

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:

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

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

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

13                   "Section 1701. Short title. This act shall be known and may  
14                   be cited as the 'Mutual Assistance in Criminal Matters Act of  
15                   2000'."

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

20                   "Section 1702. Purpose. The purpose of this act is to  
21                   enable the Federated States of Micronesia to cooperate with  
22                   foreign states in criminal investigations and proceedings."

1 Section 5. Title 12 of the Code of the Federated States of  
2 Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is  
3 hereby further amended by adding a new section 1703 of chapter 17 to  
4 read as follows:

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

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

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

22 (1) 'Appeal' includes proceedings by way of discharging or  
23 setting aside a judgment, and an application for a new trial  
24 or for a stay of execution.

1           (2) 'Data' means representations, in any form, of  
2 information or concepts.

3           (3) 'Document' means any record of information and any  
4 material on which data is recorded or marked and which is  
5 capable of being read or understood by a person, computer  
6 system or other device, and includes:

7                 (a) anything on which there is writing;

8                 (b) anything on which there are marks, figures,  
9 symbols, or perforations having meaning for persons qualified  
10 to interpret them;

11                (c) anything from which sounds, images or writings can  
12 be produced, with or without the aid of anything else; or

13                (d) a map, plan, drawing, photograph or similar thing.

14           (4) 'Foreign confiscation order' means an order, made by a  
15 court in a foreign state, for the purposes of the:

16                 (a) confiscation or forfeiture of property in  
17 connection with; or

18                 (b) recovery of the proceeds of a serious offense.

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

23           (6) 'Foreign state' means:

24                 (a) any country other than the Federated States of

1           Micronesia; and

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

6           (7) 'Interest' in relation to property, means a:

7                   (a) legal or equitable estate or interest in the  
8 property; or

9                   (b) right, power or privilege in connection with the  
10 property, whether present or future and whether vested or  
11 contingent.

12           (8) 'Person' means any natural or legal person.

13           (9) 'Place' includes any land (whether vacant, enclosed or  
14 built upon, or not) and any premises.

15           (10) 'Premises' includes the whole or any part of a  
16 structure, building, aircraft, or vessel.

17           (11) 'Proceedings' means any procedure conducted by or under  
18 the supervision of a judge, magistrate or judicial officer,  
19 however described, in relation to any alleged or proven  
20 offense, or property derived from such offense, and includes  
21 an inquiry, investigation, or preliminary or final  
22 determination of facts.

23           (12) 'Proceeds of crime' means fruits of a crime, or any  
24 property derived or realized directly or indirectly from a

1 serious offense and includes, on a proportional basis,  
2 property into which any property derived or realized directly  
3 from the offense was later successively converted,  
4 transformed or intermingled, as well as income, capital or  
5 other economic gains derived or realized from such property  
6 at any time since the offense.

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

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

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

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

22 (b) a law of a foreign state, in relation to acts or  
23 omissions, which had they occurred in the Federated States of  
24 Micronesia or any of its States or political\_subdivisions,

1 would have constituted a criminal offense punishable by  
2 imprisonment for a term of more than one year.

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

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

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

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

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

24 (1) The Secretary may make requests on behalf of the

1 Federated States of Micronesia to the appropriate authority  
2 of a foreign state for mutual legal assistance in any  
3 investigation commenced or proceeding instituted in the  
4 Federated States of Micronesia, relating to any serious  
5 offense. When the request is to a foreign country, the  
6 request shall be made through the Secretary who shall give  
7 notice to the Secretary of the Department of Foreign Affairs  
8 of the Federated States of Micronesia, of the name of the  
9 foreign country to which the request is being made, the  
10 nature of the request, and the nature of the criminal matter.

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

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

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

21 (c) after consulting with the competent authority of  
22 the foreign state, postpone the request, in whole or in part,  
23 on the grounds that granting the request immediately would be  
24 likely to prejudice the conduct of an investigation or

1 proceeding in the Federated States of Micronesia.

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

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

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

22 "Section 1706. Saving provision for other requests or  
23 assistance in criminal matters. Nothing in this act shall be  
24 taken to limit:



1           (1) the power of the Secretary, apart from this act, to  
2           make requests to foreign states or act on requests from  
3           foreign states for assistance in investigations or  
4           proceedings in criminal matters;

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

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

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

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

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

23                (2) obtain and execute search warrants or other lawful  
24                instruments authorizing a search for things believed to be

1 located in that foreign state, which may be relevant to  
2 investigations or proceedings in the Federated States\_of  
3 Micronesia, and if found, seize them;

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

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

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

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

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

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

24 Section 11. Title 12 of the Code of the Federated States of

1 Micronesia, as amended by Public Laws Nos. 5-22, 5-23 and 10-30, is  
2 hereby further amended by adding a new section 1708 of chapter 17 to  
3 read as follows:

4 "Section 1708. Contents of requests for assistance.

5 (1) A request for mutual assistance shall:

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

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

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

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

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

24 (f) include a statement setting out any wishes of the

1            requesting state concerning any confidentiality relating to  
2            the request and the reasons for those wishes;

3            (g) give details of the period within which the  
4            requesting state wishes the request to be complied with;

5            (h) where applicable, give details of the property to  
6            be traced, restrained, seized or confiscated, and of the  
7            grounds for believing that the property is believed to be in  
8            the requested state; and

9            (i) give any other information that may assist in  
10           giving effect to the request.

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

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

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

21           (1) Notwithstanding anything contained in any other law,  
22           where the Secretary grants a request by a foreign state to  
23           obtain evidence in the Federated States of Micronesia, an  
24           authorized person may apply to the Supreme Court for:

1 (a) a search warrant; or

2 (b) an evidence-gathering order.

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

8 (a) a serious offense has been or may have been  
9 committed against the laws of the foreign state;

10 (b) evidence relating to that offense may:

11 (i) be found in a building, receptacle or place  
12 in the Federated States of Micronesia; or

13 (ii) be able to be given by a person believed to  
14 be in the Federated States of Micronesia;

15 (c) in the case of an application for a search  
16 warrant, it would not, in all the circumstances, be more  
17 appropriate to grant an evidence-gathering order.

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

23 (4) An evidence-gathering order:

24 (a) shall provide for the manner in which the evidence

1 is to be obtained in order to give proper effect to the  
2 foreign request, unless such manner is prohibited under the  
3 laws of the Federated States of Micronesia, and in  
4 particular, may require any person named therein to:

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

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

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

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

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

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

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

23 (c) a law currently in force in the foreign state that  
24 would render the answering of that question or the production

1 of that document or thing by that person, in the person's own  
2 jurisdiction, an offense.

3 (6) Where a person refuses to answer a question or to  
4 produce a document or thing pursuant to subsection (5)(b) or  
5 (c) of this section, the Supreme Court shall report the  
6 matter to the Secretary who shall notify the foreign state  
7 and request the foreign state to provide a written statement  
8 on whether the person's refusal was well founded under the  
9 law of the foreign state.

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

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

24 (9) A search warrant shall be in the usual form in which a

1 search warrant is issued in the Federated States of  
2 Micronesia, varied to the extent necessary to suit the case.

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

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

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

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

18 (1) Where the Secretary approves a request of a foreign  
19 state to have a person, who is detained in custody in the  
20 Federated States of Micronesia by virtue of a sentence or  
21 order of a court, transferred to a foreign state to give  
22 evidence or assist in an investigation or proceeding in that  
23 state relating to a serious offense, an authorized person may  
24 apply to the Supreme Court for a transfer order.



1           (2) The Supreme Court to which an application is made under  
2 subsection (1) of this section, may make a transfer order  
3 under this subsection where it is satisfied, having  
4 considered any document filed or information given in support  
5 of the application, that the detained person consents to the  
6 transfer.

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

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

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

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

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

23           (e) shall fix the period of time at or before the  
24 expiration of which the detained person must be returned,

1 unless varied for the purposes of the request by the  
2 Secretary.

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

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

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

13 (1) The Secretary may by written notice authorize:

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

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

22 (2) A person in respect of whom a notice is issued under  
23 subsection (1) of this section, shall, so long as the notice  
24 is in force:

1           (a) be permitted to enter and remain in the Federated  
2 States of Micronesia for the purposes of the request, and be  
3 required to leave the Federated States of Micronesia when no  
4 longer required for those purposes, notwithstanding any  
5 Federated States of Micronesia law to the contrary; and

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

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

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

23           (5) Where a foreign country has requested that a person be  
24 detained in the Federated States of Micronesia in the course

1 of transit between the foreign country and a third country  
2 and the Secretary grants the request, the provisions of this  
3 section shall apply with necessary changes in points of  
4 detail in relation to that person.

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

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

16 "Section 1712. Safe conduct guarantee.

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

23 (a) detained, prosecuted or punished; or

24 (b) subjected to civil process;

1           in respect of any act or omission that occurred before the  
2           person's departure from the foreign state pursuant to the  
3           request; PROVIDED, however, that this section shall not  
4           preclude the person, by voluntary agreement and consent, from  
5           entering into a stipulated settlement or resolution of any  
6           criminal charges pending in the Federated States of  
7           Micronesia, or of any civil or criminal matter.

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

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

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

20                 (1) Where a foreign state requests the Secretary to obtain  
21                 the issuance of a restraining order against property, some or  
22                 all of which is believed to be located in the Federated  
23                 States of Micronesia, or criminal proceedings have begun in  
24                 the foreign state in respect of a serious offense, and there

1 is probable cause to believe that the property relating to  
2 the offense or belonging to the defendant or the defendant's  
3 co-conspirators is located in the Federated States of  
4 Micronesia, the Secretary may apply to the Supreme Court for  
5 a restraining order under subsection (2) of this section.

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

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

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

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

23 (a) foreign restraining order; or

24 (b) foreign confiscation order;

1 the Secretary may apply to the Supreme Court of the Federated  
2 States of Micronesia for entry and enforcement of the order  
3 under this act or under chapter 9 of title 11 of the Code of  
4 the Federated States of Micronesia.

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

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

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

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

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

24 (ii) the person had absconded or had died before

1 such notice could be given, and if the person died, the  
2 decedent's estate was given fair notice of the proceedings.

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

5 (a) to the effect that:

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

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

10 (iii) the person, who is the subject of the foreign  
11 confiscation order, was given notice of the proceedings in  
12 sufficient time to enable him or her to defend them, or that  
13 the person had absconded or died before such notice could be  
14 given and if the person died, the decedent's estate was given  
15 fair notice of the proceedings;  
16 is prima facie evidence of those facts, without proof of the  
17 signature or official character of the person appearing to  
18 have signed the foreign request.

19 (5) Where a foreign restraining order or foreign  
20 confiscation order is entered for enforcement in accordance  
21 with this section, a copy of any amendments made to the order  
22 in the foreign state (whether before or after entry and  
23 enforcement), may be entered and enforced in the same way as  
24 the order, but shall not have effect for the purposes of



1 chapter 9 of title 11 of the Code of the Federated States of  
2 Micronesia, until they are so entered and enforced.

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

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

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

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

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

21 (9) Where a foreign restraining order or a foreign  
22 confiscation order has been entered pursuant to this section,  
23 the relevant provisions of chapter 9 of title 11 of the Code  
24 of the Federated States of Micronesia shall be deemed to

1           apply in relation to the order as if the serious offense that  
2           is the subject of the order had been committed in the  
3           Federated States of Micronesia, and the order had been made  
4           pursuant to that act."

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

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

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

21           "Section 1716. Sharing confiscated property with foreign  
22           states. The Secretary may enter into an arrangement with the  
23           competent authorities of a foreign state, in respect of money  
24           laundering and proceeds of crime, for the reciprocal sharing

1 with that state of such part of any property realized:

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

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

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

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

15 "Section 1717. Privilege for foreign documents.

16 (1) Subject to subsection (2) of this section, a document  
17 sent to the Secretary by a foreign state, in accordance with  
18 a Federated States of Micronesia request pursuant to this  
19 act, is privileged and no person shall disclose to anyone the  
20 document, or its purport, or the contents of the document or  
21 any part thereof, before the document, in compliance with the  
22 conditions on which it was so sent, is made public or  
23 disclosed in the course of and for the purpose of any  
24 proceeding.

1           (2) No person in possession of a document referred to in  
2 subsection (1) of this section, or a copy thereof, or who has  
3 knowledge of any information contained in the document, shall  
4 be required, in connection with any legal proceeding, to  
5 produce the document or copy, or to give evidence relating to  
6 any information that is contained therein.

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

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

11                   (b) the contents of the request.

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

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

22                   "Section 1718. Restriction on use of evidence and materials  
23 obtained by mutual assistance. No information, document,  
24 article or other thing obtained from a foreign state,

1           pursuant to a request made under this act, shall be used in  
2           any investigation or proceeding other than the investigation  
3           or proceeding disclosed in the request, unless the Secretary  
4           consents after consulting with the foreign state."

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

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

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

16           (2) confiscated in the Federated States of Micronesia  
17           pursuant to a request by a foreign state under section  
18           1714(1) of this title, to the extent available under any  
19           sharing of confiscated property arrangement referred to in  
20           section 1716 of this title, or otherwise, shall be deposited  
21           in the General Fund of the Federated States of Micronesia  
22           until such time as a Fund for Drug Abuse Prevention and  
23           Control is established by law."

24           Section 24. Notwithstanding this act becoming law pursuant to

1 section 25 hereof this act shall take effect on July 1, 2001.

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

5

6

7

8

1/22 \_\_\_\_\_, 2001

9

10

11

12

13

RK for \_\_\_\_\_  
Leo A. Falcam  
President  
Federated States of Micronesia

14