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COMPILATION OF AGREEMENTS
BETWEEN

THE GOVERNMENT OF
THE FEDERATED STATES OF
MICRONESIA

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THE GOVERNMENT OF
THE UNITED STATES

RELATED TO
THE COMPACT OF FREE ASSOCIATION

Compiled and indexed by

Joint Committee on Compact Economic Negotiations (JCN)
Washington Office

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Notes on the Compilation

This text has been converted to electronic format and index compiled by the Federated States of Micronesia Joint Committee on Compact Economic Negotiations (JCN), Washington Office, based on the existing compilation contained in the printed version published by the U.S. President's Personal Representative for Micronesian Status Negotiations in 1987, and other sources, such as the compilation of documents by the FSM Plebiscite Commission.

Selected Agreements of a bilateral nature completed in connection with the Compact have also been included. Those documents contained in this compilation should not be viewed as comprehensive or exclusive.

Additionally, amendments subsequent to the publication of the printed version have been included, replacing or deleting the original text with the original provided in notes at the end of this document. Descriptions of these amendments or modifications should not be interpreted as a constituting a legal interpretation.

Formatting in this version may differ somewhat from that in the original documents. For purposes of readability, some formatting changes have been affected from the original text, most notably the replacement of underlines with italics.

While every effort has been made to accurately transcribe the text of the documents, errors are possible. Please notify the JCN Washington Office of any inaccuracies in the text.

Please note that this is not an official version of the Compact of Free Association. For matters of ruling please consult the certified original text of the relevant agreements.

Those elements relevant only to the printed version, such as table of contents for some agreements, have not been reproduced in the electronic version.

PRESIDENTIAL DOCUMENTS

Federal Register
Vol. 51, No. 216
Friday, November 7, 1986
Title 3

Proclamation 5564 of November 3, 1986, Placing Into Full Force and Effect the Covenant With the Commonwealth of the Northern Mariana Islands, and the Compacts of Free Association With the Federated States of Micronesia and the Republic of the Marshall Islands

By the President of the
United States of America

A Proclamation

Since July 18, 1947, the United States has administered the United Nations Trust Territory of the Pacific Islands ("Trust Territory"), which includes the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau.

On February 15, 1975, after extensive status negotiations, the United States and the Marianas Political Status Commission concluded a Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States ("Covenant"), Sections 101, 1002, and 1003(c) of the Covenant provide that the Northern Mariana Islands will become a self-governing Commonwealth in political union with and under the sovereignty of the United States. This Covenant was approved by the Congress by Public Law 94-241 of March 24, 1976, 90 Stat. 263. Although many sections of the Covenant became effective in 1976 and 1978, certain sections have not previously entered into force.

On October 1, 1982, the Government of the United States and the Government of the Federated States of Micronesia concluded a Compact of Free Association, establishing a relationship of Free Association between the two Governments. On June 25, 1983, the Government of the United States and the Government of the Marshall Islands concluded a Compact of Free Association, establishing a relationship of free association between the two Governments. Pursuant to Sections 111 and 121 of the Compacts, the Federated States of Micronesia and the Republic of the Marshall Islands become self-governing and have the right to conduct foreign affairs in their own name and right upon the effective date of their respective Compacts. Each Compact comes into effect upon (1) 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 other Government; (2) the approval of the Compact by the two Governments, in accordance with their constitutional processes; and (3) the conduct of a plebiscite in that jurisdiction. In the Federated States of Micronesia, the Compact has been approved by the Government in accordance with its constitutional processes, and in a United Nations-observed plebiscite on June 21, 1983., a sovereign act of self-determination. In the Marshall Islands, the Compact has been approved by the Government in accordance with its constitutional processes, and in a United Nations-observed plebiscite on September 7, 1983, a sovereign act of self-determination. In the United States, the Compacts have been approved by Public Law 99-239 of January 14, 1986 Stat. 1770.

On January 10, 1986, the Government of the United States and the Government of the Republic of Palau concluded a Compact of Free Association, establishing a similar relationship of Free Association between the two Governments. On October 16, 1986, the Congress of the United States approved the Compact of Free Association with the Republic of Palau. In the Republic of Palau, the Compact approval process has not yet been completed. Until the future political status of Palau is resolved, the United States will continue to discharge its responsibilities in Palau as Administering Authority under the Trusteeship Agreement.

On May 28, 1986, the Trusteeship Council of the United Nations concluded that the Government of the United States had satisfactorily discharged its obligations as the Administering Authority under the terms of the Trusteeship Agreement and that the people of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of the Marshall Islands had freely exercised their right to self-determination and considered that it was appropriate for that Agreement to be terminated. The Council asked the United States to consult with the governments concerned to agree on a date for entry into force of their respective new status agreements.

On October 15, 1986, the Government of the United States and the Government of the Republic of the Marshall Islands agreed, pursuant to Section 411 of the Compact of Free Association, that as between the United States and the Republic of the Marshall Islands, the effective date of the Compact shall be October 21, 1986.

On October 24, 1986, the Government of the United States and the Government of the Federated states of Micronesia agreed, pursuant to Section 411 of the Compact of Free Association, that as between the United States and the Federated States of Micronesia, the effective date of

the Compact shall be November 3, 1986.

On October 24, 1986, the United States advised the Secretary General of the United Nations that, as a consequence of consultations held between the United States Government and the Government of the Marshall Islands, agreement had been reached that the Compact of Free Association with the Marshall Islands entered fully into force on October 21, 1986. The United States further advised the Secretary General that, as a result of consultations with their governments, agreement had been reached that the Compact of Free Association with the Federated States of Micronesia and the Covenant with the Commonwealth of the Northern Mariana Islands would enter into force on November 3, 1986.

As of this day, November 3, 1986, the United States has fulfilled its obligations under the Trusteeship Agreement with respect to the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, and the Federated States of Micronesia, and they are self-governing and no longer subject to the Trusteeship. In taking these actions, the United States is implementing the freely expressed wishes of the peoples of the Northern Mariana Islands, the Federated States of Micronesia, and the Marshall Islands.

NOW THEREFORE, I, RONALD REAGAN, by the authority vested in me as President by the Constitution and laws of the United States of America, including Section 1002 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and Sections 101 and 102 of the Joint Resolution to approve the "Compact of Free Association", and for other purposes, approved on January 14, 1986 (Public Law 99-239), do hereby find, declare, and proclaim as follows:

Section 1. I determine that the Trusteeship Agreement for the Pacific Islands is no longer in effect as of October 21, 1986, with respect to the Republic of the Marshall Islands, as of November 3, 1986, with respect to the Federated States of Micronesia, and as of November 3, 1986, with respect to the Northern Mariana Islands. This constitutes the determination referred to in Section 1002 of the Covenant.

Sec. 2. (a) Sections 101, 104, 301, 302, 303, 506, 806, and 904 of the Covenant are effective as of 12:01 a.m. November 4, 1986, Northern Marianas local time.

(b) The Commonwealth of the Northern Mariana Islands in political union with and under the sovereignty of the United States of America is fully established on the date and at the time specified in Section 2(a) of

this proclamation.

(c) The domiciliaries of the Northern Mariana Islands are citizens of the United States to the extent provided for in Sections 301 through 303 of the Covenant on the date and at the time specified in this Proclamation.

(d) I welcome the Commonwealth of the Northern Mariana Islands into the American family and congratulate our new fellow citizens.

Sec. 3. (a) The Compact of Free Association with the Republic of the Marshall Islands is in full force and effect as of October 21, 1986, and the Compact of Free Association with the Federated States of Micronesia is in full force and effect as of November 3, 1986.

(b) I am gratified that the people of the Federated States of Micronesia and the Republic of the Marshall Islands, after nearly forty years of Trusteeship, have freely chosen to establish a relationship of Free Association with the United States.

IN WITNESS THEREOF, I have hereunto set my hand this third day of November, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

<signed>

Ronald Reagan

**Agreement Between the Government of the United States and
the Government of the Federated States of Micronesia Regarding
Implementation of the Compact of Free Association**

PREAMBLE

The Government of the United States and the Government of the Federated States of Micronesia:

Recognizing that the Compact of Free Association, signed by the Government of the United States and the Government of the Federated States of Micronesia on October 1, 1982 (the Compact), has, along with its related agreements, been approved by the Governments of the Federated States of Micronesia and the United States in accordance with their respective constitutional processes and been approved in accordance with Section 411(b) of the Compact; and

Reaffirming the common interest of the United States and the Federated States of Micronesia in creating a close and mutually beneficial relationship through a free and voluntary association of their Governments;

Desiring to bring the Compact fully into effect at the earliest possible date for their mutual benefit; and

Recognizing their common desire to terminate application of the Trusteeship Agreement to the Federated States of Micronesia;

NOW, THEREFORE, AGREE that the Compact shall enter into force and effect on the date specified in this Agreement and that provision for other related matters is made in the manner set forth in this Agreement.

ARTICLE I

Compact Effective Date

1. The Government of the United States and the Government of the Federated States of Micronesia agree, pursuant to Section 411 of the Compact, that the effective date of the Compact shall be November 3, 1986.

2. For purposes of the Compact and its related agreements, the first anniversary of the effective date of the Compact and its related agreements shall be October 1, 1987 and the fifteenth anniversary of the effective date of the Compact shall be October 1, 2001. Matters related to implementation of the governmental relations, economic assistance

and general provisions of the Compact shall be set forth in an agreement to be concluded by the Government of the United States and the Government of the Federated States of Micronesia as soon as possible.

ARTICLE II

Effective Date, Amendments and Termination

1. This Agreement shall come into effect upon signature by the signatory governments.

2. This Agreement may be amended at any time by mutual consent of the Government of the United States and the Government of the Federated States of Micronesia.

3. This Agreement may be terminated at any time by mutual consent of the Government of the United States and the Government of the Federated States of Micronesia.

4. This Agreement may be terminated unilaterally by either the Government of the United States or the Government of the Federated States of Micronesia prior to the effective date of the Compact as specified in Article I of this Agreement, such termination to be effective on the date specified in the notice of termination by the notifying government to the other government but not earlier than the date of delivery of such notice. The time specified in the notice of termination may be extended by the notifying government.

5. This Agreement may be accepted, by signature or otherwise, by the Government of the United States and the Government of the Federated States of Micronesia.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement Regarding Implementation of the Compact of Free Association which shall come into effect in accordance with its terms.

DONE AT WASHINGTON DC, THIS 24TH DAY OF OCTOBER, ONE THOUSAND, NINE HUNDRED AND EIGHTY-SIX FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT WASHINGTON DC, THIS 24TH DAY OF OCTOBER, ONE THOUSAND, NINE HUNDRED AND EIGHTY-SIX FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

The Compact of Free Association

Public Law 99-239
99th Congress

Joint Resolution

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

Whereas the United States, in accordance with the Trusteeship Agreement, the Charter of the United Nations and the objective 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 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 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, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This joint resolution, together with the Table of Contents in subsection (b) of this section, may be cited as the “Compact of Free Association Act of 1985”.

(b) TABLE OF CONTENTS.—The table of contents for this joint resolution is as follows:

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF, AND UNITED STATES POLICIES REGARDING, COMPACT; SUPPLEMENTAL PROVISIONS

Sec. 101. Approval of Compact of Free Association.

- (a) Federated States of Micronesia.
- (b) Marshall Islands.
- (c) Reference to the Compact.
- (d) Amendment, Change, or Termination in the Compact and Certain Agreements.
- (e) Subsidiary Agreements Deemed Bilateral.
- (f) Effective Date.

Sec. 102. Agreements With Federated States of Micronesia.

- (a) Law Enforcement Assistance.
- (b) Economic Development Plans Review Process.
- (c) Agreement on Audits.

Sec. 103. Agreements With and Other Provisions Related to the Marshall Islands.

- (a) Law Enforcement Assistance.
- (b) Economic Development Plans Review Process.
- (c) Ejit.
- (d) Kwajalein Payments.
- (e) Section 177 Agreement.
- (f) Nuclear Test Effects.
- (g) Espousal Provisions.
- (h) DOE Radiological Health Care Program; USDA Agricultural and Food Programs.
- (i) Rongelap.
- (j) Four Atoll Health Care Program.
- (k) Enjebi Community Trust Fund.
- (l) Bikini Atoll Cleanup.
- (m) Agreement on Audits.

Sec. 104. Interpretation of and United States Policy Regarding Compact of Free Association.

- (a) Human Rights.
- (b) Immigration.
- (c) Nonalienation of Lands.
- (d) Nuclear Waste Disposal.
- (e) Impact of Compact on U.S. Areas.
- (f) Fisheries Management.
- (g) Foreign Loans.

Sec. 105. Supplemental Provisions.

- (a) Domestic Program Requirements.
- (b) Relations With the Federated States of Micronesia and the Marshall Islands.
- (c) Continuing Trust Territory Authorization.
- (d) Medical Referral Debts.
- (e) Survivability.
- (f) Registration for Agents of Micronesian Governments.
- (g) Noncompliance Sanctions.
- (h) Continuing Programs and Laws.
- (i) College of Micronesia; Education Programs.
- (j) Trust Territory Debts to U.S. Federal Agencies.
- (k) Use of DOD Medical Facilities.
- (l) Technical Assistance.
- (m) Prior Service Benefits Program.
- (n) Indefinite Land Use Payments.
- (o) Communicable Disease Control Program.
- (p) Trust Funds.
- (q) Annual Reports on Determinations Under Compact Section 313.
- (r) User Fees.

Sec. 106. Construction Contract Assistance.

- (a) Assistance to U.S. Firms.
- (b) Authorization.

Sec. 107. Limitations.

- (a) Prohibition.
- (b) Termination.

Sec. 108. Transitional Immigration Rules.

- (a) Citizen of Northern Mariana Islands.
- (b) Termination.

Sec. 109. Timing.

Sec. 110. Implementation of Audit Agreements.

- (a) Transmission of Annual Financial Statement.
- (b) Annual Audits By the President.

(c) Authority of GAO.

Sec. 111. Compensatory Adjustments.

- (a) Additional Programs and Services.
- (b) Investment Development Funds.
- (c) Board of Advisors.
- (d) Further Amounts.

TITLE II—COMPACT OF FREE ASSOCIATION

Sec. 201. Compact of Free Association

Title One—Governmental Relations

- Article I—Self-Government
- Article II—Foreign Affairs
- Article III—Communications
- Article IV—Immigration
- Article V—Representation
- Article VI—Environmental Protection
- Article VII—General Legal Provisions

Title Two—Economic Relations

- Article I—Grant Assistance
- Article II—Program Assistance
- Article III—Administrative Provisions
- Article IV—Trade
- Article V—Finance and Taxation

Title Three—Security and Defense Relations

- Article I—Authority and Responsibility
- Article II—Defense Facilities and Operating Rights
- Article III—Defense Treaties and International Security Agreements
- Article IV—Service in Armed Forces of the United States
- Article V—General Provisions

Title Four—General Provisions

- Article I—Approval and Effective Date
- Article II—Conference and Dispute Resolution
- Article III—Amendment
- Article IV—Termination
- Article V—Survivability
- Article VI—Definition of Terms
- Article VII—Concluding Provisions

Sec. 202. Jurisdiction

Title III—PACIFIC POLICY REPORTS

Sec. 301. Findings.

Sec. 302. Reports.

- (a) Submission.
- (b) Contents.

Sec. 303. Conference.

- (a) Meeting.
- (b) Participants.
- (c) Written Comments.

Sec. 304. Administrative Matters.

- (a) Administrative Support.
- (b) Authorization of Appropriations.

TITLE IV—CLARIFICATION OF CERTAIN TRADE AND TAX PROVISIONS OF THE COMPACT

Sec. 401. Freely Associated States Tariff Treatment.

- (a) Section 242.
- (b) Section 243.

Sec. 402. Construction of Section 253 of the Compact.

Sec. 403- Construction of Section 254 of the Compact.

Sec. 404. Construction of Section 255 of the Compact.

Sec. 405. The Marshall islands and the Federated States of Micronesia Treated as North American Area.

Sec. 406. Effective Date.

Sec. 407. Study of Tax Provisions.

Sec. 408. Coordination With Other Provisions.

TITLE V—COMPACT OF FREE ASSOCIATION WITH PALAU

Sec. 501. Approval In Principle of the Compact.

Sec. 502. Modifications of the Compact.

TITLE I—APPROVAL OF COMPACT; INTERPRETATION OF,
AND U.S. POLICIES REGARDING, COMPACT; SUPPLEMENTAL
PROVISIONS

SECTION 101. APPROVAL OF COMPACT OF FREE ASSOCIATION.

(a) FEDERATED STATES OF MICRONESIA.—The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Federated States of Micronesia is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(b) MARSHALL ISLANDS -The Compact of Free Association set forth in title II of this joint resolution between the United States and the Government of the Marshall Islands is hereby approved, and Congress hereby consents to the subsidiary agreements as set forth on pages 115 through 391 of House Document 98-192 of March 30, 1984, as they relate to such Government. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the Compact, to an effective date for and thereafter to implement such Compact, having taken into account any procedures with respect to the United Nations for termination of the Trusteeship Agreement.

(c) REFERENCE TO THE COMPACT.—Any reference in this joint resolution to “the Compact” shall be treated as a reference to the Compact of Free Association set forth in title II of this joint resolution.

(d) AMENDMENT, CHANGE, OR TERMINATION IN THE COMPACT AND CERTAIN AGREEMENTS.

(1) Mutual agreement by the Government of the United States as provided for in the Compact which results in amendment, change, or termination of all or any part thereof shall be effected only by Act of Congress and no unilateral action by the Government of the United States provided for in the Compact, and having such result, may be effected other than by Act of Congress.

(2) The provisions of paragraph (1) shall apply-

(A) to all actions of the Government of the United States under the Compact including, but not limited to, actions taken pursuant to sections 431, 432, 441, or 442;

(B) to any amendment, change, or termination in the 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 referred to in section 462(j) of the Compact and the Agreement between the Government of the United States and the Government of the Marshall Islands Concerning Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(k) of the Compact;

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact sections 175, 177, and 221(a)(5), the terms of which are incorporated by reference into the Compact; and

(D) to the following subsidiary agreements, or portions thereof-

(i) Article II of the agreement referred to in section 462(a) of the Compact;

(ii) Article II of the agreement referred to in section 462(b) of the Compact;

(iii) Article II and Section 7 of Article XI of the agreement referred to in section 462(e) of the Compact;

(iv) the agreement referred to in section 462(f) of the Compact;

(v) Articles III and IV of the agreement referred to in section 462(g) of the Compact;

(vi) Articles III and IV of the agreement referred to in section 462(h) of the Compact; and

(vii) Articles VI, XV, and XVII of the agreement referred to in section 462(i) of the Compact.

(e) SUBSIDIARY AGREEMENT DEEMED BILATERAL.—For pur-

poses of implementation of the Compact and this joint resolution, each of the subsidiary agreements referred to in subsections (a) and (b) (whether or not bilateral in form) shall be deemed to be bilateral agreements between the United States and each other party to such subsidiary agreement. The consent or concurrence of any other party shall not be required for the effectiveness of any actions taken by the United States in conjunction with either the Federated States of Micronesia or the Marshall Islands which are intended to affect the implementation, modification, suspension, or termination of any such subsidiary agreement (or any provision thereof) as regards the mutual responsibilities of the United States and the party in conjunction with whom the actions are taken.

(f) EFFECTIVE DATE.

(1) The President shall not agree to an effective date for the Compact, as authorized by this section, until after certifying to Congress that the agreements described in section 102 and section 103 of this title have been concluded.

(2) Any agreement concluded with the Federated States of Micronesia or the Marshall Islands pursuant to sections 102 and 103 of this title and any agreement which would amend, change, or terminate any subsidiary agreement or portion thereof as set forth in paragraph (4) of this subsection shall be submitted to the Congress. No such agreement shall take effect until after the expiration of 30 days after the date such agreement is so submitted (excluding days on which either House of Congress is not in session).

(3) No agreement described in paragraph (2) shall take effect if a joint resolution of disapproval is enacted during the period specified in paragraph (2). For the purpose of expediting the consideration of such a joint resolution, a motion to proceed to the consideration of any such joint resolution after it has been reported by an appropriate committee shall be treated as highly privileged in the House of Representatives. Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of Public Law 94-329.

(4) The subsidiary agreements or portions thereof referred to in paragraph (2) are as follows:

(A) Articles III and IV of the agreement referred to in section 462(b) of the Compact.

(B) Articles III, IV, V, VI, VII, VIII, IX, X, and XI (except for Section 7 thereof) of the agreement referred to in section 462(e) of the Compact.

(C) Articles IV, V, X, XIV, XVI, and XVIII of the agreement referred to in section 462(i) of the Compact.

(D) Articles II, V, VI, VII, and VIII of the agreement referred to in section 462(g) of the Compact.

(E) Articles II, V, VI, and VIII of the agreement referred to in section 462(h) of the Compact.

(F) The Agreement set forth on pages 388 through 391 of House Document 98-192 of March 30, 1984.

(5) No agreement between the United States and the Government of either the Federated States of Micronesia or the Marshall Islands which would amend, change, or terminate any subsidiary agreement or portion thereof, other than those set forth in subsection (d) of this section or paragraph (4) of this subsection shall take effect until the President has transmitted such agreement to the President of the Senate and the Speaker of the House of Representatives together with an explanation of the agreement and the reasons therefore.

SEC. 102. AGREEMENTS WITH FEDERATED STATES OF MICRONESIA.

(a) LAW ENFORCEMENT ASSISTANCE.

(1) AGREEMENT.—The President of the United States shall negotiate with the Government of the Federated States of Micronesia an agreement pursuant to section 175 of the Compact which is in addition to the Agreement pursuant to such section dated October 1, 1982, and transmitted to the Congress by the President on February 20, 1985. Such additional agreement shall provide as follows:

(A) MUTUAL ASSISTANCE IN LAW ENFORCEMENT.—The law enforcement agencies of the United States and the Federated States of Micronesia shall assist one another, as mutually agreed, in the prevention and investigation of crimes and the enforcement of the laws of the United States and the Federated States of Micronesia specified in subparagraph (C) of this paragraph. The United States and the Federated States of Micronesia will authorize mutual assistance with respect to investigations, inquiries,

audits and related activities by the law enforcement agencies of both Governments in the United States and the Federated States of Micronesia. In conducting activities authorized in accordance with this section, the United States and the Federated States of Micronesia will act in accordance with the constitution and laws of the jurisdiction in which such activities are conducted.

(B) NARCOTICS AND CONTROL OF ILLEGAL SUBSTANCES.—The United States and the Federated States of Micronesia will take all reasonable and necessary steps, as mutually agreed, based upon consultations in which the Attorney General or other designated official of each Government participates, to prevent the use of the lands, waters, and facilities of the United States or the Federated States of Micronesia for the purposes of cultivation of, production of, smuggling of, trafficking in, and abuse of any controlled substance as defined in section 102(6) of the United States Controlled Substances Act and Schedules I through V of Subchapter II of the Controlled Substances Act of the Federated States of Micronesia, or for the distribution of any such substance to or from the Federated States of Micronesia or to or from the United States or any of its territories or commonwealths.

(C) OTHER CRIMINAL LAWS.—Assistance provided pursuant to this subsection shall also extend to, but not be limited to, prevention and prosecution of violations of the laws of the United States and the laws of the Federated States of Micronesia related to terrorism, espionage, racketeer influenced and corrupt organizations, and financial transactions which advance the interests of any person engaging in unlawful activities, as well as the schedule of offenses set forth in Appendix A of the subsidiary agreement to section 175 of the Compact.

(2) TECHNICAL AND TRAINING ASSISTANCE.—Pursuant to sections 224 and 226 of the Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Federated States of Micronesia to develop and adequately enforce laws of the Federated States of Micronesia and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(l) of this title may be used to reimburse State or local agencies providing such assistance.

(3) CONSULTATION.—Any official, designated by this joint resolution or by the President to negotiate any agreement under this sec-

tion, shall consult with affected law enforcement agencies prior to entering into such an agreement on behalf of the United States.

(4) REPORT.—The President shall report annually to Congress on the implementation of this subsection. Such report shall provide statistical and other information about the incidence of crimes in the Federated States of Micronesia which have an impact upon United States jurisdictions, and propose measures which the United States and the Federated States of Micronesia should take in order better to prevent and prosecute violations of the laws of the United States and the Federated States of Micronesia. The reports required under section 481(e) of the Foreign Assistance Act of 1961 shall include relevant information concerning the Federated States of Micronesia.

(b) ECONOMIC DEVELOPMENT PLANS REVIEW PROCESS.

(1) SUBMISSION.—Notwithstanding section 211(b) of the Compact, the President may agree to an effective date for the Compact pursuant to section 101(a) of this title if the Government of the Federated States of Micronesia agrees to submit economic development plans consistent with section 211(b) of the Compact to the Government of the United States for concurrence at intervals no greater than every 5 years for the duration of the Compact. Any capital construction project and any planned independent purchase of aircraft which is to be financed (directly or indirectly) through the use of funds provided under section 211 of the Compact shall be identified in the economic development plans.

(2) UNITED STATES GOVERNMENT REVIEW.—The United States shall not concur in those development plans described in paragraph (1) of this subsection until-

(A) after the President of the United States has conducted a review and reported the findings of the President to the Congress; and

(B) the Congress has had 30 days (excluding days on which both Houses of Congress are not in session) to review the findings of the President.

(3) REPORT.—The President shall complete the review under paragraph (2) and shall report the findings no later than 60 days after the President's receipt of such plans.

(4) VIEWS AND COMMENTS.—The report shall include the

views of the Secretary of the Interior, the Administrator of the Agency for International Development, and the heads of such other Executive departments as the President may decide to include in the report, as well as any comments which the Federated States of Micronesia may wish to have included.

(c) AGREEMENT ON AUDITS.—In accordance with section 233 of the Compact, the President of the United States, in consultation with the Comptroller General of the United States, shall negotiate with the Government of the Federated States of Micronesia modifications to the “Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association”, which shall provide as follows:

(1) GENERAL AUTHORITY OF THE GAO TO AUDIT.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit-

(i) all grants, program assistance, and other assistance provided to the Government of the Federated States of Micronesia under Articles I and II of Title Two of the Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Federated States of Micronesia.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 233 of the Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) GAO ACCESS TO RECORDS.—

(A) In carrying out paragraph (1), the Comptroller General

(and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least three years after the date such grant or assistance was provided and in a manner that permits such grants, assistance, and payments to be accounted for distinct from any other funds of the Government of the Federated States of Micronesia.

(3) REPRESENTATIVE STATUS FOR GAO REPRESENTATIVES.—The Comptroller General and his duly authorized representatives shall be accorded the status set forth in Article V of Title One of the Compact.

(4) ANNUAL FINANCIAL STATEMENTS.—As part of the annual report submitted by the Government of the Federated States of Micronesia under section 211 of the Compact, the Government shall include annual financial statements which account for the use of all of the funds provided by the Government of the United States to the Government under the Compact or otherwise. Such financial statements shall be prepared in accordance with generally accepted accounting procedures, except as may otherwise be mutually agreed. Not later than 180 days after the end of the United States fiscal year with respect to which such funds were provided, each such statement shall be submitted to the President for audit and transmission to the Congress.

(5) DEFINITION OF AUDITS.—As used in this subsection, the term “audits” includes financial, program, and management audits, including determining-

(A) whether the Government of the Federated States of Micronesia has met the requirements set forth in the Compact, or any related agreement entered into under the Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Federated States of Micronesia pursuant to such grants or

assistance.

(6) COOPERATION BY FEDERATED STATES OF MICRONESIA.—The Government of the Federated States of Micronesia will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

SEC. 103. AGREEMENTS WITH AND OTHER PROVISIONS RELATED TO THE MARSHALL ISLANDS.

(a) LAW ENFORCEMENT ASSISTANCE.—

(1) AGREEMENT.—The President of the United States shall negotiate with the Government of the Marshall Islands an agreement pursuant to section 175 of the Compact which is in addition to the Agreement pursuant to such section dated May 30, 1982, and transmitted to the Congress by the President on February 20, 1985. Such additional agreement shall provide as follows:

(A) MUTUAL ASSISTANCE IN LAW ENFORCEMENT.—The law enforcement agencies of the United States and the Marshall Islands shall assist one another, as mutually agreed, in the prevention and investigation of crimes and the enforcement of the laws of the United States and the Marshall Islands specified in subparagraph (C) of this paragraph. The United States and the Marshall Islands will authorize mutual assistance with respect to investigations, inquiries, audits and related activities by the law enforcement agencies of both Governments in the United States and the Marshall Islands. In conducting activities authorized in accordance with this section, the United States and the Marshall Islands will act in accordance with the constitution and laws of the jurisdiction in which such activities are conducted.

(B) NARCOTICS AND CONTROL OF ILLEGAL SUBSTANCES.—The United States and the Marshall Islands will take all reasonable and necessary steps, as mutually agreed, based upon consultations in which the Attorney General or other designated official of each Government participates, to prevent the use of the lands, waters, and facilities of the United States or the Marshall Islands for the purposes of cultivation of, production of, smuggling of, trafficking in, and abuse of any controlled substance as defined in section 102(6) of the United States Controlled Substances Act and Schedules I through V of Subchapter H of the

Controlled Substances Act of the Marshall Islands, or for the distribution of any such substance to or from the Marshall Islands or to or from the United States or any of its territories or commonwealths.

(C) OTHER CRIMINAL LAWS.—Assistance provided pursuant to this subsection shall also extend to, but not be limited to, prevention and prosecution of violations of the laws of the United States and the laws of the Marshall Islands related to terrorism, espionage, racketeer influenced and corrupt organizations, and financial transactions which advance the interests of any person engaging in unlawful activities, as well as the schedule of offenses set forth in Appendix A of the subsidiary agreement to section 175 of the Compact.

(2) TECHNICAL AND TRAINING ASSISTANCE.—Pursuant to sections 224 and 226 of the Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Marshall Islands to develop and adequately enforce laws of the Marshall Islands and to cooperate with the United States in the enforcement of criminal laws of the United States. Funds appropriated pursuant to section 105(l) of this title may be used to reimburse State or local agencies providing such assistance.

(3) CONSULTATION.—Any official, designated by this joint resolution or by the President to negotiate any agreement under this section, shall consult with affected law enforcement agencies prior to entering into such an agreement on behalf of the United States.

(4) REPORT.—The President shall report annually to Congress on the implementation of this subsection. Such report shall provide statistical and other information about the incidence of crimes in the Marshall Islands which have an impact upon United States jurisdictions, and propose measures which the United States and the Marshall Islands should take in order better to prevent and prosecute violations of the laws of the United States and the Marshall Islands. The reports required under section 481(e) of the Foreign Assistance Act of 1961 shall include relevant information concerning the Marshall Islands.

(b) ECONOMIC DEVELOPMENT PLANS REVIEW PROCESS.—

(1) SUBMISSION.—Notwithstanding section 211(b) of the Compact, the President may agree to an effective date for the Compact

pursuant to section 101(b) of this title if the Government of the Marshall Islands agrees to submit economic development plans consistent with section 211(b) of the Compact to the Government of the United States for concurrence at intervals no greater than every 5 years for the duration of the Compact. Any capital construction project and any planned independent purchase of aircraft which is to be financed (directly or indirectly) through the use of funds provided under section 211 of the Compact shall be identified in the economic development plans.

(2) UNITED STATES GOVERNMENT REVIEW.—The United States shall not concur in those development plans described in paragraph (1) of this subsection until-

(A) after the President of the United States has conducted a review and reported the findings of the President to the Congress; and

(B) the Congress has had 30 days (excluding days on which both Houses of Congress are not in session) to review the findings of the President.

(3) REPORT.—The President shall complete the review under paragraph (2) and shall report the findings no later than 60 days after the President's receipt of such plans.

(4) VIEWS AND COMMENTS.—The report shall include the views of the Secretary of the Interior, the Administrator of the Agency for International Development, and the heads of such other Executive departments as the President may decide to include in the report, as well as any comments which the Marshall Islands may wish to have included.

(c) EJIT—

(1) The President of the United States shall negotiate with the Government of the Marshall Islands an agreement whereby, without prejudice as to any claims which have been or may be asserted by any party as to rightful title and ownership of any lands on Ejit, the Government of the Marshall Islands shall assure that lands on Ejit used as of January 1, 1985, by the people of Bikini, will continue to be available without charge for their use, until such time as Bikini is restored and inhabitable and the continued use of Ejit is no longer necessary, unless a Marshall Islands court of competent jurisdiction finally determines that there are legal impediments to continued use

of Ejit by the people of Bikini.

(2) If the impediments described in paragraph (1) do arise, the United States will cooperate with the Government of the Marshall Islands in assisting any person adversely affected by such judicial determination to remain on Ejit, or in locating suitable and acceptable alternative lands for such person's use.

(3) Paragraph (1) shall not be applied in a manner which would prevent the Government of the Marshall Islands from acting in accordance with its constitutional processes to resolve title and ownership claims with respect to such lands or from taking substitute or additional measures to meet the needs of the people of Bikini with their democratically expressed consent and approval.

(d) KWAJALEIN PAYMENTS.—

(1) STATEMENT OF POLICY.—The Congress of the United States hereby declares that it is the policy of the United States that payment of funds by the Government of the Marshall Islands to the landowners of Kwajalein Atoll in accordance with the land use agreement dated October 19, 1982, and the related allocation agreements, is required in order to ensure that the Government of the United States will be able to fulfill its obligations and responsibilities under Title Three of the Compact and the subsidiary agreements concluded pursuant thereto.

(2) FAILURE TO PAY.—In the event that the Government of the Marshall Islands fails to make payments in accordance with paragraph (1) of this subsection, the Government of the United States shall initiate procedures under Section 313 of the Compact and consult with the Government of the Marshall Islands with respect to the basis for such non-payment of funds. The United States shall expeditiously resolve the matter of any nonpayment of funds as described in paragraph (1) of this subsection pursuant to Section 313 of the Compact and the authority and responsibility of the Government of the United States for security and defense matters in or relating to the Marshall Islands. This paragraph shall be enforced, as may be necessary, in accordance with section 105(g)(2) of this joint resolution.

(3) ASSISTANCE.—The President is hereby authorized to make loans and grants to the Government of the Marshall Islands for the sole use of the Kwajalein Atoll Development Authority for the benefit of the Kwajalein landowners of amounts sought by such authority for development purposes, pursuant to a development plan for Kwajalein Atoll which such authority has adopted in accordance with applicable

laws of the Marshall Islands. Such loans and grants shall be subject to such other terms and conditions as the President, in his discretion, may determine appropriate and necessary.

(e) SECTION 177 AGREEMENT.—

(1) In furtherance of the purposes of Article I of the Subsidiary Agreement for Implementation of Section 177 of the Compact, the payment of the amount specified therein shall be made by the United States under Article I of the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the “Section 177 Agreement”) only after the Government of the Marshall Islands has notified the President of the United States as to which investment management firm has been selected by such Government to act as Fund Manager under Article I of the Section 177 Agreement.

(2) In the event that the President determines that an investment management firm selected by the Government of the Marshall Islands does not meet the requirements specified in Article I of the Section 177 Agreement, the United States shall invoke the conference and dispute resolution procedures of Article II of Title Four of the Compact. Pending the resolution of such a dispute and until a qualified Fund Manager has been designated, the Government of the Marshall Islands shall place the funds paid by the United States pursuant to Article I of the Section 177 Agreement into an interest-bearing escrow account. Upon designation of a qualified Fund Manager, all funds in the escrow account shall be transferred to the control of such Fund Manager for management pursuant to the Section 177 Agreement.

(3) If the Government of the Marshall Islands determines that some other investment firm should act as Fund Manager in place the firm first (or subsequently) selected by such Government, the Government of the Marshall Islands shall so notify the President of the United States, identifying the firm selected by such Government to become Fund Manager, and the President shall proceed to evaluate the qualifications of such identified firm.

(4) At the end of 15 years after the effective date of the Compact the firm then acting as Fund Manager shall transfer to the Government of the Marshall Islands, or to such account as such Government shall so notify the Fund Manager, all remaining funds and assets being managed by the Fund Manager under the Section 177 Agreement.

(5) An annual report concerning all actions of the Fund Manager pursuant to the Section 177 Agreement and this joint resolution, including information prepared by the Fund Manager, shall be transmitted by the Government of the Marshall Islands to the Congress. Such report shall include such information (whether received from the Fund Manager or any other source) as relates to the disbursements provided for in Article II of the Section 177 Agreement. Such report shall be made public.

(f) NUCLEAR TEST EFFECTS.—In approving the Compact, the Congress understands and intends that the peoples of Bikini, Enewetak, Rongelap, and Utrik, who were affected by the United States nuclear weapons testing program in the Marshall Islands, will receive the amounts of \$75,000,000 (Bikini); \$48,750,000 (Enewetak), \$37,500,000 (Rongelap); and \$22,500,000 (Utrik), respectively, which amounts shall be paid out of proceeds from the fund established under Article I, section 1 of the subsidiary agreement for the implementation of section 177 of the Compact. The amounts specified in this subsection shall be in addition to any amounts which may be awarded to claimants pursuant to Article IV of the subsidiary agreement for the implementation of Section 177 of the Compact.

(g) ESPOUSAL PROVISIONS.—

(1) It is the intention of the Congress of the United States that the provisions of section 177 of the Compact of Free Association and the Agreement between the Government of the United States and the Government of the Marshall Islands for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the “Section 177 Agreement”) constitute a full and final settlement of all claims described in Articles X and XI of the Section 177 Agreement, and that any such claims be terminated and barred except insofar as provided for in the Section 177 Agreement.

(2) In furtherance of the intention of Congress as stated in paragraph (1) of this subsection, the Section 177 Agreement is hereby ratified and approved. It is the explicit understanding and intent of Congress that the jurisdictional limitations set forth in Article XII of such Agreement are enacted solely and exclusively to accomplish the objective of Article X of such Agreement and only as a clarification of the effect of Article X, and are not to be construed or implemented separately from Article X.

(h) DOE RADIOLOGICAL HEALTH CARE: PROGRAM; USDA AGRICULTURAL AND FOOD PROGRAMS.—

(1) MARSHALL ISLANDS PROGRAM.—Notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall continue to provide special medical care and logistical support thereto for the remaining 174 members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 United States thermonuclear “Bravo” test, pursuant to Public Laws 95-134 and 96-205. Such medical care and its accompanying logistical support shall total \$22,500,000 over the first 11 years of the Compact.

(2) AGRICULTURAL AND FOOD PROGRAMS.—Notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, for the first five years after the effective date of the Compact, the President (either through an appropriate department or agency of the United States or by contract with a United States firm) shall provide technical and other assistance—

(A) without reimbursement, to continue the planting and agricultural maintenance program on Enewetak;

(B) without reimbursement, to continue the food programs of the Bikini and Enewetak people described in section 1(d) of Article II of the Subsidiary Agreement for the Implementation of Section 177 of the Compact and for continued waterborne transportation of agricultural products to Enewetak including operations and maintenance of the vessel used for such purposes.

(3) PAYMENTS.—Payments under this subsection shall be provided to such extent or in such amounts as are necessary for services and other assistance provided pursuant to this subsection. It is the sense of Congress that after the periods of time specified in paragraphs (1) and (2) of this subsection, consideration will be given to such additional funding for these programs as may be necessary.

(i) RONGELAP—

(1) Because Rongelap was directly affected by fallout from a 1954 United States thermonuclear test and because the Rongelap people remain unconvinced that it is safe to continue to live on Rongelap Island, it is the intent of Congress to take such steps (if any) as may be necessary to overcome the effects of such fallout on the habitability of Rongelap Island, and to restore Rongelap island, if necessary, so that it can be safely inhabited. Accordingly, it is the expectation of

the Congress that the Government of the Marshall Islands shall use such portion of the funds specified in Article 11, section 1(e) of the subsidiary agreement for the implementation of section 177 of the Compact as are necessary for the purpose of contracting with a qualified scientist or group of scientists to review the data collected by the Department of Energy relating to radiation levels and other conditions on Rongelap Island resulting from the thermonuclear test. It is the expectation of the Congress that the Government of the Marshall Islands, after consultation with the people of Rongelap, shall select the party to review such data, and shall contract for such review and for submission of a report to the President of the United States and the Congress as to the results thereof

(2) The purpose of the review referred to in paragraph (1) of this subsection shall be to establish whether the data cited in support of the conclusions as to the habitability of Rongelap Island, as set forth in the Department of Energy report entitled: “The Meaning of Radiation for Those Atolls in the Northern Part of the Marshall Islands That Were Surveyed in 1978”, dated November 1982, are adequate and whether such conclusions are fully supported data. If the party reviewing the data concludes that such conclusions as to habitability are fully supported by adequate data, the report to the President of the United States and the Congress shall so state. If the party reviewing the data concludes that the data are inadequate to support such conclusions as to habitability or that such conclusions as to habitability are not fully supported by the data, the Government of the Marshall Islands shall contract with an appropriate scientist or group of scientists to undertake a complete survey of radiation and other effects of the nuclear testing program relating to the habitability of Rongelap Island. Such sums as are necessary for such survey and report concerning the results thereof and as to steps needed to restore the habitability of Rongelap Island are authorized to be made available to the Government of the Marshall Islands.

(3) It is the intent of Congress that such steps (if any) are necessary to restore the habitability of Rongelap Island and return the Rongelap people to their homeland will be taken by the United States in consultation with the Government of the Marshall Islands, in accordance with its authority under the Constitution of the Marshall Islands, the Rongelap local government council.

(j) FOUR ATOLL HEALTH CARE PROGRAM.—

(1) Services provided by the United States Public Health Service or any other United States agency pursuant to section 1(a) of Article

H of the Agreement for the Implementation of Section 177 of the Compact (hereafter in this subsection referred to as the “Section 177 Agreement”) shall be only for services to the people of the Atolls of Bikini, Enewetak, Rongelap, and Utrik who were affected by the consequences of the United States nuclear testing program, pursuant to the program described in Public Law 95-134 and Public Law 96-205 and their descendants (and any other persons identified as having been so affected if such identification occurs in the manner described in such public laws). Nothing in this subsection shall be construed as prejudicial to the views or policies of the Government of the Marshall Islands as to the persons affected by the consequences of the United States nuclear testing program.

(2) At the end of the first year after the effective date of the Compact and at the end of each year thereafter, the providing agency or agencies shall return to the Government of the Marshall Islands any unexpended funds to be returned to the Fund Manager (as described in Article I of the Section 177 Agreement) to be covered into the Fund to be available for future use.

(3) The Fund Manager shall retain the funds returned by the Government of the Marshall Islands pursuant to paragraph (2) of this subsection, shall invest and manage such funds, and at the end of 15 years after the effective date of the Compact, shall make from the total amount so retained and the proceeds thereof annual disbursements sufficient to continue to make payments for the provision of health services as specified in paragraph (1) of this subsection to such extent as may be provided in contracts between the Government of the Marshall Islands and appropriate United States providers of such health services.

(k) ENJEBI COMMUNITY TRUST FUND.—Notwithstanding any other provision of law, the Secretary of the Treasury shall establish on the books of the Treasury of the United States a fund having the status specified in Article V of the subsidiary agreement for the implementation of Section 177 of the Compact, to be known as the “Enjebi Community Trust Fund” (hereafter in this subsection referred to as the “Fund”), and shall credit to the Fund the amount of \$7,500,000. Such amount, which shall be ex gratia, shall be in addition to and not charged against any other funds provided for in the Compact and its subsidiary agreements, this joint resolution, or any other Act. Upon receipt by the President of the United States of the agreement described in this subsection, the Secretary of the Treasury, upon request of the Government of the Marshall Islands, shall transfer the Fund to the Government of the Marshall Islands, provided that the Government of the Marshall Islands agrees as follows:

(1) ENJEBI TRUST AGREEMENT.—The Government of the Marshall Islands and the Enewetak Local Government Council, in consultation with the people of Enjebi, shall provide for the creation of the Enjebi Community Trust Fund and the employment of the manager of the Enewetak Fund established pursuant to the Section 177 Agreement as trustee and manager of the Enjebi Community Trust Fund, or, should the manager of the Enewetak Fund not be acceptable to the people of Enjebi, another United States investment manager with substantial experience in the administration of trusts and with funds under management in excess of 250 million dollars.

(2) MONITOR CONDITIONS.—Upon the request of the Government of the Marshall Islands, the United States shall monitor the radiation and other conditions on Enjebi and within one year of receiving such a request shall report to the Government of the Marshall Islands when the people of Enjebi may resettle Enjebi under circumstances where the radioactive contamination at Enjebi, including contamination derived from consumption of locally grown food products, can be reduced or otherwise controlled to meet whole body Federal radiation protection standards for the general population, including mean annual dose and mean 30-year cumulative dose standards.

(3) RESETTLEMENT OF ENJEBI.—IN the event that the United States determines that the people of Enjebi can within 25 years of the date of the enactment of this joint resolution resettle Enjebi under the conditions set forth in paragraph (2) of this subsection, then upon such determination there shall be available to the people of Enjebi from the Fund such amounts as are necessary for the people of Enjebi to do the following, in accordance with a plan developed by the Enewetak Local Government Council and the people of Enjebi, and concurred with by the Government of the Marshall Islands to assure consistency with the government’s overall economic development plan:

(A) Establish a community on Enjebi Island for the use of the people of Enjebi.

(B) Replant Enjebi with appropriate food-bearing and other vegetation.

(4) RESETTLEMENT OF OTHER LOCATION.—In the event that the United States determines that within 25 years of the date of the enactment of this joint resolution the people of Enjebi cannot resettle Enjebi without exceeding the radiation standards set forth in para-

graph (2) of this subsection, then the fund manager shall be directed by the trust instrument to distribute the Fund to the people of Enjebi for their resettlement at some other location in accordance with a plan, developed by the Enewetak Local Government Council and the people of Enjebi and concurred with by the Government of the Marshall Islands to assure consistency with the government's overall economic development plan.

(5) INTEREST FROM FUND.—Prior to and during the distribution of the corpus of the Fund pursuant to paragraphs (3) and (4) of this subsection, the people of Enjebi may, if they so request, receive the interest earned by the Fund on no less frequent a basis than quarterly.

(6) DISCLAIMER OF LIABILITY.—Neither under the laws Marshall Islands nor under the laws of the United States, shall the Government of the United States be liable for any loss or damage to person or property in respect to the resettlement of Enjebi by the people of Enjebi, pursuant to the provision of this subsection or otherwise.

(1) BIKINI ATOLL CLEANUP.—

(1) DECLARATION OF POLICY.—The Congress hereby determines and declares that it is the policy of the United States, to be supported by the full faith and credit of the United States, that because the United States, through its nuclear testing and other activities, rendered Bikini Atoll unsafe for habitation by the people of Bikini, the United States will fulfill its responsibility for restoring Bikini Atoll to habitability, as set forth in paragraphs (2) and (3) of this subsection.

(2) CLEANUP FUNDS.—There are hereby authorized to be appropriated such sums as are necessary to implement the settlement agreement of March 15, 1985, in *The People of Bikini, et al. against United States of America, et al.*, Civ. No. 84-0425 (D. Ha.).

(3) CONDITIONS OF FUNDING.—The funds referred to in paragraph (2) shall be made available pursuant to Article VI, Section 1 of the Compact Section 177 Agreement upon completion of the events set forth in the settlement agreement referred to in paragraph (2) of this subsection.

(m) AGREEMENT ON AUDITS.—In accordance with section 233 of the Compact, the President of the United States, in consultation with the Comptroller General of the United States, shall negotiate with the Government of the Marshall Islands an agreement which shall provide as

follows:

(1) GENERAL AUTHORITY OF THE GAO TO AUDIT.—

(A) The Comptroller General of the United States (and his duly authorized representatives) shall have the authority to audit—

(i) all grants, program assistance, and other assistance provided to the Government of the Marshall Islands under Articles I and II of Title Two of the Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Marshall Islands.

Such authority shall include authority for the Comptroller General to conduct or cause to be conducted any of the audits provided for in section 233 of the Compact. The authority provided in this paragraph shall continue for at least three years after the last such grant has been made or assistance has been provided.

(B) The Comptroller General (and his duly authorized representatives) shall also have authority to review any audit conducted by or on behalf of the Government of the United States. In this connection, the Comptroller General shall have access to such personnel and to such records, documents, working papers, automated data and files, and other information relevant to such review.

(2) GAO ACCESS TO RECORDS.—

(A) In carrying out paragraph (1), the Comptroller General (and his duly authorized representatives) shall have such access to the personnel and (without cost) to records, documents, working papers, automated data and files, and other information relevant to such audits. The Comptroller General may duplicate any such records, documents, working papers, automated data and files, or other information relevant to such audits.

(B) Such records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance shall be maintained for at least three years after the date such grant or assistance was provided and in a manner that permits such grants, assistance, and payments to be accounted for distinct from any other funds of the Government of the Marshall Islands.

(3) REPRESENTATIVE STATUS FOR GAOREPRESENTATIVES.—The Comptroller General and his duly authorized representatives shall be accorded the status set forth in Article V of Title One of the Compact.

(4) ANNUAL FINANCIAL STATEMENTS.—As part of the annual report submitted by the Government of the Marshall Islands under section 211 of the Compact, the Government shall include annual financial statements which account for the use of all of the funds provided by the Government of the United States to the Government under the Compact or otherwise. Such financial statements shall be prepared in accordance with generally accepted accounting procedures, except as may otherwise be mutually agreed. Not later than 180 days after the end of the United States fiscal year with respect to which such funds were provided, each such statement shall be submitted to the President for audit and transmission to the Congress.

(5) DEFINITION OF AUDITS.—As used in this subsection, the term “audits” includes financial, program, and management audits, including determining-

(A) whether the Government of the Marshall Islands has met the requirements set forth in the Compact, or any related agreement entered into under the Compact, regarding the purposes for which such grants and other assistance are to be used; and

(B) the propriety of the financial transactions of the Government of the Marshall Islands pursuant to such grants or assistance.

(6) COOPERATION BY MARSHALL ISLANDS.—The Government of the Marshall Islands will cooperate fully with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary to enable the Comptroller General to fully discharge his responsibilities under this joint resolution.

SEC. 104. INTERPRETATION OF AND UNITED STATES POLICY REGARDING COMPACT OF FREE ASSOCIATION.

(a) HUMAN RIGHTS.—In approving the Compact, the Congress notes the conclusion in the Statement of Intent of the Report of The Future Political Status Commission of the Congress of Micronesia in July, 1969, that “our recommendation of a free associated state is indissolubly linked to our desire for such a democratic, representative, constitutional government” and notes that such desire and intention are reaf-

firmed and embodied in the Constitutions of the Federated States of Micronesia and the Marshall Islands. The Congress also notes and specifically endorses the preamble to the Compact, which affirms that the governments of the parties to the Compact are founded upon respect for human rights and fundamental freedoms for all. The Secretary of State shall include in the annual reports on the status of internationally recognized human rights in foreign countries, which are submitted to the Congress pursuant to sections 116 and 502B of the Foreign Assistance Act of 1961, a full and complete report regarding the status of internationally recognized human rights in the Federated States of Micronesia and the Marshall Islands.

(b) IMMIGRATION.—The rights of a bona fide naturalized citizen of the Marshall Islands or the Federated States of Micronesia to enter the United States, to lawfully engage therein in occupations, and to establish residence therein as a non-immigrant, pursuant to the provisions of section 141(a)(3) of the Compact, shall not extend to any such naturalized citizen with respect to whom circumstances associated with the acquisition of the status of a naturalized citizen are such as to allow a reasonable inference, on the part of appropriate officials of the United States and subject to United States procedural requirements, that such naturalized status was acquired primarily in order to obtain such rights.

(c) NONALIENATION OF LANDS.—The Congress endorses and encourages the maintenance of the policies of the Government of the Federated States of Micronesia and the Government of the Marshall Islands to regulate, in accordance with their Constitutions and laws, the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Federated States of Micronesia citizenship and Marshall Islands citizenship, respectively.

(d) NUCLEAR WASTE DISPOSAL.—In approving the Compact, the Congress understands that the Government of the Federated States of Micronesia and the Government of the Marshall Islands will not permit any other government or any nongovernmental party to conduct, in the Marshall Islands or in the Federated States of Micronesia, any of the activities specified in subsection (a) of section 314 of the Compact.

(e) IMPACT OF COMPACT ON U.S. AREAS.—

(1) STATEMENT OF CONGRESSIONAL INTENT.—In approving the Compact, it is not the intent of the Congress to cause any adverse consequences for the United States territories and commonwealths or the State of Hawaii.

(2) ANNUAL REPORTS AND RECOM-MENDATIONS.—One year after the date of enactment of this joint resolution and at one year intervals thereafter, the President shall report to the Congress with respect to the impact of the Compact on the United States territories and commonwealths and on the State of Hawaii.

Reports submitted pursuant to this paragraph (hereafter in this subsection referred to as “reports”) shall identify any adverse consequences resulting from the Compact and shall make recommendations for corrective action to eliminate those consequences. The reports shall pay particular attention to matters relating to trade, taxation, immigration, labor laws, minimum wages, social systems and infrastructure, and environmental regulation. With regard to immigration, the reports shall include statistics concerning the number of persons availing themselves of the rights described in section 141(a) of the Compact during the year covered by each report. With regard to trade, the report shall include an analysis of the impact on the economy of American Samoa resulting from imports of canned tuna into the United States from the Federated States of Micronesia and the Marshall Islands.

(3) OTHER VIEWS.—In preparing the reports, the President shall request the views of the Government of the State of Hawaii, and the governments of each of the United States territories and commonwealths, the Federated States of Micronesia, the Marshall Islands, and Palau, and shall transmit the full text of any such views to the Congress as part of such reports.

(4) COMMITMENT OF CONGRESS TO REDRESS ADVERSE CONSEQUENCES.—The Congress hereby declares that, if any adverse consequences to United States territories and commonwealths or the State of Hawaii result from implementation of the Compact of Free Association, the Congress will act sympathetically and expeditiously to redress those adverse consequences.

(5) DEFINITION OF U.S. TERRITORIES AND COMMONWEALTHS.—As used in this subsection, the term “United States territories and commonwealths” means the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(6) IMPACT COSTS.—There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to cover the costs, if any, incurred by the State of Hawaii, the territories of Guam and American Samoa, and

the Commonwealth of the Northern Mariana Islands resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia.

(f) FISHERIES MANAGEMENT.—In clarification of Title One, Article II, section 121(b)(1) of the Compact:

(1) Nothing in the Compact or this joint resolution shall be interpreted as recognition by the United States of any claim by the Federated States of Micronesia or by the Marshall Islands to jurisdiction or authority over highly migratory species of fish during the time such species of fish are found outside the territorial sea of the Federated States of Micronesia or the Marshall Islands.

(2) It is the understanding of Congress that none of the monies made available pursuant to the Compact or this joint resolution will be used by either the Federated States of Micronesia or the Marshall Islands for enforcement actions against any vessel of the United States on the basis of fishing by any such vessel for highly migratory species of fish outside the territorial sea of the Federated States of Micronesia or the Marshall Islands, respectively, in the absence of a licensing agreement.

(3) Appropriate United States officials shall apply the policies and provisions of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and the Fishermen’s Protective Act of 1967 (22 U.S.C. 1971 et seq.) with regard to any action taken by the Federated States of Micronesia or the Marshall Islands affecting any vessel of the United States engaged in fishing for highly migratory species of fish in waters outside the territorial seas of the Federated States of Micronesia or the Marshall Islands, respectively. For the purpose of applying the provisions of section 5 of the Fishermen’s Protective Act of 1967 (22 U.S.C. 1975), monies made available to either the Federated States of Micronesia or the Marshall Islands pursuant to the provisions of the Compact or this joint resolution shall be treated as “assistance to the government of such country under the Foreign Assistance Act of 1961”. For purposes of this Act only, certification by the President in accordance with such section 5 shall be accompanied by a report to Congress on the basis for such certification, and such certification shall have no effect if by law Congress so directs prior to the expiration of 60 days during which Congress is in continuous session following the date of such certification.

(4) For the purpose of paragraphs (1) and (3) of this subsection—

(A) The term “vessel of the United States” has the same meaning as provided in the first section of the Fishermen’s Protective Act of 1967 (22 U.S.C. 1971).

(B) The terms “fishing” and “highly migratory species” have the same meanings as provided in paragraphs (10) and (14), respectively, of section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(10) and (14)).

(5)(A) It is the policy of the United States of America

(i) to negotiate and conclude with the governments of the Central, Western, and South Pacific Ocean, including the Federated States of Micronesia and the Marshall Islands, a regional licensing agreement setting forth agreed terms of access for United States tuna vessels fishing in the region; and

(ii) that such an agreement should overcome existing jurisdictional differences and provide for a mutually beneficial relationship between the United States and the Pacific Island States that will promote the development of the tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean and the economic development of the region.

(B) At such time as an agreement referred to in subparagraph (A) is submitted to the Senate for advice and consent to ratification, the Secretary of State, after consultation with the Secretary of Commerce and other interested agencies and concerned governments, shall submit to the Congress a proposed long term regional fisheries development program which may include, but not be limited to-

(i) exploration for, and stock assessment of, tuna and other fish;

(ii) improvement of harvesting techniques;

(iii) gear development;

(iv) biological resource monitoring;

(v) education and training in the field of fisheries; and

(vi) regional and direct bilateral assistance in the field of fisheries.

(g) FOREIGN LOANS.—The Congress hereby reaffirms the United States position that the United States Government is not responsible for foreign loans or debt obtained by the Governments of the Federated States of Micronesia and the Marshall Islands.

SEC. 105. SUPPLEMENTAL PROVISIONS.

(a) DOMESTIC PROGRAM REQUIREMENTS.—Except as may otherwise be provided in this joint resolution, all United States Federal programs and services extended to or operated in the Federated States of Micronesia or the Marshall Islands are and shall remain subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs when operating in the United States (including its territories and commonwealths).

(b) RELATIONSWITHTHEFEDERATEDSTATESOFMICRONESIA AND THE MARSHALL ISLANDS.—

(1) The United States representatives to the Federated States of Micronesia and the Republic of the Marshall Islands pursuant to Article V of title I of the Compact shall be appointed by the President with the advice and consent of the Senate, and shall be under the supervision of the Secretary of State, who shall have responsibility for government to government relations between the United States and the Government with respect to whom they are appointed, consistent with the authority of the Secretary of the Interior as set forth in this section.

(2) Appropriations made pursuant to the Compact or any other provision of this joint resolution may be made only to the Secretary of the Interior, who shall coordinate and monitor any program or activity provided to the Federated States of Micronesia or the Republic of the Marshall Islands by departments and agencies of the Government of the United States and related economic development planning pursuant to the Compact or pursuant to any other authorization except for the provisions of sections 161(e), 313, and 351 of the Compact and the authorization of the President to agree to an effective date pursuant to this resolution. Funds appropriated to the Secretary of the Interior pursuant to this paragraph shall not be allocated to other Departments or agencies.

(3) All programs and services provided to the Federated States of Micronesia and the Republic of the Marshall Islands by Federal agencies may be provided only after consultation with and under the

supervision of the Secretary of the Interior, and the head of each Federal agency is directed to cooperate with the Secretary of the Interior and to make such personnel and services available as the Secretary of the Interior may request.

(4) Any United States Government personnel assigned, on a temporary or permanent basis, to either the Federated States of Micronesia or the Marshall Islands shall, during the period of such assignment, be subject to the supervision of the United States representative to that area.

(5) The President is hereby authorized to appoint an Interagency Group on Freely Associated States' Affairs to provide policy guidance to federal departments and agencies. Such interagency group shall include the Secretary of the Interior and the Secretary of State.

(c) CONTINUING TRUST TERRITORY AUTHORIZATION.—The authorization provided by the Act of June 30, 1954, as amended (68 Stat. 330) shall remain available after the effective date of the Compact with respect to the Federated States of Micronesia and the Marshall Islands for the following purposes:

(1) Prior to October 1, 1986, for any purpose authorized by the Compact or this joint resolution.

(2) Transition purposes, including but not limited to, completion of projects and fulfillment of commitments or obligations; termination of the Trust Territory Government and termination of the High Court; health and education as a result of exceptional circumstances; ex gratia contributions for the populations of Bikini, Enewetak, Rongelap, and Utrik; and technical assistance and training in financial management, program administration, and maintenance of infrastructure.

(d) MEDICAL REFERRAL DEBTS.—

(1) FEDERATED STATES OF MICRONESIA.—In addition to the funds provided in Title Two, Article II, section 221(b) of the Compact, following approval of the Compact with respect to the Federated States of Micronesia, the United States shall make available to the Government of the Federated States of Micronesia such sums as may be necessary for the payment of the obligations incurred for the use of medical facilities in the United States, including any territories and commonwealths, by citizens of the Federated States of Micronesia before September 1, 1985.

(2) MARSHALL ISLANDS.—In addition to the funds provided in Title Two, Article II, section 221(b) of the Compact, following approval of the Compact with respect to the Marshall Islands, the United States shall make available to the Government of the Marshall Islands such sums as may be necessary for the payment of the obligations incurred for the use of medical facilities in the United States, its territories and commonwealths by citizens of the Marshall Islands before September 1, 1985.

(3) USE OF FUNDS.—In making funds available pursuant to this subsection, the President shall take such actions as he deems necessary to assure that the funds are used only for the payment of the medical expenses described in paragraph (1) or (2) of this subsection, as the case may be.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(e) SURVIVABILITY.—In furtherance of the provisions of Title Four, Article V, sections 452 and 453 of the Compact, any provisions of the Compact which remain effective after the termination of the Compact by the act of any party thereto and which are affected in any manner by provisions of this title shall remain subject to such provisions.

(f) REGISTRATION FOR AGENTS OF MICRONESIAN GOVERNMENTS.—

(1) IN GENERAL.—Notwithstanding the provisions of Title One, Article V, section 153 of the Compact, after approval of the Compact any citizen of the United States who, without authority of the United States, acts as the agent of the Government of the Marshall Islands or the Federated States of Micronesia with regard to matters specified in the provisions of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611 et seq.) that apply with respect to an agent of a foreign principal shall be subject to the requirements of such Act. Failure to comply with such requirements shall subject such citizen to the same penalties and provisions of law as apply in the case of the failure of such an agent of a foreign principal to comply with such requirements. For purposes of the Foreign Agents Registration Act of 1938, the Federated States of Micronesia and the Marshall Islands shall be considered to be foreign countries.

(2) EXCEPTION.—Paragraph (1) of this subsection shall not apply to a citizen of the United States employed by either the Government

of the Marshall Islands or the Government of the Federated States of Micronesia with respect to whom the employing Government from time to time certifies to the Government of the United States that such citizen is an employee of the Government of the Marshall Islands or the Government of the Federated States of Micronesia (as the case may be) whose principal duties are other than those matters specified in the Foreign Agents Registration Act of 1938, as amended, that apply with respect to an agent of a foreign principal. The agency or officer of the United States receiving such certifications shall cause them to be filed with the Attorney General, who shall maintain a publicly available list of the persons so certified.

(3) RESIDENT REPRESENTATIVE EXCEPTION.—Nothing in this subsection shall be construed as amending Section 152(b) of the Compact.

(g) NONCOMPLIANCE SANCTIONS.—

(1) AUTHORITY OF PRESIDENT.—The President of the United States shall have no authority to suspend or withhold payments or assistance with respect to-

(A) section 177, 213, 216(a)(2), 216(a)(3), 221(b), or 223 of the Compact, or

(B) any agreements made pursuant to such sections of the Compact, unless such suspension or withholding is imposed as a sanction due to noncompliance by the Government of the Federated States of Micronesia or the Government of the Marshall Islands (as the case may be) with the obligations and requirements of such sections of the Compact or such agreements.

(2) ACTIONS INCOMPATIBLE WITH UNITED STATES AUTHORITY.—The Congress expresses its understanding that the Governments of the Federated States of Micronesia and the Marshall Islands will not act in a manner incompatible with the authority and responsibility of the United States for security and defense matters in or related to the Federated States of Micronesia or the Marshall Islands pursuant to the Compact, including the agreements referred to in sections 462(j) and 462(k) thereof. The Congress further expresses its intention that any such act on the part of either such Government will be viewed by the United States as a material breach of the Compact. The Government of the United States reserves the right in the event of such a material breach of the Compact by the Government of the Federated States of Micronesia or the Government of the Marshall

Islands to take action, including (but not limited to) the suspension in whole or in part of the obligations of the Government of the United States to that Government.

(h) CONTINUING PROGRAMS AND LAWS.—

(1) FEDERATED STATES OF MICRONESIA AND MARSHALL ISLANDS.—In addition to the programs and services set forth in section 221 of the Compact, and pursuant to section 224 of the Compact, the programs and services of the following agencies shall be made available to the Federated States of Micronesia and to the Marshall Islands:

(A) the Legal Services Corporation;

(B) the Public Health Service; and

(C) the Farmers Home Administration (in the Marshall Islands and each of the four States of the Federated States of Micronesia: *Provided*, that in lieu of continuation of the program in the Federated States of Micronesia, the President may agree to transfer to the Government of the Federated States of Micronesia without cost, the portfolio of the Farmers Home Loan Administration applicable to the Federated States of Micronesia and provide such technical assistance in management of the portfolio as may be requested by the Federated States of Micronesia).

(2) PALAU.—Upon the effective date of the Compact, the laws of the United States generally applicable to the Trust Territory of the Pacific Islands shall continue to apply to the Republic of Palau and the Republic of Palau shall be eligible for such proportion of Federal assistance as it would otherwise have been eligible to receive under such laws prior to the effective date of the Compact, as provided in appropriation Acts or other Acts of Congress.

(3) SECTION 219 DETERMINATION.—The determination by the Government of the United States under section 219 of the Compact shall be as provided in appropriation Acts.

(4) TORT CLAIMS.—(A) At such time as the Trusteeship Agreement ceases to apply to either the Federated States of Micronesia or the Marshall Islands, the provisions of Section 178 of the Compact regarding settlement and payment of tort claims shall apply to employees of any federal agency of the Government of the United States which provides any service or carries out any other function

pursuant to or in furtherance of any provisions of the Compact or this Act, except for provisions of Title Three of the Compact and of the subsidiary agreements related to such Title, in such area to which such Agreement formerly applied. For purposes of this subparagraph (B), persons providing such service or carrying out such function pursuant to a contract with a federal agency shall be deemed to be an employee of the contracting federal agency.

(B) For purposes of the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), persons providing services to the people of the atolls of Bikini, Enewetak, Rongelap, and Utrik as described in Public Law 95-134 and Public Law 96-205 pursuant to a contract with a Department or agency of the federal government shall be deemed to be an employee of the contracting Department or agency working in the United States. This subparagraph (B) shall expire when the Trusteeship Agreement is terminated with respect to the Marshall Islands.

(i) COLLEGE OF MICRONESIA; EDUCATION PROGRAMS.—

(1) COLLEGE OF MICRONESIA.—Notwithstanding any other provision of law, all funds which as of the date of the enactment of this joint resolution were appropriated for the use of the College of Micronesia System shall remain available for use by such college until expended. Until otherwise provided by Act of Congress, or until termination of the Compact, such college shall retain its status as a land-grant institution and its eligibility for all benefits and programs available to such land-grant institutions.

(2) FEDERAL EDUCATION PROGRAMS.—Pursuant to section 224 of the Compact and upon the request of the affected Government, any Federal program providing financial assistance for education which, as of January 1, 1985, was providing financial assistance for education to the Federated States of Micronesia or the Marshall Islands or to any institution, agency, organization, or permanent resident thereof, including the College of Micronesia System, shall continue to provide such assistance to such institutions, agencies, organizations, and residents as follows:

(A) For the fiscal year in which the Compact becomes effective, not to exceed \$13,000,000;

(B) For the fiscal year beginning after the end of the fiscal year in which the Compact becomes effective, not to exceed \$8,700,000; and

(C) For the fiscal year immediately following the fiscal year described in subparagraph (B), not to exceed \$4,300,000.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as are necessary for purposes of this subsection.

(j) TRUST TERRITORY DEBTS TO U.S. FEDERAL AGENCIES.—Neither the Government of the Federated States of Micronesia nor the Government of the Marshall Islands shall be required to pay to any department, agency, independent agency, office, or instrumentality of the United States any amounts owed to such department, agency, independent agency, office, or instrumentality by the Government of the Trust Territory of the Pacific Islands as of the effective date of the Compact. There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

(k) USE OF DOD MEDICAL FACILITIES.—Following approval of the Compact, the Secretary of Defense shall make available the medical facilities of the Department of Defense for use by citizens of the Federated States of Micronesia and the Marshall Islands who are properly referred to such facilities by government authorities responsible for provision of medical services in the Federated States of Micronesia and the Marshall Islands. The Secretary of Defense is hereby authorized to cooperate with such authorities in order to permit use of such medical facilities for persons properly referred by such authorities. The Secretary of Health and Human Services is hereby authorized and directed to continue to make the services of the National Health Service Corps available to the residents of the Federated States of Micronesia and the Marshall Islands to the same extent and for so long as such services are authorized to be provided to persons residing in any other areas within or outside the United States.

(1) TECHNICAL ASSISTANCE.—Technical assistance may be provided pursuant to section 226 of the Compact by Federal agencies and institutions of the Government of the United States to the extent such assistance may be provided to States, territories, or units of local government. Such assistance by the Forest Service, the Soil Conservation Service, the Fish and Wildlife Service, the National Marine Fisheries Service, the United States Coast Guard, and the Advisory Council on Historic Preservation, the Department of the Interior, and other agencies providing assistance under the National Historic Preservation Act (80 Stat. 915; 16 U.S.C. 470-470t), shall be on a nonreimbursable basis. During the period the Compact is in effect, the grant programs under the National Historic Preservation Act shall continue to apply to the

Federated States of Micronesia and the Marshall Islands in the same manner and to the same extent as prior to the approval of the Compact. Funds provided pursuant to sections 102(a), 103(a), 103(c), 103(h), 103(i), 1030, 103(l), 105(c), 105(i), 105(j), 105(k), 105(l), 105(m), 105(n), and 105(o) of this joint resolution shall be in addition to and not charged against any amounts to be paid to either the Federated States of Micronesia or the Marshall Islands pursuant to the Compact or the subsidiary agreements.

(m) PRIOR SERVICE BENEFITS PROGRAM.—Notwithstanding any other provision of law, persons who on January 1, 1985, were eligible to receive payment under the Prior Service Benefits Program established within the Social Security System of the Trust Territory of the Pacific Islands because of their services performed for the United States Navy or the Government of the Trust Territory of the Pacific Islands prior to July 1, 1968, shall continue to receive such payments on and after the effective date of the Compact.

(n) INDEFINITE LAND USE PAYMENTS.—There are authorized to be appropriated such sums as may be necessary to complete repayment by the United States of any debts owed for the use of various islands in the Federated States of Micronesia and the Marshall Islands prior to January 1, 1985.

(o) COMMUNICABLE DISEASE CONTROL PROGRAM.—There are authorized to be appropriated for grants to the Government of the Federated States of Micronesia such sums as may be necessary for purposes of establishing or continuing programs for the control and prevention of communicable diseases, including (but not limited to) cholera and Hansen’s Disease. The Secretary of the Interior shall assist the Government of the Federated States of Micronesia in designing and implementing such a program.

(p) TRUST FUNDS.—The responsibilities of the United States with regard to implementation of section 235 of the Compact shall be discharged by the Secretary of the Interior, who shall consult with the Government of the Marshall Islands and the designated beneficiaries of the funds held in trust by the High Commissioner of the Trust Territory of the Pacific Islands.

(q) ANNUAL REPORTS ON DETERMINATIONS UNDER COMPACT SECTION 313.—The President shall report annually to the Congress on determinations made by the United States in the exercise of its authority under section 313 of the Compact. Each such report shall describe the following, on a classified basis if necessary:

(1) The actions that the Government of the Federated States of Micronesia or the Government of the Marshall Islands were required to refrain from pursuant to the determinations of the United States.

(2) The justification for each determination by the United States, and the position of the other Government concerned with respect to such determination.

(3) The effect of the determination on the authority and responsibility of the other government to conduct foreign affairs in accordance with section 121 of the Compact.

(4) Any domestic effect in the Federated States of Micronesia or the Marshall Islands resulting from the determination, including any restriction on the civil and political rights of the citizens thereof.

(r) USER FEES.—Any person in the Federated States of Micronesia or the Marshall Islands shall be liable for user fees, if any, for services provided in the Federated States of Micronesia or the Marshall Islands by the Government of the United States to the same extent as any person in the United States would be liable for fees, if any, for such services in the United States.

SEC. 106. CONSTRUCTION CONTRACT ASSISTANCE.

(a) ASSISTANCE TO U.S. FIRMS.—In order to assist the Governments of the Federated States of Micronesia and of the Marshall Islands through private sector firms which may be awarded contracts for construction or major repair of capital infrastructure within the Federated States of Micronesia or the Republic of the Marshall Islands, the President shall consult with the Governments of the Federated States of Micronesia and the Marshall Islands with respect to any such contracts, and the President shall enter into agreements with such firms whereby such firms will, consistent with applicable requirements of such Governments-

(1) to the maximum extent possible, employ citizens of the Federated States of Micronesia and the Marshall Islands;

(2) to the extent that necessary skills are not possessed by citizens of the Federated States of Micronesia and the Marshall Islands, provide on the job training, with particular emphasis on the development of skills relating to operation of machinery and routine and preventative maintenance of machinery and other facilities; and

(3) provide specific training or other assistance in order to enable

the Government to engage in long-term maintenance of infrastructure.

Assistance by such firms pursuant to this section may not exceed 20 percent of the amount of the contract and shall be made available only to such firms which meet the definition of United States firm under the nationality rule for suppliers of services of the Agency for International Development (hereafter in this section referred to as “United States firms”). There are authorized to be appropriated such sums as may be necessary for the purposes of this subsection.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to cover any additional costs incurred by the Government of the Federated States of Micronesia or the Republic of the Marshall Islands if such Governments, pursuant to an agreement entered into with the United States, apply a preference on the award of contracts to United States firms, provided that the amount of such preference does not exceed 10 percent of the amount of the lowest qualified bid from a non-United States firm for such contract.

SEC. 107. LIMITATIONS.

(a) PROHIBITION.—The provisions of Chapter 11 of title 18, United States Code, shall apply in full to any individual who has served as the President’s Personal Representative for Micronesian Status Negotiations or who is or was an officer or employee of the Office for Micronesian Status Negotiations or who is or was assigned or detailed to that Office or who served on the Micronesia Interagency Group, except that for the purposes of this section, clauses (i) and (ii) of section 207(b) of such title shall read as follows: “(i) having been so employed, within three years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within three years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before-”.

(b) TERMINATION.—Effective upon the date of the termination of the Trust Territory of the Pacific Islands with respect to Palau, the Office for Micronesian Status Negotiations is abolished and no department, agency, or instrumentality of the United States shall thereafter contribute

funds for the support of such Office.

SEC. 108. TRANSITIONAL IMMIGRATION RULES.

(a) CITIZEN OF NORTHERN MARIANA ISLANDS.—Any person who is a citizen of the Northern Mariana Islands, as that term is defined in section 24(b) of the Act of December 8, 1983 (97 Stat. 1465), is considered a citizen of the United States for purposes of entry into, permanent residence, and employment in the United States and its territories and possessions.

(b) TERMINATION.—The provisions of this section shall cease to be effective when section 301 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States (Public Law 94-241) becomes effective pursuant to section 1003(c) of the Covenant.

SEC. 109. TIMING.

No payment may be made pursuant to the Compact nor under any provision of this joint resolution prior to October 1, 1985.

SEC. 110. IMPLEMENTATION OF AUDIT AGREEMENTS.

(a) TRANSMISSION OF ANNUAL FINANCIAL STATEMENT.—Upon receipt of the annual financial statement described in sections 102(c)(4) and 103(m)(4), the President shall promptly transmit a copy of such statement to the Congress.

(b) ANNUAL AUDITS BY THE PRESIDENT.—(1) The President shall cause an annual audit to be conducted of the annual financial statements described in sections 102(c)(4) and 103(m)(4). Such audit shall be conducted in accordance with the Generally Accepted Government Auditing Standards promulgated by the Comptroller General of the United States. Such audit shall be submitted to the Congress not later than 180 days after the end of the United States fiscal year.

(2) The President shall develop and implement procedures to carry out such audits. Such procedures shall include the matters described in sections 102(c)(2) and 103(m)(2) of this title.

(c) AUTHORITY OF GAO.—The Comptroller General of the United States shall have the authority to conduct the audits referred to in sections 102(c)(1) and 103(m)(1) of this title.

SEC. 111. COMPENSATORY ADJUSTMENTS.

(a) **ADDITIONAL PROGRAMS AND SERVICES.**—In addition to the programs and services set forth in Section 221 of the Compact, and pursuant to Section 224 of the Compact, the services and programs of the following U.S. agencies shall be made -available to the Federated States of Micronesia and the Marshall Islands: The Federal Deposit Insurance Corporation, Small Business Administration, Economic Development Administration, the Rural Electrification Administration, Job Partnership Training Act, Job Corps, and the programs and services of the Department of Commerce relating to tourism and to marine resource development.

(b)(1) **INVESTMENT DEVELOPMENT FUNDS.**—In order to further close economic and commercial relations between the United States and the Federated States of Micronesia and the Marshall Islands, and in order to encourage the presence of the United States private sector in such areas, there are hereby created two Investment Development Funds, to be established and administered by the Federated States of Micronesia and the Marshall Islands respectively in consultation with the United States as follows:

(i) For the Investment Development Fund for the Federated States of Micronesia there is hereby authorized to be appropriated for fiscal 1986, \$20 million, backed by the full faith and credit of the United States, of which \$12 million shall be made available for obligation for the first full fiscal year after the effective date of the Compact, and of which \$8 million shall be made available for obligation for the third full fiscal year after the effective date of the Compact.

(ii) For the Investment Development Fund for the Marshall Islands there is hereby authorized to be appropriated \$10 million for fiscal 1986, backed by the full faith and credit of the United States, of which \$6 million for the first full fiscal year after the effective date of the Compact, and of which \$4 million shall be made available for obligation for the third full fiscal year after the effective date of the Compact.

(2) The amounts specified in subsection (b) of this section shall be in addition to the sums and amounts specified in Articles I and III of Title Two of the Compact, and shall be deemed to be included in the sums and amounts referred to in section 236 of the Compact.

(c) **BOARD OF ADVISORS.**—To provide policy guidance for the Funds established by subsection (b) of this section, the President is

hereby authorized to establish a Board of Advisors, pursuant to appropriate agreements between the United States and the Federated States of Micronesia and the Marshall Islands.

(d) **FURTHER AMOUNTS.**—The governments of the Federated States of Micronesia and the Marshall Islands may submit to Congress reports concerning the overall financial and economic impacts on such areas resulting from the effect of Title IV of this joint resolution upon Title Two of the Compact. There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, such amounts as may be necessary, but not to exceed \$40 million for the Federated States of Micronesia and \$20 million for the Marshall Islands, as provided in appropriation acts, to further compensate the governments of such islands (in addition to the compensation provided in subsections (a) and (b) of this section) for adverse impacts, if any, on the finances and economies of such areas resulting from the effect of Title IV of this joint resolution upon Title Two of the Compact. At the end of the initial fifteen-year term of the Compact, should any portion of the total amount of funds authorized in this subsection not have been appropriated, such amount not yet appropriated may be appropriated, without regard to divisions between amounts authorized in this subsection for the Federated States of Micronesia and for the Marshall Islands, based on either or both such government’s showing of such adverse impact, if any, as provided in this subsection.

TITLE II: COMPACT OF FREE ASSOCIATION

SEC. 201. COMPACT OF FREE ASSOCIATION.

The Compact of Free Association is as follows:

COMPACT OF FREE ASSOCIATION

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENTS OF 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 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.

TITLE ONE GOVERNMENTAL RELATIONS

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.

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 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 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.

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 communications 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.

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.

Article IV *Immigration*

Section 141

(a) Any person in the following categories may enter inter 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.

(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 inter 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 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.

Article V *Representation*

Section 151

Relations between the Government of the United States and the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall be conducted in accordance with the Vienna Convention on Diplomatic Relations. In addition to diplomatic missions and representation, the Governments may establish and maintain other offices and designate other representatives on terms and in locations as may be mutually agreed.¹

Section 152

Subsequently deleted by U.S. Congress.²

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.

Article VI *Environmental Protection*

Section 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

(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 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;

(e) the judicial remedy provided 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.

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 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:

(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.

(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, the Federated States of Micronesia or 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 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

(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).

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

TITLE TWO
ECONOMIC RELATIONS

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); and

(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 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 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.

(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:

(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.

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.

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 par-

ticularly 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.

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 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.

Article III *Administrative Provisions*

Section 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.

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.

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 242³

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 243⁴

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.

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; and⁵

(b) estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States.⁶

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 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.⁷ 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 255⁸

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

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.

(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.

(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.

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 mini-

imum 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.

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.

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.

(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.

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 resolutions 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.

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

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.

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 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.

Article III *Amendment*

Section 431

The provisions of this Compact may be amended as to all of 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.

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.

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.

(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.

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.

(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 require-

ment 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.

(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:

(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 Section 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 Section 321 and 323 of the Compact of Free Association.

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.

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 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 AND EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT HONOLULU, HAWAII, THIS 1ST DAY OF OCTOBER, ONE THOUSAND, NINE HUNDRED AND EIGHTY-TWO FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

DONE AT MAJURO, MARSHALL ISLANDS, THIS 25TH DAY OF JUNE, ONE THOUSAND, NINE HUNDRED AND EIGHTY-THREE FOR THE GOVERNMENT OF THE MARSHALL ISLANDS

SEC. 202. JURISDICTION.

(a) With respect to section 321 of the Compact of Free Association and its related agreements, the jurisdictional provisions set forth in subsection (b) of this section shall apply only to the citizens and nationals of the United States and aliens lawfully admitted to the United States for permanent residence who are in the Marshall Islands or the Federated States of Micronesia.

(b)(1) The defense sites of the United States established in the Marshall Islands or the Federated States of Micronesia in accordance with the Compact of Free Association and its related agreements are within the special maritime and territorial jurisdiction of the United States as set forth in section 7, title 18, United States Code.

(2) Any person referred to in subsection (a) of this section who

within or upon such defense sites is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State of Hawaii by the laws thereof, in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

(3) The United States District Court for the District of Hawaii shall have jurisdiction to try all criminal offenses against the United States, including the laws of the State of Hawaii made applicable to the defense sites in the Marshall Islands or the Federated States of Micronesia by virtue of paragraph (2) of this subsection, committed by any person referred to in subsection (a) of this section.

(4) The United States District Court for the District of Hawaii may appoint one or more magistrates for the defense sites in the Marshall Islands. Such Magistrates shall have the power and the status of Magistrates appointed pursuant to chapter 43, title 28, United States Code, provided, however that such Magistrates 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 Code, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18, United States Code.

TITLE III—PACIFIC POLICY REPORTS

SEC. 301. FINDINGS.

The Congress finds that -

(1) the United States does not have a clearly defined policy for United States noncontiguous Pacific areas (including the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the State of Hawaii, and the State of Alaska) and for United States-associated noncontiguous Pacific areas (including the Federated States of Micronesia, the Marshall Islands, and Palau);

(2) the Federal Government has often failed to consider the implications for, effects on, and potential of noncontiguous Pacific areas in the formulation and conduct of foreign and domestic policy, to the detriment of both the attainment of the objectives of Federal policy and noncontiguous Pacific areas;

(3) policies and programs designed for the United States as a whole may impose inappropriate standards on noncontiguous Pacific areas because of their unique circumstances and needs; and

(4) the present Federal organizational arrangements for liaison with (and providing assistance to) the insular areas may not be adequate -

(A) to coordinate the delivery of Federal programs and services to noncontiguous Pacific areas;

(B) to provide a consistent basis for administration of programs;

(C) to adapt policy to the special requirements of each area and modify the application of Federal programs, laws, and regulations accordingly;

(D) to be responsive to the Congress in the discharge of its responsibilities; and

(E) to attain the international obligations of the United States.

SEC. 302. REPORTS.

(a) SUBMISSION.—Not later than one year after the date of the enactment of this joint resolution and each five years thereafter, the Secretary of the Interior, in consultation with the Secretary of State, shall submit to the Congress and the President a report on United States noncontiguous Pacific areas policy together with such recommendations as may be necessary to accomplish the objectives of such policy.

(b) CONTENT.—The reports required in subsection (a) of this section shall set forth clearly defined policies regarding United States, and United States associated, noncontiguous Pacific areas, including -

(1) the role of and impacts on the noncontiguous Pacific areas in the formulation and conduct of foreign policy;

(2) the applicability of standards contained in Federal laws, regulations, and programs to the noncontiguous Pacific areas and any modifications which may be necessary to achieve the intent of such laws, regulations, and programs consistent with the unique character of the noncontiguous Pacific areas;

(3) the effectiveness of the Federal executive organizational arrangements for -

(A) providing liaison between the Federal Government and the governments of the noncontiguous Pacific areas;

(B) coordinating Federal actions in a manner which recognizes the unique circumstances and needs of the noncontiguous Pacific areas; and

(C) achieving the objective of Federal policy and ensuring that the Congress receives the information necessary to discharge its responsibilities; and

(4) actions which may be needed to facilitate the economic and social health and development of the noncontiguous Pacific areas, consistent with their self-determined objectives.

SEC. 303. CONFERENCE.

(a) MEETING.—Prior to submitting the reports required under section 302(b), the Secretary of the Interior, in consultation with the Secretary of State, shall convene a conference to obtain the views of the noncontiguous Pacific areas on the matters required to be addressed in such reports.

(b) PARTICIPANTS.—Representatives of each of the noncontiguous Pacific areas; and the heads of all executive departments and agencies, and other public and private organizations concerned with the noncontiguous Pacific areas as requested by the Secretary of the Interior shall be entitled to be participants in the conference.

(c) WRITTEN COMMENTS.—The Secretary of the Interior shall afford participants in the conference an opportunity to submit written comments for inclusion in the reports required under section 302.

SEC. 304. ADMINISTRATIVE MATTERS.

(a) ADMINISTRATIVE SUPPORT.—The Secretary of the Interior shall provide all necessary administrative support to accomplish the requirements of sections 302 and 303.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—CLARIFICATION OF CERTAIN TRADE AND TAX PROVISIONS OF THE COMPACT

SEC. 401. FREELY ASSOCIATED STATES TARIFF TREATMENT.

(a) SECTION 242.—Section 242 of the Compact shall be construed and applied as if it read as follows:

“Section 242

“The President shall proclaim the following tariff treatment for articles imported from the Federated States of Micronesia or the Marshall Islands which shall apply during the period of effectiveness of this title:

“(1) Unless otherwise excluded, articles imported from the Federated States of Micronesia or the Marshall Islands, subject to the limitations imposed under sections 503(b) and 504(c) of title 5 of the Trade Act of 1974 (19 U.S.C. 2463(b); 2464(c)), shall be exempt from duty.

“(2) Only canned tuna provided for in item 112.30 of the Tariff Schedules of the United States that is imported from the Federated States of Micronesia and the Marshall Islands during any calendar year not to exceed 10 percent of the United States consumption of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty free treatment under this paragraph for any calendar year shall be counted against the aggregate quantity of canned tuna that is dutiable under rate column numbered 1 of such item 112.30 for that calendar year.

“(3) The duty-free treatment provided under paragraph (1) shall not apply to -

“(A) watches, clocks, and timing apparatus provided for in subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States;

“(B) buttons (whether finished or not finished) provided for in item 745.32 of such Schedules;

“(C) textile and apparel articles which are subject to textile agreements; and

“(D) footwear, handbags, luggage, flat goods, work gloves, and

leather wearing apparel which were not eligible articles for purposes of chapter V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

“(4) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of the Federated States of Micronesia or the Marshall Islands, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(b)(2) of title V of the Trade Act of 1974.”

(b) SECTION 243.—Section 243 of the Compact shall be construed and applied as if it read as follows:

“Section 243

“Articles imported from the Federated States of Micronesia or the Marshall Islands which are not exempt from duty under paragraphs (1), (2), (3), and (4) of section 242 shall be subject to the rates of duty set forth in column numbered I of the Tariff Schedules of the United States and all products of the United States imported into the Federated States of Micronesia or the Marshall Islands 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.”

SEC. 402. CONSTRUCTION OF SECTION 253 OF THE COMPACT.

(a) Subsection (a) of section 253 of the Compact shall not apply.

(b) Subsection (b) of section 253 of the Compact shall apply only to individuals who are nonresidents and not citizens of the United States.

SEC. 403. CONSTRUCTION OF SECTION 254 OF THE COMPACT.

The relief from liability referred to in the second sentence of section 254(a) of the Compact means only -

(1) relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and

(2) relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1954.

SEC. 404. CONSTRUCTION OF SECTION 255 OF THE COMPACT.

Section 255 of the Compact shall be construed and applied as if it read as follows:

“Section 255

“(a) EXTENSION OF SECTION 936 TO THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA.—For purposes of section 936 of the Internal Revenue Code of 1954, the Marshall Islands and the Federated States of Micronesia shall be treated as if they were possessions of the United States.

“(b) EXCHANGE OF INFORMATION.—Subsection (a) shall not apply to the Marshall Islands and the Federated States of Micronesia (as the case may be) for any period after December 31, 1986, during which there is not in effect between the appropriate government and the United States an exchange of information agreement of the kind described in section 274(h)(6)(C) (other than clause (ii) thereof) of the Internal Revenue Code of 1954.”

“(C) PROCEDURE IF SECTION 936 INCENTIVES REDUCED.—If the tax incentives extended to the Marshall Islands and the Federated States of Micronesia under subsection (a) are, at any time during which the Compact is in effect, reduced, the Secretary of the Treasury shall negotiate an agreement with the Marshall Islands and the Federated States of Micronesia under which, when such agreement is approved by law, they will be provided with benefits substantially equivalent to such reduction in benefits. If, within the 1 year period after the date of the enactment of the Act making the reduction in benefits, an agreement negotiated under the preceding sentence is not approved by law, the matter shall be submitted to the Arbitration Board established pursuant to section 424 of the Compact. For purposes of Article V of Title Two of the Compact, the Secretary of the Treasury or his delegate shall be the member of such Board representing the Government of the United States. Any decision of such Board in the matter when approved by law shall be binding on the United States, except that such decision rendered is binding only as to whether the United States has provided the substantially equivalent benefits referred to in this subsection.”

SEC. 405. THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA TREATED AS NORTH AMERICAN AREA.

For purposes of section 274(h)(3)(A) of the Internal Revenue Code of 1954, the term “North American Area” shall include the Marshall Islands and the Federated States of Micronesia.

SEC. 406. EFFECTIVE DATE.

This title shall apply to income earned, and transactions occurring, after September 30, 1985, in taxable years ending after such date.

SEC. 407. STUDY OF TAX PROVISIONS.

The Secretary of the Treasury or his delegate -

(1) shall conduct a study of the effects of the tax provisions of the Compact (as clarified by the foregoing provisions of this title), and

(2) shall report the results of such study before October 1, 1987, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 408. COORDINATION WITH OTHER PROVISIONS.

Nothing in any provision of this joint resolution (other than this title) which is inconsistent with any provision of this title shall have any force or effect.

TITLE V-COMPACT OF FREE ASSOCIATION WITH PALAU

SEC. 501. APPROVAL IN PRINCIPLE.

(a) Subject to subsection (b) of this section, Congress expresses its approval in principle of the Compact of Free Association Between the Government of the United States of America and the Government of the Republic of Palau, the text of which was printed in the Congressional Record of November 14, 1985 on pages S15622 through S15628, inclusive, and which is also printed as Committee Print No. 4 of the Committee on Interior and Insular Affairs of the House of Representatives of the 99th Congress.

(b) A Compact with Palau after it is transmitted to Congress by the President shall take effect only upon -

(1) a certification by the President to the Congress that the Republic of Palau has approved a Compact in accordance with section 411 of the Compact described in subsection (a) and that the President has determined that the United States will be able to carry out fully its rights and responsibilities under Title Three of the Compact described in subsection (a) and the subsidiary agreements thereto; and

(2) enactment by the Congress of a joint resolution approving a compact and providing for its implementation.

SEC. 502. MODIFICATIONS OF COMPACT.

Title IV and Sections 105(b), 105(c), 105(h)(1), 105(l), and 202 of this joint resolution shall apply to a compact with Palau, except that any reference in such sections to the Compact shall be treated as referring to the Compact described in section 501 of this joint resolution, and any reference in such Title and sections to the Federated States of Micronesia or the Marshall Islands shall be treated as referring to the Republic of Palau. For purposes of applying section 242(2) of the Compact, the annual 10 percent limitation on duty-free imports of canned tuna applies to imports from the Federated States of Micronesia, the Marshall Islands, and the Republic of Palau.

Approved January 14, 1986.

LEGISLATIVE HISTORY-H.J. Res. 187 (S.J. Res. 77):

HOUSE REPORTS: No. 99-188, Pt. I (Comm. on Foreign Affairs), Pt. II (Comm. on Interior and Insular Affairs), Pt. III (Comm. on Merchant Marine and Fisheries), and Pt. IV (Comm. on Ways and Means).

SENATE REPORT No. 99-16, accompanying S.J. Res. 77 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 131 (1985):

July 25, considered and passed House.

Oct. 2, Nov. 14, S.J. Res. 77, considered in Senate.

Nov. 14, H.J. Res. 187, considered and passed Senate, amended, in lieu of S.J. Res. 77.

Dec. 11, House agreed to Senate amendments with an amendment.

Dec. 13, Senate concurred in House amendment.

**Agreement Between the Government of the United States and the
Government of the Federated States of Micronesia Regarding Mutual
Assistance in Law Enforcement Matters**

This agreement is concluded pursuant to Section 175 of the Compact
of Free Association.

Article I
Law Enforcement Assistance

Section 1

The law enforcement agencies of the United States and the Federated States of Micronesia shall assist one another, as mutually agreed, in the prevention and investigation of crimes and the enforcement of the laws of the United States and the Federated States of Micronesia specified in Section 3 of this Article. The United States and the Federated States of Micronesia will authorize mutual assistance with respect to investigations, inquiries, audits and related activities by the law enforcement agencies of both Governments in the United States and the Federated States of Micronesia. In conducting activities authorized in accordance with this Agreement, the United States and the Federated States of Micronesia will act in accordance with the constitution and laws of the jurisdiction in which such activities are conducted.

Section 2

The United States and the Federated States of Micronesia will take all reasonable and necessary steps, as mutually agreed, based upon consultations in which the Attorney General or other designated official of each Government participates, to prevent the use of the lands, waters, and facilities of the United States or the Federated States of Micronesia for the purposes of cultivation of, production of, smuggling of, trafficking in, and abuse of any controlled substance as defined in section 102(6) of the United States Controlled Substances Act and Schedules I through V of Subchapter II of the Controlled Substances Act of the Federated States of Micronesia, or for the distribution of any such substance to or from the Federated States of Micronesia or to or from the United States or any of its territories or commonwealths.

Section 3

Assistance provided pursuant to this agreement shall also extend to, but not be limited to, prevention and prosecution of violations of the laws of the United States and the laws of the Federated States of

Micronesia related to terrorism, espionage, racketeer influenced and corrupt organizations, and financial transactions which advance the interests of any person engaging in unlawful activities, as well as the schedule of offenses set forth in Appendix A of the subsidiary agreement to Section 175 of the Compact.

Section 4

The Government of the United States and the Government of the Federated States of Micronesia agree that the law enforcement personnel of the United States may be present during direct police arrest actions in the Federated States of Micronesia related to narcotic control efforts, and that law enforcement personnel of the Federated States of Micronesia may be present during direct police arrest actions in the United States related to narcotic control efforts, as authorized on a case-by-case basis by the Attorney General or other designated representative of the Government of the jurisdiction in which such direct police arrest action is taken.

Section 5

Pursuant to Section 224 and 226 of the Compact, the United States shall provide non-reimbursable technical and training assistance as appropriate, including training and equipment for postal inspection of illicit drugs and other contraband, to enable the Government of the Federated States of Micronesia to develop and adequately enforce the laws of the Federated States of Micronesia and to cooperate with the United States in the enforcement of criminal laws of the United States.

Article II

Effective Date, Amendment and Duration

Section 1

This Agreement shall come into effect in accordance with the Compact of Free Association and applicable laws and procedures of the United States and the Federated States of Micronesia, but not prior to the effective date of the Compact.

Section 2

This Agreement may be amended at any time by the mutual consent of the Government of the United States and the Government of the Federated States of Micronesia.

Section 3

Upon acceptance by the United States Secretary of State, Section 4 of Article I of this Agreement shall constitute the exemption required by 22 U.S.C. 2291(c)(2).

Section 4

This Agreement shall remain in effect for a term coincident with Section 175 of the Compact and thereafter as mutually agreed by the Government of the United States and the Government of the Federated States of Micronesia.

IN WITNESS THEREOF, the undersigned, duly authorized, have signed this Agreement Regarding Mutual Assistance in Law Enforcement Matters which shall come into effect in accordance with its terms between the Government of the United States and the other Government signatory to this Agreement.

DONE AT HONOLULU, HAWAII this 25th day of APRIL, one thousand nine hundred eighty-six FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT HONOLULU, HAWAII this 25th day of APRIL, one thousand nine hundred eighty-six FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association Between the Government of the United States and the Government of the Federated States of Micronesia

This Agreement is entered into by the Government of the United States and the Government of the Federated States of Micronesia in recognition of their mutual desire to fulfill their obligations and responsibilities under the Compact of Free Association and its related agreements, particularly with respect to implementation of the economic assistance and United States programs and services provisions set forth in Title Two of the Compact of Free Association and in United States Public Law 99-239. The purpose of this Agreement is to record the procedures which are most efficient, economical and beneficial to the discharge of the obligations and responsibilities of each government. The Government of the United States and the Government of the Federated States of Micronesia intend that this Agreement be construed and implemented in a manner consistent with the Compact.

Article I
Definition of Terms

1. Except as otherwise provided in this Agreement, the Definition of Terms set forth in Section 461 of the Compact is incorporated in full in this Agreement.

2. For the purposes of this Agreement, the following terms shall have the following meanings:

(a) “Current Account” means the current account funding defined in Section 461(k) of the Compact and as further defined and described in this Agreement.

(b) “Capital Account” means the capital account funding defined in Section 461(j) of the Compact and as further defined and described in this Agreement.

(c) “Adjustment Account” means funds provided to the Government of the Federated States of Micronesia pursuant to Section 217 of the Compact.

(d) “Federated States of Micronesia Development Authority” means an entity with juridical existence organized in accordance with the laws of the Government of the Federated States of Micronesia, subject to the control of that government at least insofar as government

accounts are concerned, subject to the provisions of the Compact and this Agreement to the extent specified in this Agreement and described, by inclusion of its organization, in the official overall economic development plan of the Federated States of Micronesia.

(e) “Gross National Product Implicit Price Deflator” means a statistic published monthly by the Council of Economic Advisors of the Government of the United States in *Economic Indicators*. It is a weighted average of the detailed price indices used in the deflation of the United States Gross National Product. In each period, it uses as weights the composition of constant dollar output in that period. Changes in the implicit price deflator reflect both changes in prices and changes in the composition of output.

(f) “Annual Report” means the written statement made every year by the Government of the Federated States of Micronesia in compliance with Section 211 of the Compact.

(g) “Audits” means financial, program and management audits, including determination as to whether the Government of the Federated States of Micronesia has met the requirements set forth in the Compact or its related agreements regarding the purposes for which grants or other assistance are to be used and determinations as to the propriety of the financial transactions of the Government of the Federated States of Micronesia with respect to such grants or assistance.

(h) “Fiscal Year” means the fiscal year of the Government of the United States commencing on the first day of October of one calendar year and ending on the thirtieth day of September of the following calendar year, or as may subsequently be provided by the laws of the United States.

(i) “Office of the Public Auditor” means the independent audit agency established and organized in accordance with the Constitution of the Federated States of Micronesia.

3. For purposes of this Agreement:

(a) Any reference to Compact grants, programs and services, or other assistance shall include grants, programs and services, and other assistance provided for in Title Two of the Compact of Free Association as well as grants, programs and services, and other assistance provided for in U.S. Public Law 99-239.

(b) The Office of the President of the Federated States of Micronesia, acting on behalf of the National and State Governments of the Federated States of Micronesia, shall be responsible for all submissions made to the Government of the United States pursuant to this Agreement.

Article II

Economic Assistance Implementation and Payment Procedures

1. Payment Procedures:

(a) After consultation with the Government of the United States, the Government of the Federated States of Micronesia shall designate a bank or commercial financial institution organized in accordance with the laws of the United States or any State of the United States, or, subject to the approval of the Government of the United States, a bank or commercial financial institution organized in accordance with the laws of the Federated States of Micronesia. The Government of the Federated States of Micronesia shall notify the Government of the United States of its designation or affirm a previous designation, at the same time it certifies to the Government of the United States its annual allocation schedule in accordance with paragraph 1(b) of this Article. The bank or commercial financial institution so designated shall receive the transfer of Compact funds from the Government of the United States for deposit into the titled and numbered account of the Government of the Federated States of Micronesia.

(b) The Government of the United States shall notify the Government of the Federated States of Micronesia not later than 180 days prior to the first day of each fiscal year of the total Compact amounts expected to be available for the fiscal year, including the first transfer of funding in the adjustment account as provided in paragraph 4(a) of Article II of this Agreement. The Government of the Federated States of Micronesia shall certify to the Government of the United States no later than 30 days prior to the first day of each fiscal year the amount of funds in the current account and the capital account requested for that fiscal year and the quarterly allocation for such funds made in accordance with paragraphs 2(c), 3(c) and 3(d) of this Article.

(c) The Government Of the United States, upon receipt of a telegraphic or written request from the Government of the Federated States of Micronesia, shall cause the transfer of current account, capital account and adjustment account funds to the account of the Government of the Federated States of Micronesia at the designated

bank or commercial financial institution. The transfer of funds shall occur in the form of cash, a United States Treasury check, electronic transfer or other appropriate method. A transfer of funds to the designated bank or commercial financial institution shall occur four times per year, on the first day of each fiscal quarter or as soon as procedurally possible thereafter, in accordance with the allocation schedule certified pursuant to paragraph 1(b) of this Article.

(d) In the event the Government of the Federated States of Micronesia does not expend or encumber the entire amount made available in any fiscal year, the Government of the Federated States of Micronesia shall retain for its account the unexpended or unencumbered portion of the funds as specified in Section 218 of the Compact, in addition to the funds to be provided in subsequent years.

(e) In the event the Government of the Federated States of Micronesia enters into a pledge and security agreement under which it grants a security interest in any Compact funds received by the Government of the Federated States of Micronesia or received by the bank or commercial financial institution so designated in Section 1(a) above for the account of the Government of the Federated States of Micronesia to a lender or lenders or such lenders' agent ("Agent") for the purpose of repaying any debt the Government of the Federated States of Micronesia may incur, the Government of the Federated States of Micronesia shall notify the Government of the United States of such security interest being granted in favor of the Agent by sending a notice to the Government of the United States signed by an authorized official together with copies of any documents which constitute the pledge and security agreement. Immediately upon receipt of such notice by the Government of the United States, the designation referred to in section 1(a) of this Article shall become irrevocable and no new designation shall be made by the Government of the Federated States of Micronesia without the written consent of the Agent. Absent such new designation and related consent of the Agent, the Government of the United States shall continue to make the transfers of Compact funds referred to in paragraph 1(c) of this Article to the currently designated bank or commercial financial institution. If such a security interest is created to facilitate the permitted uses of the capital account and current account as outlined in Section 2(d) and 3(e) of this Article, such security interest is in furtherance of the general purposes set forth in the Compact and its related agreements including this Agreement.

2. Current Account:

(a) All funding provided to the Government of the Federated States of Micronesia pursuant to the provisions of the Compact shall be processed and allocated as funding in the current account unless otherwise specified in the Compact, this Agreement or by the mutual agreement of the Government of the United States and the Government of the Federated States of Micronesia in individual cases.

(b) The total current account for the Government of the Federated States of Micronesia for any fiscal year shall be that amount so identified in the allocation schedule referred to in paragraph 1(b) of this Article. Any variance by the Government of the Federated States of Micronesia from the levels of current account funding so identified in a given fiscal year shall be described, together with rationale therefor, in the annual report of that government required by Section 211 of the Compact.

(c) For each fiscal year, all funding processed as current account funding shall be allocated on a quarterly basis, with each quarterly allocation comprising at least 20 per cent and not more than 30 per cent of the total amount of such funds for the fiscal year in question. The Government of the Federated States of Micronesia shall determine the percentage of the annual amount to be available for each quarterly allocation. The Government of the Federated States of Micronesia may revise the quarterly allocation schedule of a fiscal year at any time not less than one fiscal quarter in advance of the quarter for which the revised allocation is certified. Annual current account funding specified in Section 216(a)(3) of the Compact may be transferred in total with the first quarterly allocation and shall not be counted in the percentages referred to in this paragraph.

(d) Current account funds shall be dedicated by the Government of the Federated States of Micronesia to those uses having to do generally with the operation of the government and of government-sponsored programs. These uses shall include, but shall not be limited to, the payment of personnel for services rendered to the government, the purchase of goods and services, the rental, lease or time-limited use of goods and services, the operation and maintenance of government structures, buildings and facilities, including public works facilities, the payment of judgments and settlements, and the payment of principal, interest and premium, if any, on debts incurred in whole or in part for the uses referred to in this subparagraph or for the refunding, repayment or retirement of any debts previously incurred in whole or in part for such uses, including charges, expenses, fees

or penalties incurred in connection with the refunding, retirement or repayment of such indebtedness or the reserve requirements necessary to refinance such indebtedness.

(e) The Government of the Federated States of Micronesia shall dedicate the funding specified in Sections 212, 213(b), 214, 215, 216 and 221(b) of the Compact and designated as current account funding to the uses described in paragraph 2(d) of this Article provided they are expended or encumbered in furtherance of the general purposes set forth in the Compact and its related agreements.

(f) The programs and services provided by the Government of the United States in accordance with the Compact shall be provided directly to the Government of the Federated States of Micronesia by the Government of the United States and shall be provided subject to all criteria, standards, reporting requirements, auditing procedures and other rules and regulations applicable to such services and programs operating in the United States and its territories.

For purpose of such programs and services, the Government of the Federated States of Micronesia shall be treated as if it were a state or local government of the United States with respect to letters of credit, advances, reimbursements and draw-downs, except as otherwise mutually agreed.

3. Capital Account:

(a) The capital account for any fiscal year shall consist of those amounts provided pursuant to Section 211 of the Compact, and such other amounts, which are designated as funds in the capital account in the allocation schedule submitted in accordance with paragraph 1(b) of this Article.

(b) The Government of the Federated States of Micronesia may transfer any portion of annual capital account funds to the Federated States of Micronesia development authority. Such transfer shall occur at the beginning of the fiscal quarter in which the funds are received. Funds so transferred are to be used for the purposes specified in paragraph 3(e) of this Article. If such amounts are not so expended or encumbered within twelve months after the date of their initial transfer to the Federated States of Micronesia development authority, the reasons for any deferral in the use of such funds shall be described in the next annual report required by Section 211 of the Compact.

(c) For each fiscal year, funding in the capital account that is to be

obligated by the Government of the Federated States of Micronesia to the Federated States of Micronesia development authority shall be available in total for transfer by the Government of the United States on the first day of the first quarter of the fiscal year in question, or as soon as procedurally possible thereafter. Capital account funding not so obligated for a given fiscal year shall be allocated on a quarterly basis, with a percentage of at least 20 per cent and not more than 30 per cent of such amount available to be transferred on the first day of each fiscal quarter. The percentage and amount of capital account funds intended for obligation to the Federated States of Micronesia development authority shall be specified in the allocation schedule certified to the Government of the United States in accordance with paragraph 1(b) of this Article. The Government of the Federated States of Micronesia shall determine the percentage of the annual amount of funding in the capital account to be available for each quarterly allocation. The Government of the Federated States of Micronesia may revise the quarterly allocation schedule of a fiscal year at any time not less than one fiscal quarter in advance of the quarter for which the revised allocation is certified.

(d) In the course of any fiscal year, the Government of the Federated States of Micronesia may redesignate funds in current account as funds in the capital account provided that it advises the Government of the United States of such redesignation, at least one fiscal quarter in advance of the fiscal quarter for which the funds being redesignated are available for expenditure or encumbrance. Justification for any such redesignation shall be described in the next annual report required by Section 211 of the Compact.

(e) The Government of the Federated States of Micronesia may dedicate capital account funding to those uses having to do generally with the construction or major repair of capital infrastructure, the financing of public sector projects identified in the official overall economic development plans, or public sector participation in private sector projects which are so identified. These uses shall include, but shall not be limited to, the following:

- (1) Capital improvements, infrastructure construction, remodeling projects;
- (2) Development projects relating to productive activities;
- (3) Feasibility studies, sectoral or projects planning, architectural, engineering and design work for construction projects; updating development plans;

(4) Technical assistance or matching funds for technical assistance for projects or activities which themselves would qualify for capital account expenditures;

(5) Development loans to public and private recipients;

(6) Energy source or alternative energy development, including construction, maintenance and conservation activities, and conservation revolving funds;

(7) Reserve funds for telecommunications hardware purchase;

(8) Manpower development projects and training development;

(9) Emergency job programs of 2 years or less, which may be renewed;

(10) Housing assistance programs, including loans and guarantees;

(11) Contingency funds for matching or participatory financing associated with development projects;

(12) Project administration costs, not to exceed 1.5 per cent of the total capital account for a given fiscal year;

(13) Sinking funds to finance capital account purposes; emergency funds;

(14) The acquisition by lease, purchase, or otherwise, of real property associated with capital account activities, including real property related to existing government facilities;

(15) The acquisition of major pieces of equipment, including but not limited to aircraft, vessels, construction equipment and communications facilities;

(16) Major repair of infrastructure and special maintenance programs not including normal operations and maintenance; and

(17) The payment of principal, interest and premium, if any, on debts incurred for the uses referred to in this subparagraph or for the refunding, repayment or retirement of any debts previously incurred for such uses, including charges, expenses, fees or

penalties incurred in connection with the refunding, retirement or repayment of such indebtedness or the reserve requirements necessary to refinance such indebtedness.

4. Adjustment Account:

(a) For any given fiscal year, funding in the adjustment account is identified by multiplying that year's cumulative adjustment factor by the base amount for that year. That portion of funding in the adjustment account for a fiscal year that is identified by multiplying that year's base amount by that year's cumulative adjustment factor not including the adjustment factor for the immediately preceding fiscal year shall be available for transfer in total with that year's first quarterly allocation. That portion of funding in the adjustment account that is identified by multiplying that year's base amount by the adjustment factor for the immediately preceding fiscal year shall be transferred not later than the fourth quarter of the fiscal year in question. The transfer of adjustment account funds pursuant to this paragraph shall not affect the quarterly allocation percentages specified in paragraphs 2(c) and 3(c) of this Article.

(b) The Government of the Federated States of Micronesia shall dedicate funding in the adjustment account in accordance with paragraphs 2(d) and 3(e) of this Article.

Article III

Budget Preparation, Development Planning and Annual Reports

1. Budget Preparation and Submission:

(a) The annual budget presentation of the President of the United States to the Congress of the United States shall record the resources necessary and sufficient to cover the amounts to be provided to the Government of the Federated States of Micronesia by the Government of the United States under the Compact and its related agreements for the fiscal year in question including any programs and services to be provided under the Compact and any other funds he proposes to be provided.

(b) The Government of the Federated States of Micronesia is not required to submit materials to the Government of the United States in support of requests for the appropriation of funds referred to in paragraph 1(a) of this Article, notwithstanding the language of Section 461(k) of the Compact. However, in order to assist the Government of the United States in its annual consideration of fund-

ing under the Compact, the Government of the Federated States of Micronesia shall endeavor to supply the Government of the United States with materials and information in support of requests made for appropriation of the funds specified in the Compact. The Government of the Federated States of Micronesia recognizes that such information will have the maximum utility to the United States Congressional appropriations process if it is supplied during the budget preparation cycle in advance of the fiscal year in question. The executive branch of the Government of the United States shall integrate, to the extent possible, materials and information supplied by the Government of the Federated States of Micronesia which are pertinent to the appropriation of the funds specified in the Compact.

2. Economic Development Plans:

(a) In compliance with Section 211 of the Compact and in consideration of the provisions of section 102(b) of United States Public Law 99-239, the Government of the Federated States of Micronesia shall submit to the Government of the United States for concurrence the official overall economic development plans specified in Section 211(b) of the Compact. Such plans shall be submitted at intervals no greater than every five years for the duration of the capital account funding under the Compact and shall identify, on a planning basis, the annual expenditure of the grant amounts specified for the capital account in Section 211(a) of the Compact.

(b) Amendments to the official overall economic development plans shall be identified in the annual reports to be submitted pursuant to Section 211(c) of the Compact. Such amendments are not subject to concurrence by the United States Government, but shall not cause the plans to be inconsistent with the requirements of the Compact and its related agreements.

(c) The Government of the United States shall review each plan in order to ascertain compliance and consistency with the requirements of the Compact and its related agreements, to assist the Government of the Federated States of Micronesia in identifying and evaluating appropriate goals and objectives, and to determine what United States Government assistance might be made available to assist the Federated States of Micronesia in implementing the plan. Should the Government of the United States determine that a plan submitted pursuant to Section 211(b) of the Compact does not comply with the requirements specified in the Compact and its related agreements, the Government of the United States may refer such matter to the conference and dispute resolution procedures under Article II of Title

Four of the Compact. The Government of the Federated States of Micronesia shall have an adequate opportunity to comment on the review of each plan before the Government of the United States renders its decision with respect to concurrence in such plan.

3. Annual Reports:

(a) In compliance with Section 211 of the Compact, the Government of the Federated States of Micronesia shall provide to the President and the Congress of the United States by the first day of the third quarter of each fiscal year or as soon as practicable thereafter an annual report concerning the economic activities, progress and condition of the Federated States of Micronesia in the fiscal year most recently expired. The annual reports should describe implementation of the Federated States of Micronesia official overall economic development plan and should portray the relationship of the application of Compact funding to the achievement of the goals, objectives, and general and specific programs and projects set forth in that plan. Any amendments to that plan and the rationale for such amendments should be described in the annual reports.

(b) Specific topics to be addressed in the annual reports include, but are not limited to, the use of Compact funds for the fiscal year most recently expired and the relation of this use to the initial projected use as set forth in the Federated States of Micronesia official overall economic development plan. The report shall also contain the information required by paragraph 3(d) of Article II of this Agreement.

(c) The report should provide comprehensive financial information which accounts for the use of all of the funds provided by the Government of the United States under the Compact. The annual reports may be organized and written in the form most convenient to the Government of the Federated States of Micronesia and, with respect to financial information relating to Compact funding, shall conform, unless otherwise mutually agreed and to the extent relevant and practicable, to the standards of the *Government Accounting Standards Board*. The Government of the Federated States of Micronesia shall indicate by appropriate notation any determinations with regard to the utilization of such standards.

(d) The Government of the United States and the Government of the Federated States of Micronesia shall confer annually on the substance of the annual reports referred to in this paragraph. Such conferences shall take place not later than sixty days after receipt of the

annual reports by the Government of the United States and shall, to the maximum degree possible, produce recommendations with respect to the subject matter to be addressed in future annual reports. Specific topics to be addressed in the annual conferences include all matters covered in the annual reports and the manner in which the Compact funding for the year under review has been expended.

Article IV *Audit*

1. Responsibility, Standards and Scope of Audit:

(a) The Government of the United States, acting pursuant to and in accordance with Section 233 of the Compact, has the authority and responsibility to audit the use of all Compact funding, including grants, programs and services, and other assistance, provided to the Government of the Federated States of Micronesia. The Government of the United States is responsible for all costs attendant to the discharge of its audit responsibility, and shall reimburse the Government of the Federated States of Micronesia for any costs directly attributable to the discharge of United States audit responsibilities.

(b) The Government of the United States, in consultation with the Government of the Federated States of Micronesia, has the authority to and shall determine and implement procedures, including annual audit work plans, for periodic audits pursuant to Section 233 of the Compact. As determined by the Government of the United States, the Government of the United States shall perform the audits either directly or by using the services of independent certified public accountants or of the Office of Public Auditor of the Government of the Federated States of Micronesia.

(c) In order to minimize duplication and to enhance the development of the Office of Public Auditor, the Government of the United States shall take into consideration the work of the Office of Public Auditor to the extent feasible. The Government of the United States and the Office of Public Auditor shall exchange information on their annual audit work plans and the Government of the United States shall take into consideration any comments the Government of the Federated States of Micronesia may choose to make with respect to the annual audit work plan of the Government of the United States. The audits performed by the Government of the United States shall be used to enhance the internal audit capabilities of the Government of the Federated States of Micronesia.

(d) The Government of the United States shall comply with all applicable provisions of the *Standards for Audit of Governmental Organizations, Programs, Activities and Functions* published by the Comptroller General of the United States, and the Single Audit Act of 1984 (United States P.L. 98-502), in the conduct of the audits performed pursuant to Section 233 of the Compact and this Agreement.

(e) For purposes of these audits, the only laws and regulations of the United States which are applicable are the Compact, its related agreements, this Agreement and such other instruments as may be made expressly applicable pursuant to mutual agreement by the Government of the United States and the Government of the Federated States of Micronesia. In general, the applicable laws and regulations are those promulgated under the authority, and at the discretion, of the Government of the Federated States of Micronesia and which relate in a material, substantial or direct way to that government's financial statements and operations. In the implementation of audits, the Government of the United States shall consult with the authorities of the Government of the Federated States of Micronesia responsible for the interpretation of the laws and regulations of the government in order to make tests of compliance.

(f) The authority of the Government of the United States set forth in Compact Section 233 and this Article shall continue for at least three years after the last grant or element of assistance by the Government of the United States has been provided and expanded.

2. Audit Schedule:

(a) A financial and compliance audit, within the meaning of the Single Audit Act of 1984 (United States Public Law 98-502), of the uses of Compact funding by the Government of the Federated States of Micronesia shall be performed for each fiscal year during which Title Two of the Compact is in effect. The results of these audits shall be available not later than the beginning of the third fiscal quarter following the end of the fiscal year under review.

(b) The Government of United States may perform, on the basis of a need identified by the Government of the United States or upon the request of the Government of the Federated States of Micronesia, economy and efficiency audits and program results audits of program and operational uses of Compact funding by the Government of the Federated States of Micronesia.

3. United States Audit Officials:

(a) United States audit officials are the officials and employees of the Government of the United States who are responsible for the discharge of Its audit responsibilities, including the Comptroller General of the United States and his duly authorized representatives. While present in the Federated States of Micronesia for the purposes of this Agreement, United States audit officials shall be accorded the status set forth in Article V of Title One of the Compact.

(b) United States audit officials shall provide the Government of the Federated States of Micronesia with advance notice of the specific dates and nature of their visits prior to entering the Federated States of Micronesia and shall show verifiable identification to officials of the Federated States of Micronesia when seeking access to records. In the performance of their responsibilities under this Agreement, United States audit officials shall have due regard for the laws of the Federated States of Micronesia and for the duties and responsibilities of the officials of the Government of the Federated States of Micronesia and such officials of the Government of the Federated States of Micronesia shall cooperate fully to the extent practicable with the United States audit officials to enable the full discharge of their responsibilities. Questions with respect to the identity or authorization of United States audit officials shall be referred for resolution to the United States Representative referred to in Article V of Title One of the Compact.

(c) The Comptroller General of the United States, and officials of the United States General Accounting Office acting on his behalf, shall have coextensive authority with the executive branch of the Government of the United States as provided in this Article of this Agreement and Compact Section 233. The United States audit officials from the United States executive branch shall avoid duplication between their audit programs and those of the United States General Accounting Office. The Government of the Federated States of Micronesia shall cooperate fully to the extent practicable with the Comptroller General of the United States in the conduct of such audits as the Comptroller General determines necessary in accordance with this Article to enable the full discharge of his responsibilities.

4. Access to Records:

(a) The Government of the Federated States of Micronesia shall provide United States audit officials with access, without cost and during normal working hours, to all records, documents, working papers, automated data and files which are relevant to the uses of compact funding by that Government. To the extent that such informa-

tion is contained in confidential official documents, the Government of the Federated States of Micronesia shall undertake to extract such of the information that is not of a confidential nature and make it available to the United States audit officials in the same manner as other relevant information or to provide such information from other sources.

(b) In order to reduce the level of interference in the daily operation of the activities of the Government of the Federated States of Micronesia, the United States audit officials, in the annual consultations referred to in paragraph 1(c) of this Article, shall, to the extent practicable, inform the Government of the Federated States of Micronesia of their need for information, including the type of information and its relation to their annual audit schedule. To the extent practicable, the Government of the Federated States of Micronesia shall make available the information relevant to audits and requested by United States audit officials in a manner consistent with generally accepted accounting procedures that allows for the distinction of the grants, assistance and payments provided by the Government of the United States from any other funds of the Government of the Federated States of Micronesia. Such information shall be used and returned as quickly as accurate audit testing and surveying allow.

(c) The Government of the Federated States of Micronesia shall maintain records, documents, working papers, automated data and files, and other information regarding each such grant or other assistance for at least three years after such grant or assistance was provided.

5. Review of Audits:

United States audit organizations and officials, including the Comptroller General and his duly authorized representatives, shall provide the Government of the Federated States of Micronesia with at least forty-five days to review and comment on draft audit reports prior to the release of the reports. The comments of the Government of the Federated States of Micronesia shall be included, in full, in the final audit reports. Should a draft audit report be revised based on the comments of the Government of the Federated States of Micronesia, that government shall have an additional period to review and comment on the report prior to its release.

Article V *Special Categories of Funds*

1. Division of funds for the Federated States of Micronesia:

(a) In accordance with Section 211(a)(2) of the Compact, the Government of the Federated States of Micronesia shall certify to the Government of the United States, at least thirty days in advance of the commencement of the fiscal year in question:

(1) the division of Compact grant assistance among the National and State Governments of the Federated States of Micronesia; and

(2) that such division was determined by mutual agreement of such governments.

(b) The division so certified shall be a term of the grant assistance to be provided under the Compact and the implementation of this term shall be the sole responsibility of the Government of the Federated States of Micronesia.

(c) The division so certified shall be effective for a term of at least one year and may be revised at any time by recertification to the Government of the United States in accordance with paragraph 1(a) of this article.

2. Division of Compact Section 216 Funds:

The grants to be provided pursuant to Section 216 of the Compact shall be divided between the Governments of the Marshall Islands and the Federated States of Micronesia in accordance with the Memorandum of Agreement entered into by the Presidents of the Marshall Islands and the Federated States of Micronesia on December 13, 1983.

3. Funds made available pursuant to Section 217 of the Compact:

(a) The Government of the United States shall adjust Compact account funding in accordance with Section 217 of the Compact and this paragraph. Calculations of the annual inflation adjustment shall use the beginning of fiscal year 1981 as the base year for:

(1) beginning the application of the inflation adjustment. On day one of FY 1981, one dollar was equal to one dollar for the purposes of applying Section 217.

(2) calculating the percentage change in the Gross National Product Implicit Price Deflator (GNP/IPD) index. Two-thirds of this percentage change, or seven per cent, whichever is less, shall be used as the annual inflation factor which directly adjusts that year's qualified financial grants identified in Title Two of the Compact.

(b) In year one—1981—the inflation adjustment factor will be two-thirds of the percentage change in the GNP/IPD index or seven per cent, whichever is less, from the last quarter of FY 1980 to the last quarter of FY 1981.

(c) After year one, 1981, the annual change in the GNP/IPD index will use an additive percentage change formula for year two through year fifteen. The percentage change in the GNP/IPD index shall be calculated by the following formula: current calendar year third quarter GNP/IPD index minus previous calendar year third quarter GNP/IPD index divided by the 1981 base year index. The reference table for the GNP/IPD index calculations shall be *Economic Indicators*, prepared for the Joint Economic Committee by the Council of Economic Advisers, with GNP/IPD estimates provided in the table, "Implicit Price Deflators for Gross National Product" (1982=100; quarterly data seasonally adjusted). For purposes of calculating both percentage changes in the GNP/IPD from the base year (1981), the table will have to be normalized to 1981=100.

(d) For purposes of illustration, if the percentage change in the GNP/IPD index is equal to 3 per cent each year starting with the base year, the calculations during the first five years from the base year would be in accordance with the following table:

TABLE I

KEY:

- A = Year Number
- B = Calendar Year
- C = GNP/IPD using third quarter of CY 1981 as base
- D = Percentage change in GNP/IPD from base year
- E = Two-thirds of the percentage change in GNP/IPD
- F = Cumulative Adjustment Factor

A	B	C	D	E	F
1	1981	103	.03	.02	.02
2	1982	106	.03	.02	.04
3	1983	109	.03	.02	.06
4	1984	112	.03	.02	.08
5	1985	115	.03	.02	.10
6	1986	118	.03	.02	.12

If FY 1986 is the first year of the effectiveness of the Compact, that year's total funding in the adjustment account would be the product of that year's base amount and twelve percent.

(e) Transfer of funding in the adjustment account for any fiscal year shall be made in accordance with paragraph 4(a) of Article II of this Agreement.

(f) The Government of the United States shall provide the adjustment amount for the last fiscal year of the effectiveness of Title Two of the Compact in accordance with the method set forth in this Article and without regard to whether the Compact or it a related agreements or this Agreement are still in effect at the time the adjustment amount is made available.

Article VI

Effective Date, Amendment and Duration

1. This Agreement shall come into effect on a date that the Government of the United States and the Government of the Federated States of Micronesia confirm is the date of completion of both of their respective applicable statutory processes.

2. The Agreement may be amended at any time by mutual consent of the Government of the United States and the Government of the

Federated States of Micronesia.

3. Disputes arising between the Government of the United States and the Government of the Federated States of Micronesia under the terms of this Agreement shall be resolved in accordance with the procedures set forth in Article II of Title Four of the Compact.

4. The Agreement shall remain in full force and effect until terminated by mutual consent, or until the expiration or termination of the provisions of Title Two of the Compact, whichever occurs first. Paragraph 3(f) of Article V of this Agreement shall remain in full force and effect until all funds specified therein have been transferred. The authority of the Government of the United States set forth in Article IV shall remain effective in accordance with the provisions of that Article.

5. This Agreement, upon its effective date, supercedes the “Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association” entered into by the Government of the United States and the Government of the Federated States of Micronesia on June 16, 1983 and June 15, 1983, respectively.

6. This Agreement may be accepted, by signature or otherwise, by the Government of the United States and the Government of the Federated States of Micronesia. Each Government shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association which shall come into effect in accordance with its terms between the Government of the United States and the Government of the Federated States of Micronesia.

DONE AT Washington, D.C., THIS 11th DAY OF July ONE THOUSAND, NINE HUNDRED AND EIGHTY SIX FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Kolonia, Pohnpei, THIS 11th DAY OF July, ONE THOUSAND, NINE HUNDRED AND EIGHTY SIX FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding the Investment Development Fund of the Federated States of Micronesia Concluded Pursuant to Section 111(c) of United States Public Law 99-239

This Agreement is concluded by the Signatory Governments and sets forth their mutual understandings and agreements with respect to the Investment Development Fund to be established pursuant to Section 111(b) of United States Public Law 99-239 and the Board of Advisors for the Investment Development Fund to be established pursuant to Section 111(c) of United States Public Law 99-239. The signatory governments accept that the purposes of the Investment Development Fund include the furtherance of close economic and commercial relations between the United States and the Federated States of Micronesia and the encouragement of the productive presence of citizens and commercial enterprises of the United States in the Federated States of Micronesia.

Article I
Definition of Terms

Except as otherwise provided in this Agreement, the Definition of Terms set forth in Article I of the Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association between the Government of United States and the Government of the Federated States of Micronesia is incorporated in full into this Agreement.

Article II
Establishment and Administration of Investment Development Fund

1. The Government of the Federated States of Micronesia shall establish and administer, in accordance with the provisions of this Agreement, an Investment Development Fund (hereinafter “Fund”).

2. The Government of the United States shall transfer to the account of the Government of the Federated States of Micronesia, in accordance with paragraph 1(c) of Article II of the Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact between the Government of the United States and the Government of the Federated States of Micronesia, the following sums for payment to the Fund:

(a) the sum of \$12 million on the first day of the first full fiscal year after the effective date of the Compact or as soon as procedurally pos-

sible thereafter;

(b) the sum of \$8 million on the first day of the third full fiscal year after the effective date of the Compact or as soon as procedurally possible thereafter; and

(c) such additional sums as are, from time to time, made available by the Government of the United States in accordance with Section 111(d) of United States Public Law 99-239.

3. The Government of the Federated States of Micronesia shall cause the Fund to be invested or otherwise obligated in order to maximize the amount of monies available for distribution in accordance with this Agreement. The corpus of the Fund, at any time, shall include contributions made to the Fund by the Government of the United States pursuant to paragraph 2 of this article, any repayments to such Fund by recipients of distributions, and any interest and earnings on such monies, minus distributions from the Fund. The Government of the United States shall not impose transaction fees or intermediary charges on the investment of the Fund in instruments of the Government of the United States.

4. The Fund shall be owned and administered exclusively by the Government of the Federated States of Micronesia and the Government of the Federated States of Micronesia shall make loans, grants, or other distributions from the Fund in furtherance of the purposes set forth in paragraph 6 of this Article and in accordance with the distribution guidelines to be promulgated by the Government of the Federated States of Micronesia pursuant to paragraph 7 of this Article. Upon expiration or termination of this Agreement the Fund shall be owned by the Government of the Federated States of Micronesia without condition.

5. Distributions from the Fund shall in no way obligate or create liability in the Government of the United States.

6. The purpose of the Fund is to compensate the Federated States of Micronesia, in part, for the adverse impacts on the finances and economy of such area resulting from the effect of the amendments contained in Title IV of United States Public Law 99-239 on the tax and trade provisions of the Compact. The Fund is intended to further close economic and commercial relations between the United States and the Federated States of Micronesia, to encourage investment and productive participation in economic development in the Federated States of Micronesia by citizens and commercial enterprises of the United States and the Federated States of Micronesia, particularly through joint ventures between United States and Federated States of Micronesia citizens and commercial enterprises,

to provide alternative methods for addressing the tax and trade incentives affected by Title IV of United States Public Law 99-239, and to encourage the private sector employment and training of citizens of the Federated States of Micronesia and the productive utilization of the natural resources, manpower resources, and other resources of the Federated States of Micronesia.

7. The Government of the Federated States of Micronesia shall promulgate specific guidelines for distributions from the Fund, including guidelines relating to the nature of projects, programs and studies to be supported, the qualifications of recipients, and the terms for loans, grants and other distributions from the Fund.

8. The Government of the Federated States of Micronesia may use a reasonable portion of the Fund for administrative expenses of the Fund, including payments for the salaries and expenses of Fund employees, reimbursements for employees assigned to the Fund by the Government of the United States or the Government of the Federated States of Micronesia, expenses for the Board of advisors for the Fund, and technical assistance and consultancy services.

9. Pursuant to Section 226 of the Compact, the Government of the United States shall provide technical assistance, including training assistance, to the Government of the Federated States of Micronesia in administering the Fund, including technical and training assistance from the Office of Productivity, Technology and Innovation, U.S. Department of Commerce, in establishing an organization for managing the Fund, in evaluating proposals, and in eliciting interest from United States citizens and commercial enterprises.

Article III

Board of Advisors

1. Pursuant to Section 111(c) of United States Public Law 99-239, there is hereby established a board of Advisors for the Investment Development Fund of the Federated States of Micronesia (hereinafter "IDF Advisory Board" or "Board").

2. The IDF Advisory Board shall consist of eight persons appointed as follows:

(a) five persons appointed by the President of the Federated States of Micronesia or his designee, at least two of who shall be noted for their experience in business enterprises in the Federated States of Micronesia;

(b) two persons appointed by the President of the United States or his designee, each of whom shall be a citizen of the United States, none of whom shall be an official or employee of the Government of the United States, and each of whom shall be noted for their accomplishments, expertise, and experience in international business and industrial development; and

(c) the United States Representative to the Federated States of Micronesia.

3. The Government of the United States, in appointing its members to the IDF Advisory Board pursuant to subparagraph 2(b), shall consult with and afford the Government of the Federated States of Micronesia an opportunity to comment on its prospective candidates prior to their appointment or reappointment.

4. Members of the IDF Advisory Board shall serve at the pleasure of their appointing authority and may be removed with or without cause. Members of the IDF Advisory Board who are not officials or employees of the Government of the United States or who are not serving in their capacity as officials or employees of the National or State Governments of the Federated States of Micronesia shall serve for a term of two years, and may be reappointed. Members of the IDF Advisory Board who are serving in the capacity of officials or employees of the National or State Governments of the Federated States of Micronesia shall serve for a term of three years while in office, and may be reappointed. The United States Representative shall serve during his incumbency; PROVIDED, that if a vacancy exists in such office, the acting or deputy United States Representative shall serve as a member of the Board until such vacancy is filled. A vacancy on the IDF Advisory Board shall be filled in the same manner as the original appointment for the remainder of any term.

5. The President of the Federated States of Micronesia shall designate the Chairman of the IDF Advisory Board and the Government of the United States shall designate the Vice Chairman. Appointments to the IDF Advisory Board shall be made as soon as practicable, and not later than 90 days after the effective date of this Agreement. The Chairman of the IDF Advisory Board shall call the organizational meeting of the IDF Advisory Board as soon as all initial appointments are made to the Board; PROVIDED, that organization of the IDF Advisory Board shall not be a prerequisite to transfer of the United States contributions pursuant to paragraph 2 of Article II of this Agreement or actions by the Government of the Federated States of Micronesia in administering the Fund.

6. The IDF Advisory Board shall adopt bylaws. The bylaws shall pro-

vide for regular meetings of the Board and for special meetings of the Board to be called by the Chairman on his own initiative or upon the petition of one-third of the members of the Board. Adequate written notice shall be given to all members of the Board prior to the convening of any Board meeting.

7. A quorum shall consist of a majority of all members of the Board. All business shall be conducted by a majority of those present unless otherwise provided by the bylaws of the Board. In the case of a tie vote on any issue before the Board, the issue shall be decided in accordance with the vote of the Chairman of Board.

8. The Board may appoint an executive committee for the transaction of business in the recess of the Board, which shall consist of not less than three members and not more than five members.

9. Members of the IDF Advisory Board who are not officials or employees of the Government of the United States shall receive per diem at standard Federated States of Micronesia National Government rates while on the business of the Board. Members of the IDF Advisory Board who are not officials or employees of the United States or of the National or State Governments of the Federated States of Micronesia may be authorized a reasonable honorarium at the discretion of the Board. These costs shall be financed by distributions from the Fund as requested by the Chairman of the Board. Costs for participation on the business of the IDF Advisory Board by a Board member who is an official or employee of the Government of the United States shall be borne by the Government of the United States, and such participation shall be considered to be included within the general responsibilities of such official or employee.

10. The IDF Advisory Board shall have the following duties and responsibilities:

(a) to review and provide comments to the Government of the Federated States of Micronesia on the guidelines to be promulgated pursuant to paragraph 7 of Article 11 of this Agreement;

(b) to provide advice and guidance to the Government of the Federated States of Micronesia on the evaluation of appropriate proposals and recipients for distributions from the Fund; PROVIDED, that the Board shall provide its comments within a reasonable period of time as determined by the Government of the Federated States of Micronesia;

(c) to recommend proposals for distributions from the Fund, sub-

ject to the review and approval of the Government of the Federated States of Micronesia;

(d) to review and provide comments to the Government of Federated States of Micronesia on the annual reports required by paragraph 1 of Article IV of this Agreement; and

(e) to assist the Government of the Federated States of Micronesia in the design and implementation of programs to attract investment and productive participation in economic development in the Federated States of Micronesia by citizens and commercial enterprises of the United States.

11. The Government of the Federated States of Micronesia shall provide such staff support and assistance as the IDF Advisory Board requests and the Government of the Federated States of Micronesia approves. The Government of the United States may provide additional staff support and assistance at its discretion and expense.

Article IV

Annual Reports, Consultation and Dispute Resolution

1. The Government of the Federated States of Micronesia shall provide to the Government of the United States by the first day of the third fiscal quarter of each year or as soon as practicable thereafter an annual report concerning the administration of the Investment Development Fund in the fiscal year most recently expired. Such annual report may be issued separately or, in whole or part, as a component of the annual report required by Section 211(c) of the Compact. The annual report shall include any relevant information specified in paragraph 3(c) of Article III of the Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association between the Government of the United States and the Government of the Federated States of Micronesia, the information provided for in Section 111(d) of United States Public Law 99-239, and such other information as the Government of the Federated States of Micronesia deems appropriate.

2. The annual conference required by paragraph 3(d) of Article III of the Agreement Concerning Procedures for Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association between the Government of the United States and the Government of the Federated States of Micronesia, shall include discussion of matters relating to the Investment Development Fund.

Disputes arising under the terms of this Agreement shall be resolved in accordance with the conference and dispute resolution procedures set forth in Article II of Title Four of the Compact of Free Association. The IDF Advisory Board may provide comments on any disputes arising under the terms of this Agreement.

Article V

Effective Date, Amendment and Duration

1. This Agreement shall come into effect on the later of the effective date of the Compact or the date that the Government of the Federated States of Micronesia confirms to the Government of the United States is the date of the completion of its applicable statutory processes with respect to this Agreement.

2. The provisions of this Agreement may be amended at any time by mutual agreement of the Government of the United States and the Government of the Federated States of Micronesia.

3. This Agreement shall remain in full force and effect until the fifteenth anniversary of the effective date of the Compact of Free Association, until terminated by mutual agreement, or until the expiration or termination of the provisions of Title Two of the Compact, whichever occurs first.

4. This Agreement may be accepted by signature or otherwise, by the Government of the United States and the Government of the Federated States of Micronesia. Each government shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement Between the Government of the United States and the Government of the Federated States of Micronesia Regarding the Investment Development Fund of the Federated States of Micronesia Concluded Pursuant to Section 111(c) of United States Public Law 99-239, which shall come into effect in accordance with its terms.

DONE AT Washington D.C., THIS 11th DAY OF July, ONE THOUSAND, NINE HUNDRED AND EIGHTY-SIX FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Kolonia, Pohnpei, THIS 11th DAY OF July ONE THOUSAND, NINE HUNDRED AND EIGHTY-SIX FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

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

This Agreement is concluded by the Signatory Governments and sets forth their respective authority and responsibility with regard to the provision of telecommunication services by the Government of the United States to the Government of the Marshall Islands and to the Government of the Federated States of Micronesia as authorized by Section 131 of the Compact of Free Association (the Compact).

Article I
Definitions

1. The definition of terms set forth in Article VI of Title Four of the Compact are incorporated in this Agreement.

2. For the purposes of this Agreement only, the following term shall have the following meaning:

“International Telecommunication Union (ITU) Administration”: is for the purposes of this Agreement the Government of the United States.

Article II
Authority and Responsibility

1. The Governments of the Marshall Islands and the Federated States of Micronesia, which are competent and capable under Section 121 of the Compact to conduct foreign affairs in their own name and right with respect to, among other things, communications, have requested that the Government of the United States act as their agent with regard to the provision of certain communications services set forth in Section 131 of the Compact.

2. The Government of the United States shall provide telecommunication services to the Governments of the Marshall Islands and the Federated States of Micronesia as authorized by Section 131 of the Compact. Pursuant to Section 131, the Government of the United States shall represent the interests of the Governments of the Marshall Islands and the Federated States of Micronesia before the International Telecommunication Union (ITU) and other administrations concerned with international telecommunication in matters pertaining to the International Telecommunication Convention.

3. When the Government of the United States acts on behalf of the Government of the Marshall Islands or the Federated States of Micronesia pursuant to paragraph 2 of this Article, the Government of the United States shall act in accordance with the provisions of the laws and regulations of the United States which the Government of the United States determines are applicable to the Marshall Islands or the Federated States of Micronesia at such time. The actions of the Government of the United States shall be consistent with the following:

a. Prior to the Government of the United States acting on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in its capacity as ITU Administration, wherever preparation for, or representation at plenipotentiary or administrative conferences of the Union is concerned, the Government of the United States shall consult with the Government concerned on matters which in the opinion of the Government of the United States relate to or affect any such Government. These consultations shall occur in order for the Government of the Marshall Islands or the Federated States of Micronesia to present its views to the Government of the United States which shall consider these views when developing United States proposals and positions in connection with the conference preparatory efforts cited herein-before. No consultations need be undertaken in respect to matters which, in the opinion of the ITU Administration arise by virtue of due application of the regulatory provisions of the international Radio Regulations then in force.

b. The Government of the United States shall notify the Government of the Marshall Islands or the Federated States of Micronesia of significant actions of the ITU and other administrations which the Government of the United States regards as relating to or affecting such governments.

c. When developing those rules and regulations of the United States which may be applicable to the Government of the Marshall Islands or the Federated States of Micronesia pursuant to paragraph 2 of this Article, the Government of the United States shall give prior notice of its intentions to the Governments of the Marshall Islands and the Federated States of Micronesia and shall take into account all views expressed by or on behalf of the Government of the Marshall Islands or the Federated States of Micronesia in connection with the relevant rulemaking proceedings.

d. The provisions of Section 421 of the Compact shall apply, and 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 that government shall confer promptly with the Government of the United States on matters relating to this Agreement except in respect to matters which, in the opinion of the ITU Administration, arise by virtue of due application of the regulatory provisions of the International Radio Regulations then in force.

e. For the purpose of carrying out the provisions of this Agreement, Competent Authorities shall be designated by each of the Signatory Governments. The Competent Authority of the Government of the United States and the Competent Authority of the Government of the Marshall Islands or the Federated States of Micronesia may communicate directly with each other. The designation by a government of its Competent Authority will be communicated in writing to the other signatory governments, and such designation may, from time to time, be amended.

4. a. The authority and responsibility of the Government of the United States pursuant to paragraph I of this Article is without prejudice to the authority and responsibility of the Government of the Marshall Islands or the Federated States of Micronesia with regard to telecommunication in the Marshall Islands or the Federated States of Micronesia, except as may otherwise be required by the International Telecommunication Convention as completed by the Administrative Regulations.

b. The Governments of the Marshall Islands and the Federated States of Micronesia shall develop, prior to conducting any telecommunication activity in the Marshall Islands or the Federated States of Micronesia, respectively, standards and procedures, as recommended by the Government of the United States, which shall be consistent with the ITU Convention inasmuch as this Convention is a treaty obligation of the ITU Administration for the Governments of the Marshall Islands and the Federated States of Micronesia. In developing, implementing and maintaining these standards and procedures, the Governments of the Marshall Islands and the Federated States of Micronesia shall take whatever steps may be required by the ITU Convention, as completed by the Administrative Regulations, such that the ITU Administration for the Governments of the Marshall Islands and the Federated States of Micronesia may fully meet its obligations under that Convention.

Article III *Transition*

1. Upon receipt of notice pursuant to Article IV of this Agreement from the Government of the Marshall Islands or the Federated States of

Micronesia, the Government of the United States shall assist the requesting government in obtaining membership in the ITU. After receipt of notice from the ITU of the requesting government's qualification to act, the Government of the United States shall take such actions as may be necessary to transfer to the electing government all relevant obligations and rights.

2. Upon termination of the functions enumerated in Section 131 of the Compact by the Government of the United States, the applicability of all laws of the United States, and of its regulations, practices, policies, treaties, conventions, and arrangements which are applicable to this Agreement shall cease to be applicable in the territory of the Government which has given such written notice, and any authority and responsibility of the Government of the United States in respect to such services shall also cease.

Article IV *Effective Date, Amendment and Duration*

1. This Agreement shall come into effect simultaneously with the Compact.

2. The provisions of this Agreement may be amended:

(a) 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; and

(b) as to the Government 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 subsection shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Agreement shall be notified promptly by the Government of the United States of any such amendment.

3. This Agreement shall remain in force for a period of fifteen years, subject to Section 231 and Article IV of Title Four of the Compact and in the absence of action to the contrary by a Plenipotentiary Conference of the ITU, unless terminated by a signatory Government in the following manner:

(a) Termination of this Agreement by any signatory Government shall be effected by a written notification to either the Government of the United States or to the Government of the Marshall Islands or

the Federated States of Micronesia, as appropriate. The Government of the United States shall notify the other signatory Governments of such notification;

(b) Termination shall take effect as mutually agreed or one year after the recipient Government has been notified, but not before receipt of notice from the ITU of the requesting governments qualification to act; and

(c) This Agreement shall continue in force as between the Government of the United States and the remaining signatory Governments.

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

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement Regarding the Provision of Telecommunication Services which shall come into effect in accordance with its terms between the Government of the United States and the other Governments signatory to this Agreement.

DONE AT Honolulu, Hawaii, THIS 1st DAY OF October, ONE THOUSAND, NINE HUNDRED AND EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY OF October, ONE THOUSAND, NINE HUNDRED AND EIGHTY-TWO FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

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

DONE AT Majuro, Marshall Islands, this 25th day of June, one thousand, nine hundred eighty-three FOR THE GOVERNMENT OF THE MARSHALL ISLANDS

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

AGREED MINUTE

The Signatory Governments agree that in order to facilitate common carrier, including satellite, telecommunications in the Marshall Islands and the Federated States of Micronesia, this Agreement shall be amended as to the matter of United States Federal Communications Commission (FCC) jurisdiction in the Marshall Islands and the Federated States of Micronesia.

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

This Agreement is concluded by the Signatory Governments and sets forth their respective authority and responsibility with regard to the operation of telecommunication services of the Government of the United States in the Marshall Islands and the Federated States of Micronesia as authorized by Section 132 of the Compact of Free Association (the Compact).

Article I
Definitions

1. The Definition of Terms set forth in the following documents are incorporated into this Agreement:

- a. Article VI of Title Four of the Compact;
- b. Paragraph 2 of Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact (the Status of Forces Agreement); and
- c. Paragraph 2 of Article I of the Federal Programs and Services Agreement Concluded Pursuant to Sections 221, 224, 225 and 232 of the Compact (the Federal Programs and Services Agreement).

Article II
General Provisions

1. 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 the Compact.

2. The Government of the United States may take within the Marshall Islands and the Federated States of Micronesia measures for the installation, operation and maintenance of its telecommunication services, including:

- (a) the operation and maintenance of all telecommunication facilities, and use of the associated radio frequencies authorized for use or in use upon the entry into force of this agreement;

- (b) the installation, operation and maintenance of new or additional telecommunication facilities in the Marshall Islands and the Federated States of Micronesia. Such actions will be coordinated with the respective Government of the Marshall Islands or the Federated States of Micronesia;

- (c) the regulation and control of all telecommunications of the Government of the United States, including the licensing of operations personnel; and

- (d) the use of codes, ciphers and other means of cryptographic security.

3. The Government of the Marshall Islands and the Government of the Federated States of Micronesia:

- (a) Authorize the operation of United States telecommunication facilities, and the provision of frequencies to the Government of the United States shall be free from all license requirements, taxes, duties, fees and charges;

- (b) Shall make prompt and reasonable efforts to satisfy requests by the Government of the United States for changes in existing frequencies and for requests for additional frequencies; and

- (c) Shall accept as its own, without a test or fee, the permits or licenses issued to United States personnel by the Government of the United States.

4. (a) For the purpose of carrying out the provisions of this Agreement, Competent Authorities shall be designated by each of the signatory Governments. The Competent Authority of the Government of the United States and the Competent Authority of the Government of the Marshall Islands or the Competent Authority of the Government of the Federated States of Micronesia may communicate directly with each other. The designation by a government of the Competent Authority will be communicated in writing to all other signatory governments and such designation may, from time to time, be amended.

- (b) In order to harmonize the telecommunication operations of the Government of the United States with those of the Governments of the Marshall Islands and the Federated States of Micronesia, the Competent Authorities shall establish a Joint Telecommunication Board which shall meet at least semi-annually or more often as may be required. The Board will review plans for changes to the respective

telecommunication systems of the parties to ensure maximum possible compatibility and interoperability. The United States shall act as the secretariat for this board and shall host the initial meeting of the Board. The secretariat and host for later meetings will be as mutually agreed by the parties.

5. The Government of the United States, through its Competent Authority, shall coordinate proposed major changes to United States telecommunications and extraordinary activities or exercises which would have the potential of causing either electromagnetic or physical interference with other systems used or licensed by the Government of the Marshall Islands or the Federated States of Micronesia. The Government of the Marshall Islands or the Federated States of Micronesia, through its Competent Authority, shall coordinate similar changes with the United States Competent Authority. The Government of the United States and the Government of the Marshall Islands and the Federated States of Micronesia respectively shall use their best efforts to avoid both electromagnetic and physical interference to each other's telecommunication operations. In the event the Competent Authorities cannot reach a mutually satisfactory agreement through consultations, the matter will be referred to their respective governments for resolution in accordance with the provisions of Article V of Title Three or Article II of Title Four of the Compact as appropriate.

6. Transmitter and receiver antennas installed by the Government of the United States shall be located and constructed so as not to constitute hazards including, inter alia, hazards to air navigation.

Article III *Defense Telecommunication Provisions*

1. The Armed Forces of the United States and their United States contractors may take in the Marshall Islands and the Federated States of Micronesia measures for the installation, operation and maintenance of telecommunication services pursuant to Title Three of the Compact and its subsidiary agreements. These measures include the right, as provided for in this agreement, to install, operate and maintain:

(a) Radio communication, radar and telemetry systems including:

(1) Major radio communication facilities as links with the world-wide military network of the United States;

(2) Such other lesser radio-telephonic and telegraphic communication facilities including the Military Affiliate Radio System as

may be required for the support of military and administrative services of the Armed Forces of the United States;

(3) Television systems;

(4) Radio facilities for communication with aircraft and surface vessels;

(5) Satellite communications;

(6) Such other broadcast stations contributing to the morale, welfare and training of the Armed Forces of the United States and its contractors, which includes the Armed Forces Radio and Television Service, and short-range broadcast stations; and

(7) Such other telecommunication facilities as may be required from time to time.

(b) Aids to air navigation and airfield approach control systems including electronic navigation and landing aids, such as airport surveillance radars, ground control approach (GCA), TACAN and instrument landing systems (ILS), and other such aids as may be developed and adapted for such use.

(c) Telecommunication equipment in connection with the operation of weather facilities.

Article IV *United States Federal Programs and Services Telecommunications Provisions*

United States Federal Agencies and their United States contractors may take in the Marshall Islands and the Federated States of Micronesia measures for the installation, operation and maintenance of telecommunication services in support of United States Federal Programs and Services as set forth in the Agreement concluded pursuant to Sections 221, 224, 225 and 232 of the Compact.

Article V *Effective Date, Amendment and Duration*

1. This Agreement shall enter into force Simultaneously with the Compact.

2. The provisions of this Agreement may be amended:

(a) As to all of 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; and

(b) 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 subsection shall be restricted to the relationship between the Governments agreeing to such amendment, but the other Governments signatory to this Agreement shall be notified promptly by the Government of the United States of any such amendment.

3. This Agreement shall remain in force in accordance with the following terms:

(a) Articles I, II, III and V of this Agreement shall remain in force as between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia for the period of effectiveness of their respective Military Use and Operating Rights Agreements Concluded Pursuant to Sections 321 and 323 of the Compact; and

(b) Articles I, II, IV and V of this Agreement shall remain in force as between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia for the period of effectiveness of the provisions of Article XIV of the Federal Programs and Services Agreement Concluded Pursuant to Sections 221, 224, 225 and 232 of the Compact.

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

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Agreement Regarding the Operation of Telecommunication Services which shall come into effect in accordance with its terms between the Government of the United States and the other Governments signatory to this Agreement.

DONE AT Honolulu, Hawaii, THIS 30th DAY of May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 30th DAY of May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE MARSHALL ISLANDS

DONE AT Honolulu, Hawaii, THIS 1st DAY of October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY of October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

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

AGREED MINUTE

Article II, General Provisions: In the Marshall Islands and the Federated States of Micronesia, permits or licenses issued to United States personnel by the Government of the United States shall be solely for the operation of telecommunication facilities of the Government of the United States.

Article III, Defense Telecommunication Provisions:

(a) The list of activities contained in Article III, paragraph I of this Agreement, is a non-exclusive, illustrative listing of the telecommunication activities which the United States may take in the Marshall Islands or the Federated States of Micronesia.

(b) The term “television systems” as used in Article III, paragraph I (a) (3) refers only to such systems used for surveillance monitoring, security systems and other such uses, but not including television broadcast stations as addressed in Article III, paragraph 1 (a) (6).

(c) The Government of the United States shall not undertake any actions to install or operate broadcast stations pursuant to Article III, paragraph 1 (a) (6) of this agreement without the prior agreement between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

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

This Agreement is concluded by the Signatory Governments as an international agreement and sets forth the obligations, duties, and procedures between the Governments of the United States and the Marshall Islands and the Federated States of Micronesia respectively, regarding mutual assistance and cooperation in law enforcement matters including the pursuit, capture, imprisonment and extradition of fugitives from justice and transfer of prisoners pursuant to Section 175 of the Compact of Free Association (the Compact).

**TITLE ONE
DEFINITIONS**

**Article I
Definitions**

1. The definition of terms set forth in Article VI of Title Four of the Compact is incorporated in this Agreement.

2. For the purposes of Titles Two, Three and Four of this Agreement only, the following terms shall have the following meanings:

(a) “Signatory Governments” means the Government of the United States and the Government of the Marshall Islands and the Government of the Federated States of Micronesia. As used here, the Government of the United States shall include the Governments of the states of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Northern Mariana Islands.

(b) “Jurisdiction” is used in a geographic sense. The term “jurisdiction of the requesting/requested Government when applied to the Government of the Marshall Islands or the Government of the Federated States of Micronesia, means “the Marshall Islands” and “the Federated States of Micronesia” as defined in Section 461(c) of the Compact.

(c) “Judge” as used in this Agreement shall include any judicial officer of a Signatory Government who has the authority to issue a warrant of arrest or its equivalent.

(d) “Investigation” means an investigation being conducted by a

grand jury or by a law enforcement or administrative agency of a “Signatory Government”.

(e) “Proceeding” means a proceeding before an administrative or judicial tribunal of a “Signatory Government”.

(f) “Resident Representative” means a person so designated by the sending Government pursuant to Section 152(b) of the Compact and serving in that capacity.

**TITLE TWO
EXTRADITION**

**Article I
Obligation to Extradite**

The Government of the United States shall extradite to the Marshall Islands or the Federated States of Micronesia and the Government of the Marshall Islands or the Federated States of Micronesia shall extradite to the United States, subject to the provisions and conditions described in this Agreement, any person found in their respective jurisdictions against whom the requesting Government is proceeding for an offense or who is wanted by that Government for the enforcement of a sentence.

**Article II
Extraditable Offenses**

1. (a) Extraditable offenses, pursuant to the provisions of this Agreement are:

(1) Offenses listed in the Schedule of offenses appended to this Agreement which are punishable under the laws of both the requesting and requested Signatory Governments by deprivation of liberty for at least a period exceeding one year or by a more severe penalty; or

(2) Offenses, regardless of whether listed in the Schedule of Offenses appended to this Agreement or not, which are punishable under both the federal laws of the United States and the national laws of the Marshall Islands or the Federated States of Micronesia, respectively, by deprivation of liberty for at least a period exceeding one year or by a more severe penalty.

(b) For purposes of extradition, it shall not matter whether the laws of the requesting and requested Signatory Governments place the offense

within the same category of offenses or describe an offense by the same terminology.

2. Extradition shall be granted in respect of an extraditable offense for the enforcement of a penalty or prison sentence if the duration of the penalty or prison sentence still to be served amounts to at least six months.

3. Subject to the conditions set out in paragraph 1 of this Article extradition shall also be granted:

(a) For attempt or conspiracy to commit, or participation as a principal, accomplice or accessory in, any extraditable offense and

(b) For any otherwise extraditable offense, whether or not the offense is one for which the laws of the United States require proof of interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce, such considerations being solely for the purpose of establishing jurisdiction in a federal court of the United States.

4. When a request for extradition is granted in respect of an extraditable offense, it may also be granted for an offense which could not otherwise fulfill the requirements of paragraphs 1 and 2 of this Article as related to the period of deprivation of liberty for which the offense is punishable or as related to the duration of the sentence to be served in the jurisdiction of the requesting Government.

5. Extradition shall be granted in respect of an extraditable offense committed outside the territory of the requesting Signatory Government if:

(a) The courts of the requested Government would be competent to prosecute in similar circumstances; or

(b) The person sought is a citizen or national of the requesting Government.

Article III *Exceptions to Extradition*

1. Extradition shall not be granted:

(a) When the person whose surrender is sought is being prosecuted or has been convicted, discharged or acquitted by the requested

Government for the offense for which extradition is requested; or

(b) When the prosecution of the offense is barred by lapse of time according to the laws of the requesting Government.

2. Subject to paragraph 3 of this Article, extradition may be refused when the Executive Authority of the requested Government, in its sole discretion, determines:

(a) That the offense in relation to which extradition is requested is of a political character; or

(b) That the request for extradition has been made for the purpose of trying or punishing the person whose extradition is sought for an offense of a political character.

3. Extradition shall not be refused on the basis of paragraph 2 of this Article where the offense for which extradition is requested involves a murder or willful crime, including attempts against the life or physical integrity of a Head of State or Head of Government or any other internationally protected person, including resident representatives, or where the offense for which extradition is sought is one which the requesting Government has the obligation to prosecute by reason of a multilateral treaty or other international agreement.

Article IV *Capital Punishment*

When the offense for which extradition is requested is punishable by death under the laws of the requesting Government and the laws of the requested Government do not permit such punishment for that offense, extradition may be refused unless the requesting Government provides such assurances as the Executive Authority of the requested Government considers sufficient that the death penalty will not be imposed, or, if imposed, will not be executed.

Article V *Deferred or Temporary Surrender*

After a decision on a request for extradition has been rendered in the case of a person who is being proceeded against or is serving a sentence in the jurisdiction of the United States, the Marshall Islands, or the Federated States of Micronesia for an offense other than that for which extradition has been requested, the requested Government may defer the surrender of the person sought until the conclusion of the proceedings

against that person, or the full execution of any punishment that may be, or may have been, imposed; or temporarily surrender the person sought to the requesting Government solely for the purpose of prosecution. The person so surrendered shall remain in custody during the period of surrender and shall be returned at the conclusion of the proceedings against that person in accordance with conditions to be determined by agreement of the Executive Authorities of the affected Governments in each case.

Article VI

Extradition Procedures and Required Documents

1. The request for extradition shall be made to the requested national Government by the requesting national Government on behalf of itself or one or more political subdivisions. The requesting Government shall promptly notify the resident representative of the requested Government of its extradition request. Such requests, supporting documentation and notices shall be in the English language.

2. The request shall be accompanied by a description of the person sought, a statement of the facts of the case, the text of the applicable provisions of the laws of the requesting Government describing the offense and punishment, and a statement of its applicable laws relating to proceedings barred by lapse of time.

3. When the request relates to a person who has not yet been convicted, it shall also be accompanied by a copy of a warrant of arrest issued by a judge or other judicial officer of the requesting Government and by such evidence as would provide probable cause according to the laws of the requested Government, to believe that the person sought has committed the offense for which extradition is requested.

4. When the request relates to a convicted person, it shall be supported by a copy of the judgment of conviction and evidence establishing that the person sought is the person to whom the conviction refers. If no sentence has been imposed, the request for extradition shall be accompanied by a statement to that effect. If a sentence has been imposed, the request for extradition shall be accompanied by a statement to that effect, by a copy of the sentence or committal order and by a statement showing the portion of the sentence remaining to be served.

5. Documentary evidence from the requesting Government in support of a request for extradition shall be deemed duly authenticated and shall be admissible in evidence in the extradition hearing when it bears a seal of the requesting Government, the authenticity of which is attested

to by the resident representative of the requesting Government assigned or accredited to the requested Government, or by the resident representative of the requested Government assigned or accredited to the requesting Government, or by the designee of such a resident representative.

6. The requested Government shall promptly communicate to the requesting Government the decision on the request for extradition.

Article VII

Provisional Arrest or Detention

1. In case of urgency, a requesting Government may apply to the requested Government for the provisional arrest or detention of the person sought pending the presentation of the formal request for extradition. The request may be transmitted to the requested Government by the resident representative of the requesting Government.

2. The application shall contain: a description of the person sought, including, if available, the person's nationality; a brief statement of the facts of the case, including, to the extent possible, the time and location of the offense; a statement of the existence of a warrant of arrest or detention or a judgment of conviction against that person; and a statement of intention to request the extradition of the person sought.

3. On receipt of such an application, the requested Government shall take the appropriate steps to secure the arrest or detention of the person sought. The requested Government shall promptly notify the requesting Government of its action.

4. The proceedings against the person so arrested or detained shall be terminated and that person discharged upon expiration of forty-five days, unless otherwise agreed, from the date of arrest or detention pursuant to such application if the request for extradition referred to in Article VI of Title Two of this Agreement is not received by the requested Government. The requested Government shall "sympathetically consider a request for extension not to exceed an additional fifteen days. Such termination and discharge shall not prevent the institution of further proceedings for the extradition of that person.

Article VIII

Rule of Speciality

1. A person extradited under this Agreement shall not be arrested, detained, tried or punished in the jurisdiction of the requesting Government for an offense other than that for which extradition has

been granted nor be extradited by that Government to another signatory Government or a third country unless:

- (a) That person has left the jurisdiction of the requesting Government after extradition and has voluntarily returned to it;
- (b) That person has not left the jurisdiction of the requesting government within thirty days after being free to do so; or
- (c) Upon such conditions as may be prescribed by the requested Government, that Government:
 - (1) Has consented to the arrest, detention, trial or punishment of that person for an offense other than that for which extradition was granted; or
 - (2) Has consented to extradition to another signatory Government or to a third country.

2. Paragraph 1 of this Article shall not apply to offenses committed after extradition.

3. Instead of the offense for which a person was extradited, after notice to the requested Government, the person may be tried or punished for a different offense, including a lesser included offense, provided that it is:

- (a) Based on the same facts as were set out in the request for extradition and the supporting evidence;
- (b) Punishable by no greater penalty than the offense for which the person was extradited; and
- (c) An offense referred to in the Schedule of Offenses appended to this Agreement or in paragraph 1 (a) of Article II of Title Two.

Article IX
Multiple Extradition Requests

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

Article X
Surrender

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

Article XI
Waiver

1. A person whose extradition is sought may at any time voluntarily waive extradition proceedings. The waiver shall be in writing, endorsed by a judge, and have the effect of a final decision of the requested Government to surrender that person.

2. A certified copy of the waiver shall constitute sufficient authority to maintain the person sought in custody within the jurisdiction of the requested Government and to deliver that person into the custody of the requesting Government.

Article XII
Surrender of Property

1. To the extent permitted under the laws of the requested Government and subject to the rights of third parties, all property relating to the offense shall at the request of the requesting Government be seized and surrendered upon the granting of the extradition. This property shall be handed over even if the extradition cannot be effected due to the death, escape or disappearance of the person sought.

2. The requested Government may make the surrender of the property conditional upon a satisfactory assurance from the requesting Government that the property shall be returned to the requested Government as soon as possible.

Article XIII
Transit

1. Upon prior notice, the Government of the United States shall have the right to transport through the jurisdictions of the Governments of the Marshall Islands and the Federated States of Micronesia persons surrendered by a Signatory Government or a third country.

2. Upon prior notice, the Government of the Marshall Islands or the Federated States of Micronesia shall have the right to transport through

the jurisdiction of the Signatory Governments persons surrendered by the Government of the United States or a third country.

3. When such transport is by air and no stop is scheduled in the jurisdiction of a Signatory Government, but is required by extenuating circumstances, no prior notice shall be required.

Article XIV *Expenses*

1. The requesting Government shall bear the cost of transportation of the person sought.

2. The appropriate legal officers of the requested Government shall act as counsel for the requesting Government except as otherwise agreed.

Article XV *Extradition of Citizens or Nationals*

1. No Signatory Government shall be bound to extradite its own citizens or nationals, but may grant extradition if, in its discretion, extradition is deemed proper.

2. If the requested Government denies extradition solely on the basis of citizenship or nationality, it shall submit the case to its competent authorities for purposes of prosecution.

Article XVI *Relationship with other Agreements*

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

TITLE THREE *JUDICIAL ASSISTANCE*

Article I *Judicial Assistance*

1. The United States District Court of the district in which a person resides or is found may order that person to give testimony or a statement or to produce a document or other thing for use in a judicial, administra-

tive or criminal investigation or proceeding in the Marshall Islands or the Federated States of Micronesia.

2. A national court in the Marshall Islands or the Federated States of Micronesia may order a person residing or found within its jurisdiction to give testimony or a statement or to produce a document or other thing for use in a judicial, administrative, or criminal investigation or proceeding in the United States.

3. The order may be made exclusively either pursuant to a letter rogatory issued or a request made by a court of one of the Signatory Governments, or pursuant to a request made by a department or ministry of justice of one of the Signatory Governments.

4. The order may direct that the testimony or statement be given or the documents or other things be produced before a person appointed by the court. By virtue of this appointment, the person appointed has power to administer any necessary oath and take the testimony or statement.

5. The order shall prescribe the procedure for taking the testimony or statement or producing the document or other thing. When requested, the prescribed procedure shall be designed to meet the requirements for admission in evidence of the testimony or statement to be given, or the document or other thing to be produced, in the place where it is sought to be used.

6. A person may not be compelled to give testimony or a statement or to produce a document or other thing in violation of any legal or constitutional right or privilege applicable in the jurisdiction in which the testimony or statement is given, or a document or other thing is produced.

7. This Agreement does not preclude a person from voluntarily giving testimony or a statement, or producing a document or other thing, for use in an investigation or proceeding in the United States, the Marshall Islands, or the Federated States of Micronesia.

8. Letters rogatory, requests and applications for assistance pursuant to this Title shall be in the English language.

TITLE FOUR
EXECUTION OF PENAL SANCTIONS

Article I
Scope

1. Sentences imposed by courts of the Marshall Islands and the Federated States of Micronesia on citizens or nationals of the United States may be served in penal institutions of the United States or under the supervision of its authorities in accordance with the provisions of this Agreement.

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

Article II
Definitions

For the purposes of this Title only:

1. “Transferring Government” means the Signatory Government from which the offender is to be transferred.

2. “Receiving Government” means the Signatory Government to which the offender is to be transferred.

3. “Offender” means a citizen or national of the Marshall Islands or the Federated States of Micronesia who has been sentenced by a court of the United States, or a state thereof; or a citizen or national of the United States who has been convicted by a court of the Marshall Islands or the Federated States of Micronesia.

4. “Category I Offender” means an “Offender” who comes within the meaning of the term “United States personnel”, as that term is defined in paragraph 2(d) of Article I of the Status of Forces Agreement.

5. “Category II Offender” means all “Offenders” other than “Category I Offenders”.

6. “State” when used in the sense of a part of the United States means any State of the United States, any territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and

the Commonwealth of the Northern Mariana Islands.

Article III
Eligibility

This Agreement shall apply only under the following conditions:

1. That the offense for which the Offender was convicted and sentenced is one which would be punishable in the Receiving Government; provided, however, that this condition shall not be interpreted so as to require that the offense described in the laws of both Governments be identical in those matters which do not affect the nature of the crime.

2. That the Offender be a citizen or national of the Receiving Government.

3. That the Offender has not been sentenced to the death penalty or convicted of a purely military offense.

4. Except for Category I Offenders, that at least six months of the Offender’s sentence remain to be served at the time of petition to transfer.

5. That the sentence be final, that any appeal procedures have been completed, and that there be no collateral or extraordinary remedies pending at the time of invocation of the provisions of this Agreement.

6. That the Offender’s express consent, or the consent of a legal representative in the case of a minor or of an Offender who has become mentally incompetent, to transfer has been given voluntarily and with full knowledge of the legal consequences thereof.

7. That, before the transfer, the Transferring Government shall afford an opportunity to the Receiving Government to verify through an officer designated by the laws of the Receiving Government that the Offender’s consent to the transfer has been given voluntarily.

Article IV
Transfer Procedures

1. The Signatory Government of which an Offender is a citizen or national shall make each request for transfer of an Offender in writing to the Transferring Government.

2. As to an eligible Category I Offender, no finding of the appro-

priateness of such consenting Offender's transfer by the Transferring Government shall be required. Once internal arrangements have been completed, the transfer of the Offender shall be effected.

3. As to a Category II Offender, if the Transferring Government considers the request to transfer the Offender appropriate, the Transferring Government will communicate its approval of such request to the Receiving Government so that, once internal arrangements have been completed, the transfer of the Offender may be effected.

4. (a) In deciding whether to request the transfer of a Category II Offender under paragraphs 1 and 3 of this Article and with the objective that the transfer should contribute positively to the Offender's social rehabilitation, the authorities of the Receiving Government will consider, among other factors: the seriousness of the crime; the Offender's previous criminal record, if any; the Offender's health status; and the ties which the Offender may have to the society of the Transferring Government and the Receiving Government.

(b) If the Offender gives his express consent to the transfer, the Transferring Government shall consider the request promptly and approve it in the absence of serious countervailing considerations, which it shall specify.

5. In any case in which a citizen or national of the Marshall Islands or the Federated States of Micronesia has been sentenced by a state of the United States, the approval of such an Offender's transfer pursuant to paragraph 3 of this Article shall be required from both the appropriate state authority and the federal authority.

6. When the Transferring Government does not approve, for whatever reason, the transfer of a Category II offender, it shall communicate this decision to the Receiving Government without delay.

7. The Transferring Government shall furnish to the Receiving Government a certified copy of the sentence or judgement relating to the Offender. When the Receiving Government considers such information relevant, it may request, copies of the trial record, or portions thereof, or such additional information as it deems necessary. The Transferring Government shall grant such requests to the extent permissible under its laws.

8. Delivery of an Offender by the authorities of the Transferring Government to those of the Receiving Government shall occur at a place agreed upon by the two Governments. The Receiving Government will

be responsible for the custody and transport of the Offender from the Transferring Government.

9. The Receiving Government shall not be entitled to any reimbursement for the expenses incurred by it in the transfer of an offender or the completion of the Offender's sentence.

Article V *Execution of Sentence*

1. An Offender delivered for execution of sentence under this Agreement may not again be detained, tried or sentenced by the Receiving Government for the same offense for which the sentence was imposed by the Transferring Government.

2. Except as otherwise provided in this Agreement, the completion of a transferred Offender's sentence shall be carried out according to the laws and procedures of the Receiving Government, including the application of any provisions for reduction of the term of confinement by parole or conditional release.

3. Each Signatory Party may request reports indicating the status of confinement of all Offenders transferred by it under this Agreement, including in particular the parole or release of an Offender. A Transferring Government may, at any time, request from the Receiving Government a special report on the status of the execution of an individual sentence.

Article VI *Review or Modification of Sentence*

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

Article VII *Transit*

1. Upon prior notice, the Government of the United States shall have the right to transport through the jurisdictions of the Governments of the Marshall Islands and the Federated States of Micronesia Offenders being transferred by a Signatory Government or a third country.

2. Upon prior notice, the Government of the Marshall Islands or the Federated States of Micronesia shall have the right to transport through the jurisdiction of the Signatory Governments Offenders being transferred by the Government of the United States or a third country.

3. When such transport is by air and no stop is scheduled in the jurisdiction of a Signatory Government, but is required by extenuating circumstances, no prior notice shall be required.

TITLE FIVE
EFFECTIVE DATE, AMENDMENT AND DURATION

Article I
Effective Date, Amendment and Duration

1. This Agreement shall come into effect simultaneously with the Compact.

2. This Agreement may be amended at any time as to the Government of the Marshall Islands or the Federated States of Micronesia by mutual consent of such Government and the Government of the United States.

3. Titles One, Two and Three of this Agreement are effective as to the Signatory Government until terminated by that Government, in the following manner:

(a) Termination of this Agreement by any Signatory Government shall be effected by a written notification to either the Government of the United States or to the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate. The Government of the United States shall notify all other Signatory Governments of such notification.

(b) Termination shall take effect one year after the recipient Government has been notified, but this Agreement shall continue in force as between the Government of the United States and the remaining Signatory Governments.

4. Titles Four and Five of this Agreement are effective for the period of effectiveness of the Status of Forces Agreement, except for those provisions relating to Category II Offenders which may be terminated in accordance with paragraph 3 of this Article.

5. This Agreement 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 Agreement shall possess an original English language version.

IN WITNESS THEREOF, the undersigned, duly authorized, have signed this Agreement on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions which shall come into effect in accordance with its terms between the Government of the United States and the other Governments signatory to this Agreement.

APPENDIX A
SCHEDULE OF OFFENSES

1. Offenses against the laws relating to homicide, including murder, manslaughter and causing death by criminal negligence.

2. Offenses against the laws relating to assault, wounding, maiming or causing grievous bodily harm.

3. Rape; indecent or sexual assault; incest; bigamy.

4. Unlawful sexual acts with or upon children under the age specified by the laws of both the requesting and requested governments.

5. Willful nonsupport or willful abandonment of a minor or other dependent person when such person is or is likely to be injured, or the life of that person is or is likely to be endangered.

6. Kidnapping, abduction; false imprisonment.

7. Offenses against the laws relating to abortions.

8. Offenses against the laws relating to robbery, theft, breaking and entering, burglary, embezzlement, larceny or extortion.

9. Offenses against the laws relating to fraud, breach of trust, fraudulent conversion, or obtaining property, money or securities by fraud or false pretenses.

10. Offenses against the laws relating to bribery, payment of commissions or gratuities, or conflict of interests.

11. Offenses against the laws relating to the receipt or possession of property, including money or securities.

12. Offenses against the laws relating to counterfeiting or forgery.
13. Offenses against the laws relating to perjury, including subornation of perjury, making a false affidavit, statement, or statutory declaration.
14. Offenses against the laws relating to arson.
15. Offenses against the laws relating to obstruction of judicial proceedings or proceedings before governmental bodies; interference with the investigation of a violation of a statute by influencing, bribing, impeding, threatening or injuring by any means any officer of the court, juror, witness or duly authorized investigator.
16. Offenses against the laws relating to the escape of persons.
17. Any act or omission intended or that is likely to:
 - (a) endanger the safety of an aircraft in flight or of any person on board such an aircraft, or
 - (b) destroy or render any aircraft incapable of flight.
18. Offenses against the laws relating to unlawful seizure or exercise of control of an aircraft.
19. Offenses against the laws relating to piracy, mutiny, or revolt on board a vessel.
20. Offenses against the laws relating to civil disorder and riot.
21. Offenses against the laws relating to willful damage to property.
22. Offenses against the laws relating to bankruptcy.
23. Offenses against the laws relating to usury.
24. Offenses against the laws relating to securities and commodities.
25. Offenses against the laws relating to traffic in, production, manufacture, or importation of narcotics, dangerous drugs, controlled or restricted substances, including their derivatives and similar synthetic preparations.
26. Offenses against the laws relating to firearms and other weapons,

ammunition, explosives, incendiary devices or nuclear material.

27. Offenses relating to willful evasion of taxes or duties.
28. Offenses against the laws relating to importation, exportation or transit of goods, articles, or merchandise.
29. Offenses against the laws relating to competition and trade practices.

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

Agreed Minute

Title Three, Article I, Judicial Assistance, paragraph 6: In the Federated States of Micronesia the term “any legal privilege” shall include any legal or constitutional right or privilege.

Article XVI, Relationship with Other Agreements: Article XVI of this Agreement makes it clear that “United States personnel” (within the meaning of the Status of Forces Agreement [SOFA]) who commit offenses while in the Marshall Islands or the Federated States of Micronesia, shall be subject to the applicable provisions of the SOFA. If a person who comes within the SOFA definition of “United States personnel”, other than a member of the force, returns to the United States and is no longer subject to the SOFA, the provisions of the extradition agreement would apply. If, however, the offender is a member of the force at the time of the extradition request, it is contemplated that the Executive Authority would not exercise its authority to extradite the offender, but would refer the case to the military authorities for disposition in accordance with the provisions of the SOFA.

Article XVI of the Extradition Agreement is without prejudice to the provisions of the SOFA which otherwise allows transfer of members of the force to the Marshall Islands or the Federated States of Micronesia.

DONE AT Honolulu, Hawaii, THIS 30th DAY OF May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

DONE AT Honolulu, Hawaii, THIS 30th DAY OF May, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE MARSHALL ISLANDS.

DONE AT Honolulu, Hawaii, THIS 1st DAY OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA.

DONE AT Honolulu, Hawaii, THIS 1st DAY OF October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA.

Federal Programs and Services Agreement Concluded Pursuant to
Sections 221, 224, 225 and 232 of The Compact of Free Association

This Agreement is concluded by the signatory Governments and sets forth their respective authority and responsibility for the provision of the services and related programs authorized by Article II of Title Two and Section 232 of the Compact of Free Association (the Compact).

Article I
Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the Compact is incorporated into this Agreement.

2. For the purposes of this Agreement only, the following terms shall have the following meanings:

(a) “Federal agency” refers to each authority of the Government of the United States which provides services and related programs in accordance with Article II of Title Two and Section 232 of the Compact, including any successor agency or agencies, and does not include:

(1) The Armed Forces of the United States as defined in Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact; or

(2) The Resident Representative officer and office established by the Government of the United States pursuant to Article V of Title One of the Compact.

(b) “United States contractors” means the legal entities, including corporations and natural persons, present in the Marshall Islands or the Federated States of Micronesia for the purpose of executing their contracts with the Government of the United States, or subcontracts of such contracts, in support of the Federal agencies acting pursuant to Article II of Title Two and Section 232 of the Compact and who are designated as such by the Government of the United States. The term “United States Contractors” does not include local contractors.

(c) “Local Contractors” means the legal entities, including corporations and natural persons organized under the laws of and who are in, the Marshall Islands or the Federated States of Micronesia, respectively.

(d) “United States personnel” means anyone who is included in any of the following categories:

(1) “civilian employees” — all Federal agency personnel, notwithstanding their citizenship or nationality, except local hire personnel, who are in the Marshall Islands or the Federated States of Micronesia, and who are in the employ of or serving with a Federal agency and who are employed in any of the activities of such Federal agency.

(2) “contractor personnel” — natural persons, who are United States citizens or nationals or United States permanent resident aliens, except local hire personnel, who are in the Marshall Islands or the Federated States of Micronesia, and who are United States contractors or officers or employees of United States contractors; or

(3) “dependents” — the spouses and children of persons included in paragraphs 2(d)(1) or 2(d)(2) and, while members of the household of such persons, other relatives or wards of such persons or their spouses.

(e) “third country contractor personnel” means natural persons other than United States personnel or local hire personnel who are in the Marshall Islands or the Federated States of Micronesia and who are United States contractors or officers or employees of United States contractors or dependents of any of them.

(f) “local hire personnel” means citizens and nationals of the Marshall Islands or the Federated States of Micronesia who are employed in the Marshall Islands or the Federated States of Micronesia, respectively, by Federal agencies or United States contractors.

(g) “rawinsonde” means a method of upper-air observation consisting of an evaluation of the wind speed and direction, temperature, pressure, and relative humidity aloft by means of a balloon-borne radiosonde tracked by a radar or radio direction-finder. If radar is used for tracking, a radar target is also attached to the balloon. Thus, it is a radiosonde observation combined with a type of rawin observation.

Article II

Legal Status of Programs and Related Services, Federal Agencies, United States Contractors and United States Personnel

1. The provision by the Government of the United States of any programs and related services to the Government of the Marshall Islands or the Federated States of Micronesia, as may be appropriated by the United States Congress, pursuant to this Agreement shall be contingent upon compliance by the Government of the Marshall Islands or the Federated States of Micronesia with the provisions of Sections 173 and 225 of the Compact. The Government of the United States shall, on an annual basis, seek the appropriation of such funds.

2. (a) The Government of the United States, Federal agencies and United States contractors and their respective assets, income and other property shall be exempt from all direct taxes and shall be exempt from all customs duties on the import and export of articles required for the official functions and personal use of United States personnel and official offices established in the Marshall Islands or the Federated States of Micronesia by a Federal agency. The Government of the United States and Federal Agencies shall be exempt from all customs restrictions, inspection and examination on such import and export.

(b) Income received by United States personnel for services with or employment by the Federal agencies or United States contractors, or from sources outside the territory of the Government concerned, are exempt from any tax, fee or other charge imposed by the Government of the Marshall Islands or the Federated States of Micronesia, except that United States contractor personnel and dependents who are also United States contractor personnel are not exempt from a personal income tax generally applicable within the Marshall Islands or the Federated States of Micronesia up to a level of five percent of their annual income derived from their employment in the Marshall Islands or the Federated States of Micronesia, respectively, by United States contractors.

3. United States personnel may import into and export from the Marshall Islands or the Federated States of Micronesia furniture, household goods and personal effects for their private use, including all forms of privately owned land, sea and air transportation, free from customs duties, license requirements and other import and export taxes, fees or charges.

4. Animals and plants, including fruits and vegetables, imported by United States personnel, subject to the provisions of this Article, and by

third country contractor personnel shall be subject to the laws and regulations of the Marshall Islands or the Federated States of Micronesia, respectively, governing the inspection of and restrictions on such importations.

5. The Federal agencies, in cooperation with the Government concerned, shall take appropriate measures, including inspection, to prevent importation of contraband and to prevent abuse of privileges granted to United States personnel under this Article.

6. Should property imported into the Marshall Islands or the Federated States of Micronesia under the exemptions provided by this Article subsequently be transferred to a person not entitled to such exemptions, such person shall be liable for import duties and other charges according to the laws and regulations of the Government concerned.

7. Civilian employees shall have the privileges and immunities of a resident representative as set forth in Sections 152(b) and (e) of the Compact, and immunity from civil and criminal process and liability relating to or resulting from any wrongful act or omission done within the scope and in the performance of official duty, except insofar as such immunity is expressly waived by the Government of the United States. Civilian employees who have been arrested in connection with an offense not related to the performance of their official duties, shall be released to the custody of the resident representative or the head of their agency in the Marshall Islands or the Federated States of Micronesia, unless in the case of a grave crime a competent judicial authority decides that such civilian employees shall remain subject to detention by the local authorities.

8. (a) The authorities of the Federal agencies shall pay just and reasonable compensation in settlement of meritorious, noncontractual claims arising out of the wrongful acts or omissions occurring subsequent to the effective date of this Agreement in the Marshall Islands or the Federated States of Micronesia of the Federal agencies themselves, or of their civilian and local hire personnel, if such act or omission occurred within the scope and in the performance of official duty of the civilian and local hire personnel. All such claims shall be processed and settled by the respective Federal agencies in accordance with the laws and regulations of the United States. Any such claims which cannot be settled as provided for in this paragraph, and which are espoused by the Government concerned, shall be disposed of pursuant to the provisions of Article II of Title Four of the Compact.

(b) Contractual claims against the Federal agencies shall be settled

in accordance with the disputes clause of the contract if any, and the laws of the United States relating to the resolution of such disputes. In the absence of such clause, the claims shall be presented to the appropriate United States authority; if no settlement is reached, the appropriate court of the United States shall have jurisdiction over such claims.

(c) The Government concerned shall present claims arising under this Article to the United States Resident Representative who shall forward such claims to the Competent Authority of the Federal Agency concerned. 149

9. Except as otherwise expressly provided in this Agreement, any dispute arising under this Agreement shall be disposed of exclusively pursuant to the provisions of Article II of Title Four of the Compact.

(a) The Federal agencies shall not be subject to the jurisdiction of the courts of the Government of the Marshall Islands or the Federated States of Micronesia under Article VII of Title One of the Compact for any claim under paragraph 8 of this Article arising in the Marshall Islands or the Federated States of Micronesia from the acts or omissions of the Federal Agencies occurring subsequent to the effective date of the Compact. All such claims shall be processed and settled exclusively in accordance with this Article.

(b) Any judgment presented for certification to the United States Court of Appeals for the Federal Circuit pursuant to Section 174 of the Compact of Free Association shall be deemed manifestly erroneous as to law if the claim upon which such judgment is based would have been barred by the statute of limitations if such claim had been brought in a court of the United States.

10. For the purposes of carrying out the provisions of this Agreement, Competent Authorities shall be designated by each of the signatory Governments. The Competent Authorities of the Government of the United States and the Competent Authorities of the Marshall Islands and the Federated States of Micronesia may communicate directly with each other. In the case of the Government of the United States the Competent Authority shall be the head of or designee of the Federal agency concerned who shall be designated in writing to the Government concerned.

11. The Government of the Marshall Islands or the Federated States of Micronesia shall accept as valid, without a test or fee, the operator's permit or license or military driving permit issued to United States per-

sonnel or third country contractor personnel by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

12. Official vehicles of the Federal Agencies, vehicles owned or operated by United States contractors, and privately owned vehicles of United States personnel shall be identified by individual markings or license plates issued by the Government of the United States, the Governments of the States of the United States of America, its Territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands. However, the Government of the United States may use local individual markings or license plates in the Federated States of Micronesia.

(a) Official vehicles shall not be subject to the registration or safety inspection laws of the Government of the Marshall Islands or the Federated States of Micronesia.

(b) The Armed Forces of the United States may register vehicles of United States contractors and United States personnel which are not official vehicles, and may inspect such vehicles applying safety standards of general applicability in the Marshall Islands or the Federated States of Micronesia, respectively. Vehicles so registered and inspected shall be exempt from the registration and safety inspection laws of the Government of the Marshall Islands or the Federated States of Micronesia, respectively.

13. For purposes of this Article the term “vehicles” includes all forms of land, sea and air transportation.

14. Any reference in this Agreement to a provision of the law of the United States constitutes the incorporation of the language of such provision into this Agreement as such provision is in force on the effective date of this Agreement or as it may be amended thereafter on a non-discriminatory basis according to the constitutional process of the United States.

15. The Government of the United States may use local telecommunication systems and, in determining its uses of such systems, shall take into consideration the cost and security of such systems and the availability of alternate United States systems. The Government of the United States shall encourage the use of local telecommunication systems by United States personnel for non-official purposes. To the extent

that the Government of the Marshall Islands or the Federated States of Micronesia establishes telecommunications systems compatible with existing United States Government installations, the Government of the United States and the Government concerned may enter into negotiations for a use arrangement which includes normal billing procedures.

Article III *Employment of Labor*

1. In providing services and related programs in the Marshall Islands or the Federated States of Micronesia pursuant to Section 221 of the Compact, the Federal agencies, United States contractors and local contractors:

(a) may employ persons possessing requisite skills and qualifications. Employment preference shall be given, without discrimination, to citizens, nationals and permanent resident aliens of the Marshall Islands or the Federated States of Micronesia, in their respective jurisdictions, and of the United States. In the employment of such persons pursuant to the preferences set forth in this paragraph, the Federal Agencies and the United States contractors shall exercise their best efforts to employ persons present in the Marshall Islands or the Federated States of Micronesia, respectively.

(b) shall utilize without discrimination, consistent with the laws and regulations of the United States, qualified local contractors and contractors which are legal entities of the United States. The Federal Agencies and United States contractors shall ensure that the specifications and instructions for contract bids shall permit such free and full competition as is consistent with the procurement of the goods and services needed by the Government of the United States.

2. Prior to the employment of third country personnel or the utilization of third country contractors, the Government of the United States shall notify the Government concerned and shall consult, if requested, with that Government as to the availability of qualified local hire personnel or qualified local contractors.

3. The laws and regulations of the Marshall Islands or the Federated States of Micronesia shall not apply to the terms and conditions of employment of United States personnel by Federal agencies, or United States contractors. The Government of the Marshall Islands or the Federated States of Micronesia shall not require United States personnel, third country contractor personnel or United States contractors to obtain any license, permit or certificate, or to undergo any examination,

in connection with the performance of their duties on behalf of Federal agencies.

4. In the employment of local hire personnel by the Federal agencies and United States contractors, the Government of the United States shall adopt measures consistent with the standards of local labor laws to the extent they are compatible with laws, regulations and operational requirements of the United States.

Article IV *Entry and Departure*

1. The Government of the United States may bring into the Marshall Islands and the Federated States of Micronesia:

(a) United States personnel and United States contractors; and

(b) Third country contractor personnel in a manner consistent with those laws of the Marshall Islands or the Federated States of Micronesia, respectively, relating to the exclusion of individual, undesirable aliens and taking into account paragraph 5 of this Article and Article III of this Agreement.

2. United States personnel shall be exempt from the passport and visa laws and regulations of the Marshall Islands and the Federated States of Micronesia. Taking into account paragraph 1(b) of this Article and Article III of this Agreement applications of third country contractor personnel for visas shall be granted or denied expeditiously. All such personnel shall comply with medical immunization requirements of the Marshall Islands and the Federated States of Micronesia, respectively.

(a) No United States personnel or third country contractor personnel shall acquire any right to permanent residence or domicile solely as a result of their being United States personnel or third country contractor personnel.

(b) United States personnel shall be exempt from laws and regulations of the Marshall Islands and the Federated States of Micronesia on the entry, departure, registration and control of aliens and foreign agents.

3. Upon entry into or departure from the Marshall Islands or the Federated States of Micronesia, United States personnel shall have in their possession official orders or documents certifying the status of the individual or group. Such orders or documents shall be shown on request

to the appropriate authorities of the Government concerned.

4. For the purpose of their identification while in the Marshall Islands or the Federated States of Micronesia, United States personnel ten years of age or older shall have in their possession a personal identification card authorized by the Government of the United States which shall show the name, date of birth, status, and photograph of the bearer. Such card shall be shown on request to the appropriate authorities of the Government concerned.

5. If the Government of the Marshall Islands or the Federated States of Micronesia requests the removal from the Marshall Islands or the Federated States of Micronesia, respectively, of any United States personnel or any third country contractor personnel, the request shall be directed to the United States resident representative, who shall consult with the Government concerned on the appropriate action to be taken regarding removal. If the Government of the United States and the other Signatory Government concerned so determine, the person whose removal has been requested shall immediately become subject to the jurisdiction of the other Signatory Government concerned in accordance with its laws.

6. Transportation costs attendant to the departure and removal of third country contractor personnel shall be the responsibility of the Government of the United States.

Article V *Implementation of Section 225 of the Compact and Title to Property*

1. Specific arrangements for the establishment and use by the Government of the United States of facilities or areas for Federal agencies in the Marshall Islands or the Federated States of Micronesia shall be set forth in Exchanges of Notes, which, when signed, shall be annexed to this Agreement as Annex A.

2. If, in the exercise of its authority and responsibility under Section 221 of the Compact, the Government of the United States requires the use of facilities or areas in the Marshall Islands or the Federated States of Micronesia in addition to or in place of those for which specific arrangements are concluded pursuant to the exchanges of notes included in Annex A of this Agreement, it may request the Government concerned to satisfy those requirements through leases or other arrangements. That Government shall sympathetically consider any such request and shall establish suitable procedures and provide a prompt response to the Government of the United States.

3. If the Government of the Marshall Islands or the Federated States of Micronesia requires for some other purpose the use of facilities or areas which have been provided the Government of the United States pursuant to this Agreement, the Government concerned shall request the Government of the United States to accept equivalent facilities or areas. The Government of the United States shall sympathetically consider any such request and provide a prompt response. Any pertinent agreement shall be effected in accordance with paragraph 2 of Article XIII of this Agreement by an amendment to the Exchanges of Notes included in Annex A of this Agreement.

4. All property for which the Government of the United States determines that it has a continuing requirement in order to carry out its authority and responsibility pursuant to Section 221 of the Compact, title to which therefore remains vested in the Government of the United States pursuant to Section 234 of the Compact, is set forth in the separate agreement in implementation of Section 234 of the Compact.

5. Title to improvements to real property or to any item of equipment or other personal property hereinafter furnished, acquired, supplied, constructed or purchased by or with funds provided by the Government of the United States in connection with the programs and related services set forth in this Agreement is vested in the Government of the United States, except where expressly sold or otherwise conveyed.

6. Upon relinquishing facilities or areas designated for Federal agency use, or a portion thereof, whether at the termination of a specific service and its related programs or at an earlier date, the Government of the United States shall not be obligated to restore any such site or portion thereof to its former condition, or to make compensation in lieu of such restoration. The Signatory Governments may otherwise agree, based on considerations including the existence of conditions substantially or materially hazardous to human life, health and safety.

7. The Government of the United States has the right to remove any installations or improvements which it has constructed on an area designated for Federal agency use. If any installations or improvements which were constructed at the expense of the Government of the United States are to be left behind after relinquishing facilities or areas designated for Federal agency use, or a portion thereof, the Government the Marshall Islands or the Federated States of- Micronesia and the Government of the United States shall consult to determine the residual value, including scrap value, if any, of any such installations or improvements to the Government concerned and—to agree upon an appropriate method of compensating the Government of the United States for such residual

value.

8. Except as may be otherwise expressly agreed, the Government of the United States, Federal agencies and United States contractors shall retain title to equipment, materials and other movable property brought into or acquired by them in the Marshall Islands or the Federated States of Micronesia and may remove such property at any time from the Marshall Islands or the Federated States of Micronesia, or dispose of it therein.

Article VI

Postal Services and Related Programs

1. The Government of the Marshall Islands or the Federated States of Micronesia shall assume responsibility pursuant to its laws and regulations for all local postal services.

2. The Government of the Marshall Islands or the Federated states of Micronesia shall be responsible for all its postal staff, facilities and equipment.

3. From the effective date of this Agreement until its first anniversary, salaries for United States Postal Service (USPS) employee positions in the Marshall Islands and the Federated States of Micronesia shall be paid by the USPS, without reimbursement by the Government of the Marshall Islands or the Federated States of Micronesia, to the extent that employee costs remain at the level the USPS would have expended to maintain the level of service available in the Marshall Islands and the Federated States of Micronesia in the year prior to the effective date of this Agreement.

4. Prior to the first anniversary of the effective date of this Agreement, any postal employee serving in the Marshall Islands and the Federated States of Micronesia who was a USPS employee on the effective date of this Agreement shall have the right to transfer to a position of comparable pay level at a facility outside the Marshall Islands and the Federated States of Micronesia, as follows:

(a) the employee may choose to transfer to a facility designated by the USPS with reimbursement of moving expenses as provided in the USPS Methods Handbook M-9, "Travel"; or

(b) the employee may choose to transfer to an available position designated by the USPS in a location chosen by the employee at the employee's own expense.

5. Six months prior to the first anniversary of the effective date of this

Agreement, the Governments of the Marshall Islands and the Federated States of Micronesia shall offer comparable positions, as determined by each such Government, to all employees referred to in paragraph 4 of this Article serving in post offices located in the Marshall Islands or the Federated States of Micronesia, respectively, who do not elect to transfer to another location pursuant to paragraph 4 of this Article. Such employees shall notify the Government concerned, within thirty days after such offer, whether they intend to accept such position. Such offer and the employee's election in response thereto shall not alter the employee's status under paragraph 3 of this Article prior to the first anniversary of the effective date of this Agreement

6. On the effective date of this Agreement the USPS shall, without compensation, turn over to the Government of the Marshall Islands or the Federated States of Micronesia all USPS facilities and equipment, in good repair and workable condition, in use in the Marshall Islands or the Federated States of Micronesia, respectively, as of that date.

7. The Governments of the Marshall Islands and the Federated States of Micronesia shall issue postage stamps and other prescribed postal indicia which shall be used for prepayment of postage rates and other postal charges on all mail originating in its territory, except for mail sent through the military postal system provided for in Article VII of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association.

8. The USPS shall provide the following services for the Marshall Islands and the Federated States of Micronesia for a period of fifteen years commencing on the effective date of this Agreement without compensation by the Government of the Marshall Islands or the Federated States of Micronesia; provided that the provision of such services shall be based upon reimbursement of the USPS from funds appropriated by the United States Congress in implementation of this Agreement:

(a) conveyance of mail, at levels of service, including classes and special services, equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Agreement, to and from the designated exchange offices in the Marshall Islands and the Federated States of Micronesia; and

(b) dispatch, documentation, statistical, accounting, and settlement operations in connection with the international exchange of such mail.

9. The Governments of the Marshall Islands and the Federated States

of Micronesia shall undertake to protect the postal services provided by the Government of the United States from exploitation for the monetary gain of private or government organizations or of individuals or of commercial enterprises, including the posting of bulk mail, books, catalogues, goods or materials. The Government of the United States shall provide mail service pursuant to this Agreement with the understanding that the volume of mail may increase in proportion to population increases and ordinary growth of local commercial enterprise. Should an increase in the volume of mail of twenty percent or more within a twelve-month period be anticipated or experienced by the Government of the Marshall Islands or the Federated States of Micronesia, the Government concerned shall enter into a separate agreement with the Government of the United States which shall establish the amount of reimbursement to be paid to the Government of the United States for the volume in excess of twenty percent.

10. The Governments of the Marshall Islands and the Federated States of Micronesia shall ensure that all mail turned over to the USPS for conveyance to the United States or other countries complies with the postal conventions to which the United States adheres and with the postal laws and regulations of the United States.

11. Pursuant to this Agreement, mail shall be exchanged at the exchange offices designated in this paragraph and outgoing mail from the Marshall Islands and the Federated States of Micronesia shall be merged with United States mail for conveyance to the United States or to other countries. Such outgoing mail from the Marshall Islands and the Federated States of Micronesia shall be treated as though it were mail from the United States for dispatch, documentation, statistical, accounting and settlement operations with other countries. The six designated exchange offices shall be located in the Marshall Islands, at Majuro and Ebeye, and the Federated States of Micronesia, at Kosrae, Ponape, Truk and Yap.

12. Until the effective date of the Compact, United States domestic postal rates shall apply to mail exchanged between addresses in the Marshall Islands and the Federated States of Micronesia and between those addresses and addresses in the United States. After the effective date of the Compact, the USPS may establish cost-related rates for mail from the United States to the Marshall Islands or the Federated States of Micronesia. Such United States-established rates shall establish the ceiling and United States domestic rates shall establish the floor for postage rates for mail from the Marshall Islands or the Federated States of Micronesia to the United States and to the Marshall Islands and the Federated States of Micronesia. International postal rates applicable in

the United States shall apply to mail from the Marshall Islands and the Federated States of Micronesia addressed to other countries.

13. The Government of the Marshall Islands or the Federated States of Micronesia may determine postal rates for internal mail to local addresses within the Marshall Islands or the Federated States of Micronesia, respectively.

14. Revenues derived from the sale of stamps issued by the Government of the Marshall Islands or the Federated States of Micronesia for postal services or for philatelic purposes shall be retained by the Governments which issued such stamps. The Governments of the Marshall Islands and the Federated States of Micronesia agree to provide, pursuant to their constitutional processes, adequate funding for the operation of their postal services in a manner which will allow the USPS to perform its responsibilities under this Agreement in an efficient and economical manner, with any disputes arising under this paragraph to be resolved pursuant to Article II of Title Four of the Compact.

15. Liability for the loss of a registered or insured item shall rest with the Government which, having received it without comment, cannot prove either delivery to the addressee or correct transfer to another administration. Pursuant to paragraph 19 of this Article, the Government of the United States shall, upon request, assist the Government of the Marshall Islands or the Federated States of Micronesia in developing local practices and procedures to fulfill the requirements of this paragraph.

16. The Governments of the Marshall Islands and the Federated States of Micronesia shall not impose any terminal dues or other charges on the USPS or the postal administrations of any other government for mail conveyed to the Marshall Islands or the Federated States of Micronesia by the USPS pursuant to this Agreement.

17. Postal Money Orders shall be issued in the Marshall Islands and the Federated States of Micronesia on USPS forms and in accordance with USPS regulations. All amounts collected in connection with such issuance, including the Postal Money Order fees, shall be remitted to the USPS. Postal Money Orders paid in the Marshall Islands and the Federated States of Micronesia shall be deposited for the credit of each such Government in accordance with prescribed procedures. Such Postal Money Orders shall follow the normal bank clearance process for final payment by the USPS. The USPS shall be responsible for providing all necessary forms and for reconciling the Postal Money Order accounts. The Government of the Marshall Islands or the Federated States of

Micronesia may terminate the category of service set forth in this paragraph in the same manner as this Article may be terminated in accordance with Article XII of this Agreement.

18. The USPS and the Governments of the Marshall Islands and the Federated States of Micronesia shall issue stamps to commemorate the inauguration of the new political status of free association between the United States and the Marshall Islands and the Federated States of Micronesia. Each Government shall retain all revenues from the sale of the stamps it issues.

19. Pursuant to this Agreement the USPS shall provide, without compensation, such technical assistance, including technical assistance to provide for the orderly transfer of postal responsibilities, and employee training as the USPS and appropriate officials authorized to act on behalf of the Governments of the Marshall Islands and the Federated States of Micronesia mutually agree to be necessary and appropriate. The USPS shall provide expedited training at no cost to the Marshall Islands or the Federated States of Micronesia for the replacement of employees who transfer pursuant to paragraph 4 of this Article so that the Governments of the Marshall Islands and the Federated States of Micronesia can continue to execute properly their postal responsibilities pursuant to this Agreement. In addition, appropriate officials of the Governments of the Marshall Islands and the Federated States of Micronesia shall consult with the USPS with regard to fiscal planning and postal administration for the purpose of promoting economical and efficient postal services and programs.

20. The obligations of the Governments signatory to this Agreement under this Article shall terminate fifteen years after the effective date of this Agreement. Prior to termination of this Agreement, the USPS and the Governments of the Marshall Islands and the Federated States of Micronesia shall enter into bilateral arrangements to establish mutually acceptable terms and conditions for the exchange of mail between the United States and the Marshall Islands and the Federated States of Micronesia.

21. As mutually agreed, the United States shall assist the Governments of the Marshall Islands and the Federated States of Micronesia in acquiring membership in relevant international or regional postal organizations.

22. If, prior to the effective date of this Agreement, the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia have entered into a separate agreement

for interim implementation of the postal services and programs provided for in this Agreement, the obligations of the Signatory Governments provided for in paragraphs 3, 4, 5, 6 and 19 of this Article shall be considered fully executed or shall be diminished to the extent such obligations have been discharged under such interim agreement prior to the effective date of this Agreement.

Article VII

Weather Services and Related Programs

1. The National Weather Service of the United States, in cooperation with the United States Navy, shall provide weather services and related programs in the Marshall Islands and the Federated States of Micronesia at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of the Compact.

2. These services and related programs shall be provided pursuant to:

(a) the provisions of 15 U.S.C. 311-329; the International Aviation Facilities Act 49 U.S.C. 1151 et seq.; and section 803 of the Federal Aviation Act of 1958 49 U. @C. 1463;

(b) other provisions of the laws of the United States to the extent they expressly apply to the National Weather Service;

(c) weather treaties and other international weather agreements to which the United States is a party;

(d) applicable Executive orders of the President of the United States; and

(e) implementing National Weather Service regulations.

3. The Government of the Marshall Islands or the Federated States of Micronesia may issue weather forecasts under such terms as may be mutually agreed with the National Weather Service. The Government of the United States shall continue to provide public and aviation weather forecasts and severe weather warnings.

4. The Government of the Marshall Islands or the Federated States of Micronesia may take such transitional actions as may be necessary to prepare for the establishment and support of its own weather service. Such transitional actions may be initiated at any time prior to termination of the Compact pursuant to Article IV of Title Four of the Compact or prior to termination of this Article pursuant to Article XII of this Agreement.

The National Weather Service shall provide advice in the development of the weather service of the Marshall Islands or the Federated States of Micronesia at the request of the Government concerned.

5. The National Weather Service shall provide weather services and related programs pursuant to this Article, in part, through weather service offices established in the Marshall Islands or the Federated States of Micronesia.

(a) As of the effective date of this Agreement all employees at Weather Service offices in the Marshall Islands or the Federated States of Micronesia shall be employed in like positions by the Government of the Marshall Islands or the Federated States of Micronesia, respectively.

(b) The National Weather Service and the Government of the Marshall Islands or the Federated States of Micronesia shall in an Exchange of Notes set forth the duties and qualifications of employees and provide procedures to reimburse the Government concerned for materials and for salaries and other expenses incurred in the performance of these duties; and

(c) The Government of the United States shall reimburse the Government concerned for costs incurred under this paragraph.

6. As required to implement the services and related programs provided pursuant to this Article or to meet technological change, the National Weather Service shall train employees of the Government of the Marshall Islands or the Federated States of Micronesia assigned to weather stations. The Government of the United States shall reimburse the Government concerned for costs incurred for training approved by the National Weather Service.

7. The National Weather Service shall inspect weather stations to assure the quality of meteorological operations.

8. The National Weather Service shall provide and maintain Weather Service offices pursuant to Article V of this Agreement, including meteorological observatories and other buildings, and shall maintain and replace meteorological and other equipment of the National Weather Service.

9. The National Weather Service shall provide the supplies required for the operation of its programs and related services.

10. Pursuant to Article III, Title One of the Compact, the radio operating frequencies in the bands 401-406 MHz and 1660-1700 MHz shall be protected by the Government of the Marshall Islands or the Federated States of Micronesia in order to ensure their interference-free use for rawinsonde observations, in accordance with the provisions of Radio Regulations annexed to the International Telecommunication Convention (ISBN 92-61-0081-5). Other radio operating frequencies may be substituted for those set forth in this paragraph by agreement of the Governments concerned.

11. The Governments of the Marshall Islands and the Federated States of Micronesia, in order to assure that they receive the most current meteorological information and that such information from them will be available on a global basis, shall provide continuing access to its telecommunications services, for meteorological traffic to and from Guam, or other points as may be designated by the Government of the United States.

12. The National Weather Service and the Federal Aviation Administration shall provide weather services and related programs in Kosrae, Federated States of Micronesia, to the extent that such services and related programs are determined by the Federal Aviation Administration to meet requirements for safe and efficient operation of United States air carriers engaged in domestic air service in Kosrae. The National Weather Service shall train employees of the Government of the Federated States of Micronesia assigned to Kosrae to enable such employees to provide weather reporting services required by the Federal Aviation Administration pursuant to this paragraph. The National Weather Service shall not be responsible for providing reimbursement to the Federated States of Micronesia for personnel costs, including salaries and expenses, incident to the provision of weather services in Kosrae pursuant to this paragraph.

Article VIII

Civil Aviation Safety Services and Related Programs

1. The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree that the Federal Aviation Administration (FAA) shall provide aviation safety services in the Marshall Islands and the Federated States of Micronesia in accordance with this Article with the common desire to:

(a) promote the common interests of the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia in fostering safe and efficient air ser-

vice; and

(b) facilitate the orderly establishment of aviation safety statutory and regulatory regimes and aviation safety authorities by the Governments of the Marshall Islands and the Federated States of Micronesia.

2. On behalf of the Governments of the Marshall Islands and the Federated States of Micronesia, the Government of the United States shall provide aviation safety services in the Marshall Islands and the Federated States of Micronesia at levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of this Agreement as follows:

(a) en route air traffic services within that air space including the Marshall Islands and the Federated States of Micronesia for which the Government of the United States has responsibility under the appropriate regional air navigation plan approved by the International Civil Aviation Organization (ICAO);

(b) flight inspection and ground certification of nondirectional beacons and distance-measuring equipment, and periodic review and evaluation of the need for, and the maintenance, modification, improvement or replacement of, nondirectional beacons, distance-measuring equipment and related support systems in the Marshall Islands or the Federated States of Micronesia;

(c) development and updating of instrument approach procedures, standard instrument departure procedures and standard terminal arrival routes for airports in the Marshall Islands or the Federated States of Micronesia, and issuance of appropriate Notices to Airmen; and

3. Each of the Governments of the Marshall Islands and the Federated States of Micronesia, pursuant to Section 471(b) of the Compact, shall take all necessary steps to ensure the conformity of its laws, regulations and administrative procedures with the provisions of this Article. The aviation safety services specified under paragraph 2 of this Article shall be provided exclusively pursuant to treaties and other international agreements relating to aviation safety to which the United States is a party and the laws and regulations of the United States. The Governments of the Marshall Islands and the Federated States of Micronesia:

(a) consistent with Resolution A23-11, Appendix N, Part II, Air Navigation of ICAO Assembly Resolutions in force as of October

7, 1980, U.N. Doc. 9349, assign and delegate to the Government of the United States sole authority and responsibility for providing aviation safety services as specified in paragraph 2(a) of this Article until such time as those responsibilities are transferred at the request of the Government of the Marshall Islands or the Federated States of Micronesia, and with the approval of the ICAO, from the Government of the United States to the Governments of the Marshall Islands and the Federated States of Micronesia; and

(b) grant unobstructed access by FAA personnel and FAA equipment to the property on which the navigational and landing aids set forth in paragraph 2(b) of this Article are located.

4. The FAA shall provide technical assistance to the Government of the Marshall Islands or the Federated States of Micronesia to develop civil aviation safety authorities and to assist the government concerned in the administration of safety certification and related aviation safety programs. Such technical assistance shall be provided pursuant to implementing agreements to be negotiated from time to time between the Government of the United States and the Government concerned. The FAA shall provide such technical assistance in accordance with the provisions of the Federal Aviation Act of 1958, 49 U.S.C. 1301 *et seq.* and the International Aviation Facilities Act, 49 U.S.C. 1151 *et seq.* The technical assistance provided by the FAA includes:

(a) continuing development of aviation safety statutes, regulations and aviation safety authorities;

(b) training, in the United States, of personnel designated by the Government of the Marshall Islands or the Federated States of Micronesia, respectively; and

(c) the stationing of FAA personnel in the Marshall Islands or the Federated States of Micronesia to provide continuing advice and guidance to aviation safety authorities at the request of the Government concerned. Such advice and guidance may include assistance required for certification by the Government of the Marshall Islands or the Federated States of Micronesia of airmen, aircraft, airports and air agencies, as the term “air agencies” is defined in 49 U.S.C. 607.

5. Pursuant to Article II, Title One, of the Compact, the Governments of the Marshall Islands and the Federated States of Micronesia shall protect radio frequency bands allocated in accordance with Article 5 of the Radio Regulations of the International Telecommunications Union to the aeronautical mobile, mobile, aeronautical fixed, fixed, aero-

nautical radionavigation, and radionavigation services in accordance with the provisions of Radio Regulations annexed to the International Telecommunication Convention, in order to ensure their use free of interference for these allocated purposes in support of civil aviation.

6. The Governments of the Marshall Islands and the Federated States of Micronesia, in order to ensure that they transmit and receive the most current meteorological information for civil aviation purposes and that such information provided by them shall be available on a global basis, shall provide continuing access to their telecommunications services for meteorological traffic to and from Guam or other points as may be designated by the Government of the United States in consultation with the Government of the Marshall Islands or the Federated States of Micronesia.

7. The Governments of the Marshall Islands and the Federated States of Micronesia, in order to ensure that they transmit and receive the most current flight movement and airmen information data for civil aviation purposes, and that such information received or provided by them will be available on a global basis, shall provide continuing access to their telecommunications services for flight movement and airmen information traffic to and from Guam or other entry points into the Aeronautical Fixed Service of the International Civil Aviation organization as may be designated in accordance with the Convention on International Civil Aviation, Annex 10, Volumes 1 and 2, by the Government of the United States in consultation with the Government of the Marshall Islands or the Federated States of Micronesia.

8. The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall from time to time enter into such agreements as may be necessary to implement subparagraphs (b) and (c) of paragraph 2 of this Article.

Article IX

Civil Aviation Economic Services and Related Programs

1. The Government of the United States and the Governments of the Marshall Islands and Federated States of Micronesia agree that the following provisions shall apply to the economic regulation of air services of the Marshall Islands and the Federated States of Micronesia.

2. The Governments of the Marshall Islands and the Federated States of Micronesia shall exercise independent economic regulatory jurisdiction over air services to, from and within the Federated States of Micronesia, respectively, which for the purposes of this Agreement are

points outside the United States, as the term “United States” is defined in 49 U.S.C. 1301(41).

3. In accordance with Section 124 of the Compact, the Government of the United States, if requested and as mutually agreed, shall negotiate or assist in negotiations for air rights with third countries on behalf of the Government of the Marshall Islands or the Federated States of Micronesia.

4. The Civil Aeronautics Board, upon request, shall provide the following assistance to the Governments of the Marshall Islands and the Federated States of Micronesia:

(a) preparation of statutory and regulatory proposals for the economic regulation of civil aviation;

(b) processing, in Washington, D.C., on behalf of and on the basis of procedures mutually agreed with the Government of the Marshall Islands or the Federated States of Micronesia of applications from any person seeking authority from those governments to engage in air services to, from or within the Federated States of Micronesia; the power of ultimate disposition of such applications rests with the Government of the Marshall Islands or the Federated States of Micronesia, respectively;

(c) training in the processing of air service applications, in Washington, D.C., of not more than two persons per government annually, and a total of not more than six persons, per government during the life of this Agreement. The designating Government shall be responsible for travel, subsistence and similar expenses of its designated persons while in such training; and

(d) such other assistance as may from time to time be specifically agreed to by the Civil Aeronautics Board.

5. Subject to approval of the Congress of the United States, the Government of the United States shall establish:

(a) Until October 24, 1988 and thereafter if extended by the laws of the United States, eligibility of United States air carriers for subsidy compensation necessary to support essential air transportation, at a level determined by the Civil Aeronautics Board, between the United States and points in the Marshall Islands and the Federated States of Micronesia receiving regularly scheduled air service by Continental Air Micronesia on August 26, 1982, and between such points in the

Marshall Islands and the Federated States of Micronesia. In determining the level of essential air transportation, the Civil Aeronautics Board shall take account of all air service, including connecting service, provided to the Federated States of Micronesia, including service by United States, Freely Associated State and all other carriers.

(b) A distinct classification of foreign air carrier, as the term “foreign air carrier” is defined in 49 U.S.C. 1301(22), to be known as “Freely Associated State Air Carrier.” This classification shall apply exclusively to a carrier which:

(1) is organized under the laws of the Marshall Islands, the Federated States of Micronesia or the United States; and

(2) has consent to such classification from the Government of the Marshall Islands or the Federated States of Micronesia, concerned, and consent to such classification from the Government of the United States pursuant to standards adopted by the Government of the United States for such classification.

(c) Authority for the Civil Aeronautics Board to authorize Freely Associated States Air Carriers to carry local traffic between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, and within the Commonwealth of the Northern Mariana Islands.

(d) Eligibility of Freely Associated State Air Carriers to receive subsidy compensation at a level determined by the Board in accordance with paragraph 5(a) of this Article either if no United States air carrier is available to provide the essential air transportation or if the subsidy required for the provision of essential air transportation by a Freely Associated State Air Carrier would be substantially less than the subsidy which would be paid to an available United States air carrier, provided that unilateral action by the Government of the Marshall Islands or the Federated States of Micronesia under subparagraph 5(b)(2) of this Article shall impose no obligation on the Government of the United States to increase the level of such compensation.

(e) Authority for the Civil Aeronautics Board to require that any United States, Freely Associated State or other carrier which provides service in a subsidized market comply with specified service, rate or fare conditions as may be necessary or desirable to minimize subsidy without undue impairment of the service provided.

(f) Notwithstanding the provisions of 49 U.S.C. 1301(16), Air Micronesia, Inc. shall qualify as a U.S. citizen air carrier, within the

meaning of 49 U.S.C. 1301(3), for so long as it continues to be (1) incorporated in the United States or its Territories or possessions, and (2) controlled by citizens of the United States or by a corporation or corporations controlled by citizens of the United States.

(g) Compensation determined by the Civil Aeronautics Board to be necessary to maintain essential air transportation shall be provided from funds specifically appropriated for compensation for service under paragraph 5(a) of this Article.

(h) The Civil Aeronautics Board shall adopt rules to implement the provisions of this paragraph as the Board in its discretion, deems appropriate.

6. Notwithstanding paragraph 2, the Governments of the Marshall Islands and the Federated States of Micronesia shall authorize, without restrictions or impairment, United States air carriers to operate air services to, through, beyond, within and between the Marshall Islands and the Federated States of Micronesia and to establish tariffs applicable to such air services. The Government of the United States shall promptly notify the Government of the Federated States of Micronesia of the filing with the Civil Aeronautics Board of any application by a United States air carrier for authority under the laws of the United States to operate air services pursuant to this paragraph. The Government of the Federated States of Micronesia shall designate competent authorities pursuant to Article 11, paragraph 10, of this Agreement for the purpose of receiving such notice. The Government concerned shall be accorded an opportunity to present its views which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the United States in connection with any such application, the Government concerned shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules.

7. The Government of the United States shall sympathetically consider requests by the Government of the Federated States of Micronesia for negotiations of a bilateral air transport agreement between the Government of the United States and the requesting government. The Governments of the Marshall Islands, the Federated States of Micronesia and the United States shall, on the basis of reciprocity, exempt air carriers which are authorized by any other government signatory to this Article to provide air services, from customs duties and taxes imposed by their national authorities, and shall not impose user charges which exceed an equitable proportion of the reasonable costs of providing the facilities, or which are discriminatory.

8. The Government of the Marshall Islands or the Federated States of Micronesia may terminate the operation of any of four categories of economic services described in the subparagraphs of this Article and set forth below. Such partial termination, which may be effected in the same manner as this Article may be terminated in accordance with Article XII of this Agreement, may be exercised only for the categories listed below.

(a) Category 1 — paragraph 4;

(b) Category 2 — subparagraphs (a), (d) and (e) of paragraph 5;

(c) Category 3 — subparagraph (c) of paragraph 5; or

(d) Category 4 — subparagraphs (a), (b), (c), (d) and (e) of paragraph 5.

If the Government of the Marshall Islands or the Federated States of Micronesia terminates the operation of the subparagraphs in Category 4, that Government may, in accordance with Article XII of this Agreement, also terminate the operation of paragraph 6 of this Article.

If the Government of the Marshall Islands or the Federated States of Micronesia elects to terminate both the operation of the subparagraphs in Category 4 and the operation of paragraph 6 of this Article, the remaining provisions of this Article shall cease to be in effect two years after such termination, unless otherwise agreed by the Government of the Marshall Islands or the Federated States of Micronesia, concerned, and the Government of the United States.

Article X

Federal Emergency Management Agency Services and Related Programs

1. The Federal Emergency Management Agency of the United States (FEMA) shall make available disaster assistance in the Marshall Islands or the Federated States of Micronesia at the levels equivalent to those available to the Trust Territory of the Pacific Islands during the year prior to the effective date of the Compact.

2. These disaster assistance services and related programs shall be provided pursuant to:

(a) The provisions of the Disaster Relief Act of 1974, 42 U.S.C. 5121, *et seq.*;

(b) Applicable Executive Orders of the President of the United

States; and

(c) Implementing FEMA regulations.

3. Assistance under the Disaster Relief Act of 1974 shall be made available to the Marshall Islands or the Federated States of Micronesia in the same manner as assistance is made available to a “State”. Solely for the purpose of applying the Disaster Relief Act of 1974 pursuant to this Article, the Marshall Islands or the Federated States of Micronesia shall be considered included within the definitions of “United States” and “State” as those terms are defined in 42 U.S.C. 5122.

4. The President of the Marshall Islands or the President of the Federated States of Micronesia may request a determination by the President of the United States that an emergency or a major disaster exists in the Marshall Islands or the Federated States of Micronesia, respectively, in accordance with 42 U.S.C. 5141.

(a) In order to expedite such determination, the request shall simultaneously be forwarded to the Regional Director of FEMA in whose region the Marshall Islands or the Federated States of Micronesia are included for the purposes of this Article. The request shall conform with the provisions of the FEMA Disaster Assistance Regulations, 44 C.F.R. 205.

(b) Upon the declaration of an emergency or a major disaster by the President of the United States pursuant to this Section, an Exchange of Notes for each such emergency or major disaster shall be executed by the President of the Government of the Marshall Islands or the Federated States of Micronesia on behalf of such Government and the designated FEMA official on behalf of the Government of the United States. The Exchange of Notes shall set forth the type, extent, terms and conditions of disaster assistance to be provided by the Government of the United States. The Exchange of Notes shall be executed in lieu of the Federal State Agreement for an emergency or major disaster as required by 44 C.F.R. 205.

5. The President of the Marshall Islands or the President of the Federated States of Micronesia may request a determination by FEMA that fire suppression assistance be provided to the Marshall Islands or the Federated States of Micronesia, respectively, pursuant to 42 U.S.C. 5187.

(a) The request shall conform with Subpart G of the FEMA Disaster Assistance Regulations, 44 C.F.R. 205.

(b) Upon a determination that fire suppression assistance shall be provided, an Exchange of Notes shall be executed by the President of the Government of the Marshall Islands or the Federated States of Micronesia on behalf of such Government and the designated FEMA official on behalf of the Government of the United States. The Exchange of Notes shall set forth the type, extent, terms and conditions of fire suppression assistance to be provided by FEMA. The Exchange of Notes shall be executed in lieu of the Federal—State Agreement for Fire Suppression required by Subpart G of the FEMA Disaster Assistance Regulations.

6. The Government of the Marshall Islands or the Federated States of Micronesia may request an annual grant pursuant to 42 U.S.C. 5131(d). The requesting Government shall use such grants for improving, maintaining and updating the applicable portion of the disaster assistance plan developed by the Trust Territory of the Pacific Islands pursuant to 42 U.S.C. 5131(c) or any other disaster assistance plan of the requesting Government.

7. The Government of the Marshall Islands or the Federated States of Micronesia assumes all rights, obligations and liabilities arising out of services and related programs provided after the effective date of the Compact, including matching fund obligations which may be required by law or for which a commitment has been made by agreement between FEMA and the Government concerned. The Government of the Marshall Islands or the Federated States of Micronesia shall assume administrative responsibilities for procedures required to close out disaster relief efforts begun in connection with any disaster which is “open”, as determined by FEMA pursuant to the Disaster Relief Act of 1974, on the effective date of this Compact.

8. To the extent necessary to permit FEMA to fulfill its obligations under this Article following the declaration of a major disaster or emergency, the Government of the Marshall Islands or the Federated States of Micronesia concerned shall, as set forth in the Exchange of Notes referred to in paragraphs 4 and 5 of this Article:

(a) make available to FEMA, at no cost, equipment or facilities in its territory, including facilities necessary for communications;

(b) permit FEMA to operate telecommunications services in its territory;

(c) endeavor to make available radio frequencies for the exclusive use by FEMA;

(d) assist FEMA representatives in inter-island and in-territory movement for the purpose of accomplishing predeclaration damage assessment, post-declaration damage survey and the provision of disaster assistance to include the movement of supplies and equipment; and

(e) in addition to the periodic audit provisions of Section 233 of the Compact, upon request, provide representatives of FEMA and the Controller General of the United States access to any books, documents, papers, and records that pertain to federal funds, equipment and supplies received under this Article, for the purpose of audit and examination.

9. The Governments of the Marshall Islands and the Federated States of Micronesia shall each set forth in a governmental emergency plan the procedures and assignments of responsibility which are required for each Government to prepare for and respond to disasters and to facilitate the delivery of disaster assistance by the Government of the United States.

10. The Government of the Marshall Islands or the Federated States of Micronesia may appeal any determination of the Regional Director related to federal assistance provided under this Article. An appeal shall first be submitted to the Regional Director of FEMA for reconsideration; if such appeal is denied, the Government may submit a second appeal in accordance with FEMA regulations. Action on the second appeal shall be final.

Article XI

Implementation of Section 221(b) of the Compact

1. The Government of the United States recognizes the special needs of the Marshall Islands and the Federated States of Micronesia, particularly in the fields of education and health care. The Governments of the Marshall Islands and the Federated States of Micronesia have determined that their special needs, particularly in the fields of education and health care, can be addressed through provision by the Government of the United States of a special block grant of assistance. In light of this determination and in implementation of Section 221(b) of the Compact, the Government of the United States shall assist those Governments in meeting their special needs through provision of the assistance set forth in this Article.

2. The Government of the United States shall provide annually to each of the Governments of the Marshall Islands and the Federated States of Micronesia a special block grant to be used in accordance with the pur-

poses set forth in paragraph 3 of this Article. Except as otherwise provided pursuant to Section 221(b) of the Compact, the annual amount of this special block grant shall be \$3 million for the Government of the Marshall Islands and \$7 million for the Government of the Federated States of Micronesia.

3. The special block grant provided by the Government of the United States is divided into the program categories set forth in this paragraph. In any year, the Government of the Marshall Islands or the Federated States of Micronesia may dedicate its overall block grant to any combination of these program categories subject to the guidelines set forth in paragraph 5 of this Article. The special block grant provided pursuant to Section 221(b) of the Compact and this Article is intended to complement the programs of the Governments of the Marshall Islands and the Federated States of Micronesia in the same program categories.

(a) Health Care Program Category

Funding dedicated to the health care program category may support program efforts including the following areas:

— Preventive Health Care and Services;

— Maternal and Child Health Services;

— Alcohol, Drug Abuse and Mental Health;

— Primary Health Care including provision of grants to private non-profit, public or governmental entities for planning, development and operation of community health centers and for the delivery of family health services;

— Social Services including support for private non-profit, community, public or governmental efforts in child care services, family planning, day-care services, counseling, and preparation and delivery of meals or other health support services; and

— Community Services including support for in the area of emergency health assistance, community health systems rehabilitation or reestablishment and housing.

(b) Education program category

Funding dedicated to the education program category may be used to support programs including the following areas:

— Vocational Education including support for private non-profit, public and governmental institutions of vocational education and maintenance of vocational education physical plants;

— Primary and Secondary Education including grants to public or private non-profit primary and secondary educational institutions for curriculum development, staffing and personnel, supplies, teacher training, and maintenance of primary and secondary education physical plants;

— Post-secondary Education including grants to private non-profit or public institutions of post-secondary education, maintenance of post-secondary education physical plants, curriculum development, teacher training and recruitment; and

— Educational planning and research.

(c) Technical Assistance

Funding provided in this program category may be used by the Governments of the Marshall Islands and the Federated States of Micronesia to employ technical experts in any area of specific need. This technical assistance may be used as transitional assistance or to mount sustained program efforts including the training of local personnel in the particular program areas.

(d) Housing Assistance

Funding dedicated to this program category may be used generally for housing assistance programs sponsored by the Government of the Marshall Islands or the Federated States of Micronesia including guarantees of commercial loans for initial construction or improvements.

(e) Food Supplement Assistance

Funding dedicated to this program category may be used to support governmental efforts and programs including those designed to ensure that the citizens of the Marshall Islands or the Federated States of Micronesia are not without resources to meet minimum nutritional requirements.

4. The Governments of the Marshall Islands and the Federated States of Micronesia shall each present annual special block grant program plans to the Government of the United States which plans shall set forth

the purposes for which the special block grant funding shall be used. The annual special block grant program plans may take any form which is most convenient to the Government submitting it, but the plan must indicate that the funds will be expended in a manner consistent with paragraphs 3 and 5 of this Article.

5. The use of the special block grant funds by the Government of the Marshall Islands or the Federated States of Micronesia shall comply with the guidelines set forth in this paragraph.

(a) Transferability.

Funding may be transferred by the Government of the Marshall Islands or the Federated States of Micronesia among specific program purposes within the program categories set forth in paragraph 3 as well as among the program categories from year to year.

(b) Guidelines for expenditures.

Funding available to the Governments of the Marshall Islands and the Federated States of Micronesia in their annual special block grant allocations may not be used for the following purposes:

— cash assistance payments to individual citizen program recipients which totals more than ten percent of any year's total allocation to the Government concerned;

— payment to or support of for-profit organizations;

— investment in any interest bearing instruments;

— purchase of equipment not primarily related to the program category purposes set forth in paragraph 3.

— purchase of technical assistance or services from any individual government other than the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia.

In any year, not more than 10% of the total annual- allocation of special block grant funds available to the Government of the Marshall Islands or the Federated States of Micronesia may be used for administrative expenses attendant to program or service delivery, exclusive of medical referral and other transportation costs directly related to delivery of programs and services to recipients.

(c) Audit.

The Governments of the Marshall Islands and the Federated States of Micronesia shall keep current records of all funding transactions of the special block grant funds and shall make such records available to the Government of the United States in connection with any audits conducted pursuant to Section 233 of the Compact.

6. Funds made available by the Government of the United States to the Governments of the Marshall Islands and the Federated States of Micronesia pursuant to Section 221(b) of the Compact and this Article do not require any matching with local funds.

7. In the event that the audit conducted pursuant to Section 233 of the Compact and paragraph 5(c) of this Article reveals that the expenditure of funds by the Government of the Marshall Islands or the Federated States of Micronesia, respectively, in connection with a prior year special block grant was not in conformity with the requirements of this Article, the Government of the United States may withhold, for the subsequent year, special block grant funding which would otherwise be made available to the Government not in conformity. Should the Government of the United States determine to withhold special grant funding pursuant to this paragraph, such action shall be subject to the consultation and dispute resolution provisions of Article II of Title Four of the Compact. The Government of the United States and the concerned recipient government shall consult regarding the nature of actions required.

8. Funding for the special block grant shall be disbursed by the Government of the United States to the Governments of the Marshall Islands and the Federated States of Micronesia in the same fashion as the current account grant funding referred to in Article I of Title Two of the Compact.

Article XII

Transition and Termination of Services and Related Programs

1. Whenever the Government of the Marshall Islands or the Federated States of Micronesia desires to terminate a category of the services and related programs set forth in Articles VI, VII, VIII, IX, X or XI of this Agreement, that Government shall give written notice to the United States resident representative and to the Federal agency concerned.² The Government of the United States shall assist in the orderly transfer of authority and responsibility. unless otherwise agreed, the authority and responsibility of the Government of the United States under this Agreement shall terminate one year after receipt of such notice by the

resident representative.

2. Upon termination of a category of services and related programs pursuant to paragraph 1 of this Article, the applicability of all laws of the United States, its regulations, practices, policies, treaties, conventions, or arrangements, which are applicable to that category solely by virtue of this Agreement, shall cease to be applicable in the territory of the Government which has given notice, and any authority and responsibility of the Government of the United States for the conduct of foreign affairs in respect to such services and related programs shall also cease.

Article XIII

Effective Date, Amendment and Duration

1. This Agreement shall enter into force simultaneously with the Compact; its related Exchanges of Notes shall enter into force in accordance with their own terms.

2. The provisions of this Agreement may be amended as to all of 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.

3. The provisions of this Agreement or its related Exchanges of Notes 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 Agreement shall be notified promptly by the Government of the United States of any such amendment.

4. This Agreement shall remain in force for a period of fifteen years, subject to Section 231 and Article IV, Title Four of the Compact.

5. This Agreement 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 Agreement shall possess an original English language version.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Federal Programs and Services Agreement which shall come into effect in accordance with its terms between the Government of the

United States and the other Governments signatory to this Agreement.

DONE AT Honolulu, Hawaii, THIS 1st DAY of October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY of October, ONE THOUSAND, NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

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

DONE AT Majuro, Marshall Islands, this 25th day of June, one thousand, nine hundred eighty-three FOR THE GOVERNMENT OF THE MARSHALL ISLANDS

FEDERAL PROGRAMS AND SERVICES AGREEMENT

AGREED MINUTES

Federal Programs and Services Agreement: The provisions of this Agreement relating to technical assistance to be provided in connection with specific programs and services are without prejudice to the provision of technical assistance pursuant to Section 226 or other provisions of the Compact.

Article II, paragraph 6, Legal Status of Programs and Related Services, Federal Agencies, United States Contractors and United States Personnel: Paragraph 6 is without prejudice to the Government concerned adopting laws and regulations which require the giving of notice of such transfer.

Article VI, Postal Services and Related Programs, paragraph 10: This Agreement does not impair the authority of the Governments of the Marshall Islands or the Federated States of Micronesia, pursuant to paragraph 1 of this Article, to enact laws and promulgate regulations governing the operation of their respective local postal services.

Article VIII, Civil Aviation Safety Services and Related Programs: The Signatory Governments intend that aviation safety authorities be in place in the Marshall Islands and the Federated States of Micronesia on or as soon after the effective date of this Agreement as is necessary or practicable. To this end, the Government of the United States agrees to provide FAA technical assistance in the preparation of aviation safety stat-

utes and regulations for the Governments of the Marshall Islands and the Federated States of Micronesia. On or after the effective date of this Agreement, such technical assistance shall be provided through agreements concluded pursuant to paragraph 4 of this Article. Prior to the effective date of this Agreement, such technical assistance shall be provided only if funding is obtained to reimburse the FAA for such assistance. The Governments of the Marshall Islands and the Federated States of Micronesia have been advised that such funds will have to be provided by the Government receiving FAA technical assistance should such funds not otherwise be available.

Article IX, Civil Aviation Economic Services and Related Programs: It is the intention of the Government of the United States to provide to the Government of the Federated States of Micronesia assistance in the negotiation of air rights with third countries, or to negotiate such rights on behalf of those Governments, if mutually agreed as provided for in paragraph 3 of Article IX of this Agreement. Such assistance will be provided by the United States in as timely and effective a manner as available personnel and resources permit, and will not be unreasonably withheld. Should the Government of the United States determine that it would not be consistent with the interests of the United States to agree to provide such assistance in accordance with a particular request for same by the Government of the Federated States of Micronesia, the Government of the United States shall advise that Government of the basis for such determination.

Article IX, Civil Aviation Economic Services and Related Programs: The Government of the United States has notified the Government of the Federated States of Micronesia that it is the intention of the Government of the United States that its consent to the classification of a foreign air carrier as a Freely Associated State Air Carrier, shall be conditioned upon the carrier's demonstration to the satisfaction of the Civil Aeronautics Board that it is substantially owned and effectively controlled by citizens of the Federated States of Micronesia or the United States.

Article XI, Implementation of Section 221(b) of the Compact, paragraph 5(b): The Governments of the Marshall Islands and the Federated States of Micronesia may, consistent with the expenditure guidelines set forth in paragraph 5(b), purchase technical assistance from the Government of the United States of America, its territories and possessions, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands.

Article XI, Implementation of Section 221(b) of the Compact, paragraph

5(b): The provisions of paragraph 5(b) of the Compact for payments to or support of for-profit organizations are not intended to preclude acquisition of goods and services for public purposes within the programs categories set forth in paragraph 3 of Article XI.

Article XI, Implementation of Section 221(b) of the Compact, paragraph 7: Should the United States determine to withhold special grant funding from the Federated States of Micronesia pursuant to paragraph 7 of Article XI, such withholding action shall be effective three months after the Government of the Federated States of Micronesia receives notice of the intention of the Government of the United States. During this period, the Government of the United States and the Government of the Federated States of Micronesia shall consult to determine the nature of the actions which, if taken, would result in restoration of the special block grant funding which the Government of the United States has determined to withhold.

Conditions of Signature

Subsequent to signature of this Agreement, the Government of the United States and the Government of the Federated States of Micronesia expressly reserve the right to negotiate further concerning the provisions of Paragraph 7 of Article X of this Agreement and the manner in which that paragraph is to be implemented. The provisions of paragraph 7 of Article X of this Agreement shall not take effect or bind the Government of the United States or the Government of the Federated States of Micronesia until the Government of the United States and the Government of the Federated States of Micronesia have expressly agreed to all such provisions and by written declaration have withdrawn this reservation.

This Condition of Signature shall be appended to the signature of the Government of the United States and the Government of the Federated States of Micronesia on the Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association.

Amendment One to the Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association

1. This Amendment to the Federal Programs and Services Agreement is concluded by the signatory Governments in accordance with paragraph 2 of Article XIII (Effective Dates, Amendment and Duration) of that Agreement, and shall amend said agreement as between the signa-

tory Governments hereto.

2. Paragraph 5(f) of Article IX (Civil Aviation Economic Services and Related Programs) of that Agreement is hereby amended to read as follows:

“(f) Notwithstanding the provisions of 49 U.S.C. 1301(16), Continental Micronesia Airlines, Inc., shall qualify as a U.S. citizen air carrier, within the meaning of 49 U.S.C. 1301(3), for so long as it continues to be (1) incorporated in the United States or its Territories or possessions, and (2) controlled by citizens of the United States or by a corporation or corporations controlled by citizens of the United States; *provided*, that any agreement to provide specified levels of service to any Freely Associated State by Continental Micronesia Airlines, Inc., (or agreement to reduce such levels by three-fourths of the minority directors of the Board of Directors of Continental Micronesia Airlines, Inc.,) shall not affect U.S. citizen control of Continental Airlines, Inc.”

3. The Government of the United States shall seek appropriate Congressional approval in order to give effect to this Agreement (which shall be known as “Amendment One to the Federal Programs and Services Agreement Concluded Pursuant to Article II of Title Two and Section 232 of the Compact of Free Association”).

DONE AT Washington, D.C., THIS 20th DAY OF September,
ONE THOUSAND NINE HUNDRED EIGHTY-FIVE FOR THE
GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Washington, D.C., THIS 20th DAY OF September,
ONE THOUSAND NINE HUNDRED EIGHTY-FIVE FOR THE
GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Agreement Concluded Pursuant to Section 234 of the Compact of Free Association

Section 234 of the Compact of Free Association (the Compact) provides that title to the property of the Government of the United States which is situated in the Trust Territory of the Pacific Islands, or which has been acquired by the Government of the United States for use by the Government of the Trust Territory of the Pacific Islands, on or before the day preceding the effective date of the Compact shall vest in the Governments of the Marshall Islands and the Federated States of Micronesia. This vesting of title shall be without reimbursement or transfer of funds by or from the Governments of the Marshall Islands and the Federated States of Micronesia. Title to property of the Government of the United States for which the Government of the United States determines a continuing requirement shall remain vested in the Government of the United States.

United States Public Law 96-597 (94 Stat. 3477) provides in Section 402 that all right, title and interest of the Government of the United States in personal property situated in the Trust Territory of the Pacific Islands shall be transferred to the Government of Palau, the Marshall Islands, the Federated States of Micronesia or the Northern Mariana islands, without reimbursement by any of them. The High Commissioner of the Trust Territory of the Pacific Islands is required to establish a list of distribution of the property among the recipient governments and in consultation with them. Only property which is surplus to the needs of the Government of the United States shall be included in this list for transfer.

In light of Section 234 of the Compact and of Section 402 of United States Public Law 96-597, the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia confirm their mutual understanding as follows:

1. *Identity of Intent*

Section 234 of the Compact and Section 402 of United States Public Law 96-597 both have the intention of transferring to the Governments of the Marshall Islands and the Federated States of Micronesia title to property owned but not further required by the Government of the United States, which is situated in the Trust Territory of the Pacific Islands.

2. *Authority for Transfer of Title to Property*

The Government of the United States confirms that the property which it contemplates will be transferred under Section 234 of the Compact of Free Association or under Section 402 of United States Public Law 96-597 is transferred pursuant to the legislative authority contained in those instruments. In accordance with its terms Section 234 of the Compact provides legislative authority for the transfer of title to property of the Government of the United States for the full period of its effectiveness.

3. *Timing of Transfer of Title*

United States Public Law 96-597 directs that title to the property in question shall vest in the recipient governments. Prior to the effective date of the Compact, transfer of title to the property in question shall be governed by United States Public Law 96-597. The Compact, as of its effective date, shall provide the legislative authority for the transfer of title to the property in question to the Governments of the Marshall Islands and the Federated States of Micronesia.

4. *Future Transfers of Property*

If, at any time after the effective date of the Compact of Free Association and during the period of effectiveness of Section 234 of the Compact, the Government of the United States determines that it no longer has a continuing requirement for any property which would otherwise have been transferred in accordance with paragraph 3 of this Agreement the Government of the United States may, at its discretion, transfer title to such property to the Government of the Marshall Islands or the Federated States of Micronesia. The identity of the recipient government shall be the same as the location of the property.

5. *Ancillary Understandings*

Any understandings or agreements entered into by the High Commissioner of the Trust Territory of the Pacific Islands and the Governments of the Marshall Islands and the Federated States of Micronesia in the implementation of Section 402 of United States Public Law 96-597 and with respect to property addressed in Section 234 of the Compact shall have full force and effect as though the transfer of title to the property in question had taken place under the authority of Section 234 of the Compact.

The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia agree that the list of distribution established by the High Commissioner of the Trust

Territory of the Pacific Islands shall , at the time of its publication, be attached to this Agreement as Annex A.

The Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia further agree that this Agreement constitutes the separate agreement referred to in Section 234 of the Compact.

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

IN WITNESS WHEREOF, the respective representatives, duly authorized for the purpose, have signed the present Agreement.

DONE AT Honolulu, Hawaii THIS 1st DAY OF October, ONE THOUSAND NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii THIS 1st DAY OF October, ONE THOUSAND NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

**Status of Forces Agreement
Concluded Pursuant to Section 323 of The Compact Of Free
Association**

This Agreement is concluded by the Signatory Governments and sets forth the legal status of the Armed Forces of the United States, their members, and associated civilians, while present in the Marshall Islands or the Federated States of Micronesia pursuant to Section 323 of the Compact of Free Association (the Compact).

Article I
Definitions

1. The Definition of Terms set forth in Article VI of Title Four of the Compact is incorporated into this Agreement.

2. For the purposes of this Agreement only, the following terms shall have the following meanings:

(a) “Armed Forces of the United States” means the land, sea and air armed forces of the United States of America, including the Coast Guard.

(b) “United States Contractors” means the legal entities, including corporations and natural persons, present in the Marshall Islands or the Federated States of Micronesia for the purpose of executing their contracts with the Government of the United States, or subcontracts of such contracts, in support of the Armed Forces of the United States and designated as such by the Government of the United States. The term “United States Contractors” does not include local contractors.

(c) “Local Contractors” means the legal entities, including corporations and natural persons organized under the laws of, and who are in, the Marshall Islands or the Federated States of Micronesia, respectively.

(d) “United States Personnel” means anyone who is included in any of the following categories:

(1) “members of the force” — all military personnel, notwithstanding their citizenship or nationality, on duty with the Armed Forces of the United States who are in the Marshall Islands or the Federated States of Micronesia;

(2) “members of the civilian component” — all civilian per-

sons, notwithstanding their citizenship or nationality, except local hire personnel, who are in the Marshall Islands or the Federated States of Micronesia, and who are in the employ of, serving with, or accompanying the Armed Forces of the United States;

(3) “contractor personnel” — natural persons, who are United States citizens or nationals or United States permanent resident aliens, except local hire personnel, who are in the Marshall Islands or the Federated States of Micronesia, and who are United States contractors or officers or employees of United States contractors; or

(4) “dependents” — the spouses and children of persons included in paragraphs 2(d)(1), 2(d)(2) and 2(d)(3) of this Article and, while members of the household of such persons, other relatives or wards of such persons or their spouses.

(e) “Third Country Contractor Personnel” means natural persons other than United States personnel or local hire personnel who are in the Marshall Islands or the Federated States of Micronesia and who are United States contractors or officers or employees of United States contractors or dependents of any of them.

(f) “Local Hire Personnel” means citizens and nationals of the Marshall Islands or the Federated States of Micronesia, who are employed in the Marshall Islands or the Federated States of Micronesia, respectively, by the Armed Forces of the United States or United States contractors.

(g) “Defense Sites” Means “Military Areas and Facilities” as defined in Section 461 (i) of the Compact.

(h) “Judge” means any judicial officer of a Signatory Government who has the authority to issue a warrant of arrest or its equivalent and for purposes of this Agreement, except for paragraph 6(c) of Article XII, shall also include judicial officers certified as such by the Government concerned.

Article II *Movement*

Consistent with the Compact, this Agreement and any other agreements concluded between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia in accordance with Sections 321 and 323 of the Compact:

(a) All aircraft, vessels and vehicles operated by, for, or under the control of the Armed Forces of the United States or United States contractors shall enjoy freedom of movement in the Marshall Islands and the Federated States of Micronesia;

(b) Such aircraft, vessels and vehicles shall be operated in a manner which minimizes danger to persons and property and interference with trade, commerce, exploration and exploitation of living and non-living resources of the sea; and

(c) Movement of such aircraft, vessels and vehicles in the Marshall Islands and the Federated States of Micronesia, including access to and use by them of defense sites, ports, harbors and air- fields, shall not be subject to any taxes, fees or other charges, except those fees or other charges set forth in paragraph 2 of this Article.

2. The Armed Forces of the United States and United States contractors shall pay, at generally prevailing rates unless otherwise agreed, for specific services rendered at their request, including materials received at their request in connection with the use of ports, harbors and airfields in the Marshall islands and the Federated States of Micronesia. Such services and materials may include fuel, towing, mechanical servicing and utilities.

Article III *Entry and Departure*

1. The Government of the United States may bring into the Marshall Islands and the Federated States of Micronesia:

(a) United States personnel and United States contractors; and

(b) Third country contractor personnel in a manner consistent with those laws of the Marshall Islands or the Federated States of Micronesia, respectively, relating to the exclusion of individual, undesirable aliens and taking into account paragraph 5 of this Article and Article IV of this Agreement.

2. United States personnel shall be exempt from the passport and visa laws and regulations of the Marshall Islands and the Federated States of Micronesia. Taking into account paragraph 1(b) of this Article and Article IV of this Agreement applications of third country contractor personnel for visas shall be granted or denied expeditiously. All such personnel shall comply with medical immunization requirements of the Marshall Islands and the Federated States of Micronesia, respectively.

Article IV

Utilization of Contractors and Employment of Labor

(a) No United States personnel or third country contractor personnel shall acquire any right to permanent residence or domicile solely as a result of their being United States personnel or third country contractor personnel.

(b) United States personnel shall be exempt from laws and regulations of the Marshall Islands and the Federated States of Micronesia on the entry, departure, registration and control of aliens and foreign agents.

3. Upon entry into or departure from the Marshall Islands or the Federated States of Micronesia, United States personnel shall have in their possession official orders or documents certifying the status of the individual or group. Such orders or documents shall be shown on request to the appropriate authorities of the Government concerned.

4. For the purpose of their identification while in the Marshall Islands or the Federated States of Micronesia, United States personnel ten years of age or older shall have in their possession a personal identification card authorized by the Government of the United States which shall show the name, date of birth, status, and photograph of the bearer. Such card shall be shown on request to the appropriate authorities of the Government concerned.

5. Should the Government of the Marshall Islands or the Federated States of Micronesia request the removal from the Marshall Islands or the Federated States of Micronesia, respectively, of any United States personnel or any third country contractor personnel, the request shall be referred to the Joint Committee established pursuant to Section 351 of the Compact for resolution in accordance with that Section, unless the Government of the United States receives the person concerned within its own territory or otherwise effects the departure of such person outside the territory of the requesting Government. Section 351 of the Compact is incorporated by reference into, and becomes a part of, this Agreement. If the Joint Committee so determines, the person concerned shall immediately become subject to the jurisdiction of the Government of the Marshall Islands or the Federated States of Micronesia in accordance with its laws.

6. Transportation costs attendant to the departure and removal of third country contractor personnel shall be the responsibility of the Government of the United States.

1. In the establishment, maintenance, and use and operation of defense sites and in the execution of obligations undertaken by the Government of the United States in the Compact and its related Agreements, the Armed Forces of the United States, United States contractors and local contractors:

(a) may employ persons possessing requisite skills and qualifications. Employment preference shall be given, without discrimination, to citizens, nationals and permanent resident aliens of the Marshall Islands or the Federated States of Micronesia, in their respective jurisdictions, and of the United States. In the employment of such persons pursuant to the preferences set forth in this paragraph, the Armed Forces of the United States and United States contractors shall exercise their best efforts to employ persons present in the Marshall Islands or the Federated States of Micronesia, respectively; and

(b) shall utilize without discrimination, consistent with the laws and regulations of the United States, qualified local contractors and contractors which are legal entities of the United States. The Armed Forces of the United States and United States contractors shall ensure that the specifications and instructions for contract bids shall permit such free and full competition as is consistent with the procurement of the goods and services needed by the Government of the United States.

2. Prior to the employment of third country personnel or the utilization of third country contractors, the Government of the United States shall notify the Government concerned and shall consult, if requested, with that Government as to the availability of qualified local hire personnel or qualified local contractors.

3. The laws and regulations of the Marshall Islands or the Federated States of Micronesia shall not apply to the terms and conditions of employment of United States personnel or third country contractor personnel by the Armed Forces of the United States or United States contractors. The Government of the Marshall Islands or the Federated States of Micronesia shall not require United States personnel, third country contractor personnel or United States contractors to obtain any license, permit or certificate, or to undergo any examination, in connection with the performance of their duties on behalf of the Armed Forces of the United States.

4. In the employment of local hire personnel by the Armed Forces of the United States and United States contractors, the Government of the United States shall adopt measures consistent with the standards of local labor laws to the extent they are compatible with the laws, regulations and operational requirements of the United States.

Article V
Taxes and Customs

1. The following are exempt from any tax, fee or similar charge imposed by the Government of the Marshall islands or the Federated States of Micronesia:

(a) The services, activities, facilities, equipment, material, income or any other property or transactions of the Armed Forces of the United States or United States contractors;

(b) The ownership, possession, use, or transfer inter se by United States personnel, by death or otherwise, of real or personal property, tangible or intangible, wherever located; and

(c) Income received by United States personnel for services with or employment by the Armed Forces of the United States or United States contractors, or from sources outside the territory of the Government concerned except that United States contractor personnel and dependents who are also United states contractor personnel are not exempt from a personal income tax generally applicable within the Marshall Islands or the Federated States of Micronesia up to a level of five percent of their annual income derived from their employment in the Marshall islands or the Federated States of Micronesia, respectively, by United States contractors.

2. Third country contractor personnel shall be subject to income tax generally applicable in the Marshall islands and the Federated States of Micronesia, respectively.

3. All materials, equipment and other property imported or exported by or on behalf of the Armed Forces of the United States or United States contractors for the use or benefit of the Armed Forces of the United states, United States contractors, United States personnel, or third country contractor personnel shall be permitted entry into and exit from the Marshall islands or the Federated States of Micronesia free from customs duties, license requirements, and other import and export taxes, fees or charges.

4. United States personnel may Import into and export from the Marshall Islands or the Federated states of Micronesia furniture, household goods and personal effects for their personal or family use, including all forms of privately owned land, sea and air transportation, free from customs duties, license requirements, and other import and export taxes, fees or charges.

5. The following are exempt from customs examination by the Government of the Marshall islands or the Federated States of Micronesia:

(a) Members of the force, members of the civilian component and the dependents of both when entering or leaving the Marshall Islands or the Federated States of Micronesia under official orders except when under leave orders;

(b) Documents under official seal, and mail in the United States military postal channels; and

(c) Cargo consigned to or shipped by the Armed Forces of the United States or United States contractors.

6 . The Armed Forces of the United States, in cooperation with the Government concerned, shall take appropriate measures, including inspection, to prevent the importation of contraband and to prevent abuse of privileges granted under this Article.

7. Should property imported into the Marshall Islands or the Federated States of Micronesia under the exemptions provided by this Article subsequently be transferred to a person not entitled to such exemptions, such person shall be liable for import duties and other charges according to the laws and regulations of the Government concerned.

8. Animals and plants, including fruits and vegetables, imported by United States personnel, subject to the provisions of this Article, and by third country contractor personnel shall be subject to the laws and regulations of the Marshall Islands or the Federated States of Micronesia, respectively, governing such inspection of and restriction on such importations.

Article VI
Service Facilities

The Armed Forces of the United States may authorize the establishment, use, operation and maintenance within defense sites in the

Marshall Islands or the Federated States of Micronesia of service, educational and recreational facilities. Such facilities and their related activities, including the importation, purchase, sale or dispensing of merchandise and services by them shall be exempt from all taxes, customs duties, fees, charges and license requirements of the Government of the Marshall Islands or the Federated States of Micronesia.

Article VII *Military Post Offices*

The Armed Forces of the United States may establish, operate and maintain military post offices within defense sites for their use and the use of United States contractors and United States personnel. A mail facility operated by a United States contractor on behalf of the Armed Forces of the United States shall be considered a military post office within the meaning of this Article.

Article VIII *Bearing of Arms*

1. Members of the force may possess and use arms when necessary to perform their official duties and, in specially designated areas in defense sites, to maintain skills to perform their official duties, in accordance with the laws and regulations governing the Armed Forces of the United States.

2. Contractor personnel may possess or use arms when acting in support of the military mission of the Government of the United States in an official capacity as law enforcement personnel or security officers designated as such by the Government of the United States in accordance with its laws and regulations.

3. Any other possession or use of arms shall be only as agreed between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia.

Article IX *Operation and Licensing of Vehicles*

1. The Government of the Marshall Islands or the Federated States of Micronesia shall accept as valid, without a test or fee, the operator's permit or license or military driving permit issued to United States personnel or third country contractor personnel by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the

Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

2. Official vehicles of the Armed Forces of the United States, vehicles owned or operated by United States contractors, and privately owned vehicles of United States personnel shall be identified by individual markings or license plates issued by the Government of the United States, the Governments of the States of the United States of America, its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands. However, the Government of the United States may use local individual markings or license plates in the Federated States of Micronesia.

(a) Official vehicles shall not be subject to the registration or safety inspection laws of the Government of the Marshall Islands or the Federated States of Micronesia.

(b) The Armed Forces of the United States may register vehicles of United States contractors and United States personnel which are not official vehicles, and may inspect such vehicles applying safety standards of general applicability in the Marshall Islands or the Federated States of Micronesia, respectively. Vehicles so registered and inspected shall be exempt from the registration and safety inspection laws of the Government of the Marshall Islands or the Federated States of Micronesia, respectively.

3. For purposes of this Article the term "vehicles" includes all forms of land, sea and air transportation.

Article X *Relinquishment of Defense Sites*

1. If any installations or improvements which were constructed at the expense of the Government of the United States are to be left behind after relinquishment of a defense site or portion thereof, whether at the termination of any agreement provided for in Section 321 or 323 of the Compact or at any other date, the Government of the Marshall Islands or the Federated States of Micronesia and the Government of the United States shall consult to determine the residual value, including scrap value, if any, of any such installations or improvements to the Government concerned.

2. The Government of the United States shall take all measures practicable to ensure that every condition substantially or materially hazardous to human life, health and safety resulting from use of defense sites

is removed or otherwise made safe. The Governments concerned shall consult as to what constitutes a hazard and how hazards shall be removed or otherwise made safe.

3. The Government of the United States shall have no obligation, upon relinquishment, to restore defense sites to their former condition; however, upon such relinquishment of a defense site or portion thereof, or sooner if mutually agreed, the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall enter into negotiations with a view to reaching an equitable arrangement for return of lands that takes due account of United States investment, the prospective use to which such lands will be used and the unique importance of land under local custom and law.

Article XI *Equipment*

The Government of the United States shall retain title to equipment, materials and other moveable property brought into or acquired in the Marshall Islands or the Federated States of Micronesia and may remove such property at any time. In the event the Government of the United States wishes to dispose of such equipment, materials or other moveable property, the Government of the Marshall Islands or the Federated States of Micronesia shall have a right of first refusal to purchase such items, at an agreed upon price, after the Government of the United States has fulfilled its statutory and regulatory responsibilities including first offering such equipment to other agencies of the Government of the United States.

Article XII *Criminal Jurisdiction*

1. Subject to the provisions of this Article:

(a) United States personnel are subject to the criminal jurisdiction of the Government of the Marshall Islands or the Federated States of Micronesia for offenses committed by such personnel in the Marshall Islands or the Federated States of Micronesia, respectively.

(b) The Government of the United States has the right to exercise within the Marshall Islands and the Federated States of Micronesia criminal and disciplinary jurisdiction over United States personnel for offenses punishable under the laws of the United States. In lieu of criminal or disciplinary proceedings in the Marshall Islands or the Federated States of Micronesia, the Government of the United States

may elect to remove United States personnel for such proceedings elsewhere.

(c) For purposes of asserting jurisdiction under this Article, the determination of a Signatory Government as to whether an offense is punishable under its laws shall be conclusive.

2. The Government of the Marshall Islands or the Federated States of Micronesia has the right to exercise exclusive jurisdiction over United States personnel with respect to offenses committed in the Marshall Islands or the Federated States of Micronesia, respectively, which are punishable under local law, but not under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States.

3. The Government of the United States has the right to exercise exclusive jurisdiction over United States personnel with respect to offenses committed in the Marshall Islands or the Federated States of Micronesia which are punishable under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States, but not under local law.

4. The Government of the Marshall Islands or the Federated States of Micronesia and the Government of the United States have concurrent jurisdiction over United States personnel with respect to offenses committed in the Marshall Islands or the Federated States of Micronesia, respectively, which are punishable under both local laws and the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States. Whenever it is determined by the Government of the Marshall Islands or the Federated States of Micronesia that an act or omission is a punishable offense under the laws of the Marshall Islands or the Federated States of Micronesia, respectively, and it is determined by the Government of the United States that the same act or omission is a punishable offense under the laws of the United States applicable to offenses committed outside the territorial jurisdiction of the United States, the following rules shall apply:

(a) The Government of the Marshall Islands or the Federated States of Micronesia, respectively, has the primary right to exercise jurisdiction over United States personnel in all other cases of concurrent jurisdiction, except as provided in paragraph 4(b) of this Article.

(b) The Government of the United States has the primary right to exercise jurisdiction over United States personnel in the Marshall Islands or the Federated States of Micronesia, respectively, for:

(1) offenses committed within defense sites, including non-exclusive-use areas during periods of use by the Government of the United States under applicable military use and operating rights agreements concluded under Sections 321 and 323 of the Compact;

(2) offenses against the property or security of the United States, or offenses against the person or property of United States personnel;

(3) Offenses arising out of the performance of official duty;

(4) Offenses committed by United States personnel who are attached to or embarked in aircraft or vessels transiting the Marshall Islands or the Federated States of Micronesia and which are operated by, for, or under the control of the Armed Forces of the United States or United States contractors; and

(5) Any other offense punishable by deprivation of liberty or by a more severe penalty. However, the Government of the Marshall Islands or the Federated States of Micronesia, respectively, has the primary right of jurisdiction to try any offense that is not a felony under local law and for which the sole penalty which shall be adjudged or imposed, if any, is a fine. Not later than the day following the third anniversary of the effective date of this Agreement, the Government of the Marshall Islands or the Federated States of Micronesia, respectively, shall have the primary right to exercise jurisdiction over any such offense which is not a felony under local law and is subject to a maximum punishment no greater than deprivation of liberty for less than six months.

(c) The Government of the Marshall Islands or the Federated States of Micronesia having the primary right to exercise jurisdiction waives that right, unless it notifies the Government of the United States of its intention to exercise such right as soon as practicable, but within 30 calendar days after notification of the offense by either Government.

(d) The Government having the primary right to exercise jurisdiction shall give sympathetic consideration to a request from the other Government concerned for a waiver of such primary right in cases the requesting Government considers to be of particular importance.

(e) The provisions of this Article shall be reviewed by the Signatory Governments concerned at anytime on request by one of them, but not later than during the year following the fifth anniversary of the

effective date of this Agreement in order to determine whether any modification of its provisions may be appropriate in light of circumstances then prevailing.

Except for laws officially transmitted in English to the Government of the United States by the Government concerned, ignorance of the laws of the Marshall Islands or the Federated States of Micronesia shall constitute a defense.

6. The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall assist each other in the arrest or detention of United States personnel in the Marshall Islands or the Federated States of Micronesia, respectively.

(a) The Government concerned shall promptly notify the Government of the United States of the arrest or detention of any United States personnel.

(b) Members of the force accused or suspected of the commission of any offense in the Marshall Islands or the Federated States of Micronesia shall remain in or be transferred to the custody of the Government of the United States unless the Government of the United States declines such Custody. The Government of the United States shall make available for purposes of investigation or trial members of the force in its custody over whom the Government of the Marshall Islands or the Federated States of Micronesia has the right to exercise jurisdiction pursuant to this Agreement. Upon completion of all judicial proceedings, including appellate proceedings, such personnel shall be transferred to the Government of the Marshall Islands or the Federated States of Micronesia concerned if a sentence providing for deprivation of liberty has been finally adjudged.

(c) The Provisions of Title Four of the Agreement on Mutual Assistance in Law Enforcement Matters shall be applicable to United States personnel who are citizens or nationals of the United States.

(d) The Government of the United States may request custody of a prisoner who is a member of the force, deprived of liberty by order of a Court of the Marshall Islands or the Federated States of Micronesia. The Government concerned shall transfer such prisoner to the custody of the Government of the United States which shall provide for the carrying out of the terms of such deprivation of liberty.

7. The Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia shall assist each

other in the carrying out of all necessary investigations into offenses within the scope of this Article, and in the collection and production of evidence, including the seizure and, in proper cases, the handing over of objects connected with an offense. The transfer of such objects may be made subject to their return within the time specified by the Government delivering them.

8. Where a person has been tried in accordance with the provisions of this Article, either by the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia, and has been acquitted or convicted, or has been pardoned, he may not be tried again within the same territory for the same offense by either Government. This paragraph is without prejudice to the authority of the Armed Forces of the United States to try a member of the force for any violation of rules of discipline.

9. United States personnel prosecuted under the jurisdiction of the Government of the Marshall Islands or the Federated States of Micronesia shall be entitled to all guarantees and rights provided by the constitution and laws of the prosecuting Government for its own citizens and to the following guarantees and rights to the extent that they are not provided by that constitution and those laws:

- (a) To a prompt and speedy trial;
- (b) To be tried only in a court presided over by a qualified judge trained in the law;
- (c) To be informed, in advance of trial, of the specific charge or charges made against such person;
- (d) To be confronted with and permitted to cross-examine the witnesses against such person;
- (e) To have compulsory process for obtaining witnesses in favor, of such person, if the witnesses are within the jurisdiction of the court;
- (f) To have legal representation of such person's own choice for such person's defense throughout all investigative and judicial phases of the entire proceedings or, at such person's election, to have legal representation appointed by the court at no cost to such person under the same terms and conditions applicable to citizens of the Marshall Islands or the Federated States of Micronesia, as appropriate;
- (g) To have the services of a competent interpreter, if such person

considers it necessary;

(h) To communicate with a representative of the Government of the United States and to have such a representative present at trial and at all stages of the proceedings, including pretrial hearings and examinations and appeals;

(i) Not to be charged with a criminal offense on account of any act or omission which did not constitute a criminal offense under the statutory law of the prosecuting Government at the time it was committed or be subjected to Punishment more severe or a procedure less favorable than the one applicable at the time the offense was committed;

(j) To be present at trial which shall be public;

(k) To have the burden of proof placed upon the prosecution;

(l) To be protected from the use of a confession or other evidence obtained by unlawful or improper means;

(m) Not to be compelled to testify against or otherwise incriminate himself or herself;

(n) Not to be required to stand trial while physically or mentally unfit to stand trial and participate in his or her defense;

(o) Not to be tried or punished more than once for the same offense, nor to be subject to a greater punishment after appeal than was adjudged initially by the court of first instance;

(p) To have the right to appeal a conviction or sentence;

(q) Not to be subject to an appeal by the prosecution from an acquittal, or a finding of not guilty;

(r) To have credited to any sentence of confinement any related period of pretrial confinement in a confinement facility of the Government of the United States or the Government of the Marshall Islands or the Federated States of Micronesia; and

(s) Not to be subject to the application of martial law or trial by military courts or special tribunals.

10. United States personnel who have been tried in courts of the

Government of the Marshall Islands or the Federated States of Micronesia, and who have been convicted and are serving sentences in confinement facilities of such Government or United States personnel in pretrial custody of such Government, shall be entitled to receive visits not less than monthly from members of their families and from representatives of the Government of the United States. Health and comfort items including clothing, medicine and food may be delivered to and used by such United States personnel in confinement or pretrial custody.

11. Facilities of the Government of the Marshall islands or the Federated States of Micronesia used for confinement or detention of United States personnel shall meet standards agreed upon by the Government of the United States and the Government concerned.

12. United States personnel convicted by courts of the Government of the Marshall Islands or the Federated States of Micronesia shall not be subject to the death penalty, nor to any form of cruel or unusual punishment.

13. This Article is without prejudice to the authority of the Government of the United States to exercise administrative authority over United States personnel.

Article XIII *Additional Criminal Jurisdiction*

In addition to the rights set forth in Article XII, the Government of the United States shall have the primary right to exercise jurisdiction over all United States citizens or nationals of the United States who are not United States personnel for offenses punishable under the laws of the United States committed within defense sites while in use by the Government of the United States in the Marshall islands or the Federated States of Micronesia. The Government concerned shall assist the Government of the United States in the arrest of any such person. The custody of any such person shall remain in or be transferred to the Government of the United States unless such custody is declined. The waiver provisions of Article XII, paragraph 4, shall apply.

Article XIV *Respect for Local Law*

The Government of the United States shall adopt and enforce measures consistent with the Compact and this Agreement as may be necessary to ensure that United States personnel, United States contractors and third country contractor personnel respect the laws of the Marshall

Islands and the Federated States of Micronesia, refrain from any activity inconsistent with this Agreement, and refrain from any political activity concerning the Marshall Islands or the Federated States of Micronesia, respectively.

Article XV *Claims*

1. The authorities of the Armed Forces of the United States shall pay just and reasonable compensation in settlement of meritorious noncontractual claims arising out of acts or omissions occurring prior or subsequent to the effective date of this Agreement in the Marshall Islands or the Federated States of Micronesia of members of the force; of members of the civilian component; and, if the act or omission was done in the performance of official duty, of local-hire personnel who are employed by the Armed Forces of the United States. All such claims shall be processed and settled by the authorities of the Armed Forces of the United States in accordance with the laws and regulations of the United States. Any such claims which cannot be settled as provided for in this paragraph, and which are espoused by the Government concerned, shall be referred to the Joint Committee established pursuant to Section 351 of the Compact.

2. Contractual claims against the Armed Forces of the United States shall be settled in accordance with the disputes clause of the contract if any, and the laws of the United States relating to the resolution of such disputes.

3. Subject to the provisions of Article XII of this Agreement, members of the force, members of the civilian component and, if the act or omission was done in the performance of official duty, local-hire personnel shall not be subject to any proceedings in the Marshall Islands or the Federated States of Micronesia for an act or omission.

4. The Government of the United States shall facilitate appropriate arrangements between the government of any third country which has members or units of its armed forces in the Marshall Islands or the Federated States of Micronesia pursuant to Section 315 of the Compact and the Government of the Marshall Islands or the Federated States of Micronesia with respect to appropriate settlement of claims arising from the activities of such members or units.

5. Any judgment presented for certification to the United States Court of Appeals for the Federal Circuit, or its successor court, pursuant to Section 174 of the Compact of Free Association shall be deemed mani-

festly erroneous as to law if the claim upon which such judgment is based would have been barred by the statute of limitations if such claim had been brought in a court of the United States.

6. Pursuant to Section 174 of the Compact, all claims within the scope of this Article which otherwise would have been within the scope of Section 174 of the Compact shall be settled exclusively in accordance with the provisions of this Article.

Article XVI *Currency*

The Armed Forces of the United States, United States contractors and United States personnel may import into, possess and use within, and export from the Marshall Islands and the Federated States of Micronesia, United States currency. Such importation, possession, use and exportation of United States currency shall be exempt from any form of regulation, restriction, or control by the Government of the Marshall Islands or the Federated States of Micronesia. Should the Government of the Marshall Islands or the Federated States of Micronesia act pursuant to Section 251 of the Compact to institute a currency other than United States currency, the Government of the United States and the Government concerned shall consult regarding the applicability of foreign exchange laws and regulations in the jurisdiction of the Government concerned.

Article XVII *Medical Services*

To the extent that appropriate services can be made available consistent with available resources and the laws and regulations of the United States, the Government of the United States shall provide, at the request of the Government concerned, medical care to citizens and nationals of the Marshall Islands and the Federated States of Micronesia in United States military medical facilities or by United States military medical personnel on a reimbursable basis under terms and conditions agreed upon between the Government of the United States and the Government concerned.

Article XVIII *Telecommunications*

The Government of the United States may use local telecommunication systems and shall do so to the extent feasible. The Government of the United States in determining its uses of such systems shall take into

consideration the cost and security of such systems.

(a) To the extent that the Governments of the Marshall Islands or the Federated States of Micronesia establish complete and fully effective commercial international telecommunications systems compatible with existing United States Government installations, and the Government of the United States determines such use is feasible based on the criteria above, the Government of the United States and the Government concerned shall enter into negotiations for a use arrangement which includes normal billing procedures. Following entering into such a use agreement, the Government of the United States shall withdraw or modify any authorizations for use of Defense communications systems for non-official calls by United States personnel.

(b) The Government of the United States shall encourage the use of local telecommunication systems by United States personnel for non-official purposes.

Article XIX *Effective Date, Amendment and Duration*

1. This Agreement shall come into effect simultaneously with the Compact.

2. This Agreement may be amended at any time as to the Government of the Marshall Islands or the Federated States of Micronesia by mutual consent of such Government and the Government of the United States.

3. The duration of this Agreement as between the Government of the United States and the Government of the Marshall Islands or the Federated States of Micronesia is for the period of effectiveness of either Title Three of the Compact or of the appropriate separate agreements entered into pursuant to Sections 321 and 323 of the Compact, whichever is the longer. Thereafter, this Agreement shall remain in force until terminated by a Signatory Government, in the following manner:

(a) Termination of this Agreement by any Signatory Government shall be effected by a written notification to either the Government of the United States or to the Government of the Marshall Islands or the Federated States of Micronesia, as appropriate. The Government of the United States shall notify all other Signatory Governments of each such notification.

(b) Termination shall take effect one year after the recipient Government has been notified, but this Agreement shall continue in

force as between the Government of the United States and the remaining Signatory Governments.

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

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

DONE AT Washington, D.C., THIS 24th DAY OF May, ONE THOUSAND NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE MARSHALL ISLANDS

DONE AT Washington, D.C., THIS 24th DAY OF May, ONE THOUSAND NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

DONE AT Honolulu, Hawaii, THIS 1st DAY OF October, ONE THOUSAND NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

DONE AT Honolulu, Hawaii, THIS 1st DAY OF October, ONE THOUSAND NINE HUNDRED EIGHTY-TWO FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

STATUS OF FORCES AGREEMENT

Agreed Minutes

Article VI, Service Facilities: The terms “service, educational and recreational facilities” include schools, commissary stores, retail exchanges and related concessions, credit unions, banking facilities, radio and television stations, recreational facilities, and social and athletic clubs.

Article VII, Military Post Offices: Such military post offices are established, operated and maintained exclusively pursuant to the laws and regulations governing the Armed Forces of the United States.

Article VIII, Bearing of Arms: It is the intention of the Signatory Governments that local military commanders and designated representatives of the Government concerned shall enter into an exchange of let-

ters governing the control of privately owned arms. Such an exchange of letters may address the following:

— registration by military authorities of all privately owned arms, and the provision of registration lists, including certificates of transfer or removal of such arms, to the Government concerned;

— designation of target practice areas within defense sites;

— limitations on the carrying of privately owned arms outside defense sites; and

— other provisions for the control by military authorities of privately owned arms.

Article XV, Claims: The Signatory Governments do not intend that paragraph 6 of Article XV preclude the operation of Section 174 of the Compact, provided that paragraph 5 of Article XV governs the operation of Section 174 (c) of the Compact. The import of paragraph 6 of Article XV, read with paragraph I of Article XV, is as follows:

— All claims within the scope of paragraph 1 of Article XV which arise after the effective date of this Agreement shall be processed and settled exclusively pursuant to the Foreign Claims Act, 10 U.S.C. 2734, and any regulations promulgated in implementation thereof.

— A claim within the scope of paragraph 1 of Article XV which arises during the two year period immediately prior to the effective date of this Agreement shall also be processed and settled pursuant to the Foreign Claims Act, 10 U.S.C. 2734, unless a court action based on such claim has been initiated prior to the effective date of this Agreement and the party bringing such court action continues the court action and proceeds in accordance with Section 174(c) of the Compact. The party bringing such court action may, prior to entry of a final judgment by the court in the action, terminate the action before the court and bring the claim under paragraph 1 of Article XV, in which instance paragraph 6 of Article XV shall govern.

— Claims arising more than two years prior to the effective date of this Agreement may be brought only in accordance with Section 174(c) of the Compact.

— A claim processed, settled and paid under paragraph 1 of Article XV may not subsequently be brought under Section 174(c) of the Compact. Similarly, a claim which has proceeded to judgment in a

court action and is subject to certification under Section 174(c) of the Compact may not be processed and settled under paragraph 1 of Article XV.

Article XV is without prejudice to any claim addressed in Section 353 of the Compact, whether such claim arises prior or subsequent to the effective date of this Agreement.

Article XVI, Currency: Subject to Article VI this Article is not intended to authorize the establishment or operation of a private financial institution in the Marshall Islands or the Federated States of Micronesia, except in accordance with local law.

Article XVII, Medical Services: The term “military medical Facilities” this Article does not include the contractor-operated medical facility at Kwajalein Island defense site.

**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**

PREAMBLE

The Government of the United States and the Government of the Federated States of Micronesia:

Reaffirming their desire to live in peace with all peoples and all governments and their desire to strengthen and support the cause of peace in the Pacific area;

Desiring to declare publicly and formally their sense of unity, so that no potential aggressor could be under the illusion that either of them stands alone in the Pacific area;

Mindful that the Government of the United States and the Government of the Federated States of Micronesia, in the exercise of their respective capacities for the conduct of foreign affairs, have entered and do enter into agreements which are implemented in accordance with their respective constitutional processes; and

Reaffirming the purposes and principles of the Compact of Free Association which contributes to regional peace and mutual security by *providing* United States undertakings for the defense of the Federated States of Micronesia and assistance toward its economic advancement and self-sufficiency;

NOW THEREFORE AGREE:

ARTICLE I

The Signatory Governments rededicate themselves to the principle that any international disputes in which they may be involved shall be settled by peaceful means and in such a manner that international peace, security and justice are not endangered.

ARTICLE II

The Signatory Governments shall consult at the request of either Government, whenever the political independence of either of them or their mutual security is threatened in the Pacific.

ARTICLE III

The Signatory Governments recognize that, in view of the special relationship between their peoples, any attack on the Federated States of Micronesia would constitute a threat to the peace and security of the Pacific area and a danger to the United States. In the event of such an attack or the threat thereof, the Government of the United States would take action to meet the danger to the United States and the Federated States of Micronesia.

ARTICLE IV

1. The Signatory Governments, in recognition of the obligations undertaken by the Government of the United States in this Article and in Article III of this Agreement, shall inform one another promptly and shall consult in the event either of them has reason to believe that a third country seeks access to or use of the Federated States of Micronesia by military personnel or for military purposes.

2. If the Government of the United States determines that any third country seeks access to or use of the Federated States of Micronesia by military personnel or for military purposes, the Government of the United States has the authority and responsibility to foreclose such access or use, except in instances where the two Governments otherwise agree.

3. The Government of the United States shall exercise its authority and responsibility under this Article with due respect to the authority and responsibility of the Government of the Federated States of Micronesia for its internal and external affairs, including the responsibility to assure the well-being of its people.

4. The Government of the Federated States of Micronesia shall render appropriate support and assistance to the Government of the United States in meeting its responsibilities under this Article. Such assistance may include the removal from the Federated States of Micronesia, at the request of the Government of the United States, of individuals whose presence constitutes third country access to or use of the Federated States of Micronesia by military personnel or for military purposes.

ARTICLE V

The Signatory Governments recognize that the sustained political development and economic advancement of the Federated States of Micronesia are necessary contributing elements to the attainment of the mutual security goals expressed in this Agreement. The Government

of the United States reaffirms its continuing interest in promoting the long-term economic advancement and self-sufficiency of the people of the Federated States of Micronesia. To those ends, should the terms of Articles I through VII of this Agreement become applicable pursuant to Article VIII in light of the continuing special relationship between the Signatory Governments, and subject to the provisions of this Agreement:

1. The Government of the United States reaffirms that the Federated States of Micronesia is self-governing and that the Government of the Federated States of Micronesia, acting in accordance with the Constitution of the Federated States of Micronesia, has the capacity to maintain and conduct diplomatic, trade and commercial relations without interference or intervention.

2. The Signatory Governments shall consult at the time the terms of this Agreement become applicable, and periodically thereafter, to examine the economic advancement of the Federated States of Micronesia, taking into account the internal and external revenues available to the Federated States of Micronesia and the relationship of its need for external economic assistance to its most recent levels of United States assistance. Based on such consultations, the Signatory Governments shall enter into appropriate arrangements as mutually agreed.

ARTICLE VI

The Signatory Governments shall consult at the time the terms of this Agreement become applicable, and periodically thereafter, to examine the needs, if any, of the Government of the United States for defense facilities and operating rights in the Federated States of Micronesia. Based on such consultations, the Signatory Governments shall enter into appropriate arrangements as mutually agreed.

ARTICLE VII

The Signatory Governments shall establish a Council, consisting of the United States Secretary of State and the Federated States of Micronesia Secretary of External Affairs or their designees, to carry out consultations as provided in this Agreement. The Council shall be so organized as to be able to meet at any time. Designees of the respective Secretaries shall be senior officials of their Governments, unless otherwise mutually agreed.

ARTICLE VIII

In order to give effect to their undertakings in this Agreement:

1. The Signatory Governments shall exercise their authority and responsibility under this Agreement in accordance with their respective constitutional processes.

2. The Government of the Federated States of Micronesia recognizes that this Agreement contains international obligations and shall submit this Agreement for approval as a treaty pursuant to Article IX, Section 4 of the Constitution of the Federated States of Micronesia.

3. The Government of the United States recognizes that this Agreement is an Executive Agreement of the United States containing international obligations and shall execute it in accordance with its constitutional processes.

ARTICLE IX

This Agreement shall come into effect simultaneously with the Compact of Free Association. The terms of Articles I through VII of this Agreement shall become applicable upon expiration or termination of Title Three of the Compact of Free Association.

ARTICLE X

This Agreement shall remain in full force and effect until terminated or otherwise amended by mutual agreement. The Signatory Governments shall consult whenever either of them desires to discuss this Agreement with the other or to propose any amendment.

ARTICLE XI

The Definition of Terms set forth in Article VI of Title Four of the Compact of Free Association is incorporated in this Agreement.

IN WITNESS THEREOF, the undersigned, duly authorized for the purpose, have signed the present agreement.

DONE AT Honolulu, Hawaii, in duplicate, this 1st day of October, nineteen hundred and eighty-two.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

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

This Agreement sets forth:

(a) The conditions under which the Government of the United States shall make available the services of Military Civic Action Teams to the Government of the Federated States of Micronesia pursuant to Section 227, Title Two, of the Compact of Free Association (the Compact); and

(b) The military use and operating rights of the Government of the United States in the Federated States of Micronesia pursuant to Sections 321 and 323r Title Three, of the Compact.

Article I *Definitions*

1. The Definition of Terms set forth in Article VI of Title Four of the Compact and the Definitions set forth in paragraph 2 of Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact (the Status of Forces Agreement) are incorporated in this Agreement.

2. For the purpose of this Agreement only, the following terms shall have the following meanings:

(a) “Civic Action Team (CAT)” — is a unit consisting of members of the force which is specifically organized to undertake civic action and community development projects.

(b) “CAT Base Camp” — is a “defense site” as set forth in paragraph 2(f) of Article I of the Status of Forces Agreement. A CAT work site, however, is not a “defense site”.

Article II *Applicability of Status of Forces Agreement*

The provisions of the Status of Forces Agreement shall apply.

Article III
Provision of Defense Sites

1. The Government of the Federated States of Micronesia shall provide to the Government of the United States the defense sites identified in Annexes A and B to this Agreement.

(a) The provision of defense sites shall include all the necessary land and use rights for such sites, rights of access thereto, and road, pipeline and powerline easements as may be required.

(b) Any rent or other use charges or other consideration to owners of the lands in the defense sites shall be as provided in this Agreement. Such payments shall be made by the Government of the United States to the Government of the Federated States of Micronesia on behalf of its citizens.

(c) In consideration of the use of the defense sites identified in Annex A to this Agreement, the Government of the United States shall provide the sum specified in Section 213(c) of the Compact.

2. Specific arrangements for establishment and use by the Government of the United States of defense sites in addition to those set forth in Annexes A and B to this Agreement shall be between the Governments of the United States and the Federated States of Micronesia in accordance with Section 321 of the Compact.

3. The Government of the United States affirms that it has no present need for or present intention to seek the use of defense sites other than those identified in Annexes A and B of this Agreement.

4. The Government of the United States shall notify the Government of the Federated States of Micronesia when it no longer has a requirement to retain any of the defense sites, or portions thereof, designated in this Agreement. Such defense sites, or portions thereof, shall then revert to the full and complete control of the Government of the Federated States of Micronesia for disposition to their lawful owners as determined by the Government of the Federated States of Micronesia in accordance with its constitutional processes.

Article IV
General Military Use and Operating Rights

1. Consistent with Section 352 of the Compact, the Government of the United States has free access to and unrestricted control of the defense

sites, including the right to control entry to and exit from any or all defense sites and the right to take necessary measures for their establishment, use and operation. The Government of the United States may take, within the defense sites and within the seabeds, water areas and air space adjacent to or in the vicinity of the defense sites, such measures as are necessary for their use, security and defense. These measures include the right:

(a) To maintain the defense sites and to construct structures and improvements thereon;

(b) To improve and deepen the harbors, channels entrances, and anchorages, to dredge and fill, and generally to fit the premises to their intended use;

(C) To control anchorages and moorings, the movements of ships and waterborne craft, aircraft operations and land movements;

(d) To regulate and control all communications of the Government of the United States to, from and within the defense sites; and

(e) To install, maintain, use and operate defense-related oceanographic, aeronautical, space communications, and other military or scientific systems and equipment.

2. In conducting activities pursuant to paragraph 1 of this Article, the Government of the United States shall use its best efforts to:

(a) Avoid interference with commercial activities in the Federated States of Micronesia;

(b) Avoid interference with access by fishermen to shoreline areas;

(c) Avoid interference with navigation, aviation, communication and land or water travel in the Federated States of Micronesia;

(d) Avoid impeding access to recreational areas, particularly beach areas, by residents of and visitors to the Federated States of Micronesia;

(e) Minimize damage to the terrain and to reef areas;

(f) Avoid harm to the environment, including water areas;

(g) Avoid activities which would adversely affect the well-being of

the residents of the Federated States of Micronesia; and

(h) Notify the Government of the Federated States of Micronesia of non-routine activities so that the Government of the Federated States of Micronesia may take steps to assist the Government of the United States in executing its responsibilities to minimize any adverse impact of such activities.

Article V
Aids to Navigation

The Government of the United States shall place or establish and maintain in the defense sites and the water areas adjacent thereto or in the vicinity thereof, lights and other fixed and floating aids to navigation of vessels and aircraft necessary for operations pursuant to this Agreement. The Government of the United States shall consult with the Government of the Federated States of Micronesia on the position or characteristics of and any alterations to such aids to navigation.

Article VI
Community Relations Council

The Government of the United States and the Government of the Federated States of Micronesia may each designate representatives to a Community Relations Council whose purpose will be to identify and consider all matters affecting relations between the Defense Site Commander and local Federated States of Micronesia communities and to recommend actions as appropriate.

Article VII
Miscellaneous

1. No proprietary rights to minerals, including oil, antiquities and treasure trove in a defense site, nor rights relating thereto pass to the Government of the United States by virtue of this agreement but any exploitation thereof shall require the prior concurrence of the Government of the United States.

2. Unless otherwise provided, all issues or disputes that may arise under this Agreement which cannot be resolved locally shall be referred for resolution to the Joint Committee established pursuant to Section 351 of the Compact.

3. In the event of an emergency the Government of the United States, consistent with military requirements, shall make available to the

Government of the Federated States of Micronesia, on a cost-reimbursable basis, military fuels and oils.

4. The Government of the United States may station in the Federated States of Micronesia United States personnel required in its use of the defense sites authorized under this Agreement. Except for United States personnel stationed in the Federated States of Micronesia pursuant to this Agreement, or limited numbers of United States personnel in the Federated States of Micronesia on official duty in connection with naval port visits, aircraft transits or other temporary duty, the Government of the United States shall not establish in the Federated States of Micronesia a formal rest, relaxation or recuperation program, without the consent of the Government of the Federated States of Micronesia.

5. The Government of the United States shall not use nuclear power plants or reactors in the Federated States of Micronesia, except on military ships and vessels under the ownership or control of the Government of the United States.

6. The waste disposal area located on the Defense Site identified in Annex A shall be closed in accordance with the provisions of Article XI paragraph 2 of the Status of Forces Agreement.

7. Consistent with Article VI paragraph 7 of the Status of Forces Agreement and Article II of this Agreement, the Designated Representatives of the Signatory Governments shall enter into agreed arrangements regarding notice and taxation of major transfers of personal property by United States personnel to non-tax exempt persons in the Federated States of Micronesia.

Article VIII
Effective Date, Amendment and Duration

1. This Agreement shall come into effect simultaneously with the Compact.

2. This Agreement may be amended at any time by the mutual consent of the Government of the Federated States of Micronesia and the Government of the United States.

3. Except as specified in paragraph 4 below, this Agreement shall remain in full force and effect for an initial term of 15 years and thereafter as mutually agreed.

4. Article III, paragraph 1(c) and Annex A of this Agreement shall:

(a) remain in full force and effect until the end of calendar year 1992; and

(b) be extended thereafter by mutual agreement.

5. If the Government of the United States should decide to vacate the defense site identified in Annex A to this Agreement prior to December 31, 1992, the Government of the United States will notify the Government of the Federated States of Micronesia of its decision at least 12 months in advance of such vacation date.

6. If the Government of the United States determines that it will have a need for the use of the defense sites identified in Annex A of this Agreement beyond December 31, 1992, the Government of the United States will notify the Government of the Federated States of Micronesia of its determination at least 12 months in advance of such date.

Annex A
The United States Coast Guard Sites

This Annex identifies the defense sites for use by the United States Coast Guard on Yap in the Federated States of Micronesia assume no responsibility for any Government-to-Government agreements, entered into prior to the effective date of this Agreement, concerning said sites, written or otherwise, except for those agreements in Appendices 3 and 4 to this Annex, which become a part of this Agreement. The United States Coast Guard Sites are as follows:

1. Exclusive-use areas—areas which are reserved for use by the Government of the United States:

a. Parcel 1 — Loran Station: The exclusive-use of lands herein more particularly described as follows:

Beginning at concrete marker 'A' which bears 90°-47'-11" true and 1782.82 feet from C-ANT which Coast Guard bronze disk set on top of a 2 inch O.D. galvanized pipe that is 14 inches above the natural ground;

Thence: 336°-55'-00", 1419.42 feet to concrete marker 'B',

Thence: 291°-43'-00", 2771.64 feet to concrete marker 'C',

Thence: 223°-39'-00", 2006.13 feet to concrete marker 'D',

Thence: 127°-30'-00", 3565.67 feet to concrete marker 'E',

Thence: 052°-35'-00", 2124.47 feet to concrete marker 'A',

which is the true point of beginning, comprising an area of 205.227 acres more or less, on the island of Gagil-Tomil, Yap State, Federated States of Micronesia. Azimuths are based on true bearing of C-ANT to W-4 being 060°-53'-00", as established by U.S. Coast Guard Survey of 2-2-63. A representative map is attached as Appendix 1. A more definitive representation may be substituted in the future if necessary.

b. Parcel 2 — Fuel Pipe Line:

(1) An easement and right of way including the right to enter at any time that it may see fit, for the following purposes namely:

(a) To construct, maintain, rebuilds repair, operates remove and inspect underground and aboveground pipelines, mains, and pumps for the purpose of conveying gasoline, oil and other petroleum products, on, over, across and through said lands, said pipeline to be located as shown in Appendix 1;

(b) To pass and repass, with full and free right and liberty at all times, with or without vehicles, for any purpose whatsoever, on, over, across, and through said lands; and

(c) To remove trees, bushes, undergrowth, buildings, fire hazards and other obstructions interfering with full use and enjoyment of the rights granted above.

(2) Said easement and right of way covering a strip of land thirty-four feet wide, more or less, through those lands located in Tomil and Gagil, Yap State, herein more particularly described as follows:

Being all those portions of land in the vicinity of the road going from the Loran Station property to the Tomil road intersection, thence going south to the Tomilang School intersection, thence going west to the Tomil Harbor shore, and known as Wichigral, Maaweche, and Bilewachgey in Gagil Municipality, and Bilewachgey, Teldou, Gacham, Liyeg, Matheno, Tamilal, Tagil Pirun'uw, Dachiyio'r, Dadoochoch, Fubuy, Fubuyub, Tariya', Damachbuw', Peep'uw, Danag, Paat'nuy, Yey, Torrolul, Belegurgur, Gubor, Ge'mem, Gilang, Werme, Tagayel, Giring, Tabnify, Michfith, Rifin, Magif, Pangalif, Falang, Laly, Tablau, Tablag, Pannger, Mo'ur'r,

Lanmoot', Tawoyang and Daken-e-do' in Tomil Municipality, containing an area of 14.25 acres, more or less, and described more fully by metes and bounds as shown on Yap District Map No. Y-LTROW-1, Sheets 1 though 6, dated February 7, 1968, and filed in the Office of the Clerk of Courts, Yap District, on February 9, 1968. A representative map is attached as Appendix 2. A more definitive representation may be substituted in the future if necessary. The Government of the United States agrees to maintain fuel pipelines so as to minimize the possibility of fuel spills. Structures crossing the pipeline must be approved by the Government of the United States and the Government of the Federated States of Micronesia. The Government of the Federated States of Micronesia shall indemnify the Government of the United States for any damages to the pipeline caused by crossing structures; furthermore, the Government of the United States shall be held harmless for any damages or injuries proximately caused by these structures.

2. Joint-use areas — areas which may be used jointly by the Government of the Federated States of Micronesia and the Government of the United States:

a. Parcel 3 — roads and bridge: The joint use of said roads beginning at Tomil Harbor and ending at the Colonia road junction, as shown on the representative map attached as Appendix 2. In consideration of the past assistance rendered by the Government of the United States in the construction and maintenance of the bridge across Tageran Canal and roads within Yap State, the Federated States of Micronesia agrees to maintain and keep in good repair said bridge and roads. Maintenance and repair by the Government of the Federated States of Micronesia will be at no cost or expense to the Government of the United States. The Government of the Federated States of Micronesia shall maintain a 24 foot wide roadway and shall ensure the existence but not the maintenance of a 10 foot wide right of way appurtenant to the roadway, 5 feet on either side of the presently existing pipeline.

b. Parcel 4 — Yap Airfield: The joint use of the Yap airfield for those requirements of the Government of the United States associated with the use and operation of the Coast Guard sites including telecommunications purposes.

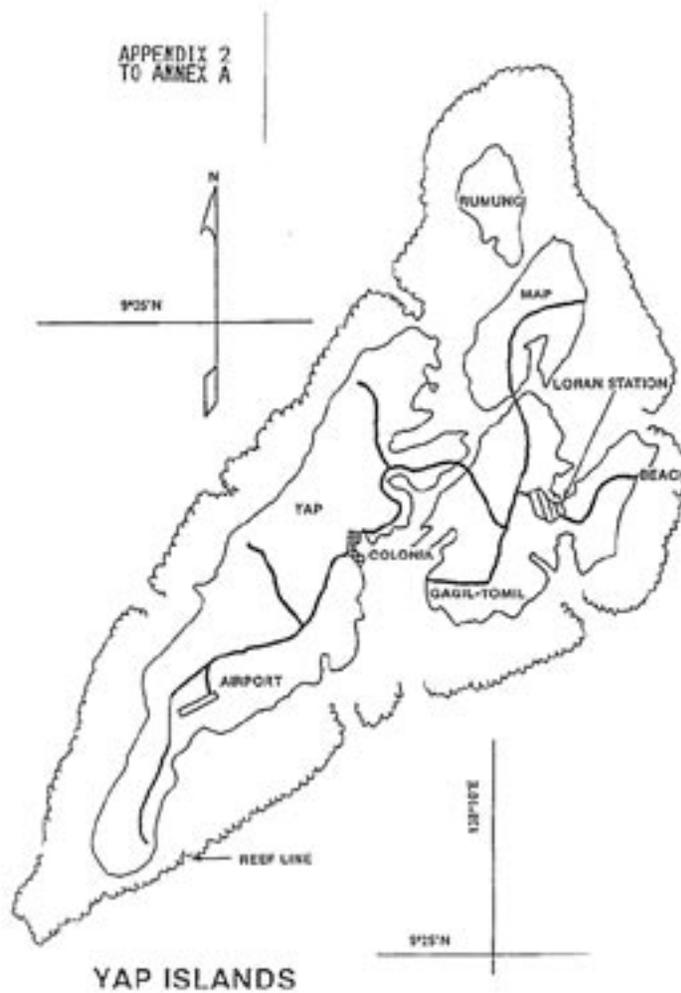
c. Parcel 5 — Tomil Harbor: The joint use of Tomil harbor for those requirements of the Government of the United States associated with the use and operation of the Coast Guard sites.

APPENDIX 1
TO ANNEX A



REVOCABLE LICENSE TO THE FEDERATED STATES OF
MICRONESIA AND THE YAP STATE GOVERNMENT FOR USE OF
PROPERTY AT COLONIA, YAP

License #14-CG-57-79(Rev. 1)



WHEREAS, this agreement is made and entered into by and between the United States of America, on behalf of the United States Coast Guard, acting by and through the Commander, Fourteenth Coast Guard District, 300 Ala Moana, Honolulu, Hawaii 96850 (hereinafter called the Licensor), and the Federated States of Micronesia and the Yap State Government, (hereinafter called the Licensees); and

WHEREAS, the Licensees have requested permission to continue to mount a 23 foot fiberglass whip antenna, 5.8 DB omnidirectional, mounting clamps and jacketed foam cable with connectors on the Licensor's beacon tower in Colonia, Yap; and

WHEREAS, the granting of this license will be to the benefit and advantage of the Licensor and will not injure the interests of the Licensor;

NOW, THEREFORE, pursuant to the authority contained in Section 93 to) of Title 14, United States Code, a Revocable License is hereby granted for the mounting of the antenna on the 39 foot high white skeleton tower located on the southeast slope of Mount Matade, Colonia, Yap, subject to the following terms and conditions:

A. That the terms of this license shall be five (5) years from the date of execution renewable for an additional five (5) year period at the option of the Licensor and, if requested, by the Licensees.

B. No substantial alteration of existing premises or facilities, or construction of permanent type improvements shall be made, and further, any item of long-term maintenance, or any additions to or alterations of, the premises or facilities which the Licensees feel necessary or desirable in connection with their use and occupancy shall be made only with the prior approval and consent of the Licensor, at the sole cost and expense of the Licensees and within the terms of this license. Upon revocation, expiration or surrender of this license, and to the extent directed by the Licensor, the Licensees shall remove all alterations, additions, betterments, and improvements made, or installed and restore the premises or facilities to the same or as good condition as existing prior to the use by the Licensees, reasonable wear and tear excepted.

C. In the event that death or injury occurs to any person, or loss, destruction or damage occurs to any property of the Licensees, their agents or employees, or any third person in connection with the installation, maintenance, repair or use of the antenna, occasioned in whole or in part by the acts or omissions of the Licensees, the Licensees shall assume all liability therefore and will immediately indemnify and save harmless the United States Coast Guard, its officers, agents or employees from any liability arising as aforesaid.

D. It is a condition of this license that no person shall, on the ground of race, color or national origin, be excluded from participation in, or denied the benefits of, or be otherwise subjected to discrimination in the use of the facility. The United States Coast Guard reserves the right to revoke and cancel this license in the event of breach of such nondiscrimination condition during the period of the license.

E. This license is revocable by the Licensor upon thirty days written notice to the Licensees at the below referenced addresses, and by the Licensees upon thirty days written notice by one of them to the Licensor.

IN WITNESS WHEREOF, the parties have hereunto subscribed their names this 1st day of October, 1982.

Appendix 4 to Annex A pg. 1

LICENSE TO THE FEDERATED STATES OF MICRONESIA AND
THE YAP STATE GOVERNMENT FOR USE OF REAL PROPERTY AT
GAGIL-TOMIL, YAP

License #DT CG-271114-82-RP-028L

WHEREAS, this License is made and entered into by and between the United States of America, on behalf of the United States Coast Guard, acting by and through the Commander, Fourteenth Coast Guard District, 300 Ala Moana Blvd., Honolulu, Hawaii 96850 (hereinafter called the Licensor) and the Federated States of Micronesia and the Yap State Government (hereinafter called the Licensees); and

WHEREAS, with the knowledge and consent of the Coast Guard, the Licensees have drilled a water well on the perimeter boundary of the Coast Guard Loran Station property at Gagil-Tomil Island, Yap, which well has been determined to be suitable for supplying water to the residents of Yap; and

WHEREAS, the Licensees desire to obtain permission to operate said water well, and the Licensor is willing to grant a license for such use, and is so authorized by Title 14 United States Code, Section 93;

NOW, THEREFORE, for and in consideration of the mutual covenants and promises hereinafter set forth and the mutual benefits to be derived therefrom, the Licensor and the Licensees agree as follows:

ARTICLE 1. GRANT OF LICENSE

The Licensor hereby grants to the Licensees and the Licensees hereby accept from the Licensor, a license to use and occupy all that real property located within the Coast Guard Loran Station property, known as "Parcel I," Gagil-Tomil Island, Yap, Federated States of Micronesia, as shown on Exhibit A attached hereto and made a part hereof, hereinafter referred to as the "Premises."

The Licensor further grants to the Licensees the right to use the existing roads, streets, paths and rights of way within said "Parcel 1," as may be necessary for the Licensees to have ingress to and egress from the Premises.

ARTICLE 2. TERM

TO HAVE AND TO HOLD said License for an indefinite period of time commencing on the date of the signing of this License.

ARTICLE 3. PURPOSE

The Premises are licensed to the Licensees and may be used only for the development, installation, operation, maintenance, and repair of a water well, water storage tanks, and facilities and equipment incident thereto.

ARTICLE 4. ASSIGNMENT

The Licensees may assign all or any part of its interests in this License on terms and conditions consistent with this License.

ARTICLE 5. MAINTENANCE AND REPAIR

The Licensees shall safeguard the Premises, including all improvements thereon, against destruction, impairment, and loss and, at their sole expense, maintain said Premises in good repair and condition and be responsible for any loss or damage thereto, except those resulting

from ordinary wear and tear and conditions beyond the control of the Licensees.

ARTICLE 6. SANITARY LAND FILL

It is hereby recognized by the parties hereto that the United States operates and will continue to operate a sanitary land fill in the immediate vicinity of the Premises, which land fill operation could (a) cause the underground water in the vicinity of the Premises to become contaminated or otherwise unsuitable for consumption without treatment, or (b) interfere with or increase the costs of operation of the water well authorized under this License. The Licensees agree that their use of the Premises under this License shall not result in increased costs to the Licensor for the operation of the aforesaid sanitary land fill. Additionally, the Licensees do hereby specifically release, remise and forever discharge the United States, its officers, agents, servants, and employees of and from all manner of actions, claims or demands, the Licensees ever had, now has, or ever will have upon or by any matter, cause or thing whatsoever arising out of the Licensees use of the Premises or the United States' past, present, or future operation of a sanitary land fill in the immediate vicinity of the Premises.

ARTICLE 7. NO EXPENSE TO THE UNITED STATES The Licensees understand that the use and occupancy granted by this License will be at no cost or expense to the United States nor will it generate or result in any requirement for funding by the United States.

ARTICLE 8. DAMAGE AND INJURY The Licensees shall be responsible for any damage or injury to others arising from its use of the Premises granted by this License, including any and all improvements, facilities, installations, and fixtures, or the use thereof by the people of the Federated States of Micronesia and Yap, or by any grantee, sublicensee, permittee, agent, officer, or assignee of the Licensees.

ARTICLE 9. HOLD HARMLESS The Licensees shall indemnify and save harmless the United States, its officers, agents, servants, and employees, from all liability under the Federal Tort Claims Act (62 STAT 869, 982; 28 U.S.C. Sec. 2671, 2680) or otherwise, for death or injury to all persons, or loss or damage to the property of all persons resulting from the use of the Premises by the Licensees.

ARTICLE 10. RESIDENTIAL DWELLINGS No permanent residential dwellings or settlements shall be established on the Premises covered by this License, or any party thereof, without the prior approval of the United States.

ARTICLE 11. REVOCATION This License may be revoked at any time if it is determined by the United States that the use being made of the Premises, or any part thereof, pursuant to this License, is not compatible with present or immediate future use thereof by the United States. Upon written notice of the revocation of this License by the Licensor, in whole or in part, the Licensees shall quit the Premises and surrender possession of all or any part of the land and improvements covered by this License.

ARTICLE 12. TERMINATION BY LICENSEES

The Licensees shall have the right to terminate this License upon thirty (30) days' written notice by one of them to the Licensor.

ARTICLE 13. REMOVAL OF PROPERTY

Upon the revocation of this License by the Licensor as provided in Article 11 hereof, or its termination by one or both Licensees as provided in Article 12 hereof, the Licensees will vacate the Premises, remove its property therefrom, securely cap any water wells located on the Premises, and restore the Premises to a condition satisfactory to the Licensor, ordinary wear and tear and damage beyond the control of the Licensees excepted. The Licensees shall be given a reasonable period of time to remove all of its property from the Premises.

ARTICLE 14. UTILITIES

If utilities and services are furnished by the Licensor to the Licensees for their use of the Premises, the Licensees shall reimburse the Licensor for the cost thereof as determined by the Licensor in accordance with applicable statutes and regulations.

ARTICLE 15. NONDISCRIMINATION

It is a condition of this license that no person shall, on the ground of race, color or national origin, be excluded from participation in, or denied the benefits of, or be otherwise subjected to discrimination in the use of the facility. The United States Coast Guard reserves the right to revoke and cancel this license in the event of breach of such nondiscrimination condition during the period of the license.

ARTICLE 16. UNITED STATES RULES AND REGULATIONS

The Licensees shall comply with such rules and regulations regarding security, ingress, egress, safety and sanitation as may be prescribed, from time to time, by the Commanding Officer, U.S. Coast Guard Loran

Station, Yap, Western Caroline Islands.

Annex B
Civic Action Teams

IN WITNESS WHEREOF, the parties have hereto subscribed their names this 1st day of October, 1982.

I. *Provision of United States Civic Action Teams*

A. The Government of the United States shall make available to the Government of the Federated States of Micronesia the services of Civic Action Teams (CATs) which shall engage in such projects and activities as may be identified by the Government of the Federated States of Micronesia and as mutually agreed by the Government of the United States and the Government of the Federated States of Micronesia.

B. The Government of the United States shall make available to the Government of the Federated States of Micronesia up to four CATs upon request and under the following provisions:

1. The establishment of an annually agreed work program, in accordance with paragraph III of this Annex, designed to assist in the fulfillment of the national developmental goals of the Federated States of Micronesia; and

2. The sharing of CAT costs by the Government of the United States and the Government of the Federated States of Micronesia in accordance with paragraph II of this Annex, taking into consideration the assistance provided in Section 212(b) of the Compact.

C. The CAT services may be terminated under any of the following conditions:

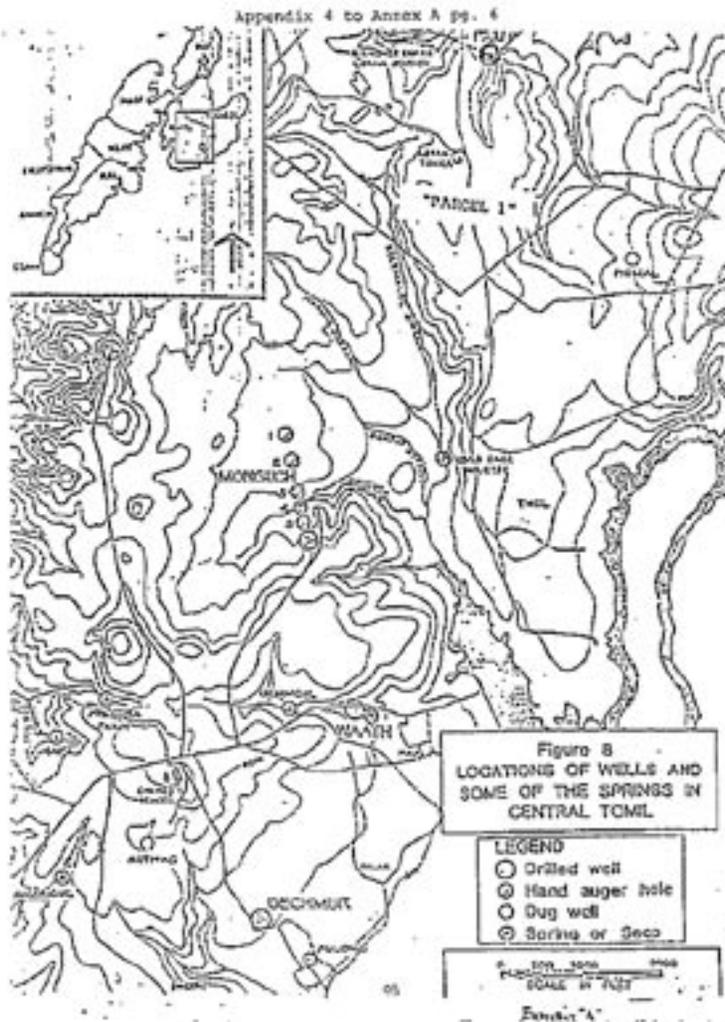
1. At the request of the Government of the Federated States of Micronesia;

2. United States military necessity;

3. Failure of the United States Congress to appropriate the necessary funds; or

4. Failure of the Government of the Federated States of Micronesia to reimburse the Government of the United States for its share of CAT costs in accordance with paragraph II of this Annex.

D. Unless otherwise agreed, the CATs shall be organized and equipped in accordance with paragraph IV to this Annex. The provi-



sion of additional equipment for use by a CAT shall be the responsibility of the Government of the Federated States of Micronesia, but the Government of the United States shall attempt to make provision for such equipment subject to its availability.

E. In addition to their principal role and as mutually agreed, the CATs shall provide training and apprenticeship opportunities to citizens of the Federated States of Micronesia. Such apprentices shall be nominated by the Government of the Federated States of Micronesia which shall be responsible for any expenses incurred by such persons in these training and apprenticeship programs.

II. *Support and Operation of Civic Action Teams*

A. The basis for sharing of CAT costs shall be that the Government of the United States shall support all team costs and the Government of the Federated States of Micronesia shall provide an annual amount of \$250,000.00 for each deployed team. This payment by the Government of the Federated States of Micronesia to the Government of the United States shall commence on the first anniversary of the effective date of this agreement.

B. The Government of the United States shall assume all responsibility associated with the provision of CATs with the exception that the Government of the Federated States of Micronesia shall provide:

1. construction materials for projects;
2. suitable public or private land, as required, for CAT base camps;
3. all necessary access and entry clearances into public and private land and all permits for projects;
4. transportation or reimbursement, as mutually agreed, for inter-island movement within the Federated States of Micronesia of personnel, supplies and equipment; and
5. new base camp facilities coincident with team relocation, unless otherwise mutually agreed.

III. *Planning Cycle for Civic Action Team Employment*

A. The National Government of the Federated States of Micronesia, in addition to using the CATs to assist in national development proj-

ects, may also use them to assist state or local governments in the Federated States of Micronesia and for other such projects and activities, including outer island development projects, as may be mutually agreed between the Government of the United States and the Government of the Federated States of Micronesia.

B. The Government of the United States and the Government of the Federated States of Micronesia shall review, on an annual basis or otherwise as may be mutually agreed, all matters relating to the operation and use of the CATs. The annual review shall include planned CAT projects, activities and associated costs.

C. The Government of the United States shall make every effort to inform the Government of the Federated States of Micronesia as early as possible of the number of CATs and personnel which it can make available during the following fiscal year. The Signatory Governments shall make every effort to inform each other as soon as possible should temporary or permanent withdrawal of any CAT be required pursuant to paragraph I of this Annex.

IV. *Civic Action Team Composition*

A. *Team Personnel Composition.* Subject to the provisions of paragraph III of this Annex, each CAT will normally be composed of one officer and 12 enlisted personnel as follows:

1. "Officer in Charge (OIC)": Commissioned officer who is preferably a graduate engineer or architect (or having equivalent experience).
2. "Assistant Officer in Charge (AOIC)": Non-commissioned officer who is a trained construction specialist in equipment operation or general building with extensive experience operating construction units.
3. "Equipment Operators": Two individuals with extensive experience with a wide variety of construction equipment and operations, including cranes.
4. "Carpenter/Woodcraftsman/Mason": Two individuals experienced in carpentry, concrete and timber construction.
5. "Steel Worker/Welder": One individual experienced in gas and arc welding, cutting, sheet metal fabrication, structural steel erection and pioneer-type rigging.

6. "Construction Equipment Mechanic": Two individuals experienced in maintenance of a variety of automotive and construction equipment with one experienced in parts procurement and stock level determination.

7. "Utilitiesman/Plumber/Refrigeration Mechanic": One individual experienced in plumbing, layout, pump installation and maintenance, refrigeration and well drilling.

8. "Construction Electrician": One individual experienced in interior wiring, pole line construction and small power plant installation, maintenance and operations.

9. "Engineering Aide/Surveyor/Draftsman" : One individual experienced in planning and estimating, drafting, surveying and soil analysis.

10. "Hospital Corpsman/Medic": One specialist in field medicine, public health and personal hygiene, and qualified for independent duty.

B. *Team Equipment Allowance.* Subject to the provisions of paragraph III of this Annex each CAT shall normally include the following standard equipment allowance:

1. Truck, 1/4 ton Utility One (1)
2. Truck, 1 & 1/4 ton Cargo, One (1)
3. Truck, 5 ton Dump, Three (3)
4. Trailer, Semi-dolly, One (1)
5. Trailer, Tilt top 25 ton, One (1)
6. Mixer, Concrete Portable, One (1)
7. Grader, Motor, One (1)
8. Loader, Front End Rubber Tire, One (1)
9. Roller, Vibratory, One (1)
10. Tractor, Crawler TD-20, One (1)

11. Generator, 30KW, Two (2)

12. Welder, Arc, One (1)

13. Pump, Centrifugal, One (1)

IN WITNESS THEREOF, the undersigned, duly authorized for the purpose, have signed the present agreement.

DONE at Honolulu, Hawaii, in duplicate, this 1st day of October, 1982

FOR THE GOVERNMENT OF THE UNITED STATES

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

**Agreement between the Government of the United States of America
and the Government of the Federated States of Micronesia Regarding
Aspects of the Marine Sovereignty and Jurisdiction of the Federated
States of Micronesia**

PREAMBLE

The Government of the United States and the Government of the Federated States of Micronesia:

Reaffirming that, in the exercise of its foreign affairs capacity, the Government of the Federated States of Micronesia shall conduct in its own name and right foreign affairs relating to the 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;

Noting the declared intention of the Government of the Federated States of Micronesia that it shall become a Contracting Party as soon as possible to the Convention resulting from the Third United Nations Conference on the Law of the Sea;

Recognizing the importance to the island nations of the Pacific and to other nations of the benefits and protections of the Convention resulting from the Third United Nations Conference on the Law of the Sea;

Acknowledging the importance to their countries and peoples of a uniform law of the sea in accordance with generally recognized international law; and

Acknowledging the capacity of the Government of the Federated States of Micronesia in its own name and right to become a Contracting Party to the Convention resulting from the Third United Nations Conference on the Law of the Sea;

NOW THEREFORE AGREE:

ARTICLE I

The Government of the Federated States of Micronesia by this treaty obligation limits the statement of marine territory and jurisdiction in Article I, Section 1, Sentence 2 of the Constitution of the Federated States of Micronesia by agreeing that Article I, Section 1, Sentence 2 shall not be effective to claim an archipelago or a regime of archipelagic waters, or to claim any other aspect of marine territory or jurisdiction not consistent

with generally accepted international law.

ARTICLE II

The undertakings of Article I of this Agreement extend to all other States.

ARTICLE III

The Government of the United States recognizes that this Agreement, which shall have the full force and effect of an Executive Agreement of the United States, is a treaty obligation under international law.

ARTICLE IV

The Government of the Federated States of Micronesia recognizes that this Agreement contains “international treaty obligations” as those words are used in Article I, Section 1 of the Constitution of the Federated States of Micronesia and agrees to submit this Agreement for approval as a treaty pursuant to Article IX, Section 4, of the Constitution of the Federated States of Micronesia.

ARTICLE V

This Agreement shall come into effect simultaneously with the Compact of Free Association and shall remain in effect during the effective period of Title Three of the Compact of Free Association between the Governments of the United States and the Federated States of Micronesia.

ARTICLE VI

The provisions of this Agreement may be amended at any time by mutual agreement.

ARTICLE VII

Nothing in this Agreement shall prejudice any undertaking by either the Government of the Federated States of Micronesia or the Government of the United States toward the other in the Compact of Free Association between them.

ARTICLE VIII

Nothing in this Agreement is intended to or shall prejudice any treaty obligation assumed, or any rights, jurisdiction or authority gained or confirmed, by the Government of the Federated States of Micronesia or the Government of the United States in becoming a Contracting Party to the Convention resulting from the Third United Nations Conference on the Law of the Sea.

ARTICLE IX

Nothing in this Agreement affects or prejudices the rights, freedoms and obligations of the Government of the United States under international law with respect to high seas freedoms and the exercise of rights and jurisdiction over the waters or seabed and subsoil or any other matter related to the law of the sea.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed the present agreement.

DONE at Honolulu, Hawaii, duplicate, this 1st day of October ONE THOUSAND, NINE HUNDRED EIGHTY-TWO.

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA:

FOR THE GOVERNMENT-,OF THE UNITED STATES OF AMERICA:

Relevant Provisions of H.J. Res. 626

H.J. Res. 626
Section 104(b)

INVENTORY AND STUDY OF NATURAL, HISTORIC, AND OTHER RESOURCES.—The Secretary of the Interior shall conduct, upon request of Palau, the Federated States of Micronesia or the Marshall Islands, and through the Director of the National Park Service, a comprehensive inventory and study of the most unique and significant natural, historical, cultural, and recreational resources of Palau, the Federated States of Micronesia or the Marshall Islands. Areas or sites exhibiting such qualities shall be described and evaluated with the objective of the preservation of their values and their careful use and appreciation by the public, along with a determination of their potential for attracting tourism. Alternative methodologies for such preservation and use shall be developed for each area or site (including continued assistance from the National Park Service); current or impending damage or threats to the resources of such areas or sites shall be identified and evaluated; and authorities needed to properly protect and allow for public use and appreciation shall be identified and discussed. Such inventory and study shall be conducted in full cooperation and consultation with affected governmental officials and the interested public. A full report on such inventory and study shall be transmitted to Palau or the Federated States of Micronesia or the Marshall Islands, the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no later than two complete calendar years after the date of enactment of this joint resolution. The inventory and study shall also identify areas or sites which, if they were located in the United States, would qualify to be listed on the Registry of Natural Landmarks and the National Register of Historic Places.

H.J. Res. 626
Section 104(c)

AUTHORIZATION FOR TRANSITION PURPOSES.—Section 105(c)(2) of Public Law 99-239 is amended by deleting “infrastructure.” and inserting in lieu thereof “infrastructure, except that, for purposes of an orderly reduction of United States programs and services in the Federated States of Micronesia, the Marshall Islands, and Palau, United States programs or services not specifically authorized by the Compact of Free Association or by other provisions of law may continue but, unless reimbursed by the respective freely associated state, not in excess of the following amounts:

“(1) For fiscal year 1987, an amount not to exceed 75 per centum of the total amount appropriated for such programs for fiscal year 1986;

“(2) For Fiscal year 1988, an amount not to exceed 50 per centum of the total amount appropriated for such programs for fiscal year 1986;

“(3) For fiscal year 1989, an amount not to exceed 25 per centum of the total amount appropriated for such programs for Fiscal year 1986.”

H.J. Res. 626
Section 104(f)

Amounts appropriated to be paid pursuant to section 177 of Article I of Title One or Articles I and III of Title Two of the Compact of Free Association with the Federated States of Micronesia and the Marshall Islands, as set forth in Title II of the Compact of Free Association Act of 1985, or pursuant to section 103(h), 103(k), or 105(m) of such Act (Public Law 99-239), or pursuant to Article I of Title Two of the Compact with Palau, as set forth in Title II of this joint resolution, or section 104(l) of this joint resolution shall not be reduced, notwithstanding Public Law 99-177, Public Law 99-366, and other law enacted to implement Public Law 99-177, or any of her provision of law.

H.J. Res. 626
Section 104(g)

The Congress reaffirms all of the understandings interpretations and policy statements contained in Public Law 99-239 (99 Stat. 1770). Congressional Resolution 4-60 adopted by the 4th Congress of the Federated States of Micronesia on March 26, 1986 and Resolution No. 62 adopted by the Nitijela of the Marshall Islands on February 18, 1986 do not exclude, limit or modify any provision of the Compact of Free Association as approved by the United States. To the extent that any understandings, interpretations and policy statements contained in such Resolutions are inconsistent with the provisions of Public Law 99-239, the United States does not concur therein. The President shall take such steps, including but not limited to, communicating with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands, as may be necessary to preserve all rights of the United States in connection with interpretation and implementation of such Public Law.

Notwithstanding any other provision of law, funds appropriated for the Compact of Free Association, Public Law 99-239, or this joint resolution, in the act of making supplemental appropriations for fiscal year 1986, shall remain available until expended.

Agreement Between The Government of the United States and the Government of the Federated States of Micronesia Concerning Certain Technical Assistance to Be Provided by the Department Of The Army Pursuant to Section 226 of the Compact of Free Association

This Agreement is entered into by the Government of the United States and the Government of the Federated States of Micronesia to record their agreement and undertakings with respect to the implementation of certain aspects of Section 226 of the Compact of Free Association concerning the provision of certain water resource and infrastructure development projects within the Federated States of Micronesia.

Article I
Definitions

1. The Definition of Terms set forth in Article VI of Title IV of the Compact and the Definitions set forth in paragraph 2 of Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact (the Status of Forces Agreement) are incorporated by reference into this Agreement.

2. In this Agreement, the following definitions also apply:

(a) “Technical assistance” means planning, engineering, design, construction management, or other professional services related to the construction or possible construction of water resource or infrastructure development projects.

(b) “Planning services” means any planning service related to the construction or possible construction of a water resource or infrastructure development project, including the development of baseline data, physical and economic analyses, environmental resource analyses, plan formulation, feasibility analyses, and planning study reports;

(c) “Engineering and design services” means any engineering and design service related to the construction or possible construction of a water resource or infrastructure development project, including detailed design analysis and all engineering service required for the preparation of construction documents, including preparation of design and cost estimates;

(d) “Construction management services” means any construction management service related to the construction of a water resource or infrastructure development project, including the management of contracts during construction and the coordination of financial, engi-

neering, and quality assurance activities during construction; and

(e) “Other professional services” means any other professional service related to the construction or possible construction of a water resource or infrastructure development project which the U.S. Department of the Army is competent to provide, including preparing special studies, analyses and reports; and affording on the job training for personnel designated by the Government of the Federated States of Micronesia.

Article II
Applicability of the Status of Forces Agreement

The provisions of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact of Free Association (“The Status of Forces Agreement”) shall apply.

Article III
Provision of Technical Assistance

Upon request by the Government of the Federated States of Micronesia, the Department of the Army on behalf of the Government of the United States, and in accordance with applicable laws of the United States and the Federated States of Micronesia, shall provide under the terms of this Agreement technical assistance in connection with the construction of water resource and infrastructure development projects within the Federated States of Micronesia.

Article IV
Requests for Technical Assistance

1 . The Government of the Federated States of Micronesia shall, as desired, submit requests for technical assistance under this Agreement to the Department of the Army through its designated representative. Such requests for technical assistance shall be in writing and shall describe the scope of the services desired and the proposed location of the project to which the services relate; and shall designate for purposes of communications an individual or office authorized to represent the Government of the Federated States of Micronesia on all matters relating to that work request, including the obligation of funds.

2. Upon receipt of a such a request for technical assistance, the designated representative of the Department of the Army shall provide the individual or office authorized to represent the Government of the Federated States of Micronesia with an acknowledgment in writing of

the request for technical assistance, and shall seek to obtain all required Department of the Army approvals for performing work requested.

3. Such requests for technical assistance shall be set forth in individual work agreements between the Department of the Army and the Government of the Federated States of Micronesia. The individual work agreements shall describe in detail the scope of work to be performed, necessary funding arrangements, and such other particulars as are necessary to clearly describe the obligations of the parties with respect to the requested work.

4. Any work performed or final product delivered shall be in accordance with the scope of work set forth in an individual work agreement. No technical assistance shall be provided under this Agreement until necessary approvals are obtained.

Article V *Funding*

The Department of the Army shall provide technical assistance to the Government of the Federated States of Micronesia pursuant to this Agreement after receipt of adequate funding provided for this purpose by the Government of the Federated States of Micronesia or other non-Department of the Army sources.

Article VI *Records and Reports*

1. The Department of the Army shall establish and maintain records of the receipts and expenditure of all funds furnished by the Government of the Federated States of Micronesia for specific work requests. Records shall be maintained in sufficient detail to permit identification of the nature of expenditures made by the Department of the Army and shall be made available for inspection by authorized representatives of the Government of the Federated States of Micronesia at reasonable times upon request.

2. The Department of the Army shall provide the Government of the Federated States of Micronesia with a report summarizing the expenditure of funds on individual work agreements on a quarterly basis as work proceeds.

Article VII *Required Real Estate Permits or Interests*

The Government of the Federated States of Micronesia shall acquire any required government permits and make available to the Department of the Army any rights of entry or real estate interests that may be necessary to perform the individual work agreements.

Article VIII *Status of Personnel and Equipment*

1. United States personnel and their dependents who are present in the Federated States of Micronesia for the purpose of performing any work pursuant to this Agreement, including individual work agreements, shall enjoy the privileges and immunities accorded by the Government of the Federated States of Micronesia under Title III of the Compact of Free Association and the Status of Forces Agreement concluded pursuant to Section 323 of the Compact of Free Association.

2. All property, equipment, and supplies brought into the Federated States of Micronesia or acquired- in the Federated States of Micronesia by the United States to implement this Agreement or to fulfill individual work agreements shall be exempt from taxes on ownership or use as provided under the Compact of Free Association and the Status of Forces Agreement.

Article IX *Applicability of Law*

All obligations of the Government of the United States to be carried out under this Agreement or under the terms of any individual work agreement hereunder shall be subject to the laws and regulations of the United States of America. All obligations of the Government of the Federated States of Micronesia to be carried out under this Agreement or under the terms of any individual work agreement shall be subject to the laws and regulations of the Federated States of Micronesia.

Article X *Dispute Resolution*

1. The Government of the United States and the Government of the Federated States of Micronesia shall seek to resolve any dispute concerning this Agreement or any individual work agreement through good faith discussions.

2. Any dispute concerning this Agreement or any individual work agreement hereunder which cannot be settled through good faith discussions shall, upon the request of either party, be referred to a neutral tribunal for review and examination and issuance of advice and recommendations. The tribunal shall consist of two members appointed by the Department of the Army, two members appointed by the Government of the Federated States of Micronesia, and a member jointly appointed by the Signatory Governments who shall be chairman of the tribunal.

3. The Government of the United States and the Government of the Federated States of Micronesia shall give prompt and sympathetic consideration to the advice and recommendations of the neutral tribunal.

4. Section 351 of the Compact as between the Government of the United States and the Government of the Federated States of Micronesia is incorporated by reference into, and becomes a part of this Agreement. Should the Signatory Governments be unable to reach a mutually agreed solution after considering the recommendations of the neutral tribunal, the dispute shall be referred to the Joint Committee established by Section 351 of the Compact and resolved in accordance with that section.

Article XI

Arrangements for Implementation

1. The Department of the Army shall designate in writing an official responsible for receiving requests for technical assistance under this Agreement from the Government of the Federated States of Micronesia.

2. The Government of the Federated States of Micronesia shall designate in writing an official responsible for presenting requests for technical assistance to the Department of the Army and for identifying authorized individuals and offices to contact in connection with individual work agreements.

Article XII

Effective Date, Amendment and Duration

1. This Agreement shall enter into force upon signature by the Signatory Governments and shall remain in force for a period of five years unless extended in writing by mutual consent.

2. Either of the Signatory Governments may terminate this Agreement or any individual work agreement upon providing sixty calendar days written notice. The termination shall be effective upon the sixtieth calendar

day following notice, unless a later date is set forth. In the event of termination, the Government of the Federated States of Micronesia shall continue to be responsible for all costs incurred by the Government of the United States under this Agreement, including any individual work agreement, for other costs incurred by the Government of the United States to terminate this Agreement or any individual work agreement, and for the costs of closing out or transferring any ongoing contracts that may have been entered into pursuant to this Agreement or any individual work agreement. The Department of the Army shall retain responsibility for administering any contracts awarded by the United States pursuant to this Agreement or to any individual work agreement until such contracts have been closed out or transferred.

IN WITNESS WHEREOF, the undersigned, duly authorized for the purpose, have signed this Agreement.

DONE AT Honolulu, Hawaii, this 21st day of September, one thousand, nine hundred eighty-nine FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

DONE AT Honolulu, Hawaii, this 21st day of September, one thousand, nine hundred eighty-nine FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Maritime Search and Rescue Agreement between The Federated States of Micronesia Department of External Affairs And The United States Coast Guard of The United States of America

The Federated States of Micronesia Department of External Affairs and the United States Coast Guard of the United States of America, recognizing the great importance of cooperation in maritime search and rescue and of the provision of expeditious and effective search and rescue services, have agreed as follows:

Article I

1. Either party, on receiving information of any person in distress at sea within its regions of responsibility, shall take urgent measures to provide the most appropriate assistance available regardless of the nationality or status of such a person or the circumstances in which that person is found.

2. The parties, in conducting their search and rescue operations, undertake to cooperate with each other to the extent necessary for the purpose of coordinating and conducting such search and rescue operations, and shall assist each other as their capabilities allow.

3. For any search and rescue operation involving both parties, the parties shall agree, through consultation, in each case which party will have primary responsibility for coordinating the search and rescue operations.

4. Entry of search and rescue units into the territorial seas Of the other party for the purpose of conducting search and rescue operations will be expeditiously arranged via the appropriate search and rescue point of contact in accordance with the provisions of this Agreement.

5. In accordance with customary international law, solely for the purpose of rendering emergency assistance to persons, vessels, or aircraft in danger or distress from perils of the sea, when the location is reasonably well known, search and rescue units of either party may immediately enter the territorial seas of the other party, with notification of such entry made as soon as practicable.

6. To facilitate the coordination and conduct of search and rescue referred to in this Article, the parties shall keep each other fully and promptly apprised of all relevant search and rescue operations and shall develop appropriate procedures to provide for the fastest and most effective means of communication.

Article II

1. The search and rescue point of contact for the United States Coast Guard is the Rescue Coordination Center Honolulu. The United States Coast Guard Marianas Section should also receive copies of all messages.

2. The parties undertake to report to each other on maritime search and rescue cases of common interest when necessary or appropriate.

3. The parties undertake to keep each other informed in a timely and effective manner on search and rescue cases Of mutual interest, or on cases which could potentially involve the other party.

4. The parties agree to exchange information, in addition to that related to specific search and rescue cases, that may serve to improve the effectiveness of maritime search and rescue operations. Such information may include, but need not be limited to, identification of potential search and rescue units (including locations and capabilities), description of available air fields and medical and fueling facilities, information useful in training search and rescue personnel, etc.

Article III

The parties, to promote mutual cooperation in maritime search and rescue, will give due consideration to collaborative efforts, including but not limited to:

(A) Mutual visits between search and rescue personnel;

(B) Conduct of joint exercises of search and rescue operations, and of training in search and rescue services;

(C) Use of ship reporting systems for search and rescue;

(D) Development of search and rescue procedures, techniques, equipment, and facilities; and

(E) Provision of services in support of search and rescue operations such as use of aircraft landing fields, and fueling or medical facilities.

Article IV

1. Nothing in this Agreement shall affect in any way rights and obligations resulting from international agreements pertaining to either party and rights and obligations of Customary international law.

2. The parties will implement this Agreement in accordance with international law and their respective laws and regulations.

Article V

1. Specific obligations of the parties to this Agreement are contingent upon the availability of search and rescue personnel, facilities, and funding. However, the inability of a party to meet any specific obligation by reason of such nonavailability shall not affect other obligations of that party under the Agreement.

2. Unless otherwise agreed by the parties, each party is obligated to fund the expenses for search and rescue operations or activities conducted by itself under this Agreement, and neither party shall be obligated to reimburse the other. Article VI 1. This Agreement shall enter into force on the date of signature. 2. This Agreement shall be terminated on the date of expiration of six months after written notice by either party of its intention to terminate this Agreement to the other, or on the date of the entry into force of a superseding Agreement.

3. Termination as referred to in paragraph 2 shall not affect the maritime search and rescue operations which have been termination as referred to in paragraph 2 unless otherwise agreed to by the parties.

4. This Agreement may be amended by written Agreement between the parties.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective governments, have signed this Agreement.

DONE at Honolulu, Hawaii, in duplicate, this 10th day of June, 1988, in the English language.

For the Federated States of Micronesia Department of External Affairs

For the United States Coast Guard

Memorandum of Understanding Between the Government of the Federated States of Micronesia and the Government of the United States of America Concerning Reimbursement for Deployment of Civic Action Teams

The Government of the Federated States of Micronesia and the Government of the United States of America recognizing that Annex B to the 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, signed on October 1, 1982 (the Agreement) provides that the Government of the Federated States of Micronesia shall provide to the Government of the United States an annual amount of \$250,000.00 for each deployed United States Civic Action Team (CAT).

Have reached the following understanding:

Commencing on the effective date of this Memorandum of Understanding, and thereafter at the beginning of each quarter of a United States Fiscal Year that a CAT is deployed in the Federated States of Micronesia pursuant to the Agreement, the Government of the Federated States of Micronesia shall transfer the amount of \$62,500.00 for each deployed CAT directly to the designated United States Government agencies specified in subparagraphs a) through c) below.

a) Reimbursement in the amount of \$62,500.00 for each deployed Army CAT, payable to:

Finance and Accounting Office
USASCH Finance and Accounting Center
ATTN: Disbursing Office
Fort Shafter, Hawaii 96858-5100

b) Reimbursement in the amount of \$62,500.00 for each deployed Air Force CAT, payable to:

Department of the Air Force
Headquarters Pacific Air Force
ATTN: PACAF/ACBM
Hickam Air Force Base, Hawaii 96853-5001

c) Reimbursement in the amount of \$62,500.00 for each deployed Navy CAT, payable to:

U.S. Department of the Navy

Commander, Naval Construction Battalions
U.S. Pacific Fleet
Pearl Harbor, Hawaii 96860-7305

This memorandum of Understanding will come into effect on the first day of October 1990.

DONE in duplicate at _____ on the _____ day of _____, 1990.

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA

Memorandum of Understanding with respect to the Division of Grant Assistance under the Compact of Free Association among the National and State Governments of the Federated States of Micronesia⁹

1. *Purpose:* Section 211(a)(4) of the Compact of Free Association (hereinafter Compact), executed by the Government of the Federated States of Micronesia and the Government of the United States on October 1, 1982, requires the Government of the Federated States of Micronesia to certify to the U.S. Government the division among the national and state governments of the Federated States of Micronesia of the grant assistance to be provided to the Federated States of Micronesia pursuant to sections 211(a)(4), 212(b), 213(c), 214(c), 215(a)(3), 215(b)(3), 216(a), 216(b), 221(a), and 221(b) of the Compact. Article V of the “Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association”, executed by the Government of the Federated States of Micronesia and the Government of the United States on June 15, 1983 and June 16, 1983, respectively, sets forth specific procedures with respect to the certification of the division of grant assistance. This Memorandum of Understanding (hereinafter Memorandum) is entered into between the Government of the Federated States of Micronesia, the Government of Truk, the Government of Ponape, the Government of Yap, and the Government of Kosrae (hereinafter signatory governments) . The Memorandum is to record the mutual agreements and understandings of the signatory governments with respect to the division of Compact grant assistance among the national and state governments of the Federated States of Micronesia in accordance with the provisions of section 211(a)(4) of the Compact and Article V of the “Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association” for the five-year period immediately following the effective date of the Compact, the procedures for certification of the division, and the procedures for review of the division.

2. *FSM Constitution:* The signatory governments recognize and agree, in view of the provisions of section 211(a)(4) of the Compact and Article V of the “Agreement Concerning Procedures for the Implementation, of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association”, that the grant assistance to be provided pursuant to sections 211 (a)(4), 212(b), 213(c), 214(c), 215(a)(3), 215(b)(3), 216(a), 216(b), 221(a), and 221(b) of the Compact, including the adjustment of these amounts pursuant to section 217 of the Compact, falls within the exception to the equal distribution requirement of section I(b) of Article XII of the Constitution of the Federated States of Micronesia applicable to assistance for which a particular distribution is

required.

3. *Division of Compact Grant Assistance:*

(a) The following division of Compact grant assistance shall be certified to the Government of the United States:

GRANT	COMPACT SECTION	DURATION & YEAR(S)	PERCENTAGE DIVISION OF COMPACT GRANT ASSISTANCE BY GOVERNMENT				
			Truk State	Ponape State	Yap State	Kosrae State	FSM National
1) Major Block Grant	211(a)(4)	Annual (Years 1-5)	37.40%	24.31%	15.52%	10.27%	12.50%
2) Special Development Assistance	212(b)	Annual (Years 2-5)	25.00%	25.00%	25.00%	25.00%	0
3) Yap Coast Guard Station Rental	213(c)	One-Time (Year 1)	0	0	100.00%	0	0
4) Energy Grant	214(c)	Annual (Years 2-5)	31.66%	25.00%	21.67%	15.00%	6.67%
5) Communications Grant	215(a)(3)	Annual (Years 1-5)	0	0	0	0	100.00%
6) Communications Grant	215(b)(3)	One-Time (Year 1)	0	0	0	0	100.00%
7) Marine Surveillance Grant	216(a)(1)	Annual (Years 1-5)	0	0	0	0	100.00%
8) Health/Medical Programs Grant	216(a)(2)	Annual (Years 1-5)	36.60%	28.40%	16.10%	8.90%	10.00%
9) Post-Secondary Grant	216(a)(3)	Annual (Years 1-5)	0	0	0	0	100.00%
10) Marine Surveillance Grant	216(b)	One-Time (Year 1)	0	0	0	0	100.00%
11) FEMA Planning Grant	221(a)(2)	Annual (Years 1-5)	0	0	0	0	100.00%
12) Health and Education Grant	221(b)	Annual (Years 1-5)	39.00%	27.00%	17.00%	12.50%	4.50%

(b) (1) With respect to the 60 percent of the section 211(a)(4) grant assistance to be dedicated to the current account annually, the following division among the national and state governments of the Federated States of Micronesia shall apply:

Truk State	Ponape State	Yap State	Kosrae State	FSM National Govt.
36.60%	23.40%	16.10%	8.90%	15.00%

(2) With respect to the 40 percent of section 211(a)(4) grant assistance to be dedicated to the capital account annually, the following division among the national and state governments of the Federated States of Micronesia shall apply:

Truk State	Ponape State	Yap State	Kosrae State	FSM National Govt.
38.40%	25.45%	14.78%	11.99%	9.39%

(c) Except as otherwise provided pursuant to paragraph 5 of this Memorandum, the divisions specified in subparagraphs (a) and (b) of this paragraph shall remain in effect only for the period commencing on the effective date of the Compact and ending on the last day of the fifth full fiscal year following the effective date of the Compact.

(d) With respect to the divisions specified in subparagraph (a) of this paragraph, it is understood that Compact Section 217 inflation adjustment payments shall be divided among the State and National Governments of the Federated States of Micronesia in accordance

with their respective shares of the various grants for which the payments are attributable.

(e) With respect to the divisions specified in subparagraph (a) of this paragraph for special development assistance, the communications grants, and the marine surveillance grants, the following special conditions shall apply:

(1) *Special Development Assistance* - Commencing on the first anniversary of the effective date of the Compact of Free Association, if a U.S. Military Civic Action Team will be utilized in a State during a fiscal year, \$250,000 of that State's share of the special development assistance for the fiscal year in question shall be retained by the FSM National Government for reimbursement to the Government of the United States in accordance with paragraph IIA of Annex B of the "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." Such State shall be entitled to Section 217 adjustment payments attributable to the \$250,000 and any interest or profit accrued on the investment of the \$250,000 by the FSM National Government prior to reimbursement to the Government of the United States.

(2) *Communication Grant* - The grant assistance to be provided pursuant to sections 215(a) and 215(b) of the Compact of Free Association shall be dedicated to the FSM Telecommunications Corporation established by 21 FSMC 202, for use in paying COMSAT satellite earth station lease costs and other communications operating, maintenance, and capital costs. The provision of 100 percent of this grant assistance to the FSM National Government for the purposes specified above is subject to the continuance of the percentage of State-selected representation on the Board of Directors of the FSM Telecommunications Corporation as currently specified in 21 FSMC 209.

(3) *Marine Surveillance Grants* - The grant assistance to be provided pursuant to sections 216(a)(1) and 216(b) of the Compact of Free Association shall be dedicated to the FSM National Government agency or agencies responsible for surveillance 0£, and enforcement of laws applicable to, the marine space of the Federated States of Micronesia with respect to living and non-living resources. Such agency or agencies shall be responsible for surveillance of marine space under the jurisdiction of both the FSM National Government and the State Governments of the

Federated States of Micronesia. The States of the Federated States of Micronesia shall be given the first right to institute civil or criminal proceedings with respect to violations of marine resources laws within the 12-mile marine space of the State.

4. *Certification of Division*

(a) The President of the Federated States of Micronesia, acting on behalf of the state and national governments of the Federated States of Micronesia, shall certify the division of Compact funds specified in paragraph 3(a) of this Memorandum to the Government of the United States no later than thirty (30) calendar days prior to the effective date of the Compact.

(b) Except with the mutual agreement of all signatory governments, the President of the Federated States of Micronesia shall not modify the division of Compact funds specified in paragraphs 3(a) and 3(b) of this Memorandum.

5. *Review of Division:* The signatory governments agree that, no later than 90 days prior to first day of the sixth full fiscal year following the effective date of the Compact, consultations shall commence among the signatory governments to determine a division of Compact funds to be applicable to the five-year period beginning on the first day of the sixth full fiscal year following the effective date of the Compact. In the event that a division, for the five-year period beginning on the first day of the sixth full fiscal year following the effective date of the Compact, has not been mutually agreed by all signatory governments no later than 30 days prior to the first day of the sixth full fiscal year following the effective date of the Compact, the President of the Federated States of Micronesia shall re-certify to the Government of the United States the division specified in paragraph 3(a) of this Memorandum, which shall remain in effect until anew division is mutually agreed upon and certified.

6. *Amendment and Termination:* The provisions of this Memorandum may be amended or terminated, at any time, by mutual agreement of all signatory governments.

7. *Prior Understanding and Agreements:* Upon the effective date of this Memorandum, all prior understandings or agreements with respect to the division of Compact funds shall have no force or effect.

8. *Effective Date:* This Memorandum shall become effective immediately upon signature by all signatory governments.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Memorandum which shall come into effect and shall be binding on their respective governments in accordance with its terms:

FOR THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

<signed>
Tosiwo Nakayama
President
Federated States of Micronesia

FOR THE GOVERNMENT OF THE STATE OF PONAPE

<signed>
Resio Moses
Governor
State of Ponape

FOR THE GOVERNMENT OF THE STATE OF TRUK

<signed>
Erhart Aten
Governor
State of Truk

FOR THE GOVERNMENT OF THE STATE OF YAP

<signed>
John A. Mangefel
Governor
State of Yap

FOR THE GOVERNMENT OF THE STATE OF KOSRAE

<signed>
Yosiwo George
Governor
State of Kosrae

Notes

¹ Section 151 as amended effective Aug. 24, 1989. Original text:

“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.”

² Section 152 was deleted by amendment effective Aug. 24, 1989. Original text:

“(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.

(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.”

³ Section 242 modified by P.L. 99-239 to read as follows:

“The President shall proclaim the following tariff treatment for articles imported from the Federated States of Micronesia or the Marshall Islands which shall apply during the period of effectiveness of this title:

(1) Unless otherwise excluded, articles imported from the Federated States of Micronesia or the Marshall Islands, subject to the limitations imposed under sections 503(b) and 504(c) of title 5 of the Trade Act of 1974 (19 U.S.C. 2463(b); 2464(c)), shall be exempt from duty.

(2) Only canned tuna provided for in item 112.30 of the Tariff Schedules of the United States that is imported from the Federated States of Micronesia and the Marshall Islands during any calendar year not to exceed 10 percent of the United States consumption of canned tuna during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty free treatment under this paragraph for any calendar year shall be counted against the aggregate quantity of canned tuna that is dutiable under rate column numbered 1 of such item 112.30 for that calendar year.

(3) The duty-free treatment provided under paragraph (1) shall not apply to-

(A) watches, clocks, and timing apparatus provided for in subpart E of part 2 of schedule 7 of the Tariff Schedules of the United States;

(B) buttons (whether finished or not finished) provided for in item 745.32 of such Schedules;

(C) textile and apparel articles which are subject to textile agreements; and

(D) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of chapter V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

(4) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of the Federated States of Micronesia or the Marshall Islands, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(b)(2) of title V of the Trade Act of 1974.”

⁴ Section 243 modified by P.L. 99-239 to read as follows:

“Articles imported from the Federated States of Micronesia or the Marshall Islands which are not exempt from duty under paragraphs (1), (2), (3), and (4) of section 242 shall be subject to the rates of duty set forth in column numbered 1 of the Tariff Schedules of the United States 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.”

⁵ Section 253(a) is not applicable under P.L. 99-239, section 402(a).

⁶ Section 253(b) applies only to “individuals who are nonresidents and not citizens of the United States”, under terms of P.L. 99-239, section 402 (b).

⁷ The second sentence of 254(a) is interpreted by P.L. 99-239, section 403, as follows:

“The relief from liability referred to in the second sentence of section 254(a) of the Compact means only -

(1) relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and

(2) relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1954.”

⁸ Section 255 was modified by P.L. 99-239 to read as follows:

“(a) EXTENSION OF SECTION 936 TO THE MARSHALL ISLANDS AND THE FEDERATED STATES OF MICRONESIA.—For purposes of section 936 of the Internal Revenue Code of 1954, the Marshall Islands and the Federated States of Micronesia shall be treated as if they were possessions of the United States.

(b) EXCHANGE OF INFORMATION.—Subsection (a) shall not apply to the Marshall Islands and the Federated States of Micronesia (as the case may be) for any period after December 31, 1986, during which there is not in effect between the appropriate government and the United States an exchange of information agreement of the kind described in section 274(h)(6)(C) (other than clause (ii) thereof) of the Internal Revenue Code of 1954.

(c) PROCEDURE IF SECTION 936 INCENTIVES REDUCED.—If the tax incentives extended to the Marshall Islands and the Federated States of Micronesia under subsection (a) are, at any time during which the Compact is in effect, reduced, the Secretary of the Treasury shall negotiate an agreement with the Marshall Islands and the Federated States of Micronesia under which, when such agreement is approved by law, they will be provided with benefits substantially equivalent to such reduction in benefits. If, within the 1 year period after the date of the enactment of the Act making the reduction in benefits, an agreement negotiated under the preceding sentence is not approved by law, the matter shall be submitted to the Arbitration Board established pursuant to section 424 of the Compact. For purposes of Article V of Title Two of the Compact, the Secretary of the Treasury or his delegate shall be the member of such Board representing the Government of the United States. Any decision of such board in the matter when approved by law shall be binding on the United States, except that such decision rendered is binding only as to whether the United States has provided the substantially equivalent benefits referred to in this subsection.”

⁹ In a letter dated December 13, 1983, the Presidents of the Federated States of Micronesia and the Republic of the Marshall Islands agreed to the following distribution of Section 216 funding:

<i>Compact Subsection</i>	<i>RMI</i>	<i>FSM</i>
216(a)(1)	37.14%	51.90%
216(a)(2)	26.58%	62.99%
216(a)(3)	26.58%	62.99%
216(b)	33.33%	33.33%

The proposed distribution of Section 216(b) funding originally included Palau. The amounts listed are subject to amendment by mutual agreement of the Governments.

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