ELEVENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA
SECOND SPECIAL SESSION, 2000
CONGRESSIONAL BILL NO. 11-130, C.D.1, C.D.2

AN ACT

To further amend title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, by enacting a new chapter 17, entitled the "Mutual Assistance in Criminal Matters Act of 2000", to enable the widest range of international cooperation to be given and received by the Federated States of Micronesia in investigations, prosecutions and related proceedings concerning serious offenses against the laws of the Federated States of Micronesia or of foreign states, to provide a delayed effective date hereof, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

Section 1. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws No. 5-22, 5-23 and 10-30, is hereby further amended by enacting a new chapter 17 entitled the "Mutual Assistance in Criminal Matters Act of 2000".

Section 2. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new subchapter 1 of chapter 17 entitled "General Provisions".

Section 3. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1701 of chapter 17 to read as follows:

"Section 1701. Short title. This act shall be known and may be cited as the 'Mutual Assistance in Criminal Matters Act of 2000'."

Section 4. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1702 of chapter 17 to read as follows:

"Section 1702. Purpose. The purpose of this act is to enable the Federated States of Micronesia to cooperate with foreign states in criminal investigations and proceedings."
Section 5. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1703 of chapter 17 to read as follows:

"Section 1703. Jurisdiction and application. The provisions of this act shall extend and apply throughout all of the territory of the Federated States of Micronesia, including the land and waters and the airspace above such land and waters with respect to which the Federated States of Micronesia has legislative jurisdiction. This act shall apply in relation to mutual assistance in criminal matters between the Federated States of Micronesia and any foreign state, subject to any condition, variation or modification in any existing or future agreement with that state, whether in relation to a particular case or more generally."

Section 6. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1704 of chapter 17 to read as follows:

"Section 1704. Definitions. Unless the subject or context otherwise requires, in this act:

(1) 'Appeal' includes proceedings by way of discharging or setting aside a judgment, and an application for a new trial or for a stay of execution."
(2) 'Data' means representations, in any form, of information or concepts.

(3) 'Document' means any record of information and any material on which data is recorded or marked and which is capable of being read or understood by a person, computer system or other device, and includes:
   (a) anything on which there is writing;
   (b) anything on which there are marks, figures, symbols, or perforations having meaning for persons qualified to interpret them;
   (c) anything from which sounds, images or writings can be produced, with or without the aid of anything else; or
   (d) a map, plan, drawing, photograph or similar thing.

(4) 'Foreign confiscation order' means an order, made by a court in a foreign state, for the purposes of the:
   (a) confiscation or forfeiture of property in connection with; or
   (b) recovery of the proceeds of a serious offense.

(5) 'Foreign restraining order' means an order made in respect of a serious offense by a court in a foreign state for the purpose of restraining a particular person or all persons from dealing with property.

(6) 'Foreign state' means:
   (a) any country other than the Federated States of
Micronesia; and

(b) every constituent part of such country, including a territory, dependency or protectorate, or political subdivision which administers its own laws relating to international cooperation.

(7) 'Interest' in relation to property, means a:
(a) legal or equitable estate or interest in the property; or
(b) right, power or privilege in connection with the property, whether present or future and whether vested or contingent.

(8) 'Person' means any natural or legal person.
(9) 'Place' includes any land (whether vacant, enclosed or built upon, or not) and any premises.
(10) 'Premises' includes the whole or any part of a structure, building, aircraft, or vessel.
(11) 'Proceedings' means any procedure conducted by or under the supervision of a judge, magistrate or judicial officer, however described, in relation to any alleged or proven offense, or property derived from such offense, and includes an inquiry, investigation, or preliminary or final determination of facts.
(12) 'Proceeds of crime' means fruits of a crime, or any property derived or realized directly or indirectly from a
serious offense and includes, on a proportional basis, property into which any property derived or realized directly from the offense was later successively converted, transformed or intermingled, as well as income, capital or other economic gains derived or realized from such property at any time since the offense.

(13) 'Property' means real or personal property of every description, whether situated in the Federated States of Micronesia or elsewhere and whether tangible or intangible, and includes an interest in any such real or personal property.

(14) 'Secretary' means the Secretary of the Department of Justice of the Federated States of Micronesia or the chief law enforcement officer of the Federated States of Micronesia, whatever the title of such position is or in the future may become.

(15) 'Serious offense' means a violation of:

(a) any law of the Federated States of Micronesia or any of its States or political subdivisions, which is a criminal offense punishable by imprisonment for a term of more than one year; or

(b) a law of a foreign state, in relation to acts or omissions, which had they occurred in the Federated States of Micronesia or any of its States or political subdivisions,
would have constituted a criminal offense punishable by
imprisonment for a term of more than one year.

(16) 'Supreme Court' means the Supreme Court of the
Federated States of Micronesia, and all its divisions,
wherever or whenever constituted.

(17) A reference in this act to the law of the Federated
States of Micronesia, any State of the Federated States of
Micronesia, or any foreign state includes a reference to a
written or unwritten law of, or in force in, any part of the
Federated States of Micronesia (including its States and
political subdivisions), any part of that State of the
Federated States of Micronesia, or any part of that foreign
state, as the case may be."

Section 7. Title 12 of the Code of the Federated States of
Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is
hereby further amended by adding a new subchapter 2 of chapter 17
entitled "Mutual Assistance".

Section 8. Title 12 of the Code of the Federated States of
Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is
hereby further amended by adding a new section 1705 of chapter 17 to
read as follows:

"Section 1705. Authority to make and act on mutual legal
assistance requests.

(1) The Secretary may make requests on behalf of the
Federated States of Micronesia to the appropriate authority of a foreign state for mutual legal assistance in any investigation commenced or proceeding instituted in the Federated States of Micronesia, relating to any serious offense. When the request is to a foreign country, the request shall be made through the Secretary who shall give notice to the Secretary of the Department of Foreign Affairs of the Federated States of Micronesia, of the name of the foreign country to which the request is being made, the nature of the request, and the nature of the criminal matter.

(2) The Secretary may, in respect of any request from a foreign state for mutual assistance in any investigation commenced or proceeding instituted in that state relating to a serious offense:

(a) grant the request, in whole or in part, on such terms and conditions as he or she deems fit;

(b) refuse the request, in whole or in part, on the grounds that to grant the request would be likely to prejudice the sovereignty, security or other essential public interest of the Federated States of Micronesia; or

(c) after consulting with the competent authority of the foreign state, postpone the request, in whole or in part, on the grounds that granting the request immediately would be likely to prejudice the conduct of an investigation or
proceeding in the Federated States of Micronesia.

(3) Requests on behalf of the Federated States of Micronesia to the appropriate authorities of foreign states for assistance of the kind referred to in section 1707 of this title shall be made only by or with the authority of the Secretary.

(4) Notwithstanding any other provisions of this act, nothing in this act shall be construed or interpreted to affect or take away such powers of a State of the Federated States of Micronesia to deal with a foreign state regarding its own criminal investigations and other mutual assistance in criminal matters to the extent such dealings do not conflict with any constitutional powers of the Federated States of Micronesia on the same subjects or matters. A State of the Federated States of Micronesia may request through the Secretary any assistance in criminal matters that it may need from a foreign state, as authorized in this act."

Section 9. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1706 of chapter 17 to read as follows:

"Section 1706. Saving provision for other requests or assistance in criminal matters. Nothing in this act shall be taken to limit:
(1) the power of the Secretary, apart from this act, to make requests to foreign states or act on requests from foreign states for assistance in investigations or proceedings in criminal matters;

(2) the power of any other person or court, apart from this act, to make requests to foreign states or act on requests from foreign states for forms of international assistance other than those specified in section 1707 of this title; or

(3) the nature or extent of assistance in investigations or proceedings in criminal matters which the Federated States of Micronesia may lawfully give to or receive from foreign states."

Section 10. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1707 of chapter 17 to read as follows:

"Section 1707. Mutual legal assistance requests by the Federated States of Micronesia. The requests which the Secretary is authorized to make under section 1705 of this title are that the foreign state:

(1) have evidence taken, or documents or other articles produced in evidence in the foreign state;

(2) obtain and execute search warrants or other lawful instruments authorizing a search for things believed to be
located in that foreign state, which may be relevant to
investigations or proceedings in the Federated States of
Micronesia, and if found, seize them;

(3) locate or restrain any property believed to be the
proceeds of crime located in the foreign state;

(4) confiscate any property believed to be located in the
foreign state, which is the subject of a confiscation order
made pursuant to chapter 9 of title 11 of the Code of the
Federated States of Micronesia;

(5) transmit to the Federated States of Micronesia any such
confiscated property or any proceeds realized therefrom, or
any such evidence, documents, articles or things;

(6) transfer in custody to the Federated States of
Micronesia a person detained in the foreign state who
consents to assist the Federated States of Micronesia in the
relevant investigation or proceedings;

(7) provide any other form of assistance in any
investigation commenced or proceeding instituted in the
Federated States of Micronesia that involves or is likely to
involve the exercise of a coercive power over a person or
property believed to be in the foreign state; or

(8) permit the presence of nominated persons during the
execution of any request made under this act."

Section 11. Title 12 of the Code of the Federated States of
Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1708 of chapter 17 to read as follows:

"Section 1708. Contents of requests for assistance.

(1) A request for mutual assistance shall:

(a) give the name of the authority conducting the investigation or proceeding to which the request relates;

(b) give a description of the nature of the criminal matter and a statement setting out a summary of the relevant facts and laws together with a copy of the laws being referenced;

(c) give a description of the purpose of the request and of the nature of the assistance being sought;

(d) in the case of a request to restrain or forfeit assets believed on reasonable grounds to be located in the requested state, give details of the offense in question, particulars of any investigation or proceeding commenced in respect of the offense, and be accompanied by a copy of any relevant restraining or forfeiture order;

(e) give details of any procedure that the requesting state wishes to be followed by the requested state in giving effect to the request, particularly in the case of a request to take evidence;

(f) include a statement setting out any wishes of the
requesting state concerning any confidentiality relating to
the request and the reasons for those wishes;
(g) give details of the period within which the
requesting state wishes the request to be complied with;
(h) where applicable, give details of the property to
be traced, restrained, seized or confiscated, and of the
grounds for believing that the property is believed to be in
the requested state; and
(i) give any other information that may assist in
giving effect to the request.

(2) A request for mutual assistance from a foreign state
may be granted, if necessary after consultation,
notwithstanding that the request, as originally made, does
not comply with subsection (1) of this section."

Section 12. Title 12 of the Code of the Federated States of
Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is
hereby further amended by adding a new section 1709 of chapter 17 to
read as follows:

"Section 1709. Foreign requests for an evidence-gathering
order or a search warrant.

(1) Notwithstanding anything contained in any other law,
where the Secretary grants a request by a foreign state to
obtain evidence in the Federated States of Micronesia, an
authorized person may apply to the Supreme Court for:
(a) a search warrant; or
(b) an evidence-gathering order.

(2) The Supreme Court, to which an application is made under subsection (1) of this section, may issue an evidence-gathering order or a search warrant under this subsection, where it is satisfied that there is probable cause to believe that:

(a) a serious offense has been or may have been committed against the laws of the foreign state;  
(b) evidence relating to that offense may:
   (i) be found in a building, receptacle or place in the Federated States of Micronesia; or
   (ii) be able to be given by a person believed to be in the Federated States of Micronesia;
(c) in the case of an application for a search warrant, it would not, in all the circumstances, be more appropriate to grant an evidence-gathering order.

(3) For the purposes of subsection (2)(a) of this section, a statement contained in the foreign request to the effect that a serious offense has been or may have been committed against the laws of the foreign state is prima facie evidence of that fact.

(4) An evidence-gathering order:
   (a) shall provide for the manner in which the evidence
is to be obtained in order to give proper effect to the foreign request, unless such manner is prohibited under the laws of the Federated States of Micronesia, and in particular, may require any person named therein to:

(i) make a record from data or make a copy of a record;

(ii) attend court to give evidence on oath or otherwise until excused;

(iii) produce to the Supreme Court or to any person designated by the Court, any thing, including any document, or copy thereof; or

(b) may include such terms and conditions as the Supreme Court considers desirable, including those relating to the interests of the person named therein or of third parties.

(5) A person named in an evidence-gathering order may refuse to answer a question or to produce a document or thing where the refusal is based on:

(a) a law currently in force in the Federated States of Micronesia;

(b) a privilege recognized by a law in force in the foreign state that made the request; or

(c) a law currently in force in the foreign state that would render the answering of that question or the production
(6) Where a person refuses to answer a question or to produce a document or thing pursuant to subsection (5)(b) or (c) of this section, the Supreme Court shall report the matter to the Secretary who shall notify the foreign state and request the foreign state to provide a written statement on whether the person’s refusal was well founded under the law of the foreign state.

(7) Any written statement received by the Secretary from the foreign state in response to a request under subsection (6) of this section, shall be admissible in the evidence-gathering proceedings, and for the purposes of this section be determinative of whether the person’s refusal is well founded under the foreign law.

(8) A person who, without reasonable excuse, refuses to comply with a lawful order of the Supreme Court made under this section, or who having refused pursuant to subsection (5) of this section, continues to refuse, notwithstanding the admission into evidence of a statement under subsection (7) of this section, to the effect that the refusal is not well founded, commits a contempt of court and may be punished accordingly.

(9) A search warrant shall be in the usual form in which a
search warrant is issued in the Federated States of Micronesia, varied to the extent necessary to suit the case.

(10) No document or thing seized and ordered to be sent to a foreign state shall be sent until the Secretary is satisfied that the foreign state has agreed to comply with any terms or conditions imposed in respect of the sending abroad of the document or thing.

(11) The Supreme Court shall be authorized to adopt, recognize and enforce foreign court orders certified or under seal, which orders shall be presumed to be valid in the absence of any evidence to the contrary."

Section 13. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1710 of chapter 17 to read as follows:

"Section 1710. Foreign requests for consensual transfer of detained persons.

(1) Where the Secretary approves a request of a foreign state to have a person, who is detained in custody in the Federated States of Micronesia by virtue of a sentence or order of a court, transferred to a foreign state to give evidence or assist in an investigation or proceeding in that state relating to a serious offense, an authorized person may apply to the Supreme Court for a transfer order.
(2) The Supreme Court to which an application is made under subsection (1) of this section, may make a transfer order under this subsection where it is satisfied, having considered any document filed or information given in support of the application, that the detained person consents to the transfer.

(3) A transfer order made under subsection (2) of this section:

(a) shall set out the name of the detained person and the person’s current place of confinement;

(b) shall order the person who has custody of the detained person to deliver the detained person into the custody of a person who is designated in the order or who is a member of the class of persons so designated;

(c) shall order the person who is to take custody of the detained person, to take the detained person to the foreign state and, on return of the detained person to the Federated States of Micronesia, to return that person to a place of confinement in the Federated States of Micronesia specified in the order, or to such other place of confinement as the Secretary may subsequently notify the foreign state;

(d) shall state the reasons for the transfer; and

(e) shall fix the period of time at or before the expiration of which the detained person must be returned,
unless varied for the purposes of the request by the Secretary.

(4) The time spent in custody by a person pursuant to a transfer order shall count toward any sentence required to be served by that person, so long as the person remains in such custody and is of good behavior."

Section 14. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1711 of chapter 17 to read as follows:

"Section 1711. Detention of persons transferred to the Federated States of Micronesia.

(1) The Secretary may by written notice authorize:

(a) the temporary detention in the Federated States of Micronesia of a person in detention in a foreign state who is to be transferred from that state to the Federated States of Micronesia pursuant to a request under section 1707(6) of this title, for such period as may be specified in the notice; and

(b) the return of the person to the custody of the foreign state when his or her presence is no longer required.

(2) A person in respect of whom a notice is issued under subsection (1) of this section, shall, so long as the notice is in force:
(a) be permitted to enter and remain in the Federated States of Micronesia for the purposes of the request, and be required to leave the Federated States of Micronesia when no longer required for those purposes, notwithstanding any Federated States of Micronesia law to the contrary; and

(b) while in custody in the Federated States of Micronesia for the purposes of the request, be deemed to be in lawful custody.

(3) The Secretary may at any time vary a notice issued under subsection (1) of this section, and where the foreign state requests the release of the person from custody, either immediately or on a specified date, the Secretary shall direct that the person be released from custody accordingly; PROVIDED, however, that the Secretary may require the immediate departure of that person from the Federated States of Micronesia if such departure is determined to be in the best interest of the nation.

(4) Any person who escapes from lawful custody while in the Federated States of Micronesia pursuant to a request under section 1707(6) of this title, may be arrested without warrant by any authorized person and returned to the custody authorized under subsection (1)(a) of this section.

(5) Where a foreign country has requested that a person be detained in the Federated States of Micronesia in the course
of transit between the foreign country and a third country and the Secretary grants the request, the provisions of this section shall apply with necessary changes in points of detail in relation to that person.

(6) No court in the Federated States of Micronesia has jurisdiction to entertain any application by or on behalf of any person in the Federated States of Micronesia pursuant to a request under section 1707(6) of this title, relating to release from custody or continued presence in the Federated States of Micronesia after his or her presence is no longer required for the purpose of the request."

Section 15. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1712 of chapter 17 to read as follows:

"Section 1712. Safe conduct guarantee.

(1) Where a person, whether or not a detained person, is in the Federated States of Micronesia in response to a request by the Secretary to a foreign state under this act for such person to give evidence in a proceeding or to assist in an investigation, prosecution or related proceeding, the person shall not, while in the Federated States of Micronesia, be:

(a) detained, prosecuted or punished; or

(b) subjected to civil process;
in respect of any act or omission that occurred before the
person’s departure from the foreign state pursuant to the
request; PROVIDED, however, that this section shall not
preclude the person, by voluntary agreement and consent, from
entering into a stipulated settlement or resolution of any
criminal charges pending in the Federated States of
Micronesia, or of any civil or criminal matter.

(2) Subsection (1) of this section, ceases to apply to the
person when the person leaves the Federated States of
Micronesia, or has had the opportunity to leave, but remains
in the Federated States of Micronesia for ten days after the
Secretary has notified the person that he or she is no longer
required for the purposes of the request."

Section 16. Title 12 of the Code of the Federated States of
Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is
hereby further amended by adding a new section 1713 of chapter 17 to
read as follows:

"Section 1713. Foreign requests for Federated States of
Micronesia restraining orders.

(1) Where a foreign state requests the Secretary to obtain
the issuance of a restraining order against property, some or
all of which is believed to be located in the Federated
States of Micronesia, or criminal proceedings have begun in
the foreign state in respect of a serious offense, and there
is probable cause to believe that the property relating to
the offense or belonging to the defendant or the defendant's
coopspirators is located in the Federated States of
Micronesia, the Secretary may apply to the Supreme Court for
a restraining order under subsection (2) of this section.

(2) Where the Secretary makes application to the Supreme
Court under subsection (1) of this section, the Court may
make a restraining order in respect of the property, and this
act or the relevant provisions of chapter 9 of title 11 of
the Code of the Federated States of Micronesia shall apply as
requested by the Secretary in relation to the application and
to any restraining order issued as a result, as if the
serious offense that is the subject of the order had been
committed in the Federated States of Micronesia."

Section 17.  Title 12 of the Code of the Federated States of
Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is
hereby further amended by adding a new section 1714 of chapter 17 to
read as follows:

"Section 1714.  Requests for enforcement of foreign
confiscation or restraining orders.

(1) Where a foreign state requests the Secretary to make
arrangements for the enforcement of a:

(a) foreign restraining order; or

(b) foreign confiscation order;
the Secretary may apply to the Supreme Court of the Federated States of Micronesia for entry and enforcement of the order under this act or under chapter 9 of title 11 of the Code of the Federated States of Micronesia.

(2) The Supreme Court shall, upon application by the Secretary, enter and enforce a foreign restraining order under this act or under chapter 9 of title 11 of the Code of the Federated States of Micronesia, if the Court is satisfied that at the time of entry and registration, the order is in force in the foreign state.

(3) The Supreme Court shall, upon application by the Secretary, enter and enforce a foreign confiscation order, which is legally capable of enforcement in the Federated States of Micronesia and its States, if the Court is satisfied:

(a) at the time of entry and enforcement, that the order is in force in the foreign state and is not subject to appeal; and

(b) where the person subject of the order did not appear in the confiscation proceedings in the foreign state, that:

(i) the person was given fair notice of the proceedings; or

(ii) the person had absconded or had died before
such notice could be given, and if the person died, the
decedent’s estate was given fair notice of the proceedings.

(4) For the purposes of subsections (2) and (3) of this
section, a statement contained in the foreign request
(a) to the effect that:

(i) the foreign restraining order is in force in
the foreign state;

(ii) the foreign confiscation order is in force in
the foreign state and is not subject to appeal; or

(iii) the person, who is the subject of the foreign
confiscation order, was given notice of the proceedings in
sufficient time to enable him or her to defend them, or that
the person had absconded or died before such notice could be
given and if the person died, the decedent’s estate was given
fair notice of the proceedings;

is prima facie evidence of those facts, without proof of the
signature or official character of the person appearing to
have signed the foreign request.

(5) Where a foreign restraining order or foreign
confiscation order is entered for enforcement in accordance
with this section, a copy of any amendments made to the order
in the foreign state (whether before or after entry and
enforcement), may be entered and enforced in the same way as
the order, but shall not have effect for the purposes of
chapter 9 of title 11 of the Code of the Federated States of Micronesia, until they are so entered and enforced.

(6) The Supreme Court shall, upon application by the Secretary, rescind entry of:

(a) a foreign restraining order, if it appears to the Court that the order has ceased to have effect; or

(b) a foreign confiscation order, if it appears to the Court that the order has been satisfied or has ceased to have effect.

(7) Subject to subsection (9) of this section, where the foreign restraining order or foreign confiscation order comprises a facsimile copy of a duly authenticated foreign order, or amendment made to such an order, the facsimile shall be regarded, for the purposes of this act, as the same as the duly authenticated foreign order.

(8) Entry and registration effected by means of a facsimile ceases to have effect at the end of the period of twenty-one (21) days commencing on the date of entry and registration, unless a duly authenticated original of the order has been entered and registered by that time.

(9) Where a foreign restraining order or a foreign confiscation order has been entered pursuant to this section, the relevant provisions of chapter 9 of title 11 of the Code of the Federated States of Micronesia shall be deemed to
apply in relation to the order as if the serious offense that is the subject of the order had been committed in the Federated States of Micronesia, and the order had been made pursuant to that act."

Section 18. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1715 of chapter 17 to read as follows:

"Section 1715. Foreign requests for the location of the proceeds of crime. Where a foreign state requests the Secretary to assist in locating property believed to be the proceeds of a serious crime committed in that state, the Secretary may authorize the making of any application under sections 971, 976 or 978 of chapter 9 of title 11 of the Code of the Federated States of Micronesia, for the purpose of acquiring the information sought by the foreign state."

Section 19. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1716 of chapter 17 to read as follows:

"Section 1716. Sharing confiscated property with foreign states. The Secretary may enter into an arrangement with the competent authorities of a foreign state, in respect of money laundering and proceeds of crime, for the reciprocal sharing
with that state of such part of any property realized:

(1) in the foreign state, as a result of action taken by
the Secretary pursuant to section 1707(4) of this title; or

(2) in the Federated States of Micronesia, as a result of
action taken in the Federated States of Micronesia pursuant
to section 1714(1) of this title as the Secretary deems fit."

Section 20. Title 12 of the Code of the Federated States of
Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is
hereby further amended by adding a new subchapter 3 of chapter 17
entitled "Miscellaneous".

Section 21. Title 12 of the Code of the Federated States of
Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is
hereby further amended by adding a new section 1717 of chapter 17 to
read as follows:

"Section 1717. Privilege for foreign documents.

(1) Subject to subsection (2) of this section, a document
sent to the Secretary by a foreign state, in accordance with
a Federated States of Micronesia request pursuant to this
act, is privileged and no person shall disclose to anyone the
document, or its purport, or the contents of the document or
any part thereof, before the document, in compliance with the
conditions on which it was so sent, is made public or
disclosed in the course of and for the purpose of any
proceeding.
(2) No person in possession of a document referred to in subsection (1) of this section, or a copy thereof, or who has knowledge of any information contained in the document, shall be required, in connection with any legal proceeding, to produce the document or copy, or to give evidence relating to any information that is contained therein.

(3) Except to the extent required under this act to execute a request by a foreign state for mutual assistance in criminal matters, no person shall disclose:

(a) the fact that the request has been received; or

(b) the contents of the request.

(4) Violation of subsection (3) of this section is a felony offense, punishable by imprisonment for a maximum of five years or a maximum fine of $50,000, or both; PROVIDED, however, in the case of a corporation, company, commercial enterprise, commercial entity or other legal person, the maximum fine shall be increased to $250,000."

Section 22. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1718 of chapter 17 to read as follows:

"Section 1718. Restriction on use of evidence and materials obtained by mutual assistance. No information, document, article or other thing obtained from a foreign state,
pursuant to a request made under this act, shall be used in any investigation or proceeding other than the investigation or proceeding disclosed in the request, unless the Secretary consents after consulting with the foreign state."

Section 23. Title 12 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is hereby further amended by adding a new section 1719 of chapter 17 to read as follows:

"Section 1719. Confiscated proceeds of drug crime to be deposited in the General Fund of the Federated States of Micronesia or in a Fund for Drug Abuse Prevention and Control. Any proceeds of drug related crime which have been:

(1) confiscated in a foreign state pursuant to a request by the Federated States of Micronesia under section 1707(4) of this title; or

(2) confiscated in the Federated States of Micronesia pursuant to a request by a foreign state under section 1714(1) of this title, to the extent available under any sharing of confiscated property arrangement referred to in section 1716 of this title, or otherwise, shall be deposited in the General Fund of the Federated States of Micronesia until such time as a Fund for Drug Abuse Prevention and Control is established by law."

Section 24. Notwithstanding this act becoming law pursuant to
section 25 hereof this act shall take effect on July 1, 2001.

Section 25. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

1/22, 2001

RK for
Leo A. Falcam
President
Federated States of Micronesia