

## CHAPTER 5

### Foreign Affairs Responsibilities and Procedures

#### SECTIONS

- § 501.        **General responsibilities for foreign affairs.**
- § 502.        **Definitions.**
- § 503.        **Foreign affairs duties and responsibilities of the Secretary of External Affairs.**
- § 504.        **International agreements.**
- § 505.        **Authority to establish policies and procedures.**
- § 506.        **Regulations.**

#### **§ 501. General responsibilities for foreign affairs.**

The Department of External Affairs, under the direction of the Secretary of External Affairs and subject to the ultimate authority of the President, is responsible for the conduct of relations of the Federated States of Micronesia with foreign governments, governmental regional and international organizations, and quasi-governmental organizations, in accordance with applicable laws, treaties, regulations, and orders; and for advising officials of the State and National Governments of the Federated States of Micronesia of policies to be observed toward such governments and organizations.

**Source:** PL 4-104 § 1.

**Cross-reference:** FSM Const., art. X, § 2(b) states:

Section 2. The following powers are expressly delegated to the President:

...

(b) to receive all ambassadors and to conduct foreign affairs and the national defense in accordance with national law;

...

The provisions of the Constitution are found in Part I of this code.

The statutory provisions on the Executive and the President are found in title 2 of this code.

#### **§ 502. Definitions.**

As used in this chapter:

(1) "Foreign affairs" refers to matters of policy of the Federated States of Micronesia in its relations with foreign governments, governmental regional and international organizations, and quasi-governmental organizations.

(2) "Foreign assistance" refers to aid in the nature of money, goods, services or programs, or other assistance provided by foreign governments, governmental regional or international organizations, or quasi-governmental organizations.

(3) "Foreign governments" refers to the duly established and recognized governments of sovereign nation-states and the governments of commonwealths, territories, and other not fully sovereign entities, and the subdivisions, agencies and officials of such governments.

(4) "Governmental regional or international organization or quasi-governmental organization" refers to an organization associated with a national government, or an organization representing the interests of several nations, and to which membership and participation is limited by international law, rule, or custom to national governments, which has the authority to conduct governmental affairs of a national scope within prescribed limitations, but does not have the authority to obligate the sovereign powers of the nation or nations.

(5) "Treaty" refers to an international agreement concluded between states in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation.

**Source:** PL 4-104 § 2.

### **§ 503. Foreign affairs duties and responsibilities of the Secretary of External Affairs.**

(1) The Secretary of External Affairs of the National Government of the Federated States of Micronesia, subject to the ultimate authority of the President, shall have the following duties and responsibilities to be exercised in accordance with applicable National laws, treaties, regulations, and orders:

(a) formulation of foreign affairs policies for review and approval or disapproval by the President;

(b) execution of foreign affairs policies of the Federated States of Micronesia approved by the President;

(c) conduct of foreign affairs for all levels of government within the Federated States of Micronesia;

(d) establishment abroad of such diplomatic missions and representative, consular, and such other offices of the National Government of the Federated States of Micronesia as may be necessary and supervision of the heads and staff of such missions and offices and other National Government officials or staff assigned to or connected with such missions or offices;

(e) initiation of official inquiries or requests for foreign assistance and coordination and negotiation of acceptance of all offers of such assistance;

(f) coordination of visiting missions abroad by National and State Governments, and communications relating thereto with foreign governments, governmental regional and international organizations, and quasi-governmental organizations;

(g) coordination of the activities of visiting missions to the Federated States of Micronesia by

officials and employees of foreign governments, governmental regional and international organizations, and quasi-governmental organizations, and communications relating thereto with such governments and organizations;

(h) in accordance with the ordinary principles of international law and the ordinary custom of ministers of foreign affairs, receive heads of missions and representatives to be accredited to the Federated States of Micronesia; and accept, approve, or consent to the assignment of members of the staff to any permanent mission or other office of a foreign government, a governmental regional or international organization, or a quasi-governmental organization that will be located in the Federated States of Micronesia or the assignment of a representative from such government or organization; and, when appropriate, declare such persons *persona non grata* or unacceptable; and

(i) exercise of full powers to represent the Federated States of Micronesia in negotiating, adopting or authenticating the text of a treaty, for expressing the consent of the Federated States of Micronesia to be bound by a treaty, or for accomplishing any other act with respect to a treaty.

(2) The Secretary of External Affairs may authorize other officials and employees of the Department of External Affairs to act on his behalf in carrying out specific duties and responsibilities provided for in subsection (1) of this section and in section 504 of this chapter and may authorize other National or State Government officials to act on his behalf with respect to such matters as he may from time to time deem appropriate.

(3) The Deputy Secretary of External Affairs shall exercise the duties and responsibilities of the Secretary of External Affairs in his absence or in the event the Secretary of External Affairs dies, resigns, or is unable to discharge the duties and responsibilities of his office as determined by the President. Notwithstanding section 208 of title 2 of this code, if the office of the Secretary becomes vacant and the office of Deputy Secretary is not vacant, the Deputy Secretary shall assume the duties and responsibilities of the Secretary until a successor to the Secretary has been confirmed by Congress. This subsection shall not apply if the Deputy Secretary is prohibited from assuming these duties and responsibilities pursuant to section 502 of title 3 of this code.

**Source:** PL 4-104 § 3; PL 6-51 § 2.

**Cross-reference:** The statutory provisions on the Executive and the President are found in title 2 of this code. Section 208 of title 2 (Executive) of this code is on positions vacant pending appointment.

The statutory provisions on the FSM Congress are found in title 3 of this code. Section 502 of title 3 (Legislative) of this code is on confirmation required before performance of duties.

**Editor's note:** PL 7-89 renumbered 3 F.S.M.C. 505 as § 502. This text reflects that change.

-

**Case annotations:** Conduct of foreign affairs and the implementation of international agreements are properly left to the non-judicial branches of government. The judicial branch has the power to interpret treaties. *In re Extradition of Jano*, 6 FSM R. 93, 103 (App. 1993).

Extradition treaties are to be construed liberally to effect their purpose of surrender of fugitives to be tried for their alleged offenses. *In re Extradition of Jano*, 6 FSM R. 93, 103 (App. 1993).

The ordinary or usual meaning shall be given to words, phrases, and terms in a treaty. Terms are to be considered in their context and a contrary meaning may be indicated by the context. Preparatory documents and subsequent conduct of the parties can be used to determine the parties' intentions. *Alep v. United States*, 6 FSM R. 214, 218 (Chk. 1993).

#### **§ 504. International agreements.**

(1) Unless otherwise provided by law, the President, the Secretary of External Affairs, or their authorized representatives, may, without ratification by Congress, in accordance with the ordinary custom of heads of government, heads of state, or ministers of foreign affairs and in conformity with the Constitution of the Federated States of Micronesia, conclude certain international agreements if the agreements do not involve a delegation of a major power of government of the Federated States of Micronesia to another government and do not involve major financial obligations requiring further appropriation. This subsection shall include only the following types of agreements:

- (a) those which implement, carry out, or interpret the terms of a treaty ratified by Congress;
- (b) those which implement or carry out the specific provisions of a congressional enactment;
- (c) those which are concluded pursuant to congressional authorization; or
- (d) those which involve matters falling within the normal scope of executive powers or responsibilities.

(2) The Secretary of External Affairs shall transmit a copy of any agreement concluded pursuant to subsection (1) of this section to the Congress of the Federated States of Micronesia together with an explanation of the agreement and the reasons therefore.

(3) Nothing contained in this section shall be construed as diminishing the authority of the President, the Secretary of External Affairs, or their authorized representatives, to negotiate and conclude international agreements which require ratification by Congress.

**Source:** PL 4-104 § 4.

**Cross-reference:** FSM Const., art. X, § 2(b) states:

"Section 2. The following powers are expressly delegated to the President:

...

- (b) to receive all ambassadors and to conduct foreign affairs and the national defense in accordance with national law;

..."

The provisions of the Constitution are found in Part I of this code.

The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

### **§ 505. Authority to establish policies and procedures.**

The Secretary of External Affairs of the National Government of the Federated States of Micronesia is hereby authorized to establish and promulgate written policies and procedures for the purpose of effectuating his duties and responsibilities as specified in this chapter.

**Source:** PL 4-104 § 5.

### **§ 506. Regulations.**

The President is hereby authorized to promulgate regulations, in accordance with chapter 1 of title 17 of this code, implementing the provisions of this chapter, which regulations shall have the force and effect of law.

**Source:** PL 4-104 § 6.

**Cross-reference:** The statutory provisions of chapter 1 of title 17 of this code are on FSM Administrative Procedures.