attached  
7 to the sea-bed, including dynamically supported craft, submersibles, or any other  
8 floating craft;

9 (dd) “serious bodily injury” means physical pain, illness or any impairment of  
10 physical condition that creates a substantial risk or death or which causes serious,  
11 permanent disfigurement, or protracted loss or impairment of the function of any  
12 bodily member or organ;

13 (ee) “serious offense” means any act committed in the Palau that is punishable  
14 by a period of imprisonment of more than one year and any act committed abroad,  
15 which constitutes a felony, had it been committed in the Palau.;

16 (ff) “state or government facility” means any permanent or temporary facility  
17 or conveyance that is used or occupied by representatives of a country, members of  
18 government, the legislature or the judiciary or by officials or employees of a country  
19 or any other public authority or entity or by employees or officials of an  
20 intergovernmental organization in connection with their official duties;

21 (gg) “substantial property damage” means damage in an amount exceeding  
22 [\$10,000];

23 (hh) “terrorism” means terrorism offenses and terrorist acts;

24 (ii) “terrorism offense” means:

25 (1) any crime established by this Act;

26 (2) any crime established by the Palau National Code and declared to  
27 be a terrorism offense by the Olbiil Era Kelulau;

28 (3) any crime established by an international terrorism convention;

29 (4) any crime recognized under international humanitarian law as a  
30 terrorism offense; and

31 (5) any crime established under the law of a foreign State, where such  
32 crime, if committed in Palau, would constitute a terrorism offense under the  
33 Palau National Code;



1 (jj) “terrorist” means a person who engages in terrorism;

2 (kk) “terrorist act” means any act that is intended, or by its nature or context  
3 can be reasonably regarded as intended to advance political, ideological or religious  
4 causes, by intimidating the public or any portion of the public, or by compelling or  
5 attempting to compel a government or an international or regional organization to do  
6 or refrain from doing any act, and:

7 (1) involves the seizing or detaining, and threatening to kill, injure,  
8 harm, or continue to detain, another person;

9 (2) endangers the life of any person;

10 (3) creates a risk to the health or the safety of the public, or to any  
11 portion of the public;

12 (4) endangers the national security or national defense of any country;

13 (5) involves substantial damage to property;

14 (6) involves the highjacking, seizure or sabotage of any conveyance  
15 (including an aircraft, vessel, ship, or vehicle), or of any fixed platform  
16 attached to the continental shelf;

17 (7) involves any act that is designed to disrupt or destroy an electronic  
18 system, including, without limitation:

19 (A) an information system;

20 (B) a telecommunications system;

21 (C) a financial system;

22 (D) a system used for the delivery of essential government  
23 services;

24 (E) a system used for, or by, an essential public utility; or

25 (F) a system used for, or by, a transport system; or

26 (8) involves any act that is designed to disrupt the provision of  
27 essential emergency services such as the police, civil defense and medical  
28 services;

29 (ll) “terrorist organization” means a group composed of two or more persons,  
30 whether organized or not, that engages in terrorism;

31 (mm) “toxic chemical” means any chemical which through its chemical action  
32 on life processes can cause death, temporary incapacitation or permanent harm to  
33 humans or animals, and includes all such chemicals, regardless of their origin or of

1           their method of production, and regardless of whether they are produced in facilities,  
2           in munitions or elsewhere;

3           (nn) “toxin” means the toxic material of plants, animals, microorganisms,  
4           viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin  
5           or method of production, including:

6                   (1) any poisonous substance or biological product that may be  
7                   engineered as a result of biotechnology produced by a living organism; or

8                   (2) any poisonous isomer or biological product, homolog, or derivative  
9                   of such a substance;

10          (oo) “vector” means, with respect to delivery systems and biological weapons,  
11          a living organism, or molecule, including a recombinant molecule, or biological  
12          product that may be engineered as a result of biotechnology, capable of carrying a  
13          biological agent or toxin to a host;

14          (pp) “weapon of mass destruction” means, any:

15                   (1) destructive device;

16                   (2) chemical weapon or any other weapon that is designed or intended  
17                   to cause death or serious bodily injury through the release, dissemination, or  
18                   impact of toxic or poisonous chemicals, or their precursors;

19                   (3) biological weapon, or any other weapon involving a disease  
20                   organism;

21                   (4) nuclear material, weapon or device, and any other weapon that is  
22                   designed to release radiation or radioactivity at a level dangerous to human life.

23          **Section 4. Application, jurisdiction and enforcement.** The Office of the Attorney  
24          General shall have primary enforcement authority for this Act.

25          (a) Palau shall have and take jurisdiction over and prosecute any crime established by  
26          this Act when the offense:

27                   (1) is committed in Palau;

28                   (2) is committed by a Palau citizen or national;

29                   (3) is committed on board an aircraft or ship;

30                           (a) registered under Palau national law at the time the offense was  
31                           committed;

32                           (b) operating under or flying the Palau flag;

33                                   (i) which lands in the territory of the Republic of Palau with

1 the alleged offender still on board;

2 (ii) leased or chartered without crew to a lessee who has its  
3 principal place of business in Palau, or who is a habitual resident of  
4 Palau;

5 (4) is committed against or on board a fixed platform while it is located on  
6 Palau's continental shelf; Palau shall also have, and may take jurisdiction over and  
7 prosecute any crime established by this Act when the offense:

8 (5) was directed towards or resulted in the carrying out of a crime against a  
9 Palau citizen or national, or during its commission a Palau citizen or national is seized,  
10 threatened, injured or killed;

11 (6) was directed towards or resulted in the carrying out of a crime against the  
12 government of Palau or a Palau government facility abroad, including diplomatic or  
13 consular premises of Palau;

14 (7) was directed towards or resulted in a crime committed in an attempt to  
15 compel Palau to do or abstain from doing any act;

16 (8) was committed by a stateless person whose habitual residence is in Palau;

17 (9) is committed in a foreign state by an alleged offender who is present in  
18 Palau, and the alleged offender is not extradited to a foreign State that has established  
19 jurisdiction over the offense or the alleged offender.

20 (b) Application of any provisions of this Act, relating to or implementing the  
21 provisions of any international terrorism convention or protocol, shall conform to and meet  
22 the requirements of the particular convention or protocol, and shall be subject to the exclusions  
23 and jurisdictional requirements contained therein.

24 **Section 5. Terrorist acts.** It shall be a crime, punishable by the penalties established  
25 by section 6, for any person to knowingly, by any means, directly or indirectly, engage in a  
26 terrorist act.

27 **Section 6. Criminal penalties; criminal complicity and inchoate offenses; no time**  
28 **limitation on prosecution; detention of suspected terrorists.**

29 (a) Crimes established by this Act resulting in the death of any natural person, are  
30 punishable by a minimum term of imprisonment of 30 years and a maximum term of life, and  
31 unless otherwise expressly provided, a maximum fine of \$1,000,000; All other crimes  
32 established by this Act are punishable by a minimum term of imprisonment of 20 years and  
33 a maximum term of life, and unless otherwise expressly provided, a maximum fine of

1 \$1,000,000, and in every case, the Court shall not place on probation any person convicted of  
2 such a crime; nor shall the term of imprisonment imposed run concurrently with any other  
3 term of imprisonment.

4 (b) In lieu of the amount of the fine otherwise authorized by this Act, and in addition  
5 to any term of imprisonment, a defendant who derived profits or other proceeds from a crime  
6 established by this Act may be fined not more than twice the gross profits or other proceeds,  
7 where the profits or proceeds from the offense exceed the maximum assessable fine.

8 (c) A person also commits a crime, punishable by the same penalties established by  
9 subsection (a), if that person knowingly:

- 10 (1) attempts, conspires, or threatens to commit;
- 11 (2) participates as an accomplice in;
- 12 (3) organizes or directs others to commit;
- 13 (4) contributes to the commission of;

14 any crime established by this Act.

15 Notwithstanding any other provision of law, there shall be no limitation of time on  
16 when a prosecution for a crime established by of this Act can be brought. In situations of  
17 urgency, where there are reasonable grounds to believe that detention of any person is  
18 necessary to prevent terrorism from occurring, or to prevent any person from interfering with  
19 an investigation relating to suspected terrorism, any law enforcement officer, immigration  
20 officer, or customs official in Palau shall be authorized to detain such person for a period of  
21 48 hours for purposes of investigation; provided, however, such period of detention may be  
22 extended by Court order for an additional [7] days, without the filing of criminal charges  
23 against such person.

24 The Court, in imposing sentence on any person convicted of a terrorism offense, shall  
25 order, in addition to any other sentence imposed, that the person forfeit to Palau all property  
26 described in section 7.

27 **Section 7. Criminal forfeiture.**

28 (a) Any person convicted of a terrorism offense shall be required to forfeit to Palau,  
29 irrespective of any other provision of law:

- 30 (1) any property used or intended to be used by a person involved in the  
31 offense;
- 32 (2) any property constituting or derived from proceeds the person obtained,  
33 directly or indirectly, from the offense; and

1                   (3) any property used in any manner or part, to commit, or to facilitate the  
2                   commission of, such offense;

3                   (4) When the specific property cannot be identified, found or recovered, the  
4                   Court shall confiscate property of equal value from the owner of the property in  
5                   question.

6                   (b) Any instrument executed free of charge or for a consideration *inter vivos* or *mortis*  
7                   *causa*, the purpose of which is to safeguard property from confiscation measures as provided  
8                   in this section, is void. In the case of the nullification of a contract involving payment, the  
9                   buyer is reimbursed only for the amount actually paid.

10                  (c) Weapons of mass destruction, plastic explosives, and nuclear material shall be  
11                  seized, confiscated and forfeited to Palau; and the Attorney General shall provide for their  
12                  destruction or other appropriate disposition.

13                  (d) For the purposes of forfeiture proceedings under this section, a temporary  
14                  restraining order and seizure warrant may be entered upon application of the Attorney General  
15                  without notice or opportunity for a hearing when an information or complaint has not yet been  
16                  filed with respect to the property, where there is probable cause to believe that the property  
17                  with respect to which the order is sought would, in the event of conviction, be subject to  
18                  forfeiture under this section and exigent circumstances exist that place the life or health of any  
19                  person in danger.

20                  (e) The provisions of this section shall be implemented without prejudice to the  
21                  property rights of third parties acting in good faith.

22                  (f) The owner or possessor of any property seized under this section shall be liable to  
23                  Palau for any expenses incurred incident to the seizure, including any expenses relating to the  
24                  handling, storage, transportation, and destruction or other disposition of the seized property.

25                  **Section 8. Liability of legal persons and foreign governments.**

26                  (a) Legal persons, and any foreign government shall be liable in the same manner and  
27                  to the same extent as any natural person for any terrorism offense.

28                  (b) The maximum assessable fine for legal persons and foreign governments shall be  
29                  increased by ten times the amount assessable in the case of a natural person.

30                  (c) Where in proceedings for a violation of this Act it is necessary to establish the state  
31                  of mind of a legal person, it is sufficient to show that a director, officer or agent who engaged  
32                  in the conduct within the scope of his or her actual apparent authority, had that state of mind.  
33                  Where in proceedings for a violation of this Act it is necessary to establish the state of mind

1 of a foreign government, it is sufficient to show that its agent engaged in the conduct within  
2 the scope of his or her apparent authority, and had that state of mind.

3 (d) Any conduct engaged in by:

4 (1) a director, officer or agent of a legal person, or an agent of a foreign  
5 government, within the scope of his or her actual or apparent authority; or

6 (2) any other person at the direction or with the consent or agreement (whether  
7 express or implied) of a director, officer or agent of the legal person, or agent of a  
8 foreign government, where the giving of such direction, consent or agreement is within  
9 the scope of the actual or apparent authority of the director, officer or agent;  
10 shall be deemed, for the purposes of this Act, to have also been engaged in by the legal  
11 person or the foreign government.

12 (e) Legal persons who are found to have committed or aided any offense under this  
13 Act may additionally be:

14 (a) banned for a minimum period of five years from directly or indirectly  
15 carrying on certain business activities;

16 (b) ordered to close permanently their premises that were used for the  
17 commission of the offense;

18 (c) dissolved if they were created for the purpose of committing the offense;

19 (d) required to publicize the judgment in the press or any other audiovisual  
20 media.

21 **Section 9. Civil penalties; reimbursement.**

22 (a) The Attorney General may bring a civil action in Palau against any person who  
23 commits a crime established by this Act, and upon proof by a preponderance of the evidence  
24 that such person committed the offense, the person shall be subject to pay a civil penalty in an  
25 amount not to exceed \$25,000,000 for each such offense.

26 (b) The imposition of a civil penalty under subsection (1) does not preclude any other  
27 criminal or civil statutory, common law, or administrative remedy, which is available by law  
28 to Palau or any other person.

29 (c) The Court shall order any person convicted of a crime established by this Act to  
30 reimburse Palau for any expenses incurred by Palau incident to investigation and prosecution  
31 for the offense, including, without limitation, the seizure, storage, handling, transportation, and  
32 destruction or other disposition of any property that was seized in connection with an  
33 investigation of the commission of the offense by that person.

1 (d) A person ordered to reimburse Palau pursuant to subsection (c) shall be jointly and  
2 severally liable for such expenses with each other person, if any, who is ordered under  
3 subsection (c) to reimburse Palau for the same expenses.

4 **Section 9A. Civil Forfeiture**

5 (a) The Attorney General may apply to the Court for an order forfeiting property  
6 to Palau and the Supreme Court of Palau shall order forfeiture thereof, upon proof by a  
7 preponderance of the evidence, that the property:

8 (1) is owned, possessed, used or intended to be used by a person in the  
9 commission of a terrorist act;

10 (2) constitutes, is derived from, or is proceeds which a person obtained,  
11 directly or indirectly, as the result of a terrorist act; or

12 (3) was used or intended to be used in any manner or part to commit, or to  
13 facilitate the commission of a terrorist act.

14 (b) Notice of Civil Forfeiture and Rights of Third Parties

15 (1) The Attorney General must give no less than 14 days written notice of the  
16 application for civil forfeiture, to any person known to own or control or have an  
17 interest in the subject property;

18 (2) Notice of the application shall be given to such other persons who may have  
19 an interest in the property, as ordered by the Court.

20 (3) Any persons claiming an interest in the subject property shall be given an  
21 opportunity to heard in the proceedings, and if the person demonstrates by a  
22 preponderance of the evidence that such a claimant did not participate or attempt to  
23 participate in any terrorist act, has a bona fide interest in the property, and is not a  
24 member of a terrorist group, the Court shall order that the interest shall not be affected  
25 by the civil forfeiture order and the Court shall declare the nature and extent of any  
26 such interest.

27 (4) Notwithstanding the above, if a person obtains an interest in property after  
28 it has been used in the commission or attempted commission of a terrorist act, no order  
29 shall be made under subsection (3) above in respect of that interest unless the person  
30 is a bona fide purchaser for value, without reason to suspect that the property was used  
31 in the commission or attempted commission of a terrorist act.

32 (5) After a civil forfeiture order is entered, a person claiming an interest in the  
33 forfeited property may, within 6 months of the date of the entry of the order, request

1 relief from the operation of the order under subsection (3) above, unless such person  
2 had knowledge of the application for the civil forfeiture order before the order was  
3 made, or appeared at the hearing on the application.

4 (c) Voidable Transfers. The Court may set aside any conveyance or transfer of  
5 any property which was seized or forfeited, or is subject to seizure or forfeiture under Sections  
6 7, 9 or 9A of this Act, unless the conveyance or transfer was made for valuable consideration  
7 to a person acting in good faith and without notice.

8 **Section 10. Private causes of action for terrorism.**

9 (a) Any Palau citizen or national injured in his or her person, property, or business by  
10 reason of terrorism, or his or her estate, survivors, or heirs, may sue therefore in the Supreme  
11 Court of Palau and shall recover threefold the damages he or she has sustained, and the cost  
12 of the suit, including attorney's fees.

13 (b) A final judgment or decree rendered in favor of Palau in any criminal proceeding  
14 relating to a terrorism offense shall estop the defendant from denying the essential allegations  
15 of the criminal offense in any subsequent civil proceeding under this section.

16 (c) A final judgment or decree rendered in favor of any foreign State in any criminal  
17 proceeding relating to a terrorism offense shall, to the extent that such judgment or decree may  
18 be accorded full faith and credit under the law of Palau, estop the defendant from denying the  
19 essential allegations of the criminal offense in any subsequent civil proceeding under this  
20 section.

21 (d) No action shall be maintained under subsection (1) for injury or loss by reason of  
22 an act of war.

23 (e) No action shall be maintained under subsection (1) against Palau, an agency of  
24 Palau, or an officer or employee of Palau or any agency thereof acting within his or her official  
25 capacity or under color of legal authority.

26 **Section 11. Injunctions.** The Republic of Palau may obtain in a civil action an  
27 injunction against:

28 (a) any conduct prohibited by this Act;

29 (b) the development, production, stockpiling, transferring, acquisition, retention, or  
30 possession of any:

31 (1) biological agent, toxin, or delivery system of a type or in a quantity  
32 that under the circumstances has no apparent justification for prophylactic,  
33 protective, or other peaceful purposes;



1                                   (2) toxic chemical, or precursor, of a type or in a quantity that under  
2                                   the circumstances has no apparent justification for a purpose not prohibited by  
3                                   law or the United Nations Convention on the Prohibition of the Development,  
4                                   Production, Stockpiling and Use of Chemical Weapons and on their  
5                                   Destruction.

6                   **Section 12. Duty to take measures.** The Attorney General shall take appropriate  
7                   measures, to implement all provisions of this Act, including, but not limited:

8                   (a) to establish Palau's jurisdiction over and prosecute every crime established by this  
9                   Act;

10                  (b) to investigate terrorism, and upon receiving information that an alleged offender  
11                  may be present in Palau, shall take the person into custody and take other appropriate measures  
12                  so as to ensure the alleged offender's presence for the purpose of prosecution;

13                  (c) to take into custody and extradite any alleged offender who is present in Palau, and  
14                  who is subject to arrest and detention for purposes of extradition pursuant to the Extradition  
15                  and Transfer Act of 2001, Chapter 10 of Title 18 of the Palau National Code;

16                  (d) to provide early warning and furnish any relevant information in the possession of  
17                  Palau to those countries which the Attorney General believes would have jurisdiction, where  
18                  there is reason to believe that a terrorism offense has been or will be committed;

19                  (e) to identify, detect, freeze, seize, and obtain forfeiture of any property used or  
20                  allocated for the purpose of committing any terrorism offense as well as the proceeds derived  
21                  from such offenses;

22                  (f) to serve as the national focal point with respect to all matters relating to the  
23                  international terrorism conventions, and to implement, conform to, and abide by the express  
24                  requirements of any international terrorism convention to which Palau is a party, in carrying-  
25                  out any functions under this Act, and to ensure that any person regarding whom the measures  
26                  referred to in this section are being taken shall be afforded the protections to which such  
27                  person is expressly entitled under the relevant international terrorism convention;

28                  (g) to prevent the cross border movement of terrorists, and to track the movement of  
29                  such persons, and of persons who are members of terrorist organizations;

30                  (h) to prevent the admission of terrorists into Palau, except as may be necessary to  
31                  secure that person's presence for the purpose of extradition or prosecution for a terrorism  
32                  offense;

33                  (i) to prevent attacks on the person, freedom, or dignity of internationally protected

1 persons;

2 (j) to prevent the movement into or out of Palau, of unauthorized plastic explosives  
3 (especially, unmarked plastic explosives), and to prevent their manufacture;

4 (k) to provide timely notification, directly or through the depositary of the relevant  
5 international terrorism convention, when Palau has taken a person into custody or has taken  
6 other measures with respect to any person pursuant to this section:

7 (1) to the appropriate authorities of the country of which the detained person  
8 is a citizen or national, if the person is not a citizen or national of Palau;

9 (2) to the States Party to the relevant international terrorism convention that  
10 have established jurisdiction over the person or the offense in question in accordance  
11 with the convention, and to the depositary of the convention;

12 (3) to the country of registration of the aircraft, in cases involving aircraft;

13 (4) to the country whose flag the ship was flying, in cases involving ships;

14 (5) to any other foreign State or interested person, if the Attorney General  
15 considers it advisable; of the fact that such person is in custody and of the  
16 circumstances which warrant that person's detention;

17 (l) to order the freezing of property, by administrative decision, of individuals and  
18 organizations designated by the United Nations Security Council acting under Chapter VII of  
19 the United Nations Charter. Any individual or organization whose property has been frozen  
20 pursuant to this section and asserts that they were included on the list as the result of an error  
21 may seek to have their name(s) removed from the list by submitting a request to this effect  
22 within thirty days of the publication of the list to the agency who ordered the freezing,  
23 indicating all factors that could demonstrate the error. The agency's decision with respect to  
24 this request may be appealed to the Supreme Court Republic of Palau but shall in no event be  
25 stayed or vacated pending a final decision by the Court.

26 **Section 13. Extradition.**

27 (a) Terrorism offenses are hereby declared to be extraditable offenses.

28 (b) Extradition for terrorism offenses shall be carried-out pursuant to and in  
29 accordance with the Extradition and Transfer Act of 2001, Chapter 10 of Title 18 of the Palau  
30 National Code.

31 (c) For the purpose of extradition, a terrorism offense shall be treated, as if it had been  
32 committed not only in the place in which it occurred but also in the territory of any State Party  
33 to an international terrorism convention that is required to establish jurisdiction over the

1 offense in accordance with that convention.

2 **Section 14. Mutual legal assistance.**

3 (a) The Attorney General is authorized to make requests on behalf of Palau to the  
4 appropriate authority of a foreign State, or grant requests of a foreign State, for legal assistance  
5 in any investigation or proceeding relating to terrorism, or a terrorist organization.

6 (b) Mutual legal assistance provided under this Act shall be carried-out pursuant to  
7 and in accordance with the Mutual Assistance in Criminal Matters Act of 2001, Chapter 13  
8 of Title 18 of the Palau National Code, which is hereby amended to expressly allow for the  
9 type of assistance authorized by subsection (a), the Anti-Money Laundering and Proceeds of  
10 Crime Act of 2001 or any Memorandum of Understanding entered into between the competent  
11 authorities on behalf of Palau and the foreign State.

12 **Section 15. Intelligence sharing.** The Minister of Justice, the Attorney General, the  
13 Financial Intelligence Unit, and other law enforcement authorities and officers of Palau  
14 designated by the Minister of Justice shall be freely authorized and encouraged to share and  
15 disclose intelligence information relating to terrorism, terrorist organizations, transnational  
16 organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal  
17 movement of nuclear, chemical, biological and other potentially deadly materials, and to  
18 provide early warning of such matters to the competent law enforcement authorities of:

19 (a) any foreign State, that is a State Party to an international terrorism convention in  
20 respect of which Palau is also a Party;

21 (b) any foreign State that is a member of the Pacific Islands Forum;

22 (c) the United States, in accordance with the duties and responsibilities of Palau under  
23 the Compact of Free Association with the United States;

24 (d) any other foreign State that is a member of the United Nations. Notwithstanding  
25 the above, any restrictions on the use or disclosure of the information by the granting agency  
26 shall be binding on the receiving agency. Where a request from a foreign State requires that  
27 its existence and substance be kept confidential, such requirement shall be observed except  
28 to the extent necessary to give effect to the request. If that is not possible, the requesting  
29 authorities shall be promptly informed to that effect.

30 **Section 16. No asylum.** Palau shall not grant refugee status or provide asylum or safe  
31 haven to any terrorist, or to any alleged offender.

32 **Section 17. Prevention.**

33 (a) Palau shall cooperate with the competent authorities of the United States and other

1 members of the United Nations and the Pacific Islands Forum in the prevention of terrorism  
2 by taking all practicable measures to prevent and counter preparations in Republic of Palau  
3 for the perpetration of terrorism within or outside the territory of Palau, including measures  
4 to prohibit illegal activities of persons and organizations that knowingly encourage, instigate,  
5 organize, finance, or engage in terrorism.

6 (b) Palau shall further cooperate in the prevention of terrorism by exchanging accurate  
7 and verified information to provide early warning of possible terrorism, in particular by:

8 (1) establishing and maintaining channels of communication to facilitate the  
9 secure and rapid exchange of information concerning all aspects of terrorism and  
10 terrorist organizations;

11 (2) exchanging accurate and verified entry and exit data and information for  
12 ports of entry into Palau, including airports and seaports, and coordinating  
13 administrative and other measures taken, as appropriate, to prevent the cross border  
14 movement of terrorists, and to track their movement and the movement of members  
15 of terrorist organizations;

16 (3) conducting inquiries, with respect to terrorists and members of terrorist  
17 organizations, concerning:

18 (4) the identity, whereabouts and activities of persons in respect of whom  
19 reasonable suspicion exists that they engage in terrorism or are members of a terrorist  
20 organization;

21 (5) the movement of property linked to persons who engage in terrorism or are  
22 members of a terrorist organization; and

23 (6) participation in research and development and exchange of information  
24 regarding methods of detection of cross border movement of terrorists and members  
25 of terrorist organizations, including detection of forged or falsified travel documents,  
26 traffic in arms, explosives, illicit drugs, contraband, or sensitive materials, and cross-  
27 border movement of nuclear, chemical, biological and other potentially deadly  
28 materials, or use of communications technologies by terrorist groups.

29 **Section 18. Transfer of persons.**

30 (a) Transfer of any person who is being detained or is serving a sentence in the  
31 territory of Palau or a foreign State, whose presence is requested for purposes of identification,  
32 testimony or otherwise providing assistance in obtaining evidence for the investigation or  
33 prosecution of a terrorism offense, shall be authorized and allowed, where the person consents

1 to the transfer, and the countries agree on the conditions.

2 (b) Transfer of such persons shall be carried-out pursuant to and in accordance with  
3 requirements of the Extradition and Transfer Act of 2001, Chapter 10 of Title 18 of the Palau  
4 National Code for convicted persons, whether or not the person to be transferred has already  
5 been convicted of an offense.

6 **Section 19. Other rights, obligations and responsibilities not affected; no liability**  
7 **for actions taken in good faith.**

8 (a) Nothing in this Act shall affect other rights, obligations and responsibilities of  
9 Palau and individuals under international law, in particular the purposes of the Charter of the  
10 United Nations, the Compact of Free Association with the United States, international  
11 humanitarian law and other relevant conventions.

12 (b) Nothing in this Act entitles Palau or any other country to undertake in the territory  
13 of the other the exercise of jurisdiction or performance of functions that are exclusively  
14 reserved for the authorities of that country by its domestic law.

15 (c) Persons shall be immune from suit and civil liability for actions taken in good faith  
16 pursuant to and in accordance with this Act.

17 **Section 20. Resolution of disputes.** Any dispute between Palau and any State Party  
18 to an international terrorism convention concerning the interpretation or application of this Act  
19 relating to application of the convention shall be resolved in accordance with the provisions  
20 of the relevant international terrorism convention.

21 **Section 21. Implementing regulations.** The Attorney General may prescribe rules and  
22 regulations reasonably necessary to implement the provisions of this Act.

23 **Subchapter II**  
24 **Suppression of Financing of Terrorism**

25 **Section 22. Purpose of subchapter II.** The purpose of this subchapter is to create  
26 offenses relating to the financing of terrorism and to give effect to the “International  
27 Convention for the Suppression of the Financing of Terrorism”, to which Palau became a party  
28 by accession on November 14, 2001, and other relevant provisions of United Nations Security  
29 Council Resolution 1373, and the Special Recommendations on Terrorist Financing issued by  
30 the Financial Action Task Force on Money Laundering.

31 **Section 23. Financing of terrorism prohibited.**

32 (a) Any person who by any means, directly or indirectly, or as an accomplice, solicits,  
33 provides or collects property, or provides financial or other services, or organizes or directs

1 others to solicit, provide or collect property or provide financial or other services, with the  
2 intention that they should be used or in the knowledge that they are to be used, in full or in  
3 part:

4 (1) for Terrorism;

5 (2) for the benefit of persons who engage in Terrorism, or for the benefit of  
6 entities owned or controlled, directly or indirectly, by persons who engage in  
7 Terrorism; or

8 (3) for the benefit of persons and entities acting on behalf of or at the direction  
9 of any person referred to in subsection (a)(2);

10 commits a crime, the Financing of Terrorism, punishable by the penalties established  
11 by section 6 of this Act.

12 (b) For an act to constitute an offense under this section it shall not be necessary that  
13 the property was actually used to commit or carry out a terrorism offense, or terrorist act.

14 (c) No consideration of a political, philosophical, ideological, racial, ethnic, religious  
15 or other similar nature may be taken into account in order to justify the commission of any of  
16 the aforementioned offenses.

17 (d) Legal persons, and any foreign government shall be liable in the same manner and  
18 to the same extent as any natural person for the offense of Financing Of Terrorism.

19 (e) The maximum assessable fine for legal persons and foreign governments shall  
20 be increased by ten times the amount assessable in the case of a natural person.

21 (f) Where in proceedings for a violation of this Section it is necessary to establish the  
22 state of mind of a legal person, it is sufficient to show that a director, officer or agent who  
23 engaged in the conduct within the scope of his or her actual apparent authority, had that state  
24 of mind. Where in proceedings for a violation of this Act it is necessary to establish the state  
25 of mind of a foreign government, it is sufficient to show that its agent engaged in the conduct  
26 within the scope of his or her apparent authority, and had that state of mind.

27 (g) Any conduct engaged in by:

28 (1) a director, officer or agent of a legal person, or an agent of a foreign  
29 government, within the scope of his or her actual or apparent authority; or

30 (2) any other person at the direction or with the consent or agreement (whether  
31 express or implied) of a director, officer or agent of the legal person, or agent of a  
32 foreign government, where the giving of such direction, consent or agreement is within  
33 the scope of the actual or apparent authority of the director, officer or agent; shall be

1           deemed, for the purposes of this Act, to have also been engaged in by the legal person  
2           or the foreign government.

3           ( h ) Legal persons who are found to have committed or aided an offense under this  
4           Section may additionally be:

5                   (a) banned for a minimum period of five years from directly or indirectly  
6                   carrying on certain business activities;

7                   (b) ordered to close permanently their premises that were used for the  
8                   commission of the offense;

9                   (c) dissolved if they were created for the purpose of committing the offense;

10                  (d) required to publicize the judgment in the press or any other audiovisual  
11                  media.

12           **Section 24. Prevention of Terrorism Financing through Nonprofit Entities:**

13                  (a) No corporation, business, enterprise, partnership, association, or entity, shall be  
14                  granted charitable or non-profit status in Palau where there are reasonable grounds to believe  
15                  that any property solicited, collected, held, used, or owned by such corporation, business,  
16                  enterprise, partnership, association, or entity, may be diverted to a terrorist or a terrorist  
17                  organization.

18                  (b) Any donation made to a non-profit corporation, association or organization in an  
19                  amount equal to or greater than \$5,000 or any greater amount to be established pursuant to  
20                  regulations issued by the Financial Intelligence Unit, shall be recorded in a record maintained  
21                  for the purpose by the non-profit association or organization, containing the full details on the  
22                  donor, the date, the nature, and the amount of the donation. The record shall be kept for a  
23                  period of 3 years and shall be produced at the request of the Financial Intelligence Unit. When  
24                  the donor of an amount in excess of that amount wishes to remain anonymous, the record may  
25                  omit the identification but the association or organization is required to disclose his or her  
26                  identity at the request of the Financial Intelligence Unit.

27                  (c) Any cash donation in an amount equal to or greater than \$10,000 or any sum  
28                  established by regulation as promulgated by the Financial Intelligence Unit shall be reported  
29                  to the Attorney General and the Financial Intelligence Unit pursuant to the procedures as set  
30                  forth by regulation. A donation of any amount, whether cash or otherwise, shall be reported  
31                  to the Attorney General and the Financial Intelligence Unit where the donation is suspected  
32                  of being related to a terrorist operation, the financing of terrorism or the proceeds of crime as  
33                  that term is defined in the Money Laundering and Proceeds of Crime Act.

1 (d) Any violation of the provisions of this Section is punishable by one of the  
2 following penalties:

3 (1) a fine of no more than \$10,000

4 (2) a temporary ban on the activities of the association or organization of no  
5 more than 2 years;

6 (3) the dissolution of the association or organization.

7 **Section 25. Seizure and detention of terrorist related property.**

8 (a) Any Palau law enforcement officer or customs official may seize and, in  
9 accordance with this section detain, any property, that the officer or official has probable cause  
10 to believe was derived from or intended for terrorism, financing of terrorism or terrorist  
11 organizations including, without limitation, property being imported into or exported from  
12 Palau.

13 (b) Property of, or intended for, terrorist organizations shall be frozen, seized, and in  
14 accordance with this section detained, where the organization has been designated as a terrorist  
15 organization by the United Nations Security Council, or by the Attorney General pursuant to  
16 regulations promulgated pursuant to this Act, or where there is probable cause to believe that  
17 the entity involved is a terrorist organization.

18 (c) Property detained under subsection (a) or (b) shall not be detained for more than  
19 [48] hours after seizure, unless a judge of the Supreme Court grants an order of continued  
20 detention for a period not exceeding 3 months from the date of seizure, upon being satisfied  
21 that:

22 (1) there is probable cause to believe that the property was derived from  
23 terrorism, or is intended by any person for use in the commission of a terrorism offense  
24 or for a terrorist act; and

25 (2) the continued detention is justified while:

26 (A) its origin or derivation is further investigated; or

27 (B) consideration is given to the institution in Palau or elsewhere of  
28 criminal proceedings against any person for an offense with which the property  
29 is connected; provided, however, upon request by the person from whom the  
30 property was seized and detained, the Court shall grant a hearing to determine  
31 if the order of continued detention is warranted.

32 (d) A judge of the Supreme Court may subsequently order after hearing, with notice  
33 to all parties concerned, the continued detention of the property if satisfied of the matters



1 mentioned in subsection (c), but the total period of detention shall not exceed [2] years from  
2 the date of the order.

3 (e) Subject to subsection (f), property detained under this section may be released in  
4 whole or in part to the person on whose behalf the property was imported or exported:

5 (1) by order of a judge of the Supreme Court that continued detention is no  
6 longer justified, upon application by or on behalf of that person and after considering  
7 any views of the Attorney General to the contrary; or

8 (2) by an authorized officer or customs official, if satisfied that their continued  
9 detention is no longer justified.

10 (f) No property detained under this section shall be released where:

11 (1) an application is made under this Act or other Palau national law for the  
12 purpose of:

13 (A) the confiscation and forfeiture of the whole or any part of the  
14 property; or

15 (B) its restraint pending determination of liability to confiscation and  
16 forfeiture; or

17 (C) proceedings are instituted in Palau or elsewhere against any person  
18 for a terrorism offense with which the property is connected; unless and until  
19 the proceedings relating to the relevant application or the proceedings for the  
20 offense, as the case may be, have been concluded.

21 (g) Property seized pursuant to this section shall be subject to confiscation and  
22 forfeiture pursuant to sections 7 and 9A of this Act.

23 **Subchapter III**  
24 **Cross-Border Movement of Terrorists**

25 **Section 26. Terrorists inadmissible.**

26 (a) The following persons shall be considered inadmissible to Palau for purposes of  
27 immigration, or under a temporary visa of any kind, or otherwise, except for the purpose of  
28 prosecution or extradition for a terrorist offense:

29 (1) A foreign national:

30 (A) convicted of a terrorism offense; or

31 (B) who admits to having engaged in terrorism; or

32 (C) as to whom there is probable cause to believe such person has  
33 engaged in terrorism;

1 (D) who the Minister of Justice knows, or has reasonable ground to  
2 believe, is engaged in or is likely after entry, to engage in terrorism; or

3 (E) who has used his or her position of prominence within any country  
4 to endorse or espouse terrorism, or to persuade others to support terrorism or  
5 a terrorist organization, in a way that the Minister of Justice has determined  
6 undermines Palau's efforts to reduce or eliminate terrorism;

7 (F) who is a representative a terrorist organization, specified as such  
8 in regulations promulgated by the Minister of Justice or designated as a  
9 terrorist organization by the United Nations Security Council; or

10 (G) who is a representative of a political, social or other similar group  
11 whose public endorsement of terrorism, or terrorist organizations, the Minister  
12 of Justice has determined undermines Palau's efforts to reduce or eliminate  
13 terrorism;

14 (2) A foreign national who the Minister of State, after consultation with the  
15 Minister of Justice, determines has been associated with a terrorist organization or  
16 terrorism and intends while in Palau to engage solely, principally, or incidentally in  
17 activities that could endanger the welfare, safety, or security of Palau.

18 (b) A person who is the spouse or the child of an foreign national who is inadmissible  
19 under subsection (a), shall also be inadmissible, if the activity causing the foreign  
20 national to be found inadmissible occurred within the last [5] years.

21 (c) Except as otherwise provided in this section, foreign nationals who are  
22 inadmissible under this section, shall be ineligible to be admitted to Palau for any  
23 purpose, except, when necessary for the purposes of prosecution or extradition for a  
24 terrorism offense, and Title 13 of the Palau National Code is hereby amended to  
25 conform to the requirements of this section.

26 **Section 27. Reports of cross-border movement of terrorists.** All airlines, ships, and  
27 other entities that provide transportation, conveyance or freight services to and from Palau  
28 shall be authorized and required to immediately report to the Minister of Justice through  
29 disclosure of passenger manifests and any other available means, the intended movement of  
30 suspected terrorists into or out of Palau, and information regarding possible forged or falsified  
31 travel documents, traffic in arms, explosives, illicit drugs, contraband, or sensitive materials,  
32 and cross-border movement of nuclear, chemical, biological and other potentially deadly  
33 materials.

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**Subchapter IV**  
**Weapons of Mass Destruction**

**Section 28.** Weapons of mass destruction offenses.

(a) Except as authorized by the President, any person who knowingly, by any means, directly or indirectly, develops, produces, ships, transports, transfers, receives, acquires, retains, possesses, imports, exports, or manufactures a weapon of mass destruction, commits a crime punishable by the penalties established by section 6 of this Act; provided, however, there such was done with the intent to engage in terrorism or with knowledge that the weapon of mass destruction is intended to be used for terrorism, the maximum fine shall be increased to [\$100,000,000] for natural persons and \$[1,000,000,000] for legal persons.

(b) Any person who, without lawful authority expressly given by the President of Palau, uses or deploys a weapon of mass destruction, commits a crime punishable by the penalties established by section 6 of this Act; provided, however the maximum fine shall be increased to [\$1,000,000,000] for natural persons and \$[10,000,000,000] for legal persons.

**Subchapter V**  
**Internationally Protected Persons**

**Section 29.** Implementation of the Convention on Internationally Protected Persons.

The purpose of this subchapter is to create offenses relating to internationally protected persons and to give effect to the United Nations Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, to which Palau became a party by accession on November 14, 2001.

**Section 30.** Internationally protected persons offenses. Any person who knowingly, by any means, directly or indirectly, perpetrates:

(a) a murder, kidnapping or other attack upon the person or liberty of an internationally protected person;

(b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person, likely to endanger the person or his or her liberty; commits a crime punishable by the penalties established by section 6 of this Act:

**Subchapter VI**

**Hostage-Taking**

**Section 31.** Implementation of the Convention on the Taking of Hostages. The purpose of this subchapter is to create hostage-taking offenses and to give effect to the "International Convention Against the Taking of Hostages", to which Palau became a party by accession on November 14, 2001.



1 Plastic Explosives for the Purpose of Detection, and as described in the “Technical Annex”  
2 to that convention.

3 (b) Any person who knowingly, by any means, directly or indirectly, develops,  
4 produces, ships, transports, transfers, receives, acquires, retains, possesses, manufactures,  
5 imports, or exports an unauthorized plastic explosive commits a crime punishable by a  
6 minimum of [10] years imprisonment and a maximum fine of [\$50,000]; provided, however  
7 where the plastic explosive was developed, produced, shipped, transported, transferred,  
8 received, acquired, retained, possessed, manufactured, imported, or exported with the intent  
9 to engage in terrorism, the crime shall be punishable by the penalties established by section  
10 28(1) of this Act for weapons of mass destruction; and provided, further, where the plastic  
11 explosive was used or deployed the penalties established by section 28(2) of this Act for  
12 weapons of mass destruction shall apply.

13 **Subchapter IX**  
14 **Safety of Civil Aviation**

15 **Section 37. Implementation of the conventions on civil aviation.** The purpose of this  
16 subchapter is to create offenses relating to aircraft and airports serving international civil  
17 aviation and to give effect to the international civil aviation conventions and protocol  
18 identified in section 3(o)(1), (2), (3), and (7) of this Act.

19 **Section 38. Civil aviation offenses.** In any airspace or territory where any  
20 international civil aviation convention or protocol referenced in section 37 would apply, any  
21 person who knowingly, by any means, directly or indirectly:

22 (a) performs an act of violence against a person on board an aircraft in flight if that act  
23 is likely to endanger the safety of that aircraft; or

24 (b) by force or threat thereof, or by any other form of intimidation, seizes or exercises  
25 control of an aircraft in flight;

26 (c) destroys an aircraft in service or causes damage to such an aircraft which renders  
27 it incapable of flight or which is likely to endanger its safety in flight; or

28 (d) places or causes to be placed on an aircraft in service, by any means whatsoever,  
29 a device or substance which is likely to destroy that aircraft, or to cause damage to it which  
30 renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in  
31 flight; or

32 (e) destroys or damages air navigation facilities used in international air navigation,  
33 or interferes with their operation, if any such act is likely to endanger the safety of aircraft in

1 flight; or

2 (f) communicates information which the person knows to be false, thereby  
3 endangering the safety of an aircraft in flight;

4 (g) using any device, substance or weapon:

5 (1) performs an act of violence against a person at an airport serving  
6 international civil aviation, which causes or is likely to cause serious injury or death;

7 or

8 (2) destroys or seriously damages the facilities of an airport serving  
9 international civil aviation or aircraft not in service located thereon or disrupts the  
10 services of the airport; commits a crime punishable by the penalties established by  
11 section 6 of this Act; provided, however, where, in committing such crime, the person  
12 uses or deploys a weapon of mass destruction, the penalties established by section  
13 28(b) of this Act shall apply.

14 **Section 39. Power to take reasonable measures.**

15 (a) The aircraft commander may, when he or she has reasonable grounds to believe  
16 that a person has committed, or is about to commit, on board the aircraft:

17 (1) a criminal offense; or

18 (2) an act which, whether or not it is a criminal offense, may or does  
19 jeopardize the safety of an aircraft or of persons or property therein, or which  
20 jeopardizes good order and discipline on board an aircraft;

21 impose upon such person reasonable measures, including restraint, which are  
22 necessary:

23 (3) to protect the safety of the aircraft, or of persons or property therein; or

24 (4) to maintain good order and discipline on board; or

25 (5) to enable the aircraft commander to deliver such person to competent  
26 authorities or to disembark the person in accordance with the provisions of this  
27 subchapter.

28 (b) The aircraft commander may require or authorize the assistance of other crew  
29 members and may request or authorize, but not require, the assistance of passengers to restrain  
30 any person whom the aircraft commander is entitled to restrain.

31 (c) Any crew member or passenger may also take reasonable preventive measures  
32 without such authorization when the crew member or passenger has reasonable grounds to  
33 believe that such action is immediately necessary to protect the safety of the aircraft, or of

1 persons or property therein.

2 (d) Measures of restraint imposed upon a person in accordance with this section shall  
3 be imposed in accordance with and conform to the requirements of the Convention on  
4 Offenses and Certain Other Acts Committed on Board Aircraft.

5 **Section 40. Power to disembark certain passengers.** The aircraft commander may, in  
6 so far as it is necessary to protect the safety of the aircraft, or of persons or property therein or  
7 to maintain good order and discipline on board, disembark, in accordance with the Convention  
8 on Offenses and Certain Other Acts Committed on Board Aircraft, any person who the aircraft  
9 commander has reasonable grounds to believe has committed, or is about to commit, on board  
10 the aircraft an act contemplated by section 39(a)(2).

11 **Section 41. Power to deliver alleged offenders to competent authorities.** The aircraft  
12 commander may deliver to competent law enforcement authorities, in accordance with the  
13 Convention on Offenses and Certain Other Acts Committed on Board Aircraft, any person  
14 who the aircraft commander has reasonable grounds to believe has committed on board the  
15 aircraft an act which, in the commander's opinion, is a serious offense according to the  
16 criminal laws of the country of registration of the aircraft.

17 **Section 42. No liability for actions taken.** For actions taken in accordance with  
18 section 39, 40 or 41, neither the aircraft commander, any other member of the crew, any  
19 passenger, the owner or operator of the aircraft, nor the person on whose behalf the flight was  
20 performed shall be held responsible in any proceeding on account of the treatment undergone  
21 by the person in respect of whom the actions were taken.

## 22 **Subchapter X**

### 23 **Safety of Maritime Navigation and Fixed Platforms**

24 **Section 43. Implementation of the Convention on Maritime Safety and the Fixed**  
25 **Platforms Protocol.** The purpose of this subchapter is to create offenses relating to the safe  
26 navigation of ships on the high seas and the safety of fixed platforms and to give effect to the:

27 (a) “Convention for the Suppression of Unlawful Acts Against the Safety of Maritime  
28 Navigation”; and

29 (b) “Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed  
30 Platforms Located on the Continental Shelf”;

31 to which Palau became a party by accession on December 4, 2001.

32 **Section 44. Maritime offenses.** In any waters where the convention and protocol  
33 referenced in section 43 would apply, any person who knowingly, by any means, directly or

1 indirectly:

2 (a) seizes or exercises unauthorized control over a ship or fixed platform by force or  
3 threat thereof or by any other form of intimidation: or,

4 (b) injures or kills any person, or endangers the safe navigation of a ship or the safety  
5 of a fixed platform, by:

6 (1) committing an act of violence against a person on board the ship or fixed  
7 platform; or

8 (2) destroying or damaging the ship, its cargo, or the fixed platform; or

9 (3) placing or causing to be placed any device or substance on the ship or fixed  
10 platform; or destroying or damaging maritime navigational facilities or interfering with  
11 their operation; or

12 (4) communicating information which the person knows to be false; commits  
13 a crime punishable by the penalties established by section 6 of this Act; provided,  
14 however, where, in committing such crime, the person uses or deploys a weapon of  
15 mass destruction, the penalties established by section 28(b) of this Act shall apply.

16 **Subchapter XI**  
17 **Nuclear Material**

18 **Section 45. Nuclear material offenses.** Any person who intentionally, by any means,  
19 directly or indirectly:

20 (a) without lawful authority, receives, possesses, uses, transfers, alters, disposes of,  
21 or disperses nuclear material, under circumstances which cause or are likely to cause death or  
22 serious bodily injury to any person or substantial damage to property;

23 (b) commits a theft or robbery of nuclear material;

24 (c) embezzles or fraudulently obtains nuclear material;

25 (d) makes a demand for nuclear material by threat or use of force or by any other form  
26 of intimidation;

27 (d) threatens:

28 (1) to use nuclear material to cause death or serious bodily injury to any person  
29 or substantial property damage; or

30 (2) to commit a theft or robbery of nuclear material in order to compel a  
31 natural or legal person, or an international organization, or country to do or to refrain  
32 from doing any act; commits a crime punishable by the penalties established by section  
33 28(b) of this Act for weapons of mass destruction.



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1           **Section 46.** Effective date. This Act shall take effect upon its approval by the  
2 President of the Republic, or upon becoming law without such approval.

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Date: \_\_\_\_\_

Introduced By: \_\_\_\_\_/s/  
Tommy E. Remengesau, Jr.  
President, Republic of Palau