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2D SESSION

S. 2536

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1998

Referred to the Committee on the Judiciary, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AN ACT

To protect the safety of United States nationals and the interests of the United States at home and abroad, to improve global cooperation and responsiveness to international crime and terrorism, and to more effectively deter international crime and acts of violence.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “International Crime and Anti-Terrorism Amendments of
6 1998”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INVESTIGATING AND PUNISHING VIOLENT CRIMES
 AGAINST UNITED STATES NATIONALS ABROAD

Sec. 101. Murder and extortion against United States nationals abroad in furtherance of organized crime.

Sec. 102. Murder or serious assault of a State or local official abroad.

TITLE II—STRENGTHENING THE BORDERS OF THE UNITED
 STATES

Sec. 201. Sanctions for failure to heave to, obstructing a lawful boarding, and providing false information.

TITLE III—DENYING SAFE HAVENS TO INTERNATIONAL
 CRIMINALS AND ENHANCING NATIONAL SECURITY RESPONSES

Sec. 301. Inadmissibility of persons fleeing prosecution in other countries.

Sec. 302. Inadmissibility of persons involved in racketeering and arms trafficking.

Sec. 303. Clarification of inadmissibility of persons who have benefited from illicit activities of drug traffickers.

Sec. 304. Inadmissibility of persons involved in international alien smuggling.

Sec. 305. Seizure of assets of persons arrested abroad.

Sec. 306. Administrative summons authority under the Bank Secrecy Act.

Sec. 307. Criminal and civil penalties under the International Emergency Economic Powers Act.

Sec. 308. Attempted violations of the Trading with the Enemy Act.

TITLE IV—RESPONDING TO EMERGING INTERNATIONAL CRIME
 THREATS

Sec. 401. Enhanced authority to investigate computer fraud and attacks on computer systems.

Sec. 402. Jurisdiction over certain financial crimes committed abroad.

TITLE V—PROMOTING GLOBAL COOPERATION IN THE FIGHT
 AGAINST INTERNATIONAL CRIME

Sec. 501. Sharing proceeds of joint forfeiture operations with cooperating foreign agencies.

Sec. 502. Streamlined procedures for execution of MLAT requests.

TITLE VI—STREAMLINING THE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIMES IN UNITED STATES COURTS

Sec. 601. Reimbursement of State and local law enforcement agencies in international crime cases.

Sec. 602. Facilitating the admission of foreign records in United States courts.

Sec. 603. Prohibiting fugitives from benefiting from time served abroad.

1 **TITLE I—INVESTIGATING AND**
2 **PUNISHING VIOLENT CRIMES**
3 **AGAINST UNITED STATES NA-**
4 **TIONALS ABROAD**

5 **SEC. 101. MURDER AND EXTORTION AGAINST UNITED**
6 **STATES NATIONALS ABROAD IN FURTHER-**
7 **ANCE OF ORGANIZED CRIME.**

8 Section 2332 of title 18, United States Code, is
9 amended—

10 (1) by redesignating subsection (d) as sub-
11 section (e);

12 (2) by inserting after subsection (c) the follow-
13 ing:

14 “(d) EXTORTION OF UNITED STATES NATIONALS
15 ABROAD.—Whoever commits or attempts to commit extor-
16 tion against a national of the United States, while the na-
17 tional is outside the United States, shall be fined under
18 this title, imprisoned not more than 20 years, or both.”;

19 (3) in subsection (e), as redesignated, by insert-
20 ing “, or was intended to further the objectives of
21 an organized criminal group. A certification under
22 this paragraph shall not be subject to judicial re-
23 view” before the period at the end; and

24 (4) by adding at the end the following:

1 “(f) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed as indicating an intent on the part
3 of Congress—

4 “(1) to interfere with the exercise of criminal
5 jurisdiction by the nation or nations in which the
6 criminal act occurred; or

7 “(2) to mandate that each potential violation
8 should be the subject of investigation or prosecution
9 by the United States.

10 “(g) DEFINITIONS.—In this section—

11 “(1) the term ‘extortion’ means the obtaining of
12 property worth \$100,000 or more from another by
13 threatening or placing another person in fear that
14 any person will be subjected to bodily injury or kid-
15 napping or that any property will be damaged or de-
16 stroyed; and

17 “(2) the term ‘organized criminal group’ means
18 a group that has a hierarchical structure or is a con-
19 tinuing enterprise, and that is engaged in or has as
20 a purpose the commission of an act or acts that
21 would constitute racketeering activity (as defined in
22 section 1961) if committed within the United
23 States.”.

1 **SEC. 102. MURDER OR SERIOUS ASSAULT OF A STATE OR**
 2 **LOCAL OFFICIAL ABROAD.**

3 (a) IN GENERAL.—Chapter 51 of title 18, United
 4 States Code, is amended by adding at the end the follow-
 5 ing:

6 **“§ 1123. Murder or serious assault of a State or local**
 7 **law enforcement, judicial, or other offi-**
 8 **cial abroad**

9 “(a) DEFINITIONS.—In this section:

10 “(1) SERIOUS BODILY INJURY.—The term ‘seri-
 11 ous bodily injury’ has the meaning given the term in
 12 section 2119.

13 “(2) STATE.—The term ‘State’ has the mean-
 14 ing given the term in section 245(d).

15 “(b) PENALTIES.—Whoever, in the circumstance de-
 16 scribed in subsection (c)—

17 “(1) kills or attempts to kill an official of a
 18 State or a political subdivision thereof shall be pun-
 19 ished as provided in sections 1111, 1112, and 1113;
 20 or

21 “(2) assaults an official of a State or a political
 22 subdivision thereof, if that assault results in serious
 23 bodily injury shall be punished as provided in section
 24 113.

1 “(c) CIRCUMSTANCE DESCRIBED.—The circumstance
2 described in this subsection is that the official of a State
3 or political subdivision—

4 “(1) is outside the territorial jurisdiction of the
5 United States; and

6 “(2) is engaged in, or the prohibited activity oc-
7 curs on account of the performance by that official
8 of training, technical assistance, or other assistance
9 to the United States or a foreign government in con-
10 nection with any program funded, in whole or in
11 part, by the Federal Government.

12 “(d) LIMITATIONS ON PROSECUTION.—No prosecu-
13 tion may be instituted against any person under this sec-
14 tion except upon the written approval of the Attorney Gen-
15 eral, the Deputy Attorney General, or an Assistant Attor-
16 ney General, which function of approving prosecutions
17 may not be delegated and shall not be subject to judicial
18 review.

19 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion may be construed to indicate an intent on the part
21 of Congress—

22 “(1) to interfere with the exercise of criminal
23 jurisdiction by the nation or nations in which the
24 criminal act occurred; or

1 or come to a stop to facilitate a law enforcement
2 boarding by adjusting the course and speed of the
3 vessel to account for the weather conditions and the
4 sea state.

5 “(3) VESSEL OF THE UNITED STATES; VESSEL
6 SUBJECT TO THE JURISDICTION OF THE UNITED
7 STATES.—The terms ‘vessel of the United States’
8 and ‘vessel subject to the jurisdiction of the United
9 States’ have the meanings given those terms in sec-
10 tion 3 of the Maritime Drug Law Enforcement Act
11 (46 U.S.C. App. 1903).

12 “(b) FAILURE TO OBEY AN ORDER TO HEAVE TO.—

13 “(1) IN GENERAL.—It shall be unlawful for the
14 master, operator, or person in charge of a vessel of
15 the United States or a vessel subject to the jurisdic-
16 tion of the United States, to fail to obey an order
17 to heave to that vessel on being ordered to do so by
18 an authorized Federal law enforcement officer.

19 “(2) IMPEDING BOARDING; PROVIDING FALSE
20 INFORMATION IN CONNECTION WITH A BOARDING.—
21 It shall be unlawful for any person on board a vessel
22 of the United States or a vessel subject to the juris-
23 diction of the United States knowingly or willfully
24 to—

1 “(A) fail to comply with an order of an au-
2 thorized Federal law enforcement officer in con-
3 nection with the boarding of the vessel;

4 “(B) impede or obstruct a boarding or ar-
5 rest, or other law enforcement action authorized
6 by any Federal law; or

7 “(C) provide false information to a Federal
8 law enforcement officer during a boarding of a
9 vessel regarding the destination, origin, owner-
10 ship, registration, nationality, cargo, or crew of
11 the vessel.

12 “(c) STATUTORY CONSTRUCTION.—Nothing in this
13 section may be construed to limit the authority granted
14 before the date of enactment of the International Crime
15 and Anti-Terrorism Amendments of 1998 to—

16 “(1) a customs officer under section 581 of the
17 Tariff Act of 1930 (19 U.S.C. 1581) or any other
18 provision of law enforced or administered by the
19 United States Customs Service; or

20 “(2) any Federal law enforcement officer under
21 any Federal law to order a vessel to heave to.

22 “(d) CONSENT OR WAIVER OF OBJECTION BY A FOR-
23 EIGN COUNTRY.—

24 “(1) IN GENERAL.—A foreign country may con-
25 sent to or waive objection to the enforcement of

1 United States law by the United States under this
2 section by international agreement or, on a case-by-
3 case basis, by radio, telephone, or similar oral or
4 electronic means.

5 “(2) PROOF OF CONSENT OR WAIVER.—The
6 Secretary of State or a designee of the Secretary of
7 State may prove a consent or waiver described in
8 paragraph (1) by certification.

9 “(e) PENALTIES.—Any person who intentionally vio-
10 lates any provision of this section shall be fined under this
11 title, imprisoned not more than 5 years, or both.

12 “(f) SEIZURE OF VESSELS.—

13 “(1) IN GENERAL.—A vessel that is used in vio-
14 lation of this section may be seized and forfeited.

15 “(2) APPLICABILITY OF LAWS.—

16 “(A) IN GENERAL.—Subject to subpara-
17 graph (C), the laws described in subparagraph
18 (B) shall apply to seizures and forfeitures un-
19 dertaken, or alleged to have been undertaken,
20 under any provision of this section.

21 “(B) LAWS DESCRIBED.—The laws de-
22 scribed in this subparagraph are the laws relat-
23 ing to the seizure, summary, judicial forfeiture,
24 and condemnation of property for violation of
25 the customs laws, the disposition of the prop-

1 erty or the proceeds from the sale thereof, the
2 remission or mitigation of the forfeitures, and
3 the compromise of claims.

4 “(C) EXECUTION OF DUTIES BY OFFICERS
5 AND AGENTS.—Any duty that is imposed upon
6 a customs officer or any other person with re-
7 spect to the seizure and forfeiture of property
8 under the customs laws shall be performed with
9 respect to a seizure or forfeiture of property
10 under this section by the officer, agent, or other
11 person that is authorized or designated for that
12 purpose.

13 “(3) IN REM LIABILITY.—A vessel that is used
14 in violation of this section shall, in addition to any
15 other liability prescribed under this subsection, be
16 liable in rem for any fine or civil penalty imposed
17 under this section.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The analysis for chapter 109 of title 18, United States
20 Code, is amended by adding at the end the following:

“2237. Sanctions for failure to heave to; sanctions for obstruction of boarding
or providing false information.”.

1 **TITLE III—DENYING SAFE HA-**
2 **VENS TO INTERNATIONAL**
3 **CRIMINALS AND ENHANCING**
4 **NATIONAL SECURITY RE-**
5 **SPONSES**

6 **SEC. 301. INADMISSIBILITY OF PERSONS FLEEING PROS-**
7 **ECUTION IN OTHER COUNTRIES.**

8 (a) NEW GROUNDS OF INADMISSIBILITY.—Section
9 212(a)(2) of the Immigration and Nationality Act (8
10 U.S.C. 1182(a)(2)) is amended by adding at the end the
11 following:

12 “(G) UNLAWFUL FLIGHT TO AVOID PROS-
13 ECUTION.—Any alien who is coming to the
14 United States solely, principally, or incidentally
15 to avoid lawful prosecution in a foreign country
16 for a crime involving moral turpitude (other
17 than a purely political offense) is inadmis-
18 sible.”.

19 (b) COUNTRIES TO WHICH ALIENS MAY BE RE-
20 MOVED.—Section 241(b) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1231(b)) is amended—

22 (1) in paragraph (3)(A), by striking “(1) and
23 (2)” and inserting “(1), (2), and (4)”; and

24 (2) by adding at the end the following:

1 “(4) ALIENS SOUGHT FOR PROSECUTION.—
2 Notwithstanding paragraphs (1) and (2) of this sub-
3 section, any alien who is found removable under sec-
4 tion 212(a)(2)(G) (or section 212(a)(2)(G) as ap-
5 plied pursuant to section 237(a)(1)(A)), shall be re-
6 moved to the country seeking prosecution of that
7 alien unless, in the discretion of the Attorney Gen-
8 eral, the removal is determined to be impracticable,
9 inadvisable, or impossible. In that case, removal
10 shall be directed according to paragraphs (1) and
11 (2) of this subsection.”.

12 **SEC. 302. INADMISSIBILITY OF PERSONS INVOLVED IN**
13 **RACKETEERING AND ARMS TRAFFICKING.**

14 (a) NEW GROUNDS OF INADMISSIBILITY.—Section
15 212(a)(2) of the Immigration and Nationality Act (8
16 U.S.C. 1182) is amended by adding at the end the follow-
17 ing:

18 “(H) RACKETEERING ACTIVITIES.—Any
19 alien is inadmissible if the consular officer or
20 the Attorney General knows or has reason to
21 believe that the alien is or has been engaged in
22 activities that, if engaged in within the United
23 States, would constitute ‘pattern of racketeering
24 activity’ (as defined in section 1961 of title 18,
25 United States Code) or has been a knowing as-

1 sister, abettor, conspirator, or colluder with oth-
2 ers in any such illicit activity.

3 “(I) **TRAFFICKING IN FIREARMS OR NU-**
4 **CLEAR OR EXPLOSIVE MATERIALS.**—Any alien
5 inadmissible if the consular officer or the Attor-
6 ney General knows or has reason to believe that
7 the alien is or has been engaged in illicit traf-
8 ficking of firearms (as defined in section 921 of
9 title 18, United States Code), nuclear materials
10 (as defined in section 831 of title 18, United
11 States Code), or explosive materials (as defined
12 in section 841 of title 18, United States Code);
13 or has been a knowing assister, abettor, con-
14 spirator, or colluder with others in the illicit ac-
15 tivity.”.

16 (b) **WAIVER AUTHORITY.**—Section 212(h) of the Im-
17 migration and Nationality Act (8 U.S.C. 1182) is amend-
18 ed, in the matter preceding paragraph (1)—

19 (1) by striking “The Attorney General” and all
20 that follows through “of subsection (a)(2)” and in-
21 serting the following: “The Attorney General may,
22 as a matter of discretion, waive the application of
23 subparagraphs (A)(i)(I), (B), (D), and (E) of sub-
24 section (a)(2),”; and

1 (2) by inserting before “if—” the following: “,
2 and subparagraph (H) of that subsection insofar as
3 it relates to an offense other than an aggravated fel-
4 ony”.

5 **SEC. 303. CLARIFICATION OF INADMISSIBILITY OF PER-**
6 **SONS WHO HAVE BENEFITED FROM ILLICIT**
7 **ACTIVITIES OF DRUG TRAFFICKERS.**

8 Section 212(a)(2)(C) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1182 (a)(2)(C)) is amended to read
10 as follows:

11 “(C) CONTROLLED SUBSTANCE TRAFFICK-
12 ERS.—Any alien is inadmissible if the consular
13 officer or the Attorney General knows or has
14 reason to believe that the alien is or has been
15 an illicit trafficker in any controlled substance
16 or in any listed chemical or listed precursor
17 chemical (as defined in section 102 of the Con-
18 trolled Substances Act (21 U.S.C. 802)), or is
19 or has been a knowing assister, abettor, con-
20 spirator, or colluder with others in the illicit
21 trafficking in any such controlled or listed sub-
22 stance or chemical.”.

1 **SEC. 304. INADMISSIBILITY OF PERSONS INVOLVED IN**
2 **INTERNATIONAL ALIEN SMUGGLING.**

3 Section 212 of the Immigration and Nationality Act
4 (8 U.S.C. 1182) is amended—

5 (1) in subsection (a)(6), by striking subpara-
6 graph (E) and inserting the following:

7 “(E) SMUGGLERS.—Any alien is inadmis-
8 sible if, at any time, the alien has knowingly en-
9 couraged, induced, assisted, abetted, or aided
10 any other alien—

11 “(i) to enter or try to enter the
12 United States in violation of law; or

13 “(ii) to enter or try to enter any other
14 country, if that alien knew or reasonably
15 should have known that the entry or at-
16 tempted entry was likely to be in further-
17 ance of the entry or attempted entry by
18 that alien into the United States in viola-
19 tion of law.”; and

20 (2) in subsection (d)(11)—

21 (A) by striking “clause (i) of”; and

22 (B) by inserting “or to enter any other
23 country in furtherance of an entry or attempted
24 entry into the United States in violation of law”
25 before the period at the end.

1 **SEC. 305. SEIZURE OF ASSETS OF PERSONS ARRESTED**
2 **ABROAD.**

3 Section 981(b) of title 18, United States Code, is
4 amended by adding at the end the following:

5 “(3)(A) If any person is arrested or charged in a for-
6 eign country in connection with an offense that would give
7 rise to the forfeiture of property in the United States
8 under this section or under the Controlled Substances Act,
9 the Attorney General may apply to any Federal judge or
10 magistrate judge in the district in which the property is
11 located for an ex parte order restraining the property sub-
12 ject to forfeiture for not more than 30 days, except that
13 the time may be extended for good cause shown at a hear-
14 ing conducted in the manner provided in Rule 43(e), Fed-
15 eral Rules of Civil Procedure.

16 “(B) An application for a restraining order under
17 subparagraph (A) shall—

18 “(i) set forth the nature and circumstances of
19 the foreign charges and the basis for belief that the
20 person arrested or charged has property in the
21 United States that would be subject to forfeiture;
22 and

23 “(ii) contain a statement that the restraining
24 order is necessary to preserve the availability of
25 property for such time as is necessary to receive evi-
26 dence from the foreign country or elsewhere in sup-

1 port of probable cause for the seizure of the property
2 under this subsection.”.

3 **SEC. 306. ADMINISTRATIVE SUMMONS AUTHORITY UNDER**
4 **THE BANK SECRECY ACT.**

5 Section 5318(b) of title 31, United States Code, is
6 amended by striking paragraph (1) and inserting the fol-
7 lowing:

8 “(1) SCOPE OF POWER.—The Secretary of the
9 Treasury may take any action described in para-
10 graph (3) or (4) of subsection (a) for the purpose
11 of—

12 “(A) determining compliance with the rules
13 of this subchapter or any regulation issued
14 under this subchapter; or

15 “(B) civil enforcement of violations of this
16 subchapter, section 21 of the Federal Deposit
17 Insurance Act, section 411 of the National
18 Housing Act, or chapter 2 of Public Law 91–
19 508 (12 U.S.C. 1951 et seq.), or any regulation
20 issued under any such provision.”.

21 **SEC. 307. CRIMINAL AND CIVIL PENALTIES UNDER THE**
22 **INTERNATIONAL EMERGENCY ECONOMIC**
23 **POWERS ACT.**

24 (a) INCREASED CIVIL PENALTY.—Section 206(a) of
25 the International Emergency Economic Powers Act (50

1 U.S.C. 1705(a)), is amended by striking “\$10,000” and
2 inserting “\$50,000”.

3 (b) INCREASED CRIMINAL FINE.—Section 206(b) of
4 the International Emergency Economic Powers Act (50
5 U.S.C. 1705(b)), is amended to read as follows:

6 “(b) Whoever willfully violates any license, order, or
7 regulation issued under this chapter shall be fined not
8 more than \$1,000,000 if an organization (as defined in
9 section 18 of title 18, United States Code), and not more
10 than \$250,000, imprisoned not more than 10 years, or
11 both, if an individual.”

12 **SEC. 308. ATTEMPTED VIOLATIONS OF THE TRADING WITH**
13 **THE ENEMY ACT.**

14 Section 16 of the Trading with the Enemy Act (50
15 U.S.C. App. 16) is amended—

16 (1) in subsection (a), by inserting “or attempt
17 to violate” after “violate” each time it appears; and

18 (2) in subsection (b)(1), by inserting “or at-
19 tempts to violate” after “violates”.

1 **TITLE IV—RESPONDING TO**
2 **EMERGING INTERNATIONAL**
3 **CRIME THREATS**

4 **SEC. 401. ENHANCED AUTHORITY TO INVESTIGATE COM-**
5 **PUTER FRAUD AND ATTACKS ON COMPUTER**
6 **SYSTEMS.**

7 Section 2516(1)(c) of title 18, United States Code,
8 is amended by inserting “, a felony violation of section
9 1030 (relating to computer fraud and attacks on computer
10 systems)” before “section 1992 (relating to wrecking
11 trains)”.

12 **SEC. 402. JURISDICTION OVER CERTAIN FINANCIAL**
13 **CRIMES COMMITTED ABROAD.**

14 Section 1029 of title 18, United States Code, is
15 amended by adding at the end the following:

16 “(g) **JURISDICTION OVER CERTAIN FINANCIAL**
17 **CRIMES COMMITTED ABROAD.**—Any person who, outside
18 the jurisdiction of the United States, engages in any act
19 that, if committed within the jurisdiction of the United
20 States, would constitute an offense under subsection (a)
21 or (b), shall be subject to the same penalties as if that
22 offense had been committed in the United States, if the
23 act—

24 “(1) involves an access device issued, owned,
25 managed, or controlled by a financial institution, ac-

1 count issuer, credit card system member, or other
2 entity within the jurisdiction of the United States;
3 and

4 “(2) causes, or if completed would have caused,
5 a transfer of funds from or a loss to an entity listed
6 in paragraph (1).”.

7 **TITLE V—PROMOTING GLOBAL**
8 **COOPERATION IN THE FIGHT**
9 **AGAINST INTERNATIONAL**
10 **CRIME**

11 **SEC. 501. SHARING PROCEEDS OF JOINT FORFEITURE OP-**
12 **ERATIONS WITH COOPERATING FOREIGN**
13 **AGENCIES.**

14 (a) IN GENERAL.—Section 981(i)(1) of title 18,
15 United States Code, is amended by striking “this chapter”
16 and inserting “any provision of Federal law”.

17 (b) CONFORMING AMENDMENT.—Section 511(e)(1)
18 of the Controlled Substances Act (21 U.S.C. 881(e)(1))
19 is amended—

20 (1) in subparagraph (C), by adding “or” at the
21 end;

22 (2) in subparagraph (D), by striking “; or” and
23 inserting a period; and

24 (3) by striking subparagraph (E).

1 **SEC. 502. STREAMLINED PROCEDURES FOR EXECUTION OF**
2 **MLAT REQUESTS.**

3 (a) IN GENERAL.—Chapter 117 of title 28, United
4 States Code, is amended by adding at the end the follow-
5 ing:

6 **“§ 1790. Assistance to foreign authorities**

7 “(a) IN GENERAL.—

8 “(1) PRESENTATION OF REQUESTS.—The At-
9 torney General may present a request made by a
10 foreign government for assistance with respect to a
11 foreign investigation, prosecution, or proceeding re-
12 garding a criminal matter pursuant to a treaty, con-
13 vention, or executive agreement for mutual legal as-
14 sistance between the United States and that govern-
15 ment or in accordance with section 1782, the execu-
16 tion of which requires or appears to require the use
17 of compulsory measures in more than 1 judicial dis-
18 trict, to a judge or judge magistrate of—

19 “(A) any 1 of the districts in which per-
20 sons who may be required to appear to testify
21 or produce evidence or information reside or are
22 found, or in which evidence or information to be
23 produced is located; or

24 “(B) the United States District Court for
25 the District of Columbia.

1 “(2) AUTHORITY OF COURT.—A judge or judge
2 magistrate to whom a request for assistance is pre-
3 sented under paragraph (1) shall have the authority
4 to issue those orders necessary to execute the re-
5 quest including orders appointing a person to direct
6 the taking of testimony or statements and the pro-
7 duction of evidence or information, of whatever na-
8 ture and in whatever form, in execution of the re-
9 quest.

10 “(b) AUTHORITY OF APPOINTED PERSONS.—A per-
11 son appointed under subsection (a)(2) shall have the au-
12 thority to—

13 “(1) issue orders for the taking of testimony or
14 statements and the production of evidence or infor-
15 mation, which orders may be served at any place
16 within the United States;

17 “(2) administer any necessary oath; and

18 “(3) take testimony or statements and receive
19 evidence and information.

20 “(c) PERSONS ORDERED TO APPEAR.—A person or-
21 dered pursuant to subsection (b)(1) to appear outside the
22 district in which that person resides or is found may, not
23 later than 10 days after receipt of the order—

24 “(1) file with the judge or judge magistrate who
25 authorized execution of the request a motion to ap-

1 appear in the district in which that person resides or
2 is found or in which the evidence or information is
3 located; or

4 “(2) provide written notice, requesting appear-
5 ance in the district in which the person resides or
6 is found or in which the evidence or information is
7 located, to the person issuing the order to appear,
8 who shall advise the judge or judge magistrate au-
9 thorizing execution.

10 “(d) TRANSFER OF REQUESTS.—

11 “(1) IN GENERAL.—The judge or judge mag-
12 istrate may transfer a request under subsection (c),
13 or that portion requiring the appearance of that per-
14 son, to the other district if—

15 “(A) the inconvenience to the person is
16 substantial; and

17 “(B) the transfer is unlikely to adversely
18 affect the effective or timely execution of the re-
19 quest or a portion thereof.

20 “(2) EXECUTION.—Upon transfer, the judge or
21 judge magistrate to whom the request or a portion
22 thereof is transferred shall complete its execution in
23 accordance with subsections (a) and (b).”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 The analysis for chapter 117 of title 28, United States
3 Code, is amended by adding at the end the following:

“1790. Assistance to foreign authorities.”.

4 **TITLE VI—STREAMLINING THE**
5 **INVESTIGATION AND PROS-**
6 **ECUTION OF INTERNATIONAL**
7 **CRIMES IN UNITED STATES**
8 **COURTS**

9 **SEC. 601. REIMBURSEMENT OF STATE AND LOCAL LAW EN-**
10 **FORCEMENT AGENCIES IN INTERNATIONAL**
11 **CRIME CASES.**

12 The Attorney General may obligate, as necessary ex-
13 penses, from any appropriate appropriation account avail-
14 able to the Department of Justice in fiscal year 1998 or
15 any fiscal year thereafter, the cost of reimbursement to
16 State or local law enforcement agencies for translation
17 services and related expenses, including transportation ex-
18 penses, in cases involving extradition or requests for mu-
19 tual legal assistance from foreign governments.

20 **SEC. 602. FACILITATING THE ADMISSION OF FOREIGN**
21 **RECORDS IN UNITED STATES COURTS.**

22 (a) IN GENERAL.—Chapter 163 of title 28, United
23 States Code, is amended by adding at the end the follow-
24 ing:

1 **“§ 2466. Foreign records**

2 “(a) DEFINITIONS.—In this section:

3 “(1) BUSINESS.—The term ‘business’ includes
4 business, institution, association, profession, occupa-
5 tion, and calling of every kind whether or not con-
6 ducted for profit.

7 “(2) FOREIGN CERTIFICATION.—The term ‘for-
8 eign certification’ means a written declaration made
9 and signed in a foreign country by the custodian of
10 a record of regularly conducted activity or another
11 qualified person, that if falsely made, would subject
12 the maker to criminal penalty under the law of that
13 country.

14 “(3) FOREIGN RECORD OF REGULARLY CON-
15 DUCTED ACTIVITY.—The term ‘foreign record of reg-
16 ularly conducted activity’ means a memorandum, re-
17 port, record, or data compilation, in any form, of
18 acts, events, conditions, opinions, or diagnoses,
19 maintained in a foreign country.

20 “(4) OFFICIAL REQUEST.—The term ‘official
21 request’ means a letter rogatory, a request under an
22 agreement, treaty or convention, or any other re-
23 quest for information or evidence made by a court
24 of the United States or an authority of the United
25 States having law enforcement responsibility, to a
26 court or other authority of a foreign country.

1 “(b) FOREIGN RECORDS.—In a civil proceeding in a
2 court of the United States, including civil forfeiture pro-
3 ceedings and proceedings in the United States Claims
4 Court and the United States Tax Court, unless the source
5 of information or the method or circumstances of prepara-
6 tion indicate lack of trustworthiness, a foreign record of
7 regularly conducted activity, or copy of the record, ob-
8 tained pursuant to an official request, shall not be ex-
9 cluded as evidence by the hearsay rule if the foreign cer-
10 tification is obtained pursuant to subsection (c).

11 “(c) FOREIGN CERTIFICATION.—A foreign certifi-
12 cation meeting the requirements of this subsection is a for-
13 eign certification, obtained pursuant to an official request,
14 that adequately identifies the foreign record and attests
15 that—

16 “(1) the record was made, at or near the time
17 of the occurrence of the matters set forth, by (or
18 from information transmitted by) a person with
19 knowledge of those matters;

20 “(2) the record was kept in the course of a reg-
21 ularly conducted business activity;

22 “(3) the business activity made or kept such a
23 record as a regular practice; and

24 “(4) if the record is not the original, the record
25 is a duplicate of the original.

1 “(d) AUTHENTICATION.—A foreign certification
2 under this section shall authenticate the record or dupli-
3 cate.

4 “(e) CONSIDERATION OF MOTION.—

5 “(1) NOTICE.—As soon as practicable after a
6 responsive pleading has been filed, a party intending
7 to offer in evidence under this section a foreign
8 record of regularly conducted activity shall provide
9 written notice of that intention to each other party.

10 “(2) OPPOSING MOTION.—A motion opposing
11 admission in evidence of the record under paragraph
12 (1) shall be made by the opposing party and deter-
13 mined by the court before trial. Failure by a party
14 to file that motion before trial shall constitute a
15 waiver of objection to the record or duplicate, but
16 the court for cause shown may grant relief from the
17 waiver.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
19 The analysis for chapter 163 of title 28, United States
20 Code, is amended by adding at the end the following:

“2466. Foreign records.”.

21 **SEC. 603. PROHIBITING FUGITIVES FROM BENEFITING**
22 **FROM TIME SERVED ABROAD.**

23 Section 3585 of title 18, United States Code, is
24 amended by adding at the end the following:

1 “(c) EXCLUSION FOR TIME SERVED ABROAD.—Not-
2 withstanding subsection (b), a defendant shall receive no
3 credit for any time spent in official detention in a foreign
4 country if—

5 “(1) the defendant fled from, or remained out-
6 side of, the United States to avoid prosecution or
7 imprisonment;

8 “(2) the United States officially requested the
9 return of the defendant to the United States for
10 prosecution or imprisonment; and

11 “(3) the defendant is in custody in the foreign
12 country pending surrender to the United States for
13 prosecution or imprisonment.”.

Passed the Senate October 15 (legislative day, Octo-
ber 2), 1998.

Attest:

GARY SISCO,
Secretary.