

Article I

Scope

1. Sentences imposed by courts of the Federated States of Micronesia on citizens or nationals of the United States may be served in penal institutions of the United States or under the supervision of its authorities in accordance with the provisions of this Agreement.
2. Sentences imposed by courts of the United States, or a state thereof, on citizens or nationals of the Federated States of Micronesia may be served in penal institutions of the Federated States of Micronesia, or under the supervision of its authorities in accordance with the provisions of this Agreement.

Article II

Definitions

For the purposes of this Title only:

1. "Transferring Government" means the Signatory Government from which the offender is to be transferred.
2. "Receiving Government" means the Signatory Government to which the offender is transferred.
3. "Offender" means a citizen or national of the Federated States of Micronesia who has been sentenced by a court of the United States, or a state thereof; or a citizen or national of the United States who has been convicted by a court of the Federated States of Micronesia.
4. "Category I Offender" means an "Offender" who comes within the meaning of the term "United States personnel," as that term is defined in paragraph 2(d) of Article I of the Status of Forces Agreement.
5. "Category II Offender" means all "Offenders" other than "Category I Offenders."
6. "State" when used in the sense of a part of the United States means any State of the United States, any territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

Article III

Eligibility

This Agreement shall apply only under the following conditions:

1. That the offense for which the Offender was convicted and sentenced is one which would be punishable in the Receiving Government; provided, however, that this condition shall not be interpreted so as to require that the offense described in the laws of both Governments be identical in those matters which do not affect the nature of the crime.
2. That the Offender be a citizen or national of the Receiving Government.
3. That the Offender has not been sentenced to the death penalty nor convicted of a purely military offense.
4. Except for Category I Offenders, that at least six months of the Offender's sentence remain to be served at the time of petition to transfer.
5. That the sentence be final, that any appeal procedures have been completed, and that there be no collateral or extraordinary remedies pending at the time of invocation of the provisions of this Agreement.
6. That the Offender's express consent, or the consent of a legal representative in the case of a minor or of an Offender who has become mentally incompetent, to transfer has been given voluntarily and with full knowledge of the legal consequences thereof.
7. That, before the transfer, the Transferring Government shall afford an opportunity to the Receiving Government to verify through an officer designated by the laws of the Receiving Government that the Offender's consent to the transfer has been given voluntarily.

Article IV

Transfer Procedures

1. The Signatory Government of which an Offender is a citizen or national shall make each request for transfer of an Offender in writing to the Transferring Government.
2. As to an eligible Category I Offender, no finding of the appropriateness of such consenting Offender's transfer by the Transferring Government shall be required. Once internal arrangements have been completed, the transfer of the Offender shall be effected.
3. As to a Category II Offender, if the Transferring Government considers the request to transfer the Offender appropriate, the Transferring Government will communicate its approval of such request to the Receiving Government so that, once internal arrangements have been completed, the transfer of the Offender may be effected.
4. (a) In deciding whether to request the transfer of a Category II Offender under paragraphs 1 and 3 of this Article and with the objective that the transfer should contribute positively to the Government will consider, among other factors: the seriousness of the crime; the Offender's previous criminal record, if any; the Offender's health status; and the ties which the Offender may have to the society of the Transferring Government and the Receiving Government.

(b) If the Offender gives his express consent to the transfer, the Transferring Government shall consider the request promptly and approve it in the absence of serious countervailing considerations, which it shall specify.
5. In any case in which a citizen or national of the Federated States of Micronesia has been sentenced by a state of the United States, the approval of such an Offender's transfer pursuant to paragraph 3 of this Article shall be required from both the appropriate state authority and the federal authority.
6. The Transferring Government shall furnish to the Receiving Government a certified copy of the sentence or judgment relating to the Offender. When the Receiving Government considers such information relevant, it may request, at its expense, copies of the trial record, or portions thereof, or such additional information as it deems necessary. The Transferring Government shall grant such requests to the extent permissible under its laws.

7. Delivery of an Offender by the authorities of the Transferring Government to those of the Receiving Government shall occur at a place agreed upon by the two Governments. The Receiving Government will be responsible for the custody and transport of the Offender from the Transferring Government.
8. The Receiving Government shall not be entitled to any reimbursement for the expenses incurred by it in the transfer of an Offender or the completion of the Offender's sentence.

Article V

Execution of Sentence

1. An Offender delivered for execution of sentence under this Agreement may not again be detained, tried or sentenced by the Receiving Government for the same offense for which the sentence was imposed by the Transferring Government.
2. Except as otherwise provided in this Agreement, the completion of a transferred Offender's sentence shall be carried out according to the laws and procedures of the Receiving Government, including the application of any provisions for reduction of the term of confinement by parole, conditional release, or otherwise.
3. Each Signatory Party may request reports indicating the status of confinement of all Offenders transferred by it under this Agreement, including in particular the parole or release of an Offender. Transferring Government may, at any time, request from the Receiving Government a special report on the status of the execution of an individual sentence.

Article VI

Review or Modification of Sentence

The Transferring Government shall retain exclusive jurisdiction over the sentences imposed and any procedures that provide for revision or modification of the sentences pronounced by its courts. The Transferring Government also shall retain the power to pardon or grant amnesty or clemency to an Offender. The Receiving Government, upon being informed of any decision in this regard, will put such measures into effect.

Article VII

Transit

1. Upon prior notice, the Government of the United States shall have the right to transport through the Federated States of Micronesia Offenders being transferred between the United States and a third country pursuant to an agreement between the Government of the United States and that third country.
2. Upon prior notice, and if otherwise consistent with U.S. law, the Government of the Federated States of Micronesia shall have the right to transport through the United States Offenders being transferred between the Federated States of Micronesia and a third country pursuant to an agreement between the Government of the Federated States of Micronesia and that third country.
3. When such transport is by air and no stop is scheduled in the jurisdiction of Signatory Government, but is required by extenuating circumstances, no prior notice shall be required.

TITLE FIVE

MUTUAL ASSISTANCE
IN LAW ENFORCEMENT MATTERS