

TITLE 10
FOREIGN RELATIONS

CHAPTERS

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CHAPTER 1
FSM Representative Office
[REPEALED in its entirety by PL 6-51 § 1]

CHAPTER 2
International Organization Immunities

SECTIONS

- § 201. **Short title.**
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§ 209. **Notification to and acceptance by President of personnel—Deportation of undesirables—Extent of diplomatic status.**

§ 201. Short title.

This chapter may be cited as the "International Organization Immunities Act of 1974."

Source: COM PL 5-55 § 1; TT Code 1980, 53 TTC 251.

Cross-reference: 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.

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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.fsmsupremecourt.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/>.

§ 202. International organization defined—Authority of President.

(1) For the purpose of this chapter the term "international organization" means a public international organization which shall have been designated by the President of the Federated States of Micronesia through appropriate executive order as being entitled to enjoy the privileges, exemptions, and immunities provided in this chapter.

(2) The President shall be authorized, in the light of the functions performed by any such international organization, to withhold or withdraw by appropriate executive order from any such organization or its officers or employees any of the privileges, exemptions, and immunities provided for

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in this chapter or to condition or limit the enjoyment by any such organization or its officers or employees of any such privilege, exemption, or immunity.

(3) The President shall be authorized, if in his judgment such action should be justified by reason of the abuse by an international organization or its officers and employees of the privileges, exemptions, and immunities provided in this chapter or for any other reason, to revoke at any time the designation of any international organization under this chapter, whereupon the international organization in question shall cease to be classed as an international organization for the purposes of this chapter.

Source: COM PL 5-55 § 2; TT Code 1980, 53 TTC 252; PL 4-115 § 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.

§ 203. Privileges, exemptions, and immunities of International organizations.

International organizations shall be accorded the status, immunities, exemptions, and privileges set forth in this section, as follows:

(1) International organizations shall, to the extent consistent with the instrument creating them, possess the capacity:

- (a) to contract;
- (b) to acquire and dispose of personal property; and
- (c) to institute legal proceedings.

(2) International organizations, their property, and their assets wherever located, and by whomsoever held, shall be accorded the same immunity from suit and every form of judicial process as is accorded by the Government of the Federated States of Micronesia to foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.

(3) Property and assets of international organizations, wherever located and by whomsoever held, shall be immune from search, unless such immunity be expressly waived, and from confiscation. The archives of international organizations shall be inviolable.

(4) Insofar as concern customs duties and internal revenue taxes imposed upon or by reason of importation, and the procedures in connection therewith, the registration of foreign agents, and the treatment of official communications, the privileges, exemptions, and immunities to which international organizations shall be entitled shall be the same as those accorded by the Government of the Federated States of Micronesia under similar circumstances to foreign governments.

(5) The protection of resident workers act shall not apply to international organizations.

Source: COM PL 5-55 § 3; TT Code 1980, 53 TTC 253; PL 4-115 § 2.

§ 204. Baggage and effects of officers and employees.

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Pursuant to regulations prescribed by the President, or as otherwise provided by law, the baggage and effects of alien officers and employees of international organizations, or of aliens designated by foreign governments to serve as their representatives in or to such organizations, or of the families, suites, and servants of such officers, employees, or representatives shall be admitted, when imported in connection with the arrival of the owner, free of customs duties and free of internal revenue taxes imposed upon or by reason of importation.

Source: COM PL 5-55 § 4; TT Code 1980, 53 TTC 254; PL 4-115 § 3.

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code.

§ 205. Exemption from property taxes.

International organizations shall be exempt from all property taxes imposed by, or under the authority of, any law of the Federated States of Micronesia or any political subdivision thereof.

Source: COM PL 5-55 § 5; TT Code 1980, 53 TTC 255; PL 4-115 § 4.

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code.

§ 206. Income of international organizations.

The income of international organizations received from investments in the Federated States of Micronesia in stocks, bonds, or other domestic securities, owned by such international organizations, or from interest on deposits in banks in the Federated States of Micronesia of moneys belonging to such international organizations, or from any other sources within the Federated States of Micronesia shall be exempt from taxation under all tax laws of the Federated States of Micronesia and of its political subdivisions.

Source: COM PL 5-55 § 6; TT Code 1980, 53 TTC 256; PL 4-115 § 5.

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code. Section 112 of title 54 provides exemptions from gross revenue and wages and salaries taxation for certain foreign and international entities and foreign citizens when required by foreign aid agreements.

§ 207. Compensation of employees of international organizations.

Wages, fees, or salaries of any employee of an international organization received as compensation for official services to such international organization shall be exempt from taxation under all income tax laws of the Federated States of Micronesia and of its political subdivisions if such employee is not a citizen of the Federated States of Micronesia.

Source: COM PL 5-55 § 7; TT Code 1980, 53 TTC 257; PL 4-115 § 6.

Cross-reference: The statutory provisions on Taxation and Customs are found in title 54 of this code. Section 112 of title 54 provides exemptions from gross revenue and wages and salaries taxation for certain foreign and international entities and foreign citizens when required by foreign aid agreements.

§ 208. Privileges, exemptions, and immunities of officers, employees, and their families.

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(1) Persons designated by foreign governments to serve as their representatives in or to international organizations and the officers and employees of such organizations, and members of the immediate families of such representatives, officers, and employees residing with them, other than citizens of the Federated States of Micronesia, shall, insofar as concerns laws regulating entry into and departure from the Federated States of Micronesia, alien registration, and fingerprinting, and the registration of foreign agents, be entitled to the same privileges, exemptions, and immunities as are accorded by the Government of the Federated States of Micronesia under similar circumstances to officers and employees, respectively, of foreign governments and members of their families.

(2) Representatives of foreign governments in or to international organizations and officers and employees of such organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such representatives, officers, or employees except insofar as such immunity may be waived by the foreign government or international organization concerned.

Source: COM PL 5-55 § 8; TT Code 1980, 53 TTC 258; PL 4-115 § 7.

Cross-reference: The statutory provisions on Labor are found in title 51 of this code.

§ 209. Notification to and acceptance by President of personnel—Deportation of undesirables—Extent of diplomatic status.

(1) No person shall be entitled to the benefits of this chapter unless he:

- (a) shall have been duly notified to and accepted by the President as a representative officer or employee; or
- (b) shall have been designated by the President, prior to formal notification and acceptance, as a prospective representative, officer, or employee; or
- (c) is a member of the family or suite, or servant, of one of the foregoing accepted or designated representatives, officers, or employees.

(2) Should the President determine that the continued presence in the Federated States of Micronesia of any person entitled to the benefits of this chapter is not desirable, he shall so inform the foreign government or international organization concerned, as the case may be, and after such person shall have had a reasonable length of time, to be determined by the President, to depart from the Federated States of Micronesia, he shall cease to be entitled to such benefits.

(3) No person shall, by reason of the provisions of this chapter, be considered as receiving diplomatic status or as receiving any of the privileges incident thereto other than such as are specifically set forth in this chapter.

Source: COM PL 5-55 § 9; TT Code 1980, 53 TTC 259; PL 4-115 § 8.

Cross-reference: The statutory provisions on Immigration are found in title 50 of this code. The statutory provisions on Labor are found in title 51 of this code.

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CHAPTER 3
United Nations Law of the Sea Conference
[REPEALED in its entirety by PL 6-50 § 1]

Editor's note: PL 6-50 § 1 repealed the former chapter 3, "United Nations Law of the Sea Conference," in its entirety.

CHAPTER 4
Amendments to Compact of Free Association

SECTIONS

§ 401. Definition.

§ 402. Amendments to Compact.

§ 401. Definition.

As used in this chapter, "Compact" means the Compact of Free Association between the Federated States of Micronesia and the United States of America and its related agreements.

Source: PL 4-66 § 1.

§ 402. Amendments to Compact.

(1) Mutual agreements by the Government of the Federated States of Micronesia as provided for in the Compact which results in amendment thereof shall be effected only by a two-thirds vote of the Members of Congress of the Federated States of Micronesia.

(2) Notwithstanding any other provision of this section, mutual agreement by the Government of the Federated States of Micronesia as provided for in the Compact which results in amendment thereof shall be effected only by a two-thirds vote of the Members of Congress and majority approval by the State legislatures of two-thirds of the States of the Federated States of Micronesia if such amendment provides for:

(a) delegation of a major power or major powers of Government of the Federated States of Micronesia to another government; or

(b) substantial reduction in any Compact benefit, even if the reduction is accompanied by any form of compensation.

(3) Notwithstanding any other provision of this section, the Congress of the Federated States of Micronesia may, as a matter of policy on a case-by-case basis, refrain from acting upon an amendment not within the scope of subsection (2) of this section until the State legislatures have had an opportunity to express a formal opinion on the matter by resolution.

Source: PL 4-66 § 2.

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

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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.

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(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;

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(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.

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§ 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.

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

CHAPTER 6
Diplomatic Missions

SECTIONS

- § 601. Recognition of diplomatic missions.**
- § 602. Exceptions based upon reciprocity.**
- § 603. Dismissal on motion of actions against individuals entitled to immunity.**
- § 604. Immigration laws and Presidential authority.**
- § 605. Liability insurance for diplomatic agents.**

§ 601. Recognition of diplomatic missions.

The President of the Federated States of Micronesia is authorized to enter into diplomatic relations with foreign governments and to consent to the establishment of diplomatic missions in the Federated States of Micronesia. Unless otherwise provided by law, treaty, or the President pursuant to section 602 of this title, such missions, members of the mission, and their families and private servants, and diplomatic couriers assigned to the mission shall be afforded the privileges, immunities, protections, and exemptions specified in the Vienna Convention on Diplomatic Relations of April 18, 1961.

Source: PL 4-105 § 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.

Section 112 of title 54 (Taxation and Customs) provides exemptions from gross revenue and wages and salaries taxation for certain foreign and international entities and foreign citizens when required by foreign aid agreements.

§ 602. Exceptions based upon reciprocity.

The President may, on the basis of reciprocity and such terms and conditions as he may determine, specify privileges, immunities, protections, and exemptions which result in different treatment than that specified under the Vienna Convention on Diplomatic Relations of April 18, 1961.

Source: PL 4-105 § 2.

§ 603. Dismissal on motion of actions against individuals entitled to immunity.

Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding pursuant to this chapter, or under any other laws of the Federated States of Micronesia extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by law or applicable rules of procedure.

Source: PL 4-105 § 3.

§ 604. Immigration laws and Presidential authority.

Section 107 of title 50 of this code shall not apply to any person granted privileges, immunities, protections, or exemptions under this chapter, except to the extent otherwise provided by law or treaty. However, nothing contained in this section shall be construed as diminishing the authority of the President or his authorized representative to declare such persons *persona non grata* or unacceptable and effectuate their removal or departure from the Federated States of Micronesia. If a person is declared *persona non grata* or unacceptable and fails to depart the Federated States of Micronesia within a reasonable length of time, such person's privileges, immunities, protections, and exemptions shall cease and he shall be promptly deported.

Source: PL 4-105 § 4.

Cross-reference: Section 107 of title 50 (Immigration) of this code is on entry permits - standards of exclusion and deportation.

§ 605. Liability insurance for diplomatic agents.

(1) Each mission and all persons receiving privileges and immunities pursuant to this chapter must comply with any requirements imposed by the regulations promulgated by the President pursuant to subsection (2) of this section.

(2) The President shall, by regulations promulgated in accordance with chapter 1 of title 17 of this code, establish liability insurance requirements to be met by each mission and all persons receiving privileges and immunities pursuant to this chapter. Such liability insurance requirements shall relate to risks arising from the operation in the Federated States of Micronesia of any motor vehicle, vessel, or aircraft.

(3) The President shall take such steps as he may deem necessary and proper to insure that each mission and all persons receiving privileges and immunities pursuant to this chapter that operate motor vehicles, vessels, or aircraft in the Federated States of Micronesia comply with the requirements established pursuant to subsection (2) of this section.

(4) Nothing contained in this chapter shall be construed as authorizing the dismissal of any action or proceeding against an insurer who by his contract has insured a person entitled to immunity under this chapter against liability for personal injury, death, or damage to property. The immunity of the insured, the fact that the insured is an indispensable party, or in the absence of fraud or collusion, the fact that the insured has violated a term of the contract, unless the contract was canceled before the claim arose, shall not constitute defenses in any such action or proceeding against an insurer.

Source: PL 4-105 § 5.

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