

Article VII

Provisional Arrest or Detention

1. In case of urgency, a requesting Government may apply to the requested Government for the provisional arrest or detention of the person sought pending the presentation of the formal request for extradition. The request may be transmitted to the requested Government through the diplomatic channel or directly between the United States Department of Justice and the Federated States of Micronesia Department of Justice.
2. The application shall contain: a description of the person sought, including, if available, the person's nationality; a brief statement of the facts of the case; the time and location of the offense (to the extent possible); a description of the laws violated; a statement of the existence of a warrant of arrest or detention or a judgment of conviction against that person; and a statement of intention to request the extradition of the person sought.
3. The requesting Government shall be notified without delay of the disposition of its request for provisional arrest and the reasons for any inability to proceed with the request.
4. A person who is provisionally arrested or detained may be discharged from custody upon the expiration of sixty (60) days from the date of arrest or detention pursuant to such application if the request for extradition referred to in Article VI of Title Two of this Agreement has not been received by the requested Government. Such termination and discharge shall not prevent the institution of further proceedings for the extradition of that person.

Article VIII

Rule of Specialty

1. A person extradited under this Agreement shall not be arrested, detained, tried or punished in the jurisdiction of the requesting Government for an offense other than that for which extradition has been granted nor be extradited by that Government to a third country unless:
  - (a) That person has left the jurisdiction of the requesting Government after extradition and has voluntarily returned to it;
  - (b) That person has not left the jurisdiction of the requesting Government within thirty days after being free to do so; or
  - (c) Upon such conditions as may be prescribed by the requested Government, that Government:
    - (1) Has consented to the arrest, detention, trial or punishment of that person for an offense other than that for which extradition was granted; or
    - (2) Has consented to extradition to a third country.
2. Paragraph 1 of this Article shall not apply to offenses committed after extradition.
3. Instead of the offense for which a person was extradited, after notice to the requested Government, the person may be tried or punished for a different offense, including a lesser included offense, provided that it is:
  - (a) Based on the same facts as were set out in the request for extradition and *the supporting evidence*;
  - (b) Punishable by no greater penalty than the offense for which the person was extradited; and
  - (c) An offense referred to in paragraph 1 of Article II of Title Two.

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Article IX

Multiple Extradition Requests

When requests for extradition of the same person are received from the requesting Government and one or more other Governments, the requested Government shall have the discretion to determine to which Government the person is to be extradited.

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*Article X*

Surrender

When a request for extradition has been granted, surrender of the person sought shall take place within such time as may be prescribed by the laws of the requested Government.

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Article XI

Waiver

1. A person whose extradition is sought may at any time voluntarily waive extradition proceedings. The waiver shall be in writing, endorsed by a judge, and have the effect of a final decision of the requested Government to surrender that person.
2. A certified copy of the waiver shall constitute sufficient authority to maintain the person sought in custody within the jurisdiction of the requested Government and to deliver that person into the custody of the requesting Government.

Article XII

Surrender of Property

1. To the extent permitted under the laws of the requested Government and subject to the rights of third parties, all property relating to the offense shall at the request of the requesting Government be seized and surrendered upon the granting of the extradition. This property shall be handed over even if the extradition cannot be effected due to the death, escape or disappearance of the person sought.
2. The requested Government may make the surrender of the property conditional upon a *satisfactory assurance from the requesting Government that the property shall be returned to the requested Government as soon as possible.*

Article XIII

Transit

1. Upon prior notice, the Government of the United States shall have the right to transport through the jurisdiction of the Federated States of Micronesia persons surrendered by the Government of the United States to a third country pursuant to an agreement between the Government of the United States and that third country or a person surrendered by a third country to the United States.
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 jurisdiction of the United States persons surrendered by the Government of the Federated States of Micronesia to a third country or a person surrendered by a third country to the Federated States of Micronesia 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 the United States or the Federated States of Micronesia, but is required by extenuating circumstances, no prior notice shall be required.

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Article XIV

Expenses

1. The requesting Government shall bear the cost of transportation of the person sought.
2. The appropriate legal officers of the requested Government shall act as counsel for the requesting Government except as otherwise agreed.

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Article XV

Extradition of Citizens or Nationals

Neither the Government of the United States nor the Federated States of Micronesia shall refuse extradition based on the nationality of the person sought.

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Article XVI

Relationship with Other Agreements

Offenses committed by United States personnel as defined in the Status of Forces Agreement shall be subject to the provisions of the Status of Forces Agreement only when such personnel are in the Federated States of Micronesia, otherwise the provisions of this Agreement shall govern.

TITLE THREE

JUDICIAL ASSISTANCE

Article I

Judicial Assistance

1. The United States District Court of the district in which a person resides or is found may order that person to give testimony or a statement or to produce a document or other thing for use in a judicial, administrative or criminal investigation or proceeding in the Federated States of Micronesia.
2. A national court in the Federated States of Micronesia may order a person residing or found within its jurisdiction to give testimony or a statement or to produce a document or other thing for use in a judicial, administrative, or criminal investigation or proceeding in the United States.
3. The order may be made either pursuant to a letter rogatory issued or a request made by a court of the other Signatory Government, or pursuant to a request made by a department or ministry of justice of the other Signatory Government.
4. The order may direct that the testimony or statement be given or the documents or other things be produced before a person appointed by the court. By virtue of this appointment, the person appointed has power to administer any necessary oath and take the testimony or statement.
5. When requested, the prescribed procedure shall be designed to meet the requirements for admission in evidence of the testimony or statement to be given, or the document or other thing to be produced, in the place where it is sought to be used. *In such cases and as otherwise necessary or appropriate, the order shall prescribe the procedure for taking the testimony or statement or producing the document or other thing.*
6. A person may not be compelled to give testimony or a statement or to produce a document or other thing in violation of any legal or constitutional right or privilege applicable in the jurisdiction in which the testimony or statement is given, or a document or other thing is produced.
7. This Agreement does not preclude a person from voluntarily giving testimony or a statement, or producing a document or other thing, for use in an investigation or proceeding in the United States or the Federated States of Micronesia.
8. Letters rogatory, requests and applications for assistance pursuant to this Title shall be in the English language.

TITLE FOUR

EXECUTION OF PENAL SANCTIONS