

ANNEX L

Freely Associated States

L.1 INTRODUCTION

The United States has administered the United Nations Trust Territory of the Pacific Islands (TTPI) since July, 1947. The area involved now includes four separate political jurisdictions: the Commonwealth of the Northern Mariana Islands (CNMI) (see Possessions or Commonwealths of the United States in Annex G, Part 2); the Federated States of Micronesia (FSM); the Republic of the Marshall Islands (RMI); and the Republic of Palau (RP). During negotiations on the TTPI's future, the United States offered the status of United States territory to each jurisdiction. Elected representatives of FSM, RMI, and RP rejected that status in favor of a different relationship involving greater local autonomy but retaining strong ties with the United States. While this concept of "free association" has no precise definition in international law, it is recognized in resolutions of the United Nations General Assembly as an appropriate political alternative to independence or metropolitan (territorial) status for political entities emerging from a colonial or trusteeship status.

The United States concluded Compacts of Free Association with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands in 1982 and 1983, respectively. Following approval by those island nations, the Compacts were approved in the United States by Public Law 99-239 of January 14, 1986 ("Compact of Free Association Act of 1985") and entered into force later in 1986. A similar Compact of Free Association was concluded with the Republic of Palau and subsequently approved by the United States in 1986. However, Palau did not complete its approval process until much later and the Compact did not enter into force until October, 1994.

The Compacts with the FSM, RMI and Palau are extensive. Article III includes provisions on communications and the operation of U.S. telecommunications services in the Islands. Specifically, Section 131 deals with the United States role as representative for the Freely Associated States in the International Telecommunication Union and with Federal Communications Commission's jurisdiction over earth terminal stations owned or operated by U.S. common carriers. Section 132 deals with the operation of U.S. telecommunications services, including the installation and operation of facilities and the use of associated radio frequencies. In addition, there are supplementary agreements which establish the authority and responsibilities of our respective Governments under Sections 131 and 132 of the Compacts. Two major provisions are that each Signatory Government must designate a "Competent Authority to carry out the provisions of the agreements and that a "Joint Telecommunication Board" be established with each of the Island nations to harmonize telecommunication operations of the United States with the respective Governments.

On October 16, 1986, the President signed Executive Order 12569 on management of the Compacts which vested authority and responsibility in the Secretary of State to ensure that the obligations of the United States as set forth in the Compacts and their related agreements are carried out. E.O. 12569 also required the Department of the Interior to seek appropriation of funds and to make available economic and financial assistance appropriated pursuant to the Compacts.

On June 30, 1987, the Department of State's Office of Radio Spectrum Policy (previously the Office of International Radio Communications), Bureau of Economics and Business Affairs, was designated by the Assistant Secretary of State for East Asian and Pacific Affairs as the "Competent Authority" to act on behalf of the United States in carrying out the Section 131 and 132 Agreements. On July 9, 1987, the National Security Council acknowledged this appointment. The Office of Radio Spectrum Policy has established and provides the chairman for an Interagency Working Group on Micronesia responsible for telecommunications issues pertaining to the Freely Associated States, including preparation for meetings of the Joint Telecommunication Boards.

L.2 AUTHORITY FOR USE OF THE RADIO FREQUENCY SPECTRUM

As sovereign Governments, the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Palau have full authority and responsibility to regulate their respective domestic and foreign communications, including use of the radio spectrum. Section 132 of the Compacts, however, requires the FSM, RMI and Palau to permit the U.S. Government to operate telecommunications services to the extent necessary to fulfill its obligations under the Compact. Concurrently, the United States is obliged to coordinate changes to telecommunications facilities and extraordinary activities or exercises to avoid interference.

The requirement to coordinate facilities and to avoid radio interference was given a high priority at the first meetings of the Joint Telecommunication Boards, resulting in the adoption of procedures for the assignment of radio frequencies in the FSM, RMI and Palau. Under these procedures, the Competent Authority for the United States, i.e., the Department of State's Office of Radio Spectrum Policy, issues frequency authorizations to U.S. Government agencies after appropriate coordination with the respective Governments.

L.3 PROCEDURES FOR OBTAINING A FREQUENCY AUTHORIZATION

Submission of frequency assignment applications to the Frequency Assignment Subcommittee (FAS) for inclusion in the Government Master File (GMF) for record purposes is required for a Federal radio station to use a radio frequency within the Freely Associated States. Except for Department of Defense (DoD) use of the radio spectrum within 200 nautical miles of the U.S. Army Kwajalein Atoll in the Republic of the Marshall Islands, the Department of the Interior, acting on behalf of the Competent Authority, will effect the necessary coordination with the FSM, RMI and Palau before recommending approval to the Competent Authority.

The islands administered by the Republic of the Marshall Islands (State/Country abbreviation -MHL), the Federated States of Micronesia (State/Country abbreviation -FSM), and the Republic of Palau (State/Country abbreviation -PLW) are listed in Annex G, Part 2.

Procedures for the U.S. Army Kwajalein Atoll, Republic of the Marshall Islands (RMI)

All Department of Defense (DoD) users who want to operate a system or equipment which emits a hertzian wave requiring temporary or permanent spectrum assignments within 200 nautical miles of the U.S. Army Kwajalein Atoll, Republic of Marshall Islands must comply with the following:

a. Temporary frequency assignments for a maximum of 60 days.

1. Equipment/systems must be spectrum certified.

2. Users must submit a frequency proposal at least 90 days prior to the required date of use to the Frequency Manager Kwajalein Missile Range with an information copy to JFMO PAC, Honolulu, HI and the appropriate MILDEP frequency management office (i.e. AFSMO, NMSC, ASMO) in the standard frequency action format (SFAF).

3. The Frequency Manager Kwajalein Missile Range will thoroughly review the request against all the assignments in the Kwajalein database and forward them to JFMC PAC, Honolulu, HI for action with comments.

4. JFMO PAC will review the frequency proposals and crosscheck them against the Department of State (DoS) master frequency list of assignments/frequency bands coordinated with the Republic of Marshall Islands (RMI). Frequency proposals which fall within the DoS master frequency list of coordinated assignments will be processed, and those frequency proposals not covered by the master list of assignments will be forwarded to the Department of State by JFMOPAC with an information copy to the appropriate MILDEP for action.

b. Permanent Frequency Assignments

1. In order to obtain a permanent frequency assignment, equipment/systems must be spectrum certified.

2. A user must submit a frequency proposal via the Frequency Resource Record System (FRRS) to the Frequency Manager Kwajalein Missile Range in the SFAF. The Frequency Manager Kwajalein Missile Range will review the frequency proposal, recommend a frequency, assign a PAC serial number (i.e. PAC YY6000-YY6999), and forward it to JFMO PAC.

3. JFMO PAC will review the frequency proposal and crosscheck it against the Department of State (DoS) master frequency list of assignments/frequency bands coordinated with the Republic of Marshall Islands (RMI). Upon completion of the validation process, JFMO PAC will forward the permanent frequency assignment to the appropriate MILDEP for inclusion in the Government Master File (GMF). If the proposal does not fall within the DoS master frequency list of assignments/frequency bands coordinated with the RMI, see paragraph 6 below.

4. The Frequency Manager Kwajalein Missile Range will be required to maintain an accurate database of all temporary and permanent assigned frequencies within 200 nautical miles of U.S. Army Kwajalein Atoll, RMI, for coordination of frequency assignments and resolution of reported interference.

5. The Frequency Manager Kwajalein Missile Range, in coordination with appropriate user agencies, will ensure that five-year assignment record reviews are conducted for all permanent frequency assignments within the Kwajalein area of responsibility.

6. If the frequency proposal does not fall within an assignment in the DoS master list, JFMO PAC will

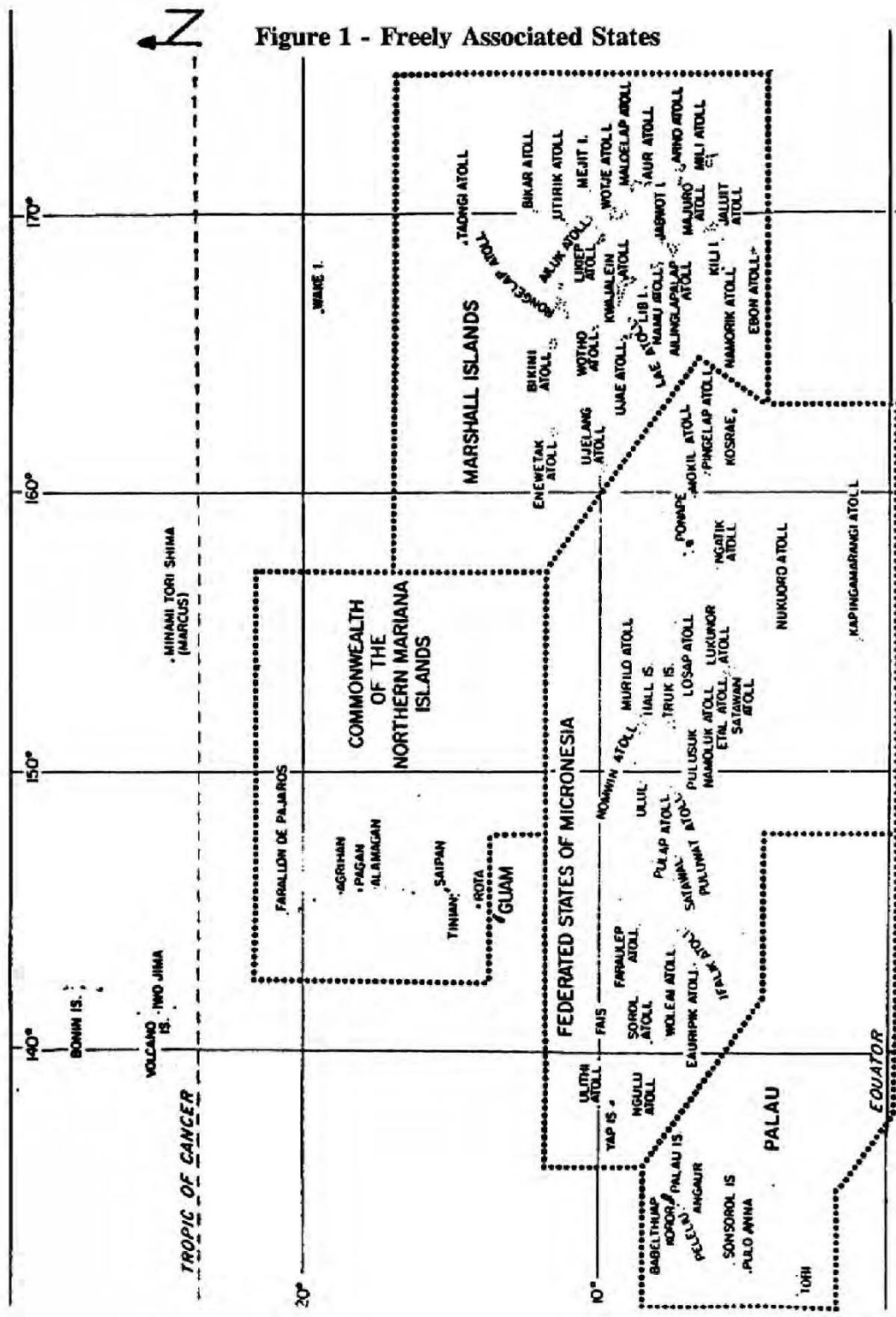
submit the proposal to the Department of State for coordination with the RMI with an information copy to the appropriate MILDEP frequency management office. Upon approval from the Department of State, JFMO PAC will request that the Frequency Manager Kwajalein Missile Range assign a PAC serial number and process the request per the above procedures.

L.4 REVIEW PROCEDURE FOR COMMUNICATIONS SYSTEMS

Federal agencies planning to use, develop, procure or experiment with telecommunication systems requiring the use of radio frequencies in the Federated States of Micronesia, the Republic of the Marshall Islands or the Republic of Palau may be required to undergo system review prior to receiving frequency authorization from the Competent Authority. This procedure applies to:

- a. new telecommunications systems or subsystems, and major modifications to existing systems or subsystems, involving the use of satellites or spacecraft; and,
- b. new major terrestrial systems or subsystems, and major modifications to existing systems or subsystems.

The Competent Authority will apply this procedure on a case-by-case basis when it is necessary to determine the impact of a new telecommunications system on other authorized or planned systems. When a system review is required, affected non-DoD agencies shall provide the appropriate data (in accordance with Chapter 10 of the NTIA Manual) to the Department of State which may submit it to the Spectrum Planning Subcommittee (SPS) for consideration. DoD services and agencies shall submit such documentation through established military system review channels to the Department of State. NTIA and/or the military review channels will provide recommendations, particularly with respect to spectrum support and potential for interference, to the Competent Authority which shall make the final decision in consultation with the Government involved.



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