

File: Leg. Gen.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SPECIAL

December 29, 1983

LEGISLATIVE REFERRAL MEMORANDUM

STAT
TO:

Legislative Liaison Officer-

National Security Council
Department of Defense
Department of Justice
Department of Energy
Department of the Interior
Department of Commerce
Federal Communications Commission
Environmental Protection Agency
Council for Environmental Quality
U.S. Trade Representative
Department of Health and Human Services
Department of Education
Department of Agriculture
Office for Micronesian Status Negotiations
Federal Emergency Management Agency
U.S. Postal Service
Department of Transportation
Civil Aeronautics Board
General Services Administration
Department of the Treasury
Central Intelligence Agency ✓
Department of Housing and Urban Development

SUBJECT: State's draft Compact of Free Association, including a draft Presidential letter and Section-by-Section Analysis.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than c.o.b. Thursday, January 12, 1984. Your agency's timely response to this request is essential so that the Compact may be transmitted to Congress early in 1984.

Questions should be referred to Randy Coleman (395-4606) the legislative analyst in this office or to Bruce Sasser (395-4580).

Ronald K. Peterson

RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference

cc: D. Allen A. Belasco S. Gudes
B. Kleinberg

SPECIAL

DRAFT

The Speaker
The House of Representatives
Washington, D.C.

Dear Mr. Speaker:

I am transmitting herewith a proposed Joint Resolution which would provide Congressional approval of the "Compact of Free Association", the negotiated instrument setting forth the future political status of two of the political jurisdictions comprising the Trust Territory of the Pacific Islands and their future relationship with the United States. The full text of the Compact is included in the Joint Resolution.

During the year of 1983, the peoples of the Federated States of Micronesia, the Marshall Islands and Palau, which are the three political jurisdictions of the Trust Territory of the Pacific Islands with which the Compact was negotiated, voted in United Nations-observed plebiscites to approve the Compact. These historic votes constituted valid exercises by the peoples of the Federated States of Micronesia, the Marshall Islands and Palau of their right to self-determination. In each case, the people expressed a preference for a free association relationship with the United States over either independence or another kind of relationship with this country. These plebiscite results with respect to the Federated States of Micronesia and the Marshall Islands clear the way for approval of the Compact by Congress and subsequently the implementation of its provisions as to those jurisdictions. In the case of Palau, a Palauan judicial

-2-

interpretation, which considered that the plebiscite results fell short of the Palauan constitutional requirement for a seventy-five percent majority approval of certain defense-related provisions of the Compact, has prevented that government from completing its constitutional approval process on the basis of those results. The Compact cannot therefore be applied to Palau unless this constitutional issue is resolved.

The passage by Congress of the Joint Resolution approving the Compact of Free Association will constitute a landmark step in the process leading to the termination of the Trusteeship Agreement with the United Nations Security Council which the United States entered into by Congressional joint resolution on July 18, 1947. Another political jurisdiction of the Trust Territory of the Pacific Islands, the Northern Mariana Islands, will become a commonwealth of the United States pursuant to the terms of Northern Mariana Islands Commonwealth Covenant, P.L. 94-241, 90 Stat. 263, upon termination of the Trusteeship Agreement.

The Compact of Free Association for which I am seeking approval was signed for the United States by my personal representative, Ambassador Fred M. Zeder II, on August 26, 1982 with the Republic of Palau, on October 1, 1982 with the Federated States of Micronesia and on June 25, 1983 with the Republic of the Marshall Islands. It is the result of more than thirteen years of continuous and comprehensive negotiation between the United States and broadly representative groups of elected delegates from each

-3-

of the prospective freely associated states. The fact that the Compact of Free Association was approved by impressive majorities with high voter participation is testimony to the close and widespread interest and involvement of the general populations of the three states in the negotiating process. Likewise, the Executive Branch has taken pains to keep Congress, and particularly the committees with jurisdiction over the Trust Territory, abreast of progress in the negotiations. In this regard, we appreciate the many useful suggestions made over the years by members of both houses, most of which are reflected in the language of the Compact of Free Association.

In preparation for their assumption of the status of freely associated states, the peoples of the Federated States of Micronesia and the Marshall Islands have drafted and inaugurated constitutions with bills of rights and representative governments based on democratic principles. For its part, the United States, acting through the Secretary of the Interior and the High Commissioner, has delegated to these governments the major executive, legislative and judicial powers granted it as administering authority under the Trusteeship Agreement with the United Nations. These constitutional governments carried out complete and objective public education programs in advance of the plebiscites in which their citizens voted to approve the Compact.

The Compact of Free Association, together with its related agreements, will regulate the relations of the United States with

-4-

each of the freely associated states and it will define their international political status. The political status which the peoples of the Trust Territory have chosen in approving the Compact is not independence nor is it that of a United States territory. Rather, the Compact, like the present Trusteeship Agreement, recognizes the inherent sovereignty of the peoples of the freely associated states and thus recognizes a legitimate foundation for their constitutions and their governmental acts. Under the Compact of Free Association, the Federated States of Micronesia and the Marshall Islands will be fully self-governing and the United States will recognize their competence to conduct their own foreign affairs, subject to the full authority and responsibility of the United States for all security and defense matters in or relating to the Federated States of Micronesia and the Marshall Islands, which is a central element of the overall free association relationship. Economic assistance from the United States to each of the freely associated states will run for an initial period of fifteen years.

All of the provisions of the Compact of Free Association have been carefully negotiated, were mutually agreed and have been specifically approved by the peoples of the Federated States of Micronesia and the Marshall Islands in the plebiscites I have mentioned. I request that Congress take note of the agreements subsidiary to the Compact which are included in my transmission with the Joint Resolution. These agreements have all been negotiated, mutually agreed and fully approved by the Federated

-5-

States of Micronesia and the Marshall Islands. While I do not seek enactment of these agreements, I note their importance in elaborating many of the terms of the Compact. With the proposed Joint Resolution, I am also enclosing a section-by-section analysis in order to facilitate your consideration of the Compact's terms.

In this letter, I invite your attention to the division of the Compact into four major titles. Title One describes and regulates the general governmental relations between the United States and the freely associated states. It recognizes the self-governing status of the peoples of the Federated States of Micronesia and the Marshall Islands and the competencies of their duly elected governments. The provisions in Title One concerning telecommunications, immigration, representation, environmental protection and general legal matters prescribe terms generally equivalent to those already in effect under the Trusteeship. Title One will result in a complete cessation in the application of United States laws to the freely associated states, except for those laws specifically made applicable in the Compact. Lastly, this title contains a provision for the settlement of all claims arising out of the nuclear weapons testing program conducted by the United States in the Marshall Islands between 1946 and 1958.

Title Two of the Compact will authorize the appropriation of fifteen years of direct grant assistance to each of the freely associated states and will authorize certain federal agencies to

-6-

continue to provide services and assistance at the level these services were provided under the Trusteeship Agreement. As in the case of the Northern Mariana Islands Commonwealth Covenant, the resolution approving the Compact constitutes a commitment and pledge of the full faith and credit of the United States for the appropriation and payment of the guaranteed levels of funding so specified. The fiscal authority necessary to meet United States commitments during the first year of the Compact is approximately \$295.644 million for the Federated States of Micronesia and the Marshall Islands. This amount contains the partial inflation adjustment which the Compact specifies and several one-time special purpose payments including the creation of the Marshall Islands nuclear claims trust fund. Thereafter, the average total anticipated annual funding called for in the Compact is approximately \$115.4 million not including estimates for partial inflation adjustment but including estimates for the specified federal services. It is the Administration's opinion that the aggregate U.S. outlays under the Compact over the fifteen-year funding period will be lower by some \$300 million than would have been our outlays were the Trusteeship to continue for the same period.

Title Three of the Compact recognizes the continued full United States authority and responsibility for all security and defense matters in or relating to the Federated States of Micronesia and the Marshall Islands. As a corollary, the freely associated states have agreed to refrain from any action which the

-7-

United States unilaterally determines to be incompatible with its security and defense authority and responsibility. In addition, access to the freely associated states by military forces of any third country will be denied, except as agreed to by the United States, and the United States pledges to defend and protect the Federated States of Micronesia and the Marshall Islands as the United States and its own citizens are defended. Subordinate agreements referred to in Article II of Title Three provide for continued United States use, for thirty years, of the civilian contractor-operated Kwajalein Missile Range in the Marshall Islands. They also will regulate the status of United States forces in the area.

Of special importance are the agreements, authorized by Compact Section 354, which extend indefinitely the right of the United States to deny entry into the Federated States of Micronesia and the Marshall Islands to the military forces of other nations and the responsibility of the United States to defend the Federated States of Micronesia and the Marshall Islands from external threat to their freedom and territorial integrity. I can assure the Congress that the United States defense and land use requirements were carefully considered throughout many years of negotiation, are critical to the maintenance of our strategic position in the Pacific and are a vital component in our ability to guarantee the preservation of regional stability and peace.

Title Four of the Compact describes the administrative

-8-

aspects of the free association relationship including provisions for the approval and effective date of the Compact, its amendment, and the settlement of disputes not arising out of Title Three. This title provides that the Compact, and therefore the free association relationship, may be terminated at any time by the United States or by Government of the Federated States of Micronesia or the Marshall Islands, respectively. Should such termination occur before the fifteenth anniversary of the Compact's effective date, the economic assistance prescribed in Title Two would continue with only minor modifications for the duration of the Compact's original fifteen-year term, as would full United States security and defense authority.

The Compact has been finally approved, as is required by its terms, by the Government of the Federated States of Micronesia and the Government of the Marshall Islands in accordance with their respective constitutional processes. These approvals certify that there remain no constitutional or legal impediments under the domestic law of those jurisdictions to the validity of the acceptance of the Compact by those states. These approvals also clear the way for formal consideration and approval of the Compact by the Congress as respects the Federated States of Micronesia and the Marshall Islands. Since certain provisions of the Palauan constitution and the negotiated security and defense provisions of the Compact have not been reconciled, as stated above, thus precluding the Government of Palau from approving the Compact, I will not now request the Congress to approve the Compact for

-9-

Palau. Further discussion of this subject with Palau or the negotiation by Palau of another future political status arrangement acceptable to the United States should not delay our approval of the Compact for the Federated States of Micronesia and the Marshall Islands.

I urge the Senate and the House to take early, positive action to approve the Compact of Free Association which, when it enters into force, will become law in accordance with its provisions. The peoples of the Federated States of Micronesia and the Marshall Islands have spoken loudly and clearly at the negotiating table and in their plebiscites. They deeply desire to implement their chosen future political status. More importantly, they fervently seek a new relationship with the United States, founded in mutual agreement and equality and deserving of the highest and best traditions of our beloved country.

Sincerely,

Ronald Reagan

Enclosures:

Proposed Joint Resolution;
Section-by-Section Analysis of the Compact;
Related Agreements.

**SECTION-BY-SECTION ANALYSIS
OF
THE COMPACT OF FREE ASSOCIATION
AND
DESCRIPTION OF ITS TERMS**

The Compact of Free Association is divided into a preamble and four titles: Governmental Relations; Economic Relations; Security and Defense Relations; and General Provisions.

PREAMBLE

The Preamble states that the relationship which will exist between the United States and the three states emergent from the Trust Territory of the Pacific Islands is "Free Association."

The Preamble recognizes that the agreement is concluded on a government-to-government basis; that the peoples of the Trust Territory have and retain their sovereignty and their sovereign right to self-determination; that the Freely Associated States (FAS) are self-governing under their own constitutions; and that the political and legal relationship between the FAS and the United States is fully described and governed by the Compact. The Preamble recognizes the competence of the constitutional governments with the Trust Territory to enter into the Compact and supports the legitimacy of the new political status as consistent with the goals of the United Nations trusteeship system and consequently as a basis for termination of the Trusteeship.

TITLE ONE
GOVERNMENTAL RELATIONS

Article I, Self-Government

Section 111. This section recognizes that the peoples of the FAS, acting through their constitutional governments, are self-governing. This recognition is the foundation of the government-to-government agreement and is consistent with the international political status of free association.

Article II, Foreign Affairs

Section 121. The United States, in this section, recognizes the capacity of the FAS to conduct foreign affairs in their own name and right. This includes the capacity to enter into treaties and other international agreements with other governments or international organizations, as appropriate. This recognition of foreign

-2-

affairs capacity by the United States acknowledges the international legal personalities of the FAS. Thus, for example, while the United States will provide certain services under the Compact, these activities will take place on a government-to-government basis through an international agreement and the exercise by the FAS of foreign affairs authority, rather than by the direct extension of U.S. domestic programs as was done during the Trusteeship pursuant to Article 3 of the Trusteeship Agreement.

The FAS agree in this section to conduct their affairs of state in accordance with international law and settle disputes by peaceful means.

Section 122. In this section, the United States agrees to support FAS participation and membership in regional and international organizations as may be mutually agreed from time to time.

This section also obligates the United States to accept qualified FAS citizens for training in the Foreign Service Institute. This program will contribute to FAS capabilities to meet the demands of their new political status and promote intergovernmental cooperation between the FAS and the United States.

Section 123. In this section, the FAS agree to consult with the United States in foreign affairs matters in recognition of the authority and responsibility of the United States under Title Three.

This section also provides that the United States will consult with the FAS on foreign affairs matters which relate to or affect the FAS. This arrangement reflects reciprocal obligations of the parties for consultation, given the overall allocation of authority and responsibility under the Compact.

Section 124. This section authorizes the United States, upon request, to assist the FAS in foreign affairs matters, and includes a disclaimer of responsibility for actions of the FAS taken with the assistance or through the agency of the United States Government.

Section 125. This section is a disclaimer by the United States of responsibility for FAS actions in their exercise of their foreign affairs capacity.

Section 126. Under this section, the United States will provide, upon request, consular services to FAS citizens abroad as if they were United States citizens.

Section 127. This section provides for termination of all obligations, responsibilities, rights and benefits of the United States under any treaty made applicable to the Trust Territory during the Trusteeship. The continued application of such

-3-

treaties to the FAS will be determined in accordance with international law, and will thus depend upon the relations between the FAS and other signatories of such agreements. However, under Title III and the separate agreements concluded pursuant thereto, defense treaties and international security agreements will continue in force.

Article III, Communication

Section 131. This section recognizes FAS authority and responsibility to control domestic and foreign communications, and enables the United States to represent the FAS before the International Telecommunications Union with respect to frequency registration and broadcast scheduling until the FAS choose to undertake that function themselves. This section also extends Federal Communications Commission jurisdiction to the FAS as regards the operations of satellite earth terminal stations operated by U.S. common carriers. Under this arrangement, the details of which are set forth in separate agreements, the FAS will be included in the United States telecommunications system for rate-making and other operational aspects relating to United States common carriers.

Section 132. This section ensures United States ability to operate telecommunications systems in the FAS in connection with its obligations under the Compact.

Article IV, Immigration

Section 141. This section effectively exempts FAS citizens meeting specified criteria from certain United States visa and work permit requirements and enables FAS citizens to enter, reside, be employed, attend school or remain as visitors in the United States. Section 141 also recognizes the ability of the United States Congress to promulgate, or authorize the legislatures of United States territories to promulgate, non-discriminatory immigration laws or regulations applicable to FAS citizens who wish to establish "habitual residence" in those U.S. territories. Habitual residence is defined as establishment of a place of general abode or principal, actual dwelling place of a continuing or lasting nature and of at least one year duration.

Finally, Section 141 does not confer or deny the right of FAS citizens to establish residency necessary for naturalization or entitlement to benefits for alien relatives.

Section 142. FAS reciprocity for the open immigration arrangement provided under Section 141 is set forth in this section, under which United States citizens will be able to enter, reside and be employed in the FAS, subject only to FAS law providing for exclusion of undesirable aliens. Establishment of "habitual residence" in the FAS by United States citizens would also be subject to FAS law.

-4-

Section 143. The privileges set forth in Sections 141 and 142 will be lost to a citizen of an FAS or the United States who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of an FAS or the United States or fails to renounce such an existing citizenship or nationality within two years after the effective date of the Compact. Section 143 does not deny the privileges conferred by Sections 141 and 142 where citizenship is held in both an FAS and the United States or in more than one FAS.

Section 144. This section enables United States citizens to enter and remain in FAS government service without losing their U.S. citizenship.

Article V, Representation

Section 151-152. These sections provide for the establishment of resident representatives in the capitals of the United States and the FAS. Designated representatives are entitled to limited or functional immunity, exemptions and privileges in connection with the performance of official duties.

Section 153. This section exempts United States citizens who are employed by or represent an FAS from the provision of the Foreign Agents Registration Act and the Logan Act.

Article VI, Environmental Protection

Sections 161-163. The sections within this article establish a regulatory structure for United States governmental activities in the FAS. The United States agrees that it will adhere to the National Environmental Policy Act in its activities in the FAS, and that it will also comply with standards substantively similar to those required by other specified United States environmental laws. The United States and the FAS agree to develop additional environmental protection standards suited to unique conditions in the FAS. Under this structure, the FAS governments, but not individual citizens, will be able to seek judicial review of United States compliance in designated federal courts. Finally, as a reciprocal obligation the FAS agree to develop and enforce substantively similar standards for environmental protection with respect to its activities which are substantively similar to United States activities. The President of the United States may, after appropriate consultations in the FAS, exempt federal agencies from compliance where such exemption is determined to be in the "paramount interest" of the United States, consistent with Title Three of the Compact and the obligations of the Government of the United States under international law.

This article was negotiated to address a fundamental FAS concern about preservation of the fragile ecology of their islands and their resultant desire that a commitment to adhere to the high standards of environmental care and protection embodied in United

-5-

States law be articulated in the Compact.

Article VII, General Legal Provisions

Section 171. This section terminates the application to the FAS of any laws of the United States made applicable to the Trust Territory of the Pacific Islands or any part thereof pursuant to the Trusteeship Agreement, unless they are specifically made applicable by the Compact.

Section 172. This section provides that citizens of the FAS not residing in the United States shall be entitled to the same rights and privileges as any other non-resident aliens and that they shall be treated as "persons" within the meaning of the Administrative Procedures Act and of the Freedom of Information Act. A United States citizen who becomes a citizen of an FAS and who does not renounce his United States citizenship would retain his United States citizenship and continue to be entitled to the same rights and privileges as any other United States citizen.

Section 173. The United States and the FAS undertake positive obligations to protect the programs, personnel, property and facilities of the other which are connected with public and official functions specified in the Compact or its related agreements.

Section 174. Subsections (a) and (d), taken together, provide that the FAS governments will be immune from jurisdiction of the courts of the United States, and vice versa, except when the defendant government is sued in connection with commercial activities, personal injury, death or damage to or loss of property.

Subsections (b) and (c) of this section set forth the procedure for payment of claims against the Trust Territory Government or the United States arising from acts or omissions of either such government prior to the effective date of the Compact. All unpaid judgments against the Trust Territory Government or the United States entered prior to the effective date of the Compact, or settlements reached, will be paid by the United States. All claims against the Trust Territory or United States which are not resolved prior to the effective date of the Compact or which arise afterwards, will be adjudicated in the courts of the FAS, but any judgment of those courts will be presented for certification to the United States Court of Appeals for the Federal Circuit which shall order payment of such judgment, unless it is manifestly erroneous in law or fact, or is manifestly excessive. In this latter situation, that court shall have jurisdiction to modify the judgment.

Section 175. This section provides for the negotiation of separate agreements regarding extradition, mutual assistance in law enforcement and transfer of prisoners. These agreements shall

-6-

have the force of law and shall be similar to arrangements which the United States has with other nations.

Section 176. This section preserves the decisional law established in civil litigation during the Trusteeship by the courts of the Trust Territory, subject to the power of the courts of the FAS derived from their respective constitutions to modify judgments in appropriate cases.

Section 177. In this section, the United States accepts responsibility for compensation owing to citizens of the FAS for loss or damage to person and property resulting from the nuclear testing program conducted by the United States in the Northern Marshall Islands between 1946 and 1958. This section also provides that the United States Government and the Government of the Marshall Islands shall set forth in a separate agreement provisions for a full and complete settlement of all uncompensated claims which have arisen as to the Marshall Islands and its citizens. The separate agreement is also to contain agreed provisions for medical services and radiological monitoring as well as utilization of affected lands. This agreement has been concluded, is incorporated into the Compact, and provides for the establishment of a \$150 million fund to finance the purposes of this agreement. This agreement settles all Marshall Islands claims arising from the nuclear testing program.

Section 178. This section enables federal agencies providing services and programs in the FAS to settle and pay tort claims arising from their activities in the FAS pursuant to the administrative procedures set forth at 28 U.S.C. 2672. Claims not resolved through that procedure will be referred to arbitration under the conference and dispute resolution process set forth in Title Four, Article II, of the Compact, and paid in accordance with the arbitration award payment provisions of 31 U.S.C. 1304. The United States will be immune from suits based on claims arising under the provisions of this section.

TITLE TWO ECONOMIC RELATIONS

(The chart attached at Appendix A displays the amounts and schedule for payment of grant funding and assistance set forth in the Compact and discussed in the following analysis.)

Article I, Grant Assistance

Section 211. This section sets forth the basic grant assistance constituting the economic foundation of free association. The fundamental concept underlying the grant assistance is that the FAS will be provided with the resources to implement development programs and provide public services appropriate to conditions and needs as determined by the FAS. A capital account and a current

-7-

account will be established from grant funds, to be used for economic development and government operations, respectively.

In order to enable the FAS to undertake economic development programs at the outset of the initial fifteen year term of free association, the grant assistance package was structured to provide maximum "front-end loading" of grant funding, while at the same time spreading out funding levels over the entire fifteen-year period to ensure that minimum needs can be satisfied and that economic stability can be preserved throughout the initial period of free association. Thus, at the fifth and again at the tenth anniversary of the effective date of the Compact, the amounts of grants will be reduced from the higher levels provided during the first five years.

This section also calls for each of the FAS to establish official development plans and each FAS agrees that during the term of the Compact an average of no less than 40 percent of designated grant funding will have been dedicated to capital account activities as set forth specifically in the plans. This section recognizes that achievement of the goals of the economic development plans may be affected by the impact of exceptional, economically adverse circumstances. Each FAS is to report annually to the President and the Congress on the implementation of the plans and the use of grant money.

Section 212. The section provides for fourteen annual payments to the FSM, commencing on the first anniversary of free association, for development, which may be used to pay certain account expenditures for the operations of United States military Civic Action Teams made available to the FSM under Section 227.

Section 213. This section provides that the specified scheduled amounts provided therein to the Governments of the Marshall Islands and the Federated States of Micronesia shall be used by them to offset the impact of any United States military activities conducted pursuant to Section 321(a) and its separate agreements.

Section 214. This section provides for fourteen annual payments, commencing on the first anniversary of free association, for energy production in the FAS. These grants are provided with the goal of increasing FAS energy self-sufficiency.

Section 215. This section provides annual grants in support of current account communications operations and for other current or capital account activities which may include purchase of communications facilities and equipment now located in the Trust Territory, including the new COMSAT earth stations.

Section 216. This section provides annual grants for maritime zone surveillance and enforcement, medical referral transportation and other health services, and post-secondary educational scholarship programs. This funding is augmented by a United States

-8-

"start-up" contribution for surveillance, and is to be divided among the FAS as agreed among those governments.

Section 217. This section provides for an annual adjustment of the grants provided under Sections 211, 212, 214, 215 and 231 (including Sections 212, 213 and 216 funds as referenced therein) by two-thirds of the percentage annual change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less.

Section 218. This section provides that grant funds appropriated for any year will survive beyond the expiration of that year and remain available for expenditure without reducing subsequent grant payments.

Section 219. This section provides that unobligated Trust Territory Government funds will remain available to the FAS Governments according to the purposes of the act appropriating such funds.

Article II, Program Assistance

Section 221. While the FAS will fund the basic functions of government from grant assistance and FAS revenues, performance of certain activities may be beyond the capability of the new governments at the outset of free association. Thus, the United States has agreed in Section 221(a) to continue to provide services of the United States Weather Service, the United States Federal Emergency Management Agency, the United States Postal Service, the Federal Aviation Administration and the Civil Aeronautics Board. Enactment of Section 221(a) by Congress provides the legislative authority for provision of these services. The specific arrangements for provisions of these services are set forth in a separate agreement. The United States commitment is expressly limited to continuation of the essential services specified at levels equivalent to the last year prior to the effective date of the Compact. This will establish a ceiling on the nature and extent of United States programs.

Subsection (b) provides a \$10 million annual grant to be shared by the FAS as follows: Marshall Islands \$3 million; and FSM \$7 million. This grant funding, coupled with the scholarship and health service funding set forth in Section 216, will enable the FAS to augment current account expenditures in the field of education and health services and tailor such activities as scholarship programs and medical referral activities to FAS needs.

Subsection (c) provides that alternate energy development programs which were extended to the Trust Territory will continue after the effective date of the Compact and be available to the FAS subject to the terms set forth in United States law with respect to the scope and duration of such programs.

-9-

Subsection (d) defines United States authority incident to implementing program assistance.

Section 222. This section acknowledges that continuing consultation may be called for in order to ensure that the federal services provided under Section 221(a) are appropriate to the evolving developmental needs of the FAS.

Section 223. This section ensures that those Trust Territory students embarked upon a post-secondary course of study relying upon a particular United States assistance program, e.g. the Basic Educational Opportunity Grant, will be able to continue to receive such assistance for the duration of the individual academic programs up to four years following the effective date of the Compact.

Section 224. This section provides that the United States and the FAS may agree on the extension of federal programs, assistance, or services to the FAS in addition to those specified in the Compact. While the grant assistance and services provided by Title Two constitute a comprehensive negotiated package, this section enables the United States and the FAS to adjust to changing conditions and needs by establishing such additional programs as may be authorized by United States law.

Section 225. In order to enable the United States to fulfill its commitment to provide programs and services in support of FAS development efforts, the FAS will be obligated under this section to provide at no cost land required for federal agency activities, and to allow agencies already present in the Trust Territory to continue use of existing facilities at no cost, or make mutually agreeable alternative arrangements.

Section 226. Under this section, United States Government agencies which have statutory authority to provide technical assistance on an intergovernmental or international basis, or to territories or possessions of the United States, will be able to provide such technical assistance to the FAS upon request. In light of the free association relationship, FAS requests for technical assistance will be given priority consideration over requests of other nations eligible for such assistance.

Section 227. This section provides that United States military Civic Action Teams (CAT) will be provided to the Federated States of Micronesia under the terms set forth in a separate agreement which, among other things, defines FSM obligations to provide land, building materials and other support for CAT projects.

Article III, Administrative Provisions

Section 231. This section provides for negotiations commencing on the thirteenth anniversary of the Compact regarding the future political relationship between the United States and the Marshall

-10-

Islands and the FSM.

If these negotiations are not concluded by the fifteenth anniversary, all of the provisions of the Compact, including U.S. defense rights under Title Three, will remain in effect for an additional two years and continue to be implemented according to their original terms. However, the United States will provide the average of annual amounts of the assistance which had been provided during the initial fifteen year period under Sections 211 (grant assistance); 212 (FSM Civic Action Teams funding); 213 (United States payments for military operating rights in FAS); 214 (FAS energy production funds); 215 (communications grants); and 216 (FAS marine surveillance, medical service and scholarship funding). The inflation adjustment provided under Section 217 will apply to these averaged annual amounts (excluding Sections 212, 213 and 216 funding). This continuation of support during the sixteenth and seventeenth years will ensure the preservation of the economic stability of the FAS and United States defense rights while the United States and the state concerned negotiate a continuation of free association or a different political relationship. Free association will not terminate automatically, but may be terminated by unilateral action of any signatory or mutual agreement between the United States and any or all of the FAS.

Section 232. This section provides that the program assistance to be made available under Section 221 be defined in separate agreements. The levels and duration of such assistance, and the legal parameters within which federal agencies will operate -- including the legal status of their employees, payment of claims, entry and departure of employees and other similar matters -- are dealt with in the comprehensive agreement negotiated pursuant to this section. Under that agreement, federal agency civilian employees will enjoy certain privileges, exemptions and limited immunity from FAS laws, including tax laws, and federal agencies are assured the operational freedom necessary to carry out their responsibilities.

Section 233. This section authorizes the United States to conduct audits of grant and program assistance provided to the FAS under Articles I and II of Title Two. These audits will enable the United States to determine if the FAS have met the requirements set forth in the Compact and its separate agreements regarding the purposes for which funds and program assistance are to be used and the propriety of their financial transactions. The procedures for conduct of the audits will be the subject of consultation to ensure that institutional integrity is preserved, and that the United States will have full access to financial information relating to Compact funding. The procedures for conducting the audit and obtaining annual reports and other financial information as required by the Compact are the subject of a separate agreement on fiscal procedures between the United States and the FAS.

Section 234. This section provides for the transfer to the FAS at

-11-

no cost United States property located in the Trust Territory for which there is no continuing U.S. need. This transfer process is largely complete. Transfer of federal property began in the Trust Territory in 1980, pursuant to Section 402 of United States Public Law 96-597.

Section 235. During the Trusteeship, trust funds have been established for the benefit of various groups of Trust Territory citizens, such as those affected by the United States nuclear testing programs in the Marshall Islands. This section provides for appointment by the United States of a new trustee to replace the High Commissioner as trustee of such funds, so that the initial legislative intent in creating the funds can be carried out. The United States also agrees to carry out such functions of government formerly exercised by the High Commissioner as are necessary to implement the provisions of a particular trust. For instance, the High Commissioner is currently required to make certain determinations and exercise certain administrative functions in connection with trust funds. Under the Compact, this will now be undertaken by the United States.

Section 236. This section pledges the full faith and credit of the United States for payment of the amounts provided for under Articles I and III of Title Two. A similar pledge is contained in the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States. This pledge is intended to create an enforceable obligation of the United States to pay the amounts provided for in Articles I and III. While this obligation will be discharged in the same manner as other financial obligations incurred through international agreements requiring an act of appropriation, the FAS are provided with a judicial remedy before the United States Claims Court in the event payments owing under the Compact are not made. Because the Compact will be both an international agreement and public law, this is a valid grant of jurisdiction which makes an express exception for the FAS from the restriction contained in 28 U.S.C. 1502 relating to actions arising from treaties with foreign nations. Any judgments resulting from an action by the FAS under this section would be paid under 31 U.S.C. 1304.

Article IV, Trade

Section 241-243. These sections provide that the FAS will not be within the customs territory of the United States, and will be able to export products to the United States duty free, provided that less than 70% of the products' value derives from foreign sources. This is the same treatment which United States insular possessions receive under General Headnote 3(a) of the United States Tariff Schedule. Articles not covered by General Headnote (3) will be entitled to most favored treatment.

Article V, Finance and Taxation

-12-

Section 251. This section establishes United States currency as the legal tender of the FAS, but gives each FAS the option to issue its own currency; in which case appropriate transitional arrangements would be agreed upon.

Section 252. This section recognizes the jurisdiction of the FAS to tax any United States persons income which is derived from FAS sources, and applies United States tax laws to determine income source.

Section 253. All FAS citizens domiciled in the FAS will be exempt from United States income tax on fixed and determinable income and inheritance and gift taxes. It is intended that questions of citizenship and domicile for individual persons in the FAS will be determined under the laws of the respective FAS (See Section 142(a) of the Compact).

Section 254. Persons who reside in the FAS will not have to pay any otherwise applicable United States tax on income which is taxed by the FAS, even where such income is derived from sources outside the FAS.

Section 255. While Sections 253 and 254 are intended to provide incentives for immigration to and investment in the FAS for individuals, this Section provides tax incentives for investments primarily by corporations. The tax incentives provided are those long-standing provisions of the United States Internal Revenue Code applicable to possessions of the United States that were designed, like the tax provisions of the Compact, to generate United States investment in developing areas that enjoy a special relationship with the United States. These incentives, as in effect on January 1, 1980, will apply to the FAS to the extent not in conflict with Compact Sections 253 and 254. If the provisions of the Internal Revenue Code applicable to the FAS under this Section are amended after January 1, 1980, the prior law will continue to apply for two years after the effective date of such amendment while alternative but equivalently beneficial tax arrangements are negotiated.

TITLE THREE SECURITY AND DEFENSE RELATIONS

Article I, Authority and Responsibility

Section 311. This section establishes as part of the free association relationship defined in the Compact the full authority and responsibility of the United States for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia. This United States authority and responsibility includes the foreclosure of any third country access to the FAS for military purposes, and the ability to establish military facilities and the exercise of military operating rights in

-13-

accordance with separate agreements authorized by this section. Of fundamental significance is the undertaking of the United States during the free association relationship to defend the FAS and their citizens as the United States and its citizens are defended.

Section 312. This section gives the United States the right to conduct military operations and activities in the FAS necessary for the exercise of its authority and responsibility for security and defense matters under the Compact. Such operations and activities are to be undertaken in accordance with separate agreements on military use and operating rights and status of forces.

Section 313. To ensure that the actions of the FAS governments do not impair the ability of the United States to exercise its authority and fulfill its responsibility in security and defense matters, the FAS agree in this section to refrain from actions which the United States determines to be incompatible with the United States security and defense role defined in the Compact. The purpose of this provision is to preserve the allocation of authority and responsibility for domestic and foreign affairs to the FAS, and for security and defense to the United States.

To ensure that any U.S. determination requiring the FAS to refrain from a particular action is made on the basis of full information, the United States will consult with the FAS prior to making any final determination. The FAS are entitled to raise with the Secretaries of State and Defense, personally and on an expeditious basis, any concerns which might arise for a United States action under this provision.

Section 314. This section provides that unless otherwise agreed the United States will not test by detonation, dispose or discharge within the FAS certain harmful substances or weapons, and will not store substances intended for use in such weapons except in the event of war declared by Congress, a national emergency declared by the President or to defend against actual or impending attack.

This section requires any storage by the United States of substances or materials referenced in this section in the FAS to be in a manner consistent with applicable international guidelines to which the United States adheres, as well as applicable United States laws, in order to protect public health and safety in the FAS.

Section 315. This section enables the United States to permit third countries to have access to United States military areas and facilities in the FAS. Except in the case of transit and overflight, the United States is required to consult with the FAS on third country access, and in the case of major units to obtain approval.

-14-

Section 316. This section prohibits assignment or transfer of United States authority and responsibility for security and defense of the FAS to another country.

Article II, Defense Facilities and Operating Rights

Section 321. This section provides for separate agreements to be concluded between the United States and the FAS for the establishment and use of military areas and facilities of the United States in the FAS in connection with United States security and defense authority and responsibility. This section also sets forth the framework for agreement between the United States and the FAS for additional military areas and facilities should they be required in the future, and acknowledges that the United States will seek minimum areas necessary to carry out its security and defense responsibilities.

Section 322. In connection with its security and defense activities, the United States will provide and maintain certain fixed and floating aids to navigation in the FAS. This activity will also promote civilian shipping in the islands, which will continue to benefit from U.S. Coast Guard assistance with navigational aids.

Section 323. Pursuant to this section, the United States and the FAS have concluded comprehensive agreements on military use and operating rights (MUORA) and status of forces (SOFA). These agreements are modeled on similar arrangements the United States has entered into with other countries. Bilateral MUORAs have been concluded with each of the member states of the FAS addressing the specific needs and requirements of the United States in each of these states. The MUORAs make available to the United States certain defense sites and facilities for its use in the FAS and detail the operating rights that may be exercised in the use of such areas.

The SOFA is a multilateral agreement which defines the rights and obligations of United States Armed Forces and their personnel in the FAS. Specifically, the SOFA defines the personnel afforded the protections under the SOFA and addresses such issues as entry and exit requirements, use of contractors and employment of labor, tax and customs relief, criminal jurisdiction, applicability of local law, payment of claims, medical and postal services, telecommunications, and other related matters.

Article III, Defense Treaties and International Security Agreements

Section 331. In keeping with United States responsibility and authority for security and defense matters in the FAS, this section provides that security and defense agreements or treaties to which the United States is a party, and which have applied to

-15-

the Trust Territory during the Trusteeship, will continue in force and be applied by the United States in the exercise of its security and defense role in the FAS. In addition, the United States retains the authority to extend to the FAS any security or defense agreements or treaties it may determine to be applicable, after appropriate consultation with the FAS governments. This arrangement is necessary in light of United States treaty obligations in the region.

Article IV, Service in the Armed Forces

Section 341 and 342. FAS citizens will be entitled under these sections to serve voluntarily in the armed forces of the United States, but cannot involuntarily be inducted into such service unless habitual residence in the United States is established. In addition, upon nomination by their governments and qualification, FAS citizens will be enrolled in the United States Coast Guard Academy and in the United States Merchant Marine Academy. The service and training available in the armed forces and the designated academies will provide educational opportunities not available in the FAS.

Article V, General Provisions

Section 351. Under this section, two bilateral Joint Committees are established for the purpose of resolving disputes arising from implementation of Title Three and the separate agreements concluded pursuant to sections within Title Three. The senior United States military commander in the Pacific will represent the United States on each committee, and the FAS will designate appropriate senior officials as representatives. The purpose of the Joint Committee is to provide a forum for consultation regarding issues related to Title Three. Any matter which the Committee cannot resolve is referred back to the governments concerned for resolution. The FAS concerned may also raise the matter with the Secretary of Defense, if desired. It is contemplated that the Joint Committee system will enable the FAS and the United States to consult, and by consensus resolve problems arising under Title Three.

Section 352. This section contains a U.S. assurance that in fulfilling its security and defense role, and in making the specific determinations incident to its authority under Title Three of the Compact, the United States will accord due respect to the authority and responsibility as defined in the Compact.

Section 353. This section addresses FAS concerns arising in large part from the experience of World War II. Under this provision, the United States agrees not to include the FAS in a formal declaration of war without the consent of their governments.

In the absence of FAS consent to be named as parties in a declaration of war, this section preserves claims of FAS citizens

-16-

arising from armed conflict incident to belligerence or war. Claims will be preserved under this provision which are in the form of petitions for redress to the Government of the United States, and in the case of third countries all types of claims will be unimpaired by this section. Where FAS citizens petition the United States for redress under this section, their claims will be treated as if they were the claims of United States citizens.

Section 354. Under subsection (a) of this section, the provisions of Title Three will survive and apply for a period of fifteen years in the Marshall Islands and the FSM, even if the Compact is unilaterally terminated earlier by any signatory government. In other words, the security and defense relationship established by Title Three will continue as agreed upon even if the political relationship of free association is terminated. Only by mutual agreement to terminate or amend Title Three can the security and defense relationship be altered.

In conjunction with Articles IV and V of Title Four (which provide for continuation of certain Compact sections, including economic assistance, in the event of Compact termination), subsection (a) represents United States and FAS agreement that their mutual interests will be served by maintaining, for an agreed minimum period, the security, defense and economic stability provided for in the Compact even if the free association relationship is terminated.

Subsection (b) provides that even if Title Three were to expire or be terminated, the United States will provide protection to the Marshall Islands or the Federated States of Micronesia for the period in which separate agreements concluded pursuant to Sections 321 and 323 are in effect. Under those separate agreements, the military use and operating rights of the United States (except those with the FSM) as well as U.S. authority to deny third country military access, have a duration which exceeds the initial term of the Compact (see analysis of Section 454) and the defense guarantee by the United States set forth in this provision will continue, consequently, for those longer periods. That United States commitment requires that a threat to the peace and security of the Marshall Islands or the Federated States of Micronesia be treated as a threat to the peace and security of the entire region and a danger to the United States. In the face of such a threat, the United States would take action to meet that danger in accordance with its constitutional processes.

TITLE FOUR GENERAL PROVISIONS

Article I, Approval and Effective Date

Sections 411-412. Under these sections there is established a

-17-

four-step process for approval and entry into force of the Compact. This process includes approval by the FAS governments in accordance with their constitutional processes and approval of the Compact by the peoples of the Marshall Islands and the Federated States of Micronesia. The procedure for popular approval is set forth in Section 412, which calls for a plebiscite on future political status constituting a free and informed act of self-determination.

The approval process also requires approval of the Compact by the United States, and agreement between the United States and the governments concerned on its effective date. Once so approved, the United States, as administering authority of the Trusteeship, will make appropriate arrangements for termination of the Trusteeship Agreement with the United States.

Article II, Conference and Dispute Resolution

Section 421-424. These sections establish the method for settlement of disputes arising in connection with the implementation and enforcement of the provisions of the Compact except for matters arising out of Title Three, which will be handled as provided for in Section 351. The procedure for dispute resolution requires that upon notification of a dispute, the parties confer on the matter. After a 90-day period, if the issue has not been resolved, the matter is referred to a three-person Arbitration Board consisting of one member appointed by each of the parties and a chairman jointly appointed by the parties or selected by lot from standing lists if mutual agreement cannot be reached. Decisions will be by majority vote and shall be binding on the parties unless it is agreed that the decision shall be advisory. The Board will also not have jurisdiction in matters arising under the environmental protection provisions of Article VI, Title One, and the general legal provisions of Article VII, Title One.

Article III, Amendment

Sections 431-432. These sections provide for bilateral and multi-lateral amendment of the Compact by mutual agreement of the parties affected by such amendments.

Article IV, Termination

Sections 441-443. The Compact provides three avenues for its termination. Under Section 441, the Compact may be terminated by mutual agreement of the United States and one, or all, of the FAS. Section 441 requires United States and FAS approval of the terms and conditions of termination, and contemplates termination only if the United States and the FAS are fully satisfied with the post-termination arrangements.

Section 442 provides for unilateral termination initiated by the United States, in which case prior notice of no less than six

-18-

months is required before termination is effective.

Termination by unilateral action of the FAS is provided for in Section 443, which requires an FAS government which intends to terminate to conduct a plebiscite on termination in accordance with its constitutional processes. A majority vote in favor of termination is required for termination to occur. The plebiscite can be conducted only upon three months' prior notice to the United States, and termination pursuant to an affirmative vote to end the agreement would not become effective until at least three months after certification of the results to the United States and notification that termination will occur.

Article V, Survivability

Sections 451-453. These sections identify which portions of the Compact would survive, and for how long, under the different termination procedures described in Article IV of Title Four.

Should the Compact be terminated by mutual agreement pursuant to Section 441, the continuation of economic relations between the United States and the FAS would be as mutually agreed.

Should termination occur at United States initiative under Section 442, provisions of the Compact relating to the following subjects would remain in effect until the fifteenth anniversary of the effective date of the Compact, or longer if mutually agreed: immigration, environmental protection, legal relations, the nuclear claims settlement with the Marshall Islands, grant assistance, audits, security and defense relations, dispute resolution, amendment, survivability and definitions of terms. In addition, the United States would continue to provide all grant assistance and either the Federal programs and services specified in Article II of Title Two, or their equivalent in funds -- as determined by the U.S. -- until the fifteenth anniversary of the effective date of the Compact.

Should termination result from unilateral FAS action under Section 443, provisions of the Compact relating to the following subjects would remain in effect until the fifteenth anniversary of the effective date of the Compact, or longer if mutually agreed: immigration, environmental protection, legal relations, the nuclear claims settlement with the Marshall Islands, security and defense relations and dispute resolution. In addition, the United States would consult with the FAS terminating the Compact to determine what economic assistance the United States would provide, after termination, until the fifteenth anniversary of the effective date of the Compact with the proviso that the grant assistance provided in Sections 211, 212(b), 214, 215 -- as adjusted pursuant to Section 217 -- and 216 would continue without diminution.

Section 454. Under subsection (a) of this section, the United

-19-

States acknowledges its interest in promoting the long-term economic advancement and self-sufficiency of the peoples of the Marshall Islands and the Federated States of Micronesia.

Subsection (b) of this section provides that the separate agreements concluded pursuant to Article II of Title Three will remain in effect according to their terms notwithstanding termination of the Compact or the application of any other provision of the Compact. This provision will continue the SOFA and the following agreements in effect for these terms:

- Marshall Islands:
 - Military Use and Operating Rights -- up to thirty years.
 - Mutual Security -- until terminated or otherwise amended by mutual agreement.
- Federated States of Micronesia:
 - Military Use and Operating Rights -- fifteen years.
 - Mutual Security -- until terminated or otherwise amended by mutual agreement.

Section 454 also preserves, for the duration of the military use and operating rights agreements, the grant assistance obligations contained in Section 213, which relate to payments to offset the impact of U.S. defense activities in the FAS.

Article VI, Definition of Terms

Sections 461-462. These sections define various terms used in the Compact, and list the separate agreements concluded pursuant to the Compact.

Section 463. This section incorporates by references certain United States statutes, differentiating between those laws which, for purposes of the Compact, will remain as they were on January 1, 1980, and those which will change consistent with amendments of a general nature enacted thereafter.

Article VII, Concluding Provisions

Section 471. Under this section, all signatory governments agree that they are authorized by their constitutions and laws to enter into and implement the Compact and its related agreements. This section also provides that the FAS will conform their laws to the Compact prior to its effective date, so that they will be able to implement the Compact in a manner consistent with their domestic laws. Finally, in fulfillment of the obligation of the Government of the United States under paragraph (b) of this section to ensure that its laws conform with the provisions of the Compact, paragraph (c) of this section provides that the Compact will have the force and effect of a statute under the laws of the United States.

-20-

Section 472. This section provides for acceptance of the Compact by the signature of each government party to the agreement.

APPENDIX A

APPENDIX A		COMPACT OF FREE ASSOCIATION																TOTAL
\$ IN MILLIONS		United States economic assistance to the Marshall Islands and the Federated States of Micronesia																
	FY 19	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99		
MARSHALL ISLANDS																		
Current Account	18.90	17.90	17.90	17.90	17.90	17.90	15.60	15.60	15.60	15.60	15.60	13.80	13.80	13.80	13.80	13.80	237.50	
Capital Account	10.50	10.50	10.50	10.50	10.50	10.50	8.80	8.80	8.80	8.80	8.80	7.60	7.60	7.60	7.60	7.60	134.50	
Kwajalein Impact	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	1.90	28.50	
SUBTOTAL	31.30	30.30	30.30	30.30	30.30	30.30	26.30	26.30	26.30	26.30	26.30	23.30	23.30	23.30	23.30	23.30	400.50	
FEDERATED STATES OF MICRONESIA																		
Current Account	42.60	39.60	39.60	39.60	39.60	39.60	34.60	34.60	34.60	34.60	34.60	27.60	27.60	27.60	27.60	27.60	512.00	
Capital Account	24.00	25.00	25.00	25.00	25.00	25.00	21.00	21.00	21.00	21.00	21.00	17.00	17.00	17.00	17.00	17.00	314.00	
SUBTOTAL	66.60	64.60	64.60	64.60	64.60	64.60	55.60	55.60	55.60	55.60	55.60	44.60	44.60	44.60	44.60	44.60	826.00	
SPECIAL CATEGORIES																		
Program Grants																		
Sec. 177(b)	150.00																150.00	
Sec. 213(b)	0.16																0.16	
Sec. 216	6.70	5.37	5.37	5.37	5.37	5.37	5.37	5.37	5.37	5.37	5.37	5.37	5.37	5.37	5.37	5.37	81.87	
Sec. 221(b)	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00	150.00	
Federal Services																		
Sec. 122	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28	4.26	
Sec. 223	8.30	6.30	4.88	2.46													21.94	
Sec. 232	8.90	10.10	11.30	12.60	13.60	14.90	16.10	17.60	18.90	20.20	21.40	22.70	23.90	25.20	26.50	26.50	263.90	
SUBTOTAL	184.35	32.05	31.83	30.71	29.25	30.55	31.75	33.25	34.55	35.85	37.05	38.35	39.55	40.85	42.15	42.15	672.13	
TOTAL	282.25	126.95	126.73	125.61	124.15	112.45	113.65	115.15	116.45	117.75	104.95	106.25	107.45	108.75	110.05	110.05	1898.63	

Current Account and Capital Account amounts will be adjusted for inflation using the formula set forth in Compact Section 217.
Funding provided by Compact Sections 122, 177, 221, 223, and 232 is not subject to the full faith and credit provisions of Compact Section 236.

H. J. Resolution _____ S. J. Resolution _____
In the House of Representatives In the United States Senate

JOINT RESOLUTION

To approve the "Compact of Free Association", and for other purposes.

Whereas the United States is the administering authority of the Trust Territory of the Pacific Islands under the terms of the Trusteeship Agreement for the former Japanese Mandated Islands entered into by the United States with the Security Council of the United Nations on April 2, 1947, and approved by the United States on July 18, 1947; and

Whereas the United States, in accordance with the Trusteeship Agreement, the Charter of the United Nations and the objectives of the international Trusteeship system, has promoted the development of the peoples of the Trust Territory toward self-government or independence as appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned; and

Whereas the United States, in response to the desires of the peoples of the Federated States of Micronesia and the Marshall Islands expressed through their freely-elected representatives and by the official pronouncements and enactments of their lawfully constituted governments, and in consideration of its own obligations under the Trusteeship Agreement to promote self-determination, entered into political status negotiations with representatives of the peoples of the Federated States of Micronesia, and the Marshall Islands; and

Whereas these negotiations resulted in the "Compact of Free Association" which, together with its related agreements, was signed by the United States and by the the Federated States of Micronesia and the Republic of the Marshall Islands on October 1, 1982 and June 25, 1983, respectively; and

Whereas the Compact of Free Association was approved by majorities of the peoples of the Federated States of Micronesia and the Marshall Islands in United Nations-observed plebiscites conducted on June 21, 1983 and September 7, 1983, respectively; and

-2-

Whereas the Compact of Free Association has been approved by the Governments of the Federated States of Micronesia and the Marshall Islands in accordance with their respective constitutional processes, thus completing fully for the Federated States of Micronesia and the Marshall Islands their domestic approval processes with respect to the Compact as contemplated in Compact Section 411: Now be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Compact of Free Association, the text of which follows, is hereby approved with respect to the Federated States of Micronesia and the Marshall Islands and that the President is authorized to agree to an effective date for and thereafter to implement the Compact of Free Association in accordance with the terms of this approval, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

SEC. 1.

COMPACT OF FREE ASSOCIATION

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENTS THE MARSHALL ISLANDS
AND THE FEDERATED STATES OF MICRONESIA

Affirming that their Governments and their relationships as Governments are founded upon respect for human rights and fundamental freedoms for all, and that the peoples of the Trust Territory of the Pacific Islands have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the peoples of the Trust Territory of the Pacific Islands in creating close and mutually beneficial relationships through three free and voluntary associations of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the peoples of the Trust Territory of the Pacific Islands; and

Recognizing that their previous relationship has been based upon the International Trusteeship System of the United Nations Charter, and in particular Article 76 of the Charter; and that pursuant to Article 76 of the Charter, the peoples of the Trust Territory have progressively developed their institutions of self-government, and that in the exercise of their sovereign right

-3-

to self-determination they have, through their freely-expressed wishes, adopted Constitutions appropriate to their particular circumstances; and

Recognizing their common desire to terminate the Trusteeship and establish three new government-to-government relationships each of which is in accordance with a new political status based on the freely-expressed wishes of peoples of the Trust Territory of the Pacific Islands and appropriate to their particular circumstances; and

Recognizing that the peoples of the Trust Territory of the Pacific Islands have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitutions and forms of government and that the approval of the entry of their respective Governments into this Compact of Free Association by the peoples of the Trust Territory of the Pacific Islands constitutes an exercise of their sovereign right to self-determination;

NOW, THEREFORE, AGREE to enter into relationships of free association which provide a full measure of self-government for the peoples of the Marshall Islands and the Federated States of Micronesia; and

FURTHER AGREE that the relationships of free association derive from and are as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Governments of the freely associated states of the Marshall Islands and the Federated States of Micronesia in regard to these relationships of free association derive from and are as set forth in this Compact.

COMPACT OF FREE ASSOCIATION

TABLE OF CONTENTS

PREAMBLE.	iii - iv
TITLE ONE - - - - - <u>GOVERNMENTAL RELATIONS</u> - - - - -	1-1 - 1-20
Article I..... Self-Government.....	1-1
Article II..... Foreign Affairs.....	1-2 - 1-4
Article III..... Communications.....	1-5 - 1-6
Article IV..... Immigration.....	1-7 - 1-9
Article V..... Representation.....	1-10 - 1-11
Article VI..... Environmental Protection.....	1-12 - 1-15
Article VII..... General Legal Provisions.....	1-16 - 1-20
TITLE TWO - - - - - <u>ECONOMIC RELATIONS</u> - - - - -	2-1 - 2-13
Article I..... Grant Assistance.....	2-1 - 2-5
Article II..... Program Assistance.....	2-6 - 2-8
Article III..... Administrative Provisions.....	2-9 - 2-10
Article IV..... Trade.....	2-11
Article V..... Finance and Taxation.....	2-12 - 2-13
TITLE THREE - - - - - <u>SECURITY AND DEFENSE RELATIONS</u> -	3-1 - 3-8
Article I..... Authority and Responsibility.....	3-1 - 3-3
Article II..... Defense Facilities and Operating Rights.....	3-4
Article III..... Defense Treaties and International Security Agreements.....	3-5
Article IV..... Service in Armed Forces of the United States.....	3-6
Article V..... General Provisions.....	3-7 - 3-8

TITLE FOUR- - - - - GENERAL PROVISIONS- - - - - 4-1 - 4-13

Article I.....	Approval and Effective Date.....	4-1
Article II.....	Conference and Dispute Resolution.....	4-2 - 4-3
Article III.....	Amendment.....	4-4
Article IV.....	Termination.....	4-5
Article V.....	Survivability.....	4-6 - 4-7
Article VI.....	Definition of Terms.....	4-8 - 4-12
Article VII.....	Concluding Provisions.....	4-13

TITLE ONE

GOVERNMENTAL RELATIONS

1-1

Article I

Self-Government

Section 111

The peoples of the Marshall Islands and the Federated States of Micronesia, acting through the Governments established under their respective Constitutions, are self-governing.

1-2

Article II

Foreign Affairs

Section 121

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to conduct foreign affairs and shall do so in their own name and right, except as otherwise provided in this Compact.

(b) The foreign affairs capacity of the Governments of the Marshall Islands and the Federated States of Micronesia includes:

- (1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent recognized under international law;
- (2) the conduct of their commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments and international and intergovernmental organizations, including any matters specially benefiting their individual citizens.

(c) The Government of the United States recognizes that the Governments of the Marshall Islands and the Federated States of Micronesia have the capacity to enter into, in their own name and right, treaties and other international agreements with governments and regional and international organizations.

(d) In the conduct of their foreign affairs, the Governments of the Marshall Islands and the Federated States of Micronesia confirm that they shall act in accordance with principles of international law and shall settle their international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Governments of the Marshall Islands and the Federated States of Micronesia for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States agrees to accept for training

1-3

and instruction at the Foreign Service Institute, established under 22 U.S.C. 4021, citizens of the Marshall Islands and the Federated States of Micronesia. The qualifications of candidates for such training and instruction and all other terms and conditions of participation by citizens of the Marshall Islands and the Federated States of Micronesia in Foreign Service Institute programs shall be as mutually agreed between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 123

(a) In recognition of the authority and responsibility of the Government of the United States under Title Three, the Governments of the Marshall Islands and the Federated States of Micronesia shall consult, in the conduct of their foreign affairs, with the Government of the United States.

(b) In recognition of the respective foreign affairs capacities of the Governments of the Marshall Islands and the Federated States of Micronesia, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Marshall Islands or the Federated States of Micronesia on matters which the Government of the United States regards as relating to or affecting any such Government.

Section 124.

The Government of the United States may assist or act on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of the Marshall Islands or the Federated States of Micronesia undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 125

The Government of the United States shall not be responsible for nor obligated by any actions taken by the Government of the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs, except as may from time to time be expressly agreed.

Section 126

At the request of the Government of the Marshall Islands or the Federated States of Micronesia and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of the Marshall Islands and the

1-4

Federated States of Micronesia for travel outside the Marshall Islands and the Federated States of Micronesia, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

1-5

Article III

Communications

Section 131

(a) The Governments of the Marshall Islands and the Federated States of Micronesia have full authority and responsibility to regulate their respective domestic and foreign communications, and the Government of the United States shall provide communication assistance in accordance with the terms of a separate agreement which shall come into effect simultaneously with this Compact, and such agreement shall remain in effect until such time as any election is made pursuant to Section 131(b) and which shall provide for the following:

- (1) the Government of the United States remains the sole administration entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union of frequency assignments to radio communications stations respectively in the Marshall Islands and the Federated States of Micronesia; and to submit to the International Frequency Registration Board seasonal schedules for the broadcasting stations respectively in the Marshall Islands and the Federated States of Micronesia in the bands allocated exclusively to the broadcasting service between 5,950 and 26,100 kHz and in any other additional frequency bands that may be allocated to use by high frequency broadcasting stations; and
- (2) the United States Federal Communications Commission has jurisdiction, pursuant to the Communications Act of 1934, 47 U.S.C. 151 et. seq., and the Communications Satellite Act of 1962, 47 U.S.C. 721 et. seq., over all domestic and foreign communications services furnished by means of satellite earth terminal stations where such stations are owned or operated by United States common carriers and are located in the Marshall Islands or the Federated States of Micronesia.

(b) The Government of the Marshall Islands or the Federated States of Micronesia may elect at any time to undertake the functions enumerated in Section 131(a) and previously performed by the Government of the United States. Upon such election, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to transfer to the electing Government the notification authority referred to in Section 131(a) and all rights deriving from the previous exercise of any such notification authority by the Government of the United States.

1-6

Section 132

The Governments of the Marshall Islands and the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Marshall Islands and the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under this Compact in accordance with the terms of separate agreements which shall come into effect simultaneously with this Compact.

1-7

Article IV

Immigration

Section 141

(a) Any person in the following categories may enter into, lawfully engage in occupations, and establish residence as a non-immigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a) (14), (20), and (26):

- (1) a person who, on the day preceding the effective date of this Compact, is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and has become a citizen of the Marshall Islands or the Federated States of Micronesia;
- (2) a person who acquires the citizenship of the Marshall Islands or the Federated States of Micronesia at birth, on or after the effective date of the respective Constitution;
- (3) a naturalized citizen of the Marshall Islands or the Federated States of Micronesia who has been an actual resident there for not less than five years after attaining such naturalization and who holds a certificate of actual residence; or
- (4) a person entitled to citizenship in the Marshall Islands by lineal descent whose name is included in a list to be furnished by the Government of the Marshall Islands to the United States Immigration and Naturalization Service and any descendants of such persons, provided that such person holds a certificate of lineal descent issued by the Government of the Marshall Islands.

Such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

(b) The right of such persons to establish habitual residence in a territory or possession of the United States may, however, be subjected to non-discriminatory limitations provided for:

- (1) in statutes or regulations of the United States; or
- (2) in those statutes or regulations of the territory or possession concerned which are authorized by the laws of the United States.

1-8

(c) Section 141(a) does not confer on a citizen of the Marshall Islands or the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of the Marshall Islands or the Federated States of Micronesia from otherwise acquiring such rights or lawful permanent resident alien status in the United States.

Section 142

(a) Any citizen or national of the United States may enter into, lawfully engage in occupations, and reside in the Marshall Islands or the Federated States of Micronesia, subject to the rights of those Governments to deny entry to or deport any such citizen or national as an undesirable alien. A citizen or national of the United States may establish habitual residence or domicile in the Marshall Islands or the Federated States of Micronesia only in accordance with the laws of the jurisdiction in which habitual residence or domicile is sought.

(b) With respect to the subject matter of this Section, the Government of the Marshall Islands or the Federated States of Micronesia shall accord to citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries; any denial of entry to or deportation of a citizen or national of the United States as an undesirable alien must be pursuant to reasonable statutory grounds.

Section 143

(a) The privileges set forth in Sections 141 and 142 shall not apply to any person who takes an affirmative step to preserve or acquire a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States.

(b) Every person having the privileges set forth in Sections 141 and 142 who possesses a citizenship or nationality other than that of the Marshall Islands, the Federated States of Micronesia or the United States ceases to have these privileges two years after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

Section 144

(a) A citizen or national of the United States who, after notification to the Government of the United States of an intention to employ such person by the Government of the Marshall Islands or the Federated States of Micronesia, commences

1-9

employment with such Government shall not be deprived of his United States nationality pursuant to Section 349(a)(2) and (a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1481 (a)(2) and (a)(4).

(b) Upon such notification by the Government of the Marshall Islands or the Federated States of Micronesia, the Government of the United States may consult with or provide information to the notifying Government concerning the prospective employee, subject to the provisions of the Privacy Act, 5 U.S.C. 552a.

(c) The requirement of prior notification shall not apply to those citizens or nationals of the United States who are employed by the Government of the Marshall Islands or the Federated States of Micronesia on the effective date of this Compact with respect to the positions held by them at that time.

1-10

Article V

Representation

Section 151

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may establish and maintain representative offices in the capital of the other for the purpose of maintaining close and regular consultations on matters arising in the course of the relationship of free association and conducting other government business. The Governments may establish and maintain additional offices on terms and in locations as may be mutually agreed.

Section 152

(a) The premises of such representative offices, and their archives wherever located, shall be inviolable. The property and assets of such representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of international law to official communications of a diplomatic mission.

(b) Persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official functions and personal use of their representatives and representative offices.

1-11

(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

Section 153

(a) Any citizen or national of the United States who, after consultation between the designating Government and the Government of the United States, is designated by the Government of the Marshall Islands or the Federated States of Micronesia as its agent, shall enjoy exemption from the requirements of the laws of the United States relating to the registration of foreign agents. The Government of the United States shall promptly comply with a request for consultation made by the prospective designating Government. During the course of the consultation, the Government of the United States may, in its discretion, and subject to the provisions of the Privacy Act, 5 U.S.C. 552a, transmit such information concerning the prospective designee as may be available to it to the prospective designating Government.

(b) Any citizen or national of the United States may be employed by the Government of the Marshall Islands or the Federated States of Micronesia to represent to foreign governments, officers or agents thereof the positions of the Government of the Marshall Islands or the Federated States of Micronesia, without regard to the provisions of 18 U.S.C. 953.

1-12

Article VI

Environmental ProtectionSection 161

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia declare that it is their policy to promote efforts to prevent or eliminate damage to the environment and biosphere and to enrich understanding of the natural resources of the Marshall Islands and the Federated States of Micronesia. In order to carry out this policy, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree to the following mutual and reciprocal undertakings.

(a) The Government of the United States:

- (1) shall continue to apply the environmental controls in effect on the day preceding the effective date of this Compact to those of its continuing activities subject to Section 161(a)(2), unless and until those controls are modified under Sections 161(a)(3) and 161(a)(4);
- (2) shall apply the National Environmental Policy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 et seq., to its activities under the Compact and its related agreements as if the Marshall Islands and the Federated States of Micronesia were the United States;
- (3) shall comply also, in the conduct of any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), with standards substantively similar to those required by the following laws of the United States, taking into account the particular environments of the Marshall Islands and the Federated States of Micronesia: the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 et seq.; the Clean Air Act, 77 Stat. 392, 42 U.S.C. Supp. 7401 et seq.; the Clean Water Act (Federal Water Pollution Control Act), 86 Stat. 896, 33 U.S.C. 1251 et seq.; the Ocean Dumping Act (Title I of the Marine Protection, Research and Sanctuaries Act of 1972), 86 Stat. 1053, 33 U.S.C. 1411 et seq.; the Toxic Substances Control Act, 90 Stat. 2003, 15 U.S.C. 2601 et seq.; the Resources Conservation and Recovery Act of 1976, 90 Stat. 2796, 42 U.S.C. 6901 et seq.; and such other environmental protection laws of the United States as may be mutually agreed from time to time with the Government of the Marshall Islands or the Federated States of Micronesia; and

1-13

(4) shall develop, prior to conducting any activity requiring the preparation of an Environmental Impact Statement under Section 161(a)(2), appropriate mechanisms, including regulations or other judicially reviewable standards and procedures, to regulate its activities governed by Section 161(a)(3) in the Marshall Islands and the Federated States of Micronesia in a manner appropriate to the special governmental relationship set forth in this Compact. The agencies of the Government of the United States designated by law to administer the laws set forth in Section 161(a)(3) shall participate as appropriate in the development of any regulation, standard or procedure under this Section, and the Government of the United States shall provide the affected Government of the Marshall Islands or the Federated States of Micronesia with the opportunity to comment during such development.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia shall develop standards and procedures to protect their environments. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Governments of the Marshall Islands and the Federated States of Micronesia, taking into account their particular environments, shall develop standards for environmental protection substantively similar to those required of the Government of the United States by Section 161(a)(3) prior to their conducting activities in the Marshall Islands and the Federated States of Micronesia, respectively, substantively equivalent to activities conducted there by the Government of the United States and, as a further reciprocal obligation, shall enforce those standards.

(c) Section 161(a), including any standard or procedure applicable thereunder, and Section 161(b) may be modified or superseded in whole or in part by agreement of the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

(d) In the event that an Environmental Impact Statement is no longer required under the laws of the United States for major federal actions significantly affecting the quality of the human environment, the regulatory regime established under Sections 161(a)(3) and 161(a)(4) shall continue to apply to such activities of the Government of the United States until amended by mutual agreement.

(e) The President of the United States may exempt any of the activities of the Government of the United States under this Compact and its related agreements from any environmental standard or procedure which may be applicable under Sections 161(a)(3) and 161(a)(4) if the President determines it to be in the paramount

1-14

interest of the Government of the United States to do so, consistent with Title Three of this Compact and the obligations of the Government of the United States under international law. Prior to any decision pursuant to this subsection, the views of the affected Government of the Marshall Islands or the Federated States of Micronesia shall be sought and considered to the extent practicable. If the President grants such an exemption, to the extent practicable, a report with his reasons for granting such exemption shall be given promptly to the affected Government.

(f) The laws of the United States referred to in Section 161(a)(3) shall apply to the activities of the Government of the United States under this Compact and its related agreements only to the extent provided for in this Section.

Section 162

The Government of the Marshall Islands or the Federated States of Micronesia may bring an action for judicial review of any administrative agency action or any activity of the Government of the United States pursuant to Sections 161(a), 161(d) or 161(e) or for enforcement of the obligations of the Government of the United States arising thereunder. The United States District Court for the District of Hawaii and the United States District Court for the District of Columbia shall have jurisdiction over such action or activity, and over actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees, governed by Section 161, provided that:

(a) Such actions may only be civil actions for any appropriate civil relief other than punitive damages against the Government of the United States or, where required by law, its officers in their official capacity; no criminal actions may arise under this Section;

(b) Actions brought pursuant to this Section may be initiated only by the Government concerned;

(c) Administrative agency actions arising under Section 161 shall be reviewed pursuant to the standard of judicial review set forth in 5 U.S.C. 706;

(d) The District Court shall have jurisdiction to issue all necessary processes, and the Government of the United States agrees to submit itself to the jurisdiction of the court; decisions of the District Court shall be reviewable in the United States Court of Appeals for the Ninth Circuit or the United States Court of Appeals for the District of Columbia, respectively, or in the United States Supreme Court as provided by the laws of the United States;

1-15

(e) The judicial remedy provided for in this Section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under Section 172(b) which relate to the activities of the Government of the United States and its officers and employees governed by Section 161; and

(f) In actions pursuant to this Section, the Governments of the Marshall Islands and the Federated States of Micronesia shall be treated as if they were United States citizens.

Section 163

(a) For the purpose of gathering data necessary to study the environmental effects of activities of the Government of the United States subject to the requirements of this Article, the Governments of the Marshall Islands and the Federated States of Micronesia shall be granted access to facilities operated by the Government of the United States in the Marshall Islands and the Federated States of Micronesia, to the extent necessary for this purpose, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the United States under Title Three.

(b) The Government of the United States, in turn, shall be granted access to the Marshall Islands or the Federated States of Micronesia for the purpose of gathering data necessary to discharge its obligations under this Article, except to the extent such access would unreasonably interfere with the exercise of the authority and responsibility of the Government of the Marshall Islands or the Federated States of Micronesia under Title One, and to the extent necessary for this purpose shall be granted access to documents and other information to the same extent similar access is provided those Governments under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Governments of the Marshall Islands and the Federated States of Micronesia shall not impede efforts by the Government of the United States to comply with applicable standards and procedures.

1-16

Article VII

General Legal Provisions

Section 171

Except as provided in this Compact or its related agreements, the application of the laws of the United States to the Trust Territory of the Pacific Islands by virtue of the Trusteeship Agreement ceases with respect to the Marshall Islands and the Federated States of Micronesia as of the effective date of this Compact.

Section 172

(a) Every citizen of the Marshall Islands or the Federated States of Micronesia who is not a resident of the United States shall enjoy the rights and remedies under the laws of the United States enjoyed by any non-resident alien.

(b) The Governments of the Marshall Islands and the Federated States of Micronesia and every citizen of the Marshall Islands or the Federated States of Micronesia shall be considered a "person" within the meaning of the Freedom of Information Act, 5 U.S.C. 552, and of the judicial review provisions of the Administrative Procedure Act, 5 U.S.C. 701-706, except that only the Government of the Marshall Islands or the Federated States of Micronesia may seek judicial review under the Administrative Procedure Act or judicial enforcement under the Freedom of Information Act when such judicial review or enforcement relates to the activities of the Government of the United States governed by Sections 161 and 162.

Section 173

The Governments of the United States, the Marshall Islands and the Federated States of Micronesia agree to adopt and enforce such measures, consistent with this Compact and its related agreements, as may be necessary to protect the personnel, property, installations, services, programs and official archives and documents maintained by the Government of the United States in the Marshall Islands and the Federated States of Micronesia pursuant to this Compact and its related agreements and by those Governments in the United States pursuant to this Compact and its related agreements.

Section 174

Except as otherwise provided in this Compact and its related agreements:

1-17

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia.

(b) The Government of the United States accepts responsibility for and shall pay:

- (1) any unpaid money judgment rendered by the High Court of the Trust Territory of the Pacific Islands against the Government of the Trust Territory of the Pacific Islands or the Government of the United States with regard to any cause of action arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact;
- (2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the effective date of this Compact; and
- (3) settlement of any administrative claim or of any action before a court of the Trust Territory of the Pacific Islands, pending as of the effective date of this Compact, against the Government of the Trust Territory of the Pacific Islands or the Government of the United States, arising as a result of acts or omissions of the Government of the Trust Territory of the Pacific Islands or the Government of the United States.

(c) Any claim not referred to in Section 174(b) and arising from an act or omission of the Government of the Trust Territory of the Pacific Islands or the Government of the United States prior to the effective date of this Compact shall be adjudicated in the same manner as a claim adjudicated according to Section 174(d). In any claim against the Government of the Trust Territory of the Pacific Islands, the Government of the United States shall stand in the place of the Government of the Trust Territory of the Pacific Islands. A judgment on any claim referred to in Section 174(b) or this subsection, not otherwise satisfied by the Government of the United States, may be presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, which shall have jurisdiction therefor, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States. The United States Court of Appeals for the Federal Circuit shall certify such judgment, and order payment thereof, unless it finds, after a hearing, that such judgment is manifestly erroneous as to law or fact, or manifestly excessive. In either of such cases the United States Court of Appeals for the Federal Circuit shall have jurisdiction to modify such judgment.

1-18

(d) The Governments of the Marshall Islands and the Federated States of Micronesia shall not be immune from the jurisdiction of the courts of the United States, and the Government of the United States shall not be immune from the jurisdiction of the courts of the Marshall Islands and the Federated States of Micronesia in any case in which the action is based on a commercial activity of the defendant Government where the action is brought, or in a case in which damages are sought for personal injury or death or damage to or loss of property occurring where the action is brought.

Section 175

A separate agreement, which shall come into effect simultaneously with this Compact, shall be concluded between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners. The separate agreement shall have the force of law. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188-3195, shall be applicable to the extradition of fugitives under the separate agreement, and the laws of the United States governing the transfer of prisoners, including 18 U.S.C. 4100-4115, shall be applicable to the transfer of prisoners under the separate agreement.

Section 176

The Governments of the Marshall Islands and the Federated States of Micronesia confirm that final judgments in civil cases rendered by any court of the Trust Territory of the Pacific Islands shall continue in full force and effect, subject to the constitutional power of the courts of the Marshall Islands and the Federated States of Micronesia to grant relief from judgments in appropriate cases.

Section 177

(a) The Government of the United States accepts the responsibility for compensation owing to citizens of the Marshall Islands, or the Federated States of Micronesia for loss or damage to property and person of the citizens of the Marshall Islands, or the Federated States of Micronesia, resulting from the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946, and August 18, 1958.

(b) The Government of the United States and the Government of the Marshall Islands shall set forth in a separate agreement provisions for the just and adequate settlement of all such claims which have arisen in regard to the Marshall Islands and its citizens and which have not as yet been compensated or which in

1-19

the future may arise, for the continued administration by the Government of the United States of direct radiation related medical surveillance and treatment programs and radiological monitoring activities and for such additional programs and activities as may be mutually agreed, and for the assumption by the Government of the Marshall Islands of responsibility for enforcement of limitations on the utilization of affected areas developed in cooperation with the Government of the United States and for the assistance by the Government of the United States in the exercise of such responsibility as may be mutually agreed. This separate agreement shall come into effect simultaneously with this Compact and shall remain in effect in accordance with its own terms.

(c) The Government of the United States shall provide to the Government of the Marshall Islands, on a grant basis, the amount of \$150 million to be paid and distributed in accordance with the separate agreement referred to in this Section, and shall provide the services and programs set forth in this separate agreement, the language of which is incorporated into this Compact.

Section 178

(a) The federal agencies of the Government of the United States which provide the services and related programs in the Marshall Islands or the Federated States of Micronesia pursuant to Articles II and III of Title Two are authorized to settle and pay tort claims arising in the Marshall Islands or the Federated States of Micronesia from the activities of such agencies or from the acts or omissions of the employees of such agencies. Except as provided in Section 178(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C. 1304 shall apply exclusively to such administrative settlements and payments.

(b) Claims under Section 178(a) which cannot be settled under Section 178(a) shall be disposed of exclusively in accordance with Article II of Title Four. Arbitration awards rendered pursuant to this subsection shall be paid out of funds under 31 U.S.C. 1304.

(c) The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall, in the separate agreements referred to in Section 232, provide for:

- (1) the administrative settlement of claims referred to in Section 178(a), including designation of local agents in the Marshall Islands and each State of the Federated States of Micronesia; such agents to be empowered to accept, investigate and settle such claims, in a timely manner, as provided in such separate agreements; and

1-20

(2) arbitration, referred to in Section 178(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to Section 178(a).

(d) The provisions of Section 174(d) shall not apply to claims covered by this Section.

TITLE TWO
ECONOMIC RELATIONS

2-1

Article I

Grant Assistance

Section 211

(a) In order to assist the Governments of the Marshall Islands and the Federated States of Micronesia in their efforts to advance the economic self-sufficiency of their peoples and in recognition of the special relationship that exists between them and the United States, the Government of the United States shall provide on a grant basis the following amounts:

- (1) to the Government of the Marshall Islands, \$26.1 million annually for five years commencing on the effective date of this Compact, \$22.1 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and \$19.1 million annually for five years commencing on the tenth anniversary of this Compact. Over this fifteen-year period, the Government of the Marshall Islands shall dedicate an average of no less than 40 percent of these amounts to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b).
- (2) to the Government of the Federated States of Micronesia, \$60 million annually for five years commencing on the effective date of this Compact, \$51 million annually for five years commencing on the fifth anniversary of the effective date of this Compact, and \$40 million annually for five years commencing on the tenth anniversary of the effective date of this Compact. Over this fifteen year period, the Government of the Federated States of Micronesia shall dedicate an average of no less than 40 percent of these amounts annually to the capital account subject to provision for revision of this percentage incorporated into the plan referred to in Section 211(b). To take into account the special nature of the assistance, to be provided under this paragraph and Sections 212(b), 213(c), 214(c), 215(a)(3), 215(b)(3), 216(a), 216(b), 221(a), and 221(b), the division of these amounts among the national and state governments of the Federated States of Micronesia shall be certified to the Government of the United States by the Government of the Federated States of Micronesia.

(b) The annual expenditure of the grant amounts specified for the capital account in Section 211(a) by the Governments of the Marshall Islands and the Federated States of Micronesia shall be in accordance with official overall economic development plans

2-2

provided by those Governments and concurred in by the Government of the United States prior to the effective date of this Compact. These plans may be amended from time to time by the Government of the Marshall Islands or the Federated States of Micronesia.

(c) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia recognize that the achievement of the goals of the plans referred to in Section 211(b) depends upon the availability of adequate internal revenue as well as economic assistance from sources outside of the Marshall Islands and the Federated States of Micronesia, including the Government of the United States, and may, in addition, be affected by the impact of exceptional, economically adverse circumstances. Each of the Governments of the Marshall Islands and the Federated States of Micronesia shall therefore report annually to the President of the United States and to the Congress of the United States on the implementation of the plans and on their use of the funds specified in this Article. These reports shall outline the achievements of the plans to date and the need, if any, for an additional authorization and appropriation of economic assistance for that year to account for any exceptional, economically adverse circumstances. It is understood that the Government of the United States cannot be committed by this Section to seek or support such additional economic assistance.

Section 212

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall provide to the Government of the Federated States of Micronesia \$1 million annually for fourteen years commencing on the first anniversary of the effective date of this Compact. This amount may be used by the Government of the Federated States of Micronesia to defray current account expenditures attendant to the operation of the United States military Civic Action Teams made available in accordance with the separate agreement referred to in Section 227.

Section 213

(a) The Government of the United States shall provide on a grant basis \$1.9 million annually to the Government of the Marshall Islands in conjunction with Section 321(a). The Government of the Marshall Islands, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in the Kwajalein Atoll area of the Marshall Islands.

(b) The Government of the United States shall provide on a grant basis to the Government of the Federated States of Micronesia the sum of \$160,000 in conjunction with Section 321(a). This sum shall be made available concurrently with the grant assistance provided pursuant to this Article during the first year after the

2-3

effective date of this Compact. The Government of the Federated States of Micronesia, in its use of such funds, shall take into account the impact of the activities of the Government of the United States in Yap State, Federated States of Micronesia.

Section 214

As a contribution to efforts aimed at achieving increased self-sufficiency in energy production, the Government of the United States shall provide on a current account grant basis for fourteen years commencing on the first anniversary of the effective date of this Compact the following amounts:

(a) To the Government of the Marshall Islands, \$2 million annually; and

(b) To the Government of the Federated States of Micronesia, \$3 million annually.

Section 215

(a) As a contribution to the current account operations and maintenance of communications systems, the Government of the United States shall provide on a grant basis for fifteen years commencing on the effective date of this Compact the following amounts:

(1) to the Government of the Marshall Islands, \$300,000 annually; and

(2) to the Government of the Federated States of Micronesia, \$600,000 annually.

(b) For the purpose of acquiring such communications hardware as may be located within the Marshall Islands and the Federated States of Micronesia or for such other current or capital account activity as may be selected, the Government of the United States shall provide, concurrently with the grant assistance provided pursuant to this Article during the first year after the effective date of this Compact, the sum of \$9 million to be allocated as follows:

(1) to the Government of the Marshall Islands, \$3 million; and

(2) to the Government of the Federated States of Micronesia, \$6 million.

Section 216

(a) The Government of the United States shall provide on a current account basis an annual grant of \$5.369 million for fifteen years commencing on the effective date of this Compact for the purposes set forth below:

2-4

- (1) \$890,000 annually for the surveillance and enforcement by the Governments of the Marshall Islands and the Federated States of Micronesia of their respective maritime zones;
- (2) \$1.791 million annually for health and medical programs, including referrals to hospital and treatment centers; and
- (3) \$2.687 million annually for a scholarship fund or funds to support the post-secondary education of citizens of the Marshall Islands and the Federated States of Micronesia attending United States accredited, post-secondary institutions in the United States, its territories and possessions, the Marshall Islands or the Federated States of Micronesia. The curricular criteria for the award of scholarships shall be designed to advance the purposes of the plans referred to in Section 211(b).

(b) The Government of the United States shall provide the sum of \$1.333 million as a contribution to the commencement of activities pursuant to Section 216(a)(1).

(c) The annual grants referred to in Section 216(a) and the sum referred to in Section 216(b) shall be made available by the Government of the United States promptly after it receives instruction for their distribution agreed upon by the Governments of the Marshall Islands and the Federated States of Micronesia.

Section 217

Except as otherwise provided, the amounts stated in Sections 211, 212, 214, 215 and 231 shall be adjusted for each Fiscal Year by the percent which equals two-thirds of the percentage change in the United States Gross National Product Implicit Price Deflator, or seven percent, whichever is less in any one year, using the beginning of Fiscal Year 1981 as the base.

Section 218

If in any year the funds made available by the Government of the United States for that year pursuant to this Article or Section 231 are not completely obligated by the recipient Government, the unobligated balances shall remain available in addition to the funds to be provided in subsequent years.

2-5

Section 219

All funds previously appropriated to the Trust Territory of the Pacific Islands which are unobligated by the Government of the Trust Territory of the Pacific Islands as of the effective date of this Compact shall accrue to the Governments of the Marshall Islands and the Federated States of Micronesia for the purposes for which such funds were originally appropriated as determined by the Government of the United States.

2-6

Article II

Program Assistance

Section 221

(a) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia, in accordance with and to the extent provided in the separate agreements referred to in Section 232, without compensation and at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Compact, the services and related programs:

- (1) of the United States Weather Service;
- (2) of the United States Federal Emergency Management Agency;
- (3) provided pursuant to the Postal Reorganization Act, 39 U.S.C. 101 et seq.;
- (4) of the United States Federal Aviation Administration; and
- (5) of the United States Civil Aeronautics Board or its successor agencies which has the authority to implement the provisions of paragraph 5 of Article IX of such separate agreements, the language of which is incorporated into this Compact.

(b) The Government of the United States, recognizing the special needs of the Marshall Islands and the Federated States of Micronesia particularly in the fields of education and health care, shall make available, as provided by the laws of the United States, the annual amount of \$10 million which shall be allocated in accordance with the provisions of the separate agreement referred to in Section 232.

(c) The Government of the United States shall make available to the Marshall Islands and the Federated States of Micronesia such alternate energy development projects, studies and conservation measures as are applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, for the purposes and duration provided in the laws of the United States.

(d) The Government of the United States shall have and exercise such authority as is necessary for the purposes of this Article and as is set forth in the separate agreements referred to in Section 232, which shall also set forth the extent to which services and programs shall be provided to the Marshall Islands and the Federated States of Micronesia.

2-7

Section 222

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall consult regularly or upon request regarding:

(a) The economic development of the Marshall Islands or the Federated States of Micronesia; or

(b) The services and programs referred to in this Article. These services and programs shall continue to be provided by the Government of the United States unless their modification is provided by mutual agreement or their termination in whole or in part is requested by any recipient Government.

Section 223

The citizens of the Marshall Islands and the Federated States of Micronesia who are receiving post-secondary educational assistance from the Government of the United States on the day preceding the effective date of this Compact shall continue to be eligible, if otherwise qualified, to receive such assistance to complete their academic programs for a maximum of four years after the effective date of this Compact.

Section 224

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia may agree from time to time to the extension of additional United States grant assistance, services and programs as provided by the laws of the United States, to the Marshall Islands or the Federated States of Micronesia, respectively.

Section 225

The Governments of the Marshall Islands and the Federated States of Micronesia shall make available to the Government of the United States at no cost such land as may be necessary for the operations of the services and programs provided pursuant to this Article, and such facilities as are provided by the Government of the Marshall Islands or the Federated States of Micronesia at no cost to the Government of the United States as of the effective date of this Compact or as may be mutually agreed thereafter.

Section 226

The Governments of the Marshall Islands and the Federated States of Micronesia may request, from time to time, technical assistance from the federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its laws and which shall

2-8

grant such technical assistance in a manner which gives priority consideration to the Marshall Islands and the Federated States of Micronesia over other recipients not a part of the United States, its territories or possessions. The Government of the United States shall coordinate the provision of such technical assistance in consultation with the respective recipient Government.

Section 227

In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall make available United States military Civic Action Teams for use in the Federated States of Micronesia under terms and conditions specified in a separate agreement which shall come into effect simultaneously with this Compact.

2-9

Article III

Administrative ProvisionsSection 231

Upon the thirteenth anniversary of the effective date of this Compact, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall commence negotiations regarding those provisions of this Compact which expire on the fifteenth anniversary of its effective date. If these negotiations are not concluded by the fifteenth anniversary of the effective date of this Compact, the period of negotiations shall extend for not more than two additional years, during which time the provisions of this Compact including Title Three shall remain in full force and effect. During this additional period of negotiations, the Government of the United States shall continue its assistance to the Governments with which it is negotiating pursuant to this Section at a level which is the average of the annual amounts granted pursuant to Sections 211, 212, 213, 214, 215 and 216 during the first fifteen years of this Compact. The average annual amount paid pursuant to Sections 211, 212, 214 and 215 shall be adjusted pursuant to Section 217.

Section 232

The specific nature, extent and contractual arrangements of the services and programs provided for in Section 221 as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in the Marshall Islands or the Federated States of Micronesia, and other arrangements in connection with a service or program furnished by the Government of the United States, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

Section 233

The Government of the United States, in consultation with the Governments of the Marshall Islands and the Federated States of Micronesia, shall determine and implement procedures for the periodic audit of all grants and other assistance made under Article I of this Title and of all funds expended for the services and programs provided under Article II of this Title. Such audits shall be conducted on an annual basis during the first five years following the effective date of this Compact and shall be at no cost to the Government of the Marshall Islands or the Federated States of Micronesia.

2-10

Section 234

Title to the property of the Government of the United States situated in the Trust Territory of the Pacific Islands or acquired for or used by the Government of the Trust Territory of the Pacific Islands on or before the day preceding the effective date of this Compact shall, without reimbursement or transfer of funds, vest in the Governments of the Marshall Islands and the Federated States of Micronesia as set forth in a separate agreement which shall come into effect simultaneously with this Compact. The provisions of this Section shall not apply to the property of the Government of the United States for which the Government of the United States determines a continuing requirement.

Section 235

(a) Funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands, in his official capacity, as of the effective date of this Compact shall remain available as trust funds to their designated beneficiaries. The Government of the United States, in consultation with the Government of the Marshall Islands or the Federated States of Micronesia, shall appoint a new trustee who shall exercise the functions formerly exercised by the High Commissioner of the Trust Territory of the Pacific Islands.

(b) To provide for the continuity of administration, and to assure the Governments of the Marshall Islands and the Federated States of Micronesia that the purposes of the laws of the United States are carried out and that the funds of any other trust fund in which the High Commissioner of the Trust Territory of the Pacific Islands has authority of a statutory or customary nature shall remain available as trust funds to their designated beneficiaries, the Government of the United States agrees to assume the authority formerly vested in the High Commissioner of the Trust Territory of the Pacific Islands.

Section 236

Except as otherwise provided, approval of this Compact by the Government of the United States shall constitute a pledge of the full faith and credit of the United States for the full payment of the sums and amounts specified in Articles I and III of this Title. The obligation of the United States under Articles I and III of this Title shall be enforceable in the United States Claims Court, or its successor court, which shall have jurisdiction in cases arising under this Section, notwithstanding the provisions of 28 U.S.C. 1502, and which court's decisions shall be reviewable as provided by the laws of the United States.

2-11

Article IV

Trade

Section 241

The Marshall Islands and the Federated States of Micronesia are not included in the customs territory of the United States.

Section 242

For the purpose of assessing duties on their products imported into the customs territory of the United States, the Marshall Islands and the Federated States of Micronesia shall be treated as if they were insular possessions of the United States within the meaning of General Headnote 3(a) of the Tariff Schedules of the United States. The exceptions, valuation procedures and all other provisions of General Headnote 3(a) shall apply to any product deriving from the Marshall Islands or the Federated States of Micronesia.

Section 243

All products of the Marshall Islands or the Federated States of Micronesia imported into the customs territory of the United States which are not accorded the treatment set forth in Section 242 and all products of the United States imported into the Marshall Islands or the Federated States of Micronesia shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage or use.

2-12

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Marshall Islands and the Federated States of Micronesia. Should the Government of the Marshall Islands or the Federated States of Micronesia act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of the Marshall Islands or the Federated States of Micronesia may, with respect to United States persons, tax income derived from sources within its respective jurisdiction, property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as such Government deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact be made according to the United States Internal Revenue Code.

Section 253

A citizen of the Marshall Islands or the Federated States of Micronesia, domiciled therein, shall be exempt from:

(a) Income taxes imposed by the Government of the United States upon fixed or determinable annual income; and

(b) Estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.

Section 254

(a) In determining any income tax imposed by the Government of the Marshall Islands or the Federated States of Micronesia, those Governments shall have authority to impose tax upon income derived by a resident of the Marshall Islands or the Federated States of Micronesia from sources without the Marshall Islands and the Federated States of Micronesia, in the same manner and to the same extent as those Governments impose tax upon income derived from within their respective jurisdictions. If the Government of the Marshall Islands or the Federated States of Micronesia exercises such authority as provided in this subsection, any individual resident of the Marshall Islands or the Federated States of Micronesia who is subject to tax by the Government of the United States on income which is also taxed by the Government of the Marshall Islands or the Federated States of Micronesia shall be relieved of

2-13

liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United States on such income. For purposes of this Section, the term "resident of the Marshall Islands or the Federated States of Micronesia" shall be deemed to include any person who was physically present in the Marshall Islands or the Federated States of Micronesia for a period of 183 or more days during any taxable year; provided, that as between the Governments of the Marshall Islands and the Federated States of Micronesia, the authority to tax an individual resident of the Marshall Islands or the Federated States of Micronesia in respect of income from sources without the Marshall Islands and the Federated States of Micronesia as provided in this subsection may be exercised only by the Government in whose jurisdiction such individual was physically present for the greatest number of days during the taxable year.

(b) If the Government of the Marshall Islands or the Federated States of Micronesia subjects income to taxation substantially similar to that imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in Section 254(a).

Section 255

Where not otherwise manifestly inconsistent with the intent of this Compact, provisions in the United States Internal Revenue Code that are applicable to possessions of the United States as of January 1, 1980 shall be treated as applying to the Marshall Islands and the Federated States of Micronesia. If such provisions of the Internal Revenue Code are amended, modified or repealed after that date, such provisions shall continue in effect as to the Marshall Islands and the Federated States of Micronesia for a period of two years during which time the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia shall negotiate an agreement which shall provide benefits substantively equivalent to those which obtained under such provisions.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

3-1

Article I

Authority and Responsibility

Section 311

(a) The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

(b) This authority and responsibility includes:

- (1) the obligation to defend the Marshall Islands and the Federated States of Micronesia and their peoples from attack or threats thereof as the United States and its citizens are defended;
- (2) the option to foreclose access to or use of the Marshall Islands and the Federated States of Micronesia by military personnel or for the military purposes of any third country; and
- (3) the option to establish and use military areas and facilities in the Marshall Islands and the Federated States of Micronesia, subject to the terms of the separate agreements referred to in Sections 321 and 323.

(c) The Government of the United States confirms that it shall act in accordance with the principles of international law and the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312

Subject to the terms of any agreements negotiated in accordance with Sections 321 and 323, the Government of the United States may conduct within the lands, waters and airspace of the Marshall Islands and the Federated States of Micronesia the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

(a) The Governments of the Marshall Islands and the Federated States of Micronesia shall refrain from actions which the Government of the United States determines, after appropriate consultation with those Governments, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Marshall Islands and the Federated States of Micronesia.

3-2

(b) The consultations referred to in this Section shall be conducted expeditiously at senior levels of the Governments concerned, and the subsequent determination by the Government of the United States referred to in this Section shall be made only at senior interagency levels of the Government of the United States.

(c) The Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of State personally and the United States Secretary of Defense personally regarding any determination made in accordance with this Section.

Section 314

(a) Unless otherwise agreed, the Government of the United States shall not, in the Marshall Islands or the Federated States of Micronesia:

- (1) test by detonation or dispose of any nuclear weapon, nor test, dispose of, or discharge any toxic chemical or biological weapon; or
- (2) test, dispose of, or discharge any other radioactive, toxic chemical or biological materials in an amount or manner which would be hazardous to public health or safety.

(b) Unless otherwise agreed, other than for transit or overflight purposes or during time of a national emergency declared by the President of the United States, a state of war declared by the Congress of the United States or as necessary to defend against an actual or impending armed attack on the United States, the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall not store in the Marshall Islands or the Federated States of Micronesia any toxic chemical weapon, nor any radioactive materials nor any toxic chemical materials intended for weapons use.

(c) Radioactive, toxic chemical, or biological materials not intended for weapons use shall not be affected by Section 314(b).

(d) No material or substance referred to in this Section shall be stored in the Marshall Islands or the Federated States of Micronesia except in an amount and manner which would not be hazardous to public health or safety. In determining what shall be an amount or manner which would be hazardous to public health or safety under this Section, the Government of the United States shall comply with any applicable mutual agreement, international guidelines accepted by the Government of the United States, and the laws of the United States and their implementing regulations.

3-3

(e) Any exercise of the exemption authority set forth in Section 161(e) shall have no effect on the obligations of the Government of the United States under this Section or on the application of this subsection.

(f) The provisions of this Section shall apply in the areas in which the Government of the Marshall Islands or the Federated States of Micronesia exercises jurisdiction over the living resources of the seabed, subsoil or water column adjacent to its coasts.

Section 315

The Government of the United States may invite members of the armed forces of other countries to use military areas and facilities in the Marshall Islands or the Federated States of Micronesia, in conjunction with and under the control of United States Armed Forces. Use by units of the armed forces of other countries of such military areas and facilities, other than for transit and overflight purposes, shall be subject to consultation with and, in the case of major units, approval by the Government of the Marshall Islands or the Federated States of Micronesia.

Section 316

The authority and responsibility of the Government of the United States under this Title may not be transferred or otherwise assigned.

3-4

Article II

Defense Facilities and Operating Rights

Section 321

(a) Specific arrangements for the establishment and use by the Government of the United States of military areas and facilities in the Marshall Islands or the Federated States of Micronesia are set forth in separate agreements which shall come into effect simultaneously with this Compact.

(b) If, in the exercise of its authority and responsibility under this Title, the Government of the United States requires the use of areas within the Marshall Islands or the Federated States of Micronesia in addition to those for which specific arrangements are concluded pursuant to Section 321(a), it may request the Government concerned to satisfy those requirements through leases or other arrangements. The Government of the Marshall Islands or the Federated States of Micronesia shall sympathetically consider any such request and shall establish suitable procedures to discuss it with and provide a prompt response to the Government of the United States.

(c) The Government of the United States recognizes and respects the scarcity and special importance of land in the Marshall Islands and the Federated States of Micronesia. In making any requests pursuant to Section 321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the Marshall Islands and the Federated States of Micronesia at least to the extent necessary for the exercise of its authority and responsibility under this Title.

Section 323

The military operating rights of the Government of the United States and the legal status and contractual arrangements of the United States Armed Forces, their members, and associated civilians, while present in the Marshall Islands or the Federated States of Micronesia, are set forth in separate agreements which shall come into effect simultaneously with this Compact.

3-5

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact and its related agreements, the Government of the United States, exclusively, shall assume and enjoy, as to the Marshall Islands and the Federated States of Micronesia, all obligations, responsibilities, rights and benefits of:

(a) Any defense treaty or other international security agreement applied by the Government of the United States as Administering Authority of the Trust Territory of the Pacific Islands as of the day preceding the effective date of this Compact; and

(b) Any defense treaty or other international security agreement to which the Government of the United States is or may become a party which it determines to be applicable in the Marshall Islands and the Federated States of Micronesia. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Marshall Islands or the Federated States of Micronesia.

3-6

Article IV

Service in Armed Forces of the United States

Section 341

Any person entitled to the privileges set forth in Section 141 shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service of the United States so long as such person does not establish habitual residence in the United States, its territories or possessions.

Section 342

The Government of the United States shall have enrolled, at any one time, at least two qualified students, one each from the Marshall Islands and the Federated States of Micronesia, as may be nominated by their respective Governments, in each of:

(a) The United States Coast Guard Academy pursuant to 14 U.S.C. 195; and

(b) The United States Merchant Marine Academy pursuant to 46 U.S.C. 1295b(b)(6), provided that the provisions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the enrollment of students pursuant to Section 342(b) of this Compact.

3-7

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall establish two Joint Committees empowered to consider disputes under the implementation of this Title and its related agreements.

(b) The membership of each Joint Committee shall comprise selected senior officials of each of the two participating Governments. The senior United States military commander in the Pacific area shall be the senior United States member of each Joint Committee. For the meetings of each Joint Committee, each of the two participating Governments may designate additional or alternate representatives as appropriate for the subject matter under consideration.

(c) Unless otherwise mutually agreed, each Joint Committee shall meet semi-annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. A Joint Committee also shall meet promptly upon request of either of its members. Upon notification by the Government of the United States, the Joint Committees so notified shall meet promptly in a combined session to consider matters within the jurisdiction of more than one Joint Committee. Each Joint Committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree.

(d) Unresolved issues in each Joint Committee shall be referred to the Governments concerned for resolution, and the Government of the Marshall Islands or the Federated States of Micronesia shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of Defense personally regarding any unresolved issue which threatens its continued association with the Government of the United States.

Section 352

In the exercise of its authority and responsibility under Title Three, the Government of the United States shall accord due respect to the authority and responsibility of the Governments of the Marshall Islands and the Federated States of Micronesia under Titles One, Two and Four and to their responsibility to assure the well-being of their peoples.

3-8

Section 353

(a) The Government of the United States shall not include any of the Governments of the Marshall Islands and the Federated States of Micronesia as named parties to a formal declaration of war, without their respective consent.

(b) Absent such consent, this Compact is without prejudice, on the ground of belligerence or the existence of a state of war, to any claims for damages which are advanced by the citizens, nationals or Government of the Marshall Islands or the Federated States of Micronesia, which arise out of armed conflict subsequent to the effective date of this Compact and which are:

- (1) petitions to the Government of the United States for redress; or
- (2) claims in any manner against the government, citizens, nationals or entities of any third country.

(c) Petitions under Section 353(b)(1) shall be treated as if they were made by citizens of the United States.

Section 354

(a) Notwithstanding any other provision of this Compact, the provisions of this Title are binding from the effective date of this Compact for a period of fifteen years between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia and thereafter as mutually agreed or in accordance with Section 231, unless earlier terminated by mutual agreement pursuant to Section 441, or amended pursuant to Article III of Title Four.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, and in view of the existence of separate agreements with each of them pursuant to Sections 321 and 323, that, even if this Title should terminate, any attack on the Marshall Islands or the Federated States of Micronesia during the period in which such separate agreements are in effect, would constitute a threat to the peace and security of the entire region and a danger to the United States. In the event of such an attack, the Government of the United States would take action to meet the danger to the United States and to the Marshall Islands and the Federated States of Micronesia in accordance with its constitutional processes.

TITLE FOUR
GENERAL PROVISIONS

4-1

Article I

Approval and Effective Date

Section 411

This Compact shall come into effect upon mutual agreement between the Government of the United States, acting in fulfillment of its responsibilities as Administering Authority of the Trust Territory of the Pacific Islands, and the Government of the Marshall Islands or the Federated States of Micronesia and subsequent to completion of the following:

(a) Approval by the Government of the Marshall Islands or the Federated States of Micronesia in accordance with its constitutional processes;

(b) Conduct of the plebiscite referred to in Section 412; and

(c) Approval by the Government of the United States in accordance with its constitutional processes.

Section 412

A plebiscite shall be conducted in each of the Marshall Islands and the Federated States of Micronesia for the free and voluntary choice by the peoples of the Trust Territory of the Pacific Islands of their future political status through informed and democratic processes. The Marshall Islands and the Federated States of Micronesia shall each be considered a voting jurisdiction, and the plebiscite shall be conducted under fair and equitable standards in each voting jurisdiction. The Administering Authority of the Trust Territory of the Pacific Islands, after consultation with the Governments of the Marshall Islands and the Federated States of Micronesia, shall fix the date on which the plebiscite shall be called in each voting jurisdiction. The plebiscite shall be called jointly by the Administering Authority of the Trust Territory of the Pacific Islands and the other Signatory Government concerned. The results of the plebiscite in each voting jurisdiction shall be determined by a majority of the valid ballots cast in that voting jurisdiction.

4-2

Article II

Conference and Dispute Resolution

Section 421

The Government of the United States shall confer promptly at the request of the Government of the Marshall Islands or the Federated States of Micronesia and any of those Governments shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact or of its related agreements.

Section 422

In the event the Government of the United States, or the Government of the Marshall Islands or the Federated States of Micronesia, after conferring pursuant to Section 421, determines that there is a dispute and gives written notice thereof, the Governments which are parties to the dispute shall make a good faith effort to resolve the dispute among themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia cannot be resolved within 90 days of written notification in the manner provided in Section 422, either party to the dispute may refer it to arbitration in accordance with Section 424.

Section 424

Should a dispute be referred to arbitration as provided for in Section 423, an Arbitration Board shall be established for the purpose of hearing the dispute and rendering a decision which shall be binding upon the two parties to the dispute unless the two parties mutually agree that the decision shall be advisory. Arbitration shall occur according to the following terms:

(a) An Arbitration Board shall consist of a Chairman and two other members, each of whom shall be a citizen of a party to the dispute. Each of the two Governments which is a party to the dispute shall appoint one member to the Arbitration Board. If either party to the dispute does not fulfill the appointment requirements of this Section within 30 days of referral of the dispute to arbitration pursuant to Section 423, its member on the Arbitration Board shall be selected from its own standing list by the other party to the dispute. Each Government shall maintain a standing list of 10 candidates. The parties to the dispute shall jointly appoint a Chairman within 15 days after selection of the other members of the Arbitration Board. Failing agreement on a Chairman, the Chairman shall be chosen by lot from the standing lists

4-3

of the parties to the dispute within 5 days after such failure.

(b) The Arbitration Board shall have jurisdiction to hear and render its final determination on all disputes arising exclusively under Articles I, II, III, IV and V of Title One, Title Two, Title Four and their related agreements.

(c) Each member of the Arbitration Board shall have one vote. Each decision of the Arbitration Board shall be reached by majority vote.

(d) In determining any legal issue, the Arbitration Board may have reference to international law and, in such reference, shall apply as guidelines the provisions set forth in Article 38 of the Statute of the International Court of Justice.

(e) The Arbitration Board shall adopt such rules for its proceedings as it may deem appropriate and necessary, but such rules shall not contravene the provisions of this Compact. Unless the parties provide otherwise by mutual agreement, the Arbitration Board shall endeavor to render its decision within 30 days after the conclusion of arguments. The Arbitration Board shall make findings of fact and conclusions of law and its members may issue dissenting or individual opinions. Except as may be otherwise decided by the Arbitration Board, one-half of all costs of the arbitration shall be borne by the Government of the United States and the remainder shall be borne by the other party to the dispute.

4-4

Article III

Amendment

Section 431

The provisions of this Compact may be amended as to the Governments of the Marshall Islands and the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement.

Section 432

The provisions of this Compact may be amended as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States at any time by mutual agreement. The effect of any amendment made pursuant to this Section shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Compact shall be notified promptly by the Government of the United States of any such amendment.

4-5

Article IV

Termination

Section 441

This Compact may be terminated as to any one of the Governments of the Marshall Islands or the Federated States of Micronesia and as to the Government of the United States by mutual agreement and subject to Section 451.

Section 442

This Compact may be terminated by the Government of the United States as to the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 452, such termination to be effective on the date specified in the notice of termination by the Government of the United States but not earlier than six months following delivery of such notice. The time specified in the notice of termination may be extended.

Section 443

This Compact shall be terminated, pursuant to their respective constitutional processes, by the Government of the Marshall Islands or the Federated States of Micronesia subject to Section 453 if the people represented by such Government vote in a plebiscite to terminate. Such Government shall notify the Government of the United States of its intention to call such a plebiscite which shall take place not earlier than three months after delivery of such notice. The plebiscite shall be administered by such Government in accordance with its constitutional and legislative processes, but the Government of the United States may send its own observers and invite observers from a mutually agreed party. If a majority of the valid ballots cast in the plebiscite favors termination, such Government shall, upon certification of the results of the plebiscite, give notice of termination to the Government of the United States, such termination to be effective on the date specified in such notice but not earlier than three months following the date of delivery of such notice. The time specified in the notice of termination may be extended.

4-6

Article V

Survivability

Section 451

Should termination occur pursuant to Section 441, economic assistance by the Government of the United States shall continue on mutually agreed terms.

Section 452

(a) Should termination occur pursuant to Section 442, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

- (1) Article VI and Sections 172, 173, 176 and 177 of Title One;
- (2) Article I and Section 233 of Title Two;
- (3) Title Three; and
- (4) Articles II, III, V and VI of Title Four.

(b) The Government of the United States shall also provide the Government as to which termination occurs pursuant to Section 442 with either the programs or services provided pursuant to Article II of Title Two at the time of termination, or their equivalent, as determined by the Government of the United States. Such assistance shall continue until the fifteenth anniversary of the effective date of this Compact, and thereafter as mutually agreed.

Section 453

(a) Should termination occur pursuant to Section 443, the following provisions of this Compact shall remain in full force and effect until the fifteenth anniversary of the effective date of this Compact between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia and thereafter as mutually agreed:

- (1) Article VI and Sections 172, 173, 176 and 177 of Title One;
- (2) Title Three; and
- (3) Article II, III, V and VI of Title Four.

4-7

(b) Upon receipt of notice of termination pursuant to Section 443, the Government of the United States and the Government so terminating shall promptly consult with regard to their future relationship. These consultations shall determine the level of economic assistance which the Government of the United States shall provide to the Government so terminating for the period ending on the fifteenth anniversary of the effective date of this Compact provided that the annual amounts specified in Sections 211, 212, 214, 215 and 216 shall continue without diminution. Such amounts, with the exception of those specified in Section 216, shall be adjusted according to the formula set forth in Section 217.

Section 454

Notwithstanding any other provision of this Compact:

(a) The Government of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the peoples of the Marshall Islands and the Federated States of Micronesia; and

(b) The separate agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms which shall also determine the duration of Section 213.

4-8

Article VI

Definition of Terms

Section 461

For the purpose of this Compact only and without prejudice to the views of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia as to the nature and extent of the jurisdiction under international law of any of them, the following terms shall have the following meanings:

(a) "Trust Territory of the Pacific Islands" means the area established in the Trusteeship Agreement consisting of the administrative districts of Kosrae, Yap, Ponape, the Marshall Islands and Truk as described in Title One, Trust Territory Code, Section 1, in force on January 1, 1979. This term does not include the area of Palau or the Northern Mariana Islands.

(b) "Trusteeship Agreement" means the agreement setting forth the terms of trusteeship for the Trust Territory of the Pacific Islands, approved by the Security Council of the United Nations April 2, 1947, and by the United States July 18, 1947, entered into force July 18, 1947, 61 Stat. 3301, T.I.A.S. 1665, 8 U.N.T.S. 189.

(c) "The Marshall Islands" and "the Federated States of Micronesia" are used in a geographic sense and include the land and water areas to the outer limits of the territorial sea and the air space above such areas as now or hereafter recognized by the Government of the United States.

(d) "Government of the Marshall Islands" means the Government established and organized by the Constitution of the Marshall Islands including all the political subdivisions and entities comprising that Government.

"Government of the Federated States of Micronesia" means the Government established and organized by the Constitution of the Federated States of Micronesia including all the political subdivisions and entities comprising that Government.

(e) The following terms shall be defined consistent with the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5) as follows:

(1) "Radio Communications" means telecommunication by means of radio waves.

4-9

- (2) "Station" means one or more transmitters or receivers or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on a radio communication service; each station shall be classified by the service in which it operates permanently or temporarily.
- (3) "Broadcasting Service" means a radio communication service in which the transmissions are intended for direct reception by the general public, and which may include sound transmissions, television transmissions or other types of transmissions.
- (4) "Broadcasting Station" means a station in the broadcasting service.

(f) "Frequency Assignment" means the same as 'Frequency Assignment' means in the 1976 Edition of the Radio Regulations of the International Telecommunications Union (ISBN 92-61-0081-5).

(g) "Habitual Residence" means a place of general abode or a principal, actual dwelling place of a continuing or lasting nature; provided, however, that this term shall not apply to the residence of any person who entered the United States for the purpose of full-time studies as long as such person maintains that status, or who has been physically present in the United States, the Marshall Islands or the Federated States of Micronesia for less than one year, or who is a dependent of a resident representative, as described in Section 152.

(h) For the purposes of Article IV of Title One of this Compact:

- (1) "Actual Residence" means physical presence in the Marshall Islands or the Federated States of Micronesia during eighty-five percent of the period of residency required by Section 141(a)(3); and
- (2) "Certificate of Actual Residence" means a certificate issued to a naturalized citizen by the Government which has naturalized him stating that the citizen has complied with the actual residence requirement of Section 141(a)(3).

(i) "Military Areas and Facilities" means those areas and facilities in the Marshall Islands or the Federated States of Micronesia reserved or acquired by the Government of the Marshall Islands or the Federated States of Micronesia for use by the Government of the United States, as set forth in the separate agreements referred to in Section 321.

4-10

(j) "Capital Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, adjusted by Section 217, which are to be obligated for:

- (1) the construction or major repair of capital infrastructure; or
- (2) public and private sector projects identified in the official overall economic development plan.

(k) "Current Account" means, for each year of the Compact, those portions of the total grant assistance provided in Article I of Title Two, adjusted by Section 217, which are to be obligated for recurring operational activities including infrastructure maintenance as identified in the annual budget justifications submitted yearly to the Government of the United States.

(l) "Official Overall Economic Development Plan" means the documented program of annual development which identifies the specific policy and project activities necessary to achieve a specified set of economic goals and objectives during the period of free association, consistent with the economic assistance authority in Title Two. Such a document should include an analysis of population trends, manpower requirements, social needs, gross national product estimates, resource utilization, infrastructure needs and expenditures, and the specific private sector projects required to develop the local economy of the Marshall Islands or the Federated States of Micronesia. Project identification should include initial cost estimates, with project purposes related to specific development goals and objectives.

(m) "Tariff Schedules of the United States" means the Tariff Schedules of the United States as amended from time to time and as promulgated pursuant to United States law and includes the Tariff Schedules of the United States Annotated (TSUSA), as amended.

(n) "Vienna Convention on Diplomatic Relations" means the Vienna Convention on Diplomatic Relations, done April 18, 1961, 23 U.S.T. 3227, T.I.A.S. 7502, 500 U.N.T.S. 95.

Section 462

The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate, shall conclude related agreements which shall come into effect and shall survive in accordance with their terms, as follows:

4-11

(a) Agreement Regarding the Provision of Telecommunication Services by the Government of the United States to the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 131 of the Compact of Free Association;

(b) Agreement Regarding the Operation of Telecommunication Services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia Concluded Pursuant to Section 132 of the Compact of Free Association;

(c) Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 of the Compact of Free Association;

(d) Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact of Free Association;

(e) Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association;

(f) Agreement Concluded Pursuant to Section 234 of the Compact of Free Association;

(g) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association;

(h) Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Federated States of Micronesia Concluded Pursuant to Sections 227, 321 and 323 of the Compact of Free Association;

(i) Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association;

(j) Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding Friendship, Cooperation and Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association; and

(k) Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association.

4-12

Section 463

(a) Except as set forth in Section 463(b), any reference in this Compact to a provision of the United States Code or the Statutes at Large of the United States constitutes the incorporation of the language of such provision into this Compact, as such provision was in force on January 1, 1980.

(b) Any reference in Article VI of Title One and Sections 131, 174, 175, 178 and 342 to a provision of the United States Code or the Statutes at Large of the United States or to the Privacy Act, the Freedom of Information Act or the Administrative Procedure Act constitutes the incorporation of the language of such provision into this Compact as such provision is in force on the effective date of this Compact or as it may be amended thereafter on a non-discriminatory basis according to the constitutional processes of the United States.

4-13

Article VII

Concluding Provisions

Section 471

(a) The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree that they have full authority under their respective Constitutions to enter into this Compact and its related agreements and to fulfill all of their respective responsibilities in accordance with the terms of this Compact and its related agreements. The Governments pledge that they are so committed.

(b) Each of the Governments of the United States, the Marshall Islands and the Federated States of Micronesia shall take all necessary steps, of a general or particular character, to ensure, not later than the effective date of this Compact, the conformity of its laws, regulations and administrative procedures with the provisions of this Compact.

(c) Without prejudice to the effects of this Compact under international law, this Compact has the force and effect of a statute under the laws of the United States.

Section 472

This Compact may be accepted, by signature or otherwise, by the Government of the United States, the Government of the Marshall Islands, and the Government of the Federated States of Micronesia. Each Government accepting this Compact shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Compact of Free Association which shall come into effect in accordance with its terms between the Government of the United States and each of the other Governments signatory to this Compact.

DONE AT HONOLULU, HAWAII, THIS 1st DAY
OF OCTOBER, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

DONE AT HONOLULU, HAWAII, THIS 1st DAY
OF OCTOBER, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO

FOR THE GOVERNMENT
OF
THE FEDERATED STATES OF MICRONESIA

HONORABLE ANDON L. AMARAICH
CHAIRMAN COMMISSION ON FUTURE
POLITICAL STATUS AND TRANSITION

- - - - -

DONE AT MAJURO, MARSHALL ISLANDS, THIS 25th DAY
OF JUNE, ONE THOUSAND, NINE HUNDRED EIGHTY-THREE

FOR THE GOVERNMENT
OF
THE UNITED STATES OF AMERICA

AMBASSADOR FRED M. ZEDER, II
PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

DONE AT MAJURO, MARSHALL ISLANDS, THIS 25th DAY
OF JUNE, ONE THOUSAND, NINE HUNDRED EIGHTY-THREE

FOR THE GOVERNMENT
OF
THE MARSHALL ISLANDS

PRESIDENT AMATA KABUA
PRESIDENT OF THE REPUBLIC
OF THE MARSHALL ISLANDS

SEC. 2.

(a) The defense sites of the United States established in the Federated States of Micronesia, or the Marshall Islands in accordance with the Compact of Free Association are within the special maritime and territorial jurisdiction of the United States as set forth in Section 7, Title 18, United States Code.

(b) A citizen, national or resident alien of the United States who, while within or upon the defense sites in the Federated States of Micronesia or the Marshall Islands is guilty of any act or omission which would be punishable by any enactment of Congress or by the laws of the State of Hawaii in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment and the United States District Court for the District of Hawaii shall have jurisdiction to try all criminal offenses against such laws.

(c) Magistrates appointed by the United States Court for the District of Hawaii, pursuant to chapter 43, Title 28, United States Code, shall have the power to try persons accused of and sentence persons convicted of petty offenses, as defined in section 1(3), Title 18, United States States Code, and including violations of regulations issued by the Commanding Officer of such defense sites, without being subject to the restrictions provided for in section 3401(b), Title 18, United States Code.