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H. J. Res. 63

One Hundred Eighth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the seventh day of January, two thousand and three

Joint Resolution

To approve the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and to appropriate funds to carry out the amended Compacts.

Whereas the United States (in accordance with the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the United Nations Charter, and the objectives of the international trusteeship system of the United Nations) fulfilled its obligations to promote the development of the people 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;

Whereas the United States, the Federated States of Micronesia, and the Republic of the Marshall Islands entered into the Compact of Free Association set forth in title II of Public Law 99–239, January 14, 1986, 99 Stat. 1770, to create and maintain a close and mutually beneficial relationship;

Whereas the United States, in accordance with section 231 of the Compact of Free Association entered into negotiations with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands to provide continued United States assistance and to reaffirm its commitment to this close and beneficial relationship; and

Whereas these negotiations, in accordance with section 431 of the Compact, resulted in the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia", and the "Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands", which, together with their related agreements, were signed by the Government of the United States and the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands on May 14, and April 30, 2003, respectively: 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 Amendments Act of 2003".

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

Sec. 1. Short title and table of contents.

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Sec. 101. Approval of U.S.-FSM Compact of Free Association and the U.S.-RMI Compact of Free Association; references to subsidiary agreements or separate agreements.
(a) Federated States of Micronesia.
(b) Republic of the Marshall Islands.
(c) References to the Compact, the U.S.-FSM Compact and the U.S.-RMI Compact; References to Subsidiary Agreements or Separate Agreements.
(d) Amendment, Change, or Termination in the U.S.-FSM Compact, the U.S.-RMI Compact and Certain Agreements.
(e) Subsidiary Agreements Deemed Bilateral.
(f) Entry Into Force of Future Amendments to Subsidiary Agreements.
Sec. 102. Agreements With Federated States of Micronesia.
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(b) Agreement on Audits.
Sec. 103. Agreements With and Other Provisions Related to the Republic of the Marshall Islands.
(a) Law Enforcement Assistance.
(b) EJIT.
(c) Section 177 Agreement.
(d) Nuclear Test Effects.
(e) Espousal Provisions.
(f) DOE Radiological Health Care Program; USDA Agricultural and Food Programs.
(g) Rongelap.
(h) Four Atoll Health Care Program.
(i) Enjebi Community Trust Fund.
(j) Bikini Atoll Cleanup.
(k) Agreement on Audits.
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Sec. 104. Interpretation of and United States Policy Regarding U.S.-FSM Compact and U.S.-RMI Compact.
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(b) Immigration and Passport Security.
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(d) Nuclear Waste Disposal.
(e) Impact of the U.S.-FSM Compact and the U.S.-RMI Compact on the State of Hawaii, Guam, the Commonwealth of the Northern Mariana Islands and American Samoa; Related Authorization and Continuing Appropriation.
(f) Foreign Loans.
(g) Sense of Congress Concerning Funding of Public Infrastructure.
(h) Reports and Reviews.
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(j) Inflation Adjustment.
(k) Participation by Secondary Schools in the Armed Services Vocational Aptitude Battery (ASVAB) Student Testing Program.
Sec. 105. Supplemental Provisions.
(a) Domestic Program Requirements.
(b) Relations With the Federated States of Micronesia and the Republic of the Marshall Islands.
(c) Continuing Trust Territory Authorization.
(d) Survivability.
(e) Noncompliance Sanctions; Actions Incompatible With United States Authority.
(f) Continuing Programs and Laws.
(g) College of Micronesia.
(h) Trust Territory Debts to U.S. Federal Agencies.
(i) Judicial Training.

(j) Technical Assistance.
(k) Prior Service Benefits Program.
(l) Indefinite Land Use Payments.
(m) Communicable Disease Control Program.
(n) User Fees.
(o) Treatment of Judgments of Courts of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.
(p) Establishment of Trust Funds; Expedition of Process.
Sec. 106. Construction Contract Assistance.
(a) Assistance to U.S. Firms.
(b) Authorization of Appropriations.
Sec. 107. Prohibition.
Sec. 108. Compensatory Adjustments.
(a) Additional Programs and Services.
(b) Further Amounts.
Sec. 109. Authorization and Continuing Appropriation.
Sec. 110. Payment of Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau Employed by the Government of the United States in the Continental United States.

TITLE II—COMPACTS OF FREE ASSOCIATION WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS

Sec. 201. Compacts of Free Association, as Amended Between the Government of the United States of America and the Government of the Federated States of Micronesia and Between the Government of the United States of America and the Government of the Republic of the Marshall Islands.

(a) Compact of Free Association, as Amended, Between the Government of the United States of America and the Government of the Federated States of Micronesia.

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—Services and 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.

(b) Compact of Free Association, as Amended, Between the Government of the United States of America and the Government of the Republic of the Marshall Islands.

TITLE ONE—GOVERNMENTAL RELATIONS

Article I—Self-Government.

Article II—Foreign Affairs.
Article III—Communications.
Article IV—Immigration.
Article V—Representation.
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TITLE I—APPROVAL OF U.S.-FSM COMPACT AND U.S.-RMI COMPACT; INTERPRETATION OF, AND U.S. POLICIES REGARDING, U.S.-FSM COMPACT AND U.S.-RMI COMPACT; SUPPLEMENTAL PROVISIONS

SEC. 101. APPROVAL OF U.S.-FSM COMPACT OF FREE ASSOCIATION AND THE U.S.-RMI COMPACT OF FREE ASSOCIATION; REFERENCES TO SUBSIDIARY AGREEMENTS OR SEPARATE AGREEMENTS.

(a) FEDERATED STATES OF MICRONESIA.—The Compact of Free Association, as amended with respect to the Federated States of Micronesia and signed by the United States and the Government of the Federated States of Micronesia and set forth in Title II (section 201(a)) of this joint resolution, is hereby approved, and Congress hereby consents to the subsidiary agreements and amended subsidiary agreements listed in section 462 of the U.S.-FSM Compact. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the U.S.-FSM Compact, to an effective date for and thereafter to implement such U.S.-FSM Compact.

(b) REPUBLIC OF THE MARSHALL ISLANDS.—The Compact of Free Association, as amended with respect to the Republic of the Marshall Islands and signed by the United States and the Government of the Republic of the Marshall Islands and set forth in Title II (section 201(b)) of this joint resolution, is hereby approved, and Congress hereby consents to the subsidiary agreements and amended subsidiary agreements listed in section 462 of the U.S.-

RMI Compact. Subject to the provisions of this joint resolution, the President is authorized to agree, in accordance with section 411 of the U.S.-RMI Compact, to an effective date for and thereafter to implement such U.S.-RMI Compact.

(c) REFERENCES TO THE COMPACT, THE U.S.-FSM COMPACT, AND THE U.S.-RMI COMPACT; REFERENCES TO SUBSIDIARY AGREEMENTS OR SEPARATE AGREEMENTS.—

(1) Any reference in this joint resolution (except references in Title II) to "the Compact" shall be treated as a reference to the Compact of Free Association set forth in title II of Public Law 99–239, January 14, 1986, 99 Stat. 1770. Any reference in this joint resolution to the "U.S.-FSM Compact" shall be treated as a reference to the Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia and set forth in Title II (section 201(a)) of this joint resolution. Any reference in this joint resolution to the "U.S.-RMI Compact" shall be treated as a reference to the Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands and set forth in Title II (section 201(b)) of this joint resolution.

(2) Any reference to the term "subsidiary agreements" or "separate agreements" in this joint resolution shall be treated as a reference to agreements listed in section 462 of the U.S.-FSM Compact and the U.S.-RMI Compact, and any other agreements that the United States may from time to time enter into with either the Government of the Federated States of Micronesia or the Government of the Republic of the Marshall Islands, or with both such governments in accordance with the provisions of the U.S.-FSM Compact and the U.S.-RMI Compact.

(d) AMENDMENT, CHANGE, OR TERMINATION IN THE U.S.-FSM COMPACT AND U.S.-RMI COMPACT AND CERTAIN AGREEMENTS.—

(1) Any amendment, change, or termination by mutual agreement or by unilateral action of the Government of the United States of all or any part of the U.S.-FSM Compact or U.S.-RMI Compact shall not enter into force until after Congress has incorporated it in an Act of Congress.

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

(A) to all actions of the Government of the United States under the U.S.-FSM Compact or U.S.-RMI Compact including, but not limited to, actions taken pursuant to sections 431, 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(a)(2) of the U.S.-FSM Compact and the Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding Mutual Security Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association referred to in section 462(a)(5) of the U.S.-RMI Compact;

(C) to any amendment, change, or termination of the agreements concluded pursuant to Compact section 177, and section 215(a) of the U.S.-FSM Compact and section 216(a) of the U.S.-RMI Compact, the terms of which are incorporated by reference into the U.S.-FSM Compact and the U.S.-RMI Compact; and

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

(i) Articles III, IV, and X of the agreement referred to in section 462(b)(6) of the U.S.-RMI Compact.

(ii) Article III and IV of the agreement referred to in section 462(b)(6) of the U.S.-FSM Compact.

(iii) Articles VI, XV, and XVII of the agreement referred to in section 462(b)(7) of the U.S.-FSM Compact and U.S.-RMI Compact.

(e) SUBSIDIARY AGREEMENTS DEEMED BILATERAL.—For purposes of implementation of the U.S.-FSM Compact and the U.S.-RMI Compact and this joint resolution, the Agreement Concluded Pursuant to Section 234 of the Compact of Free Association and referred to in section 462(a)(1) of the U.S.-FSM Compact and section 462(a)(4) of the U.S.-RMI Compact shall be deemed to be a bilateral agreement 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 Republic of the Marshall Islands which are intended to affect the implementation, modification, suspension, or termination of 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) ENTRY INTO FORCE OF FUTURE AMENDMENTS TO SUBSIDIARY AGREEMENTS.—No agreement between the United States and the government of either the Federated States of Micronesia or the Republic of 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 shall enter into force until 90 days after 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 therefor. In the case of the agreement referred to in section 462(b)(3) of the U.S.-FSM Compact and the U.S.-RMI Compact, such transmittal shall include a specific statement by the Secretary of Labor as to the necessity of such amendment, change, or termination, and the impact thereof.

SEC. 102. AGREEMENTS WITH FEDERATED STATES OF MICRONESIA.

(a) LAW ENFORCEMENT ASSISTANCE.—Pursuant to sections 222 and 224 of the U.S.-FSM 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(j) of this title may be used to reimburse State or local agencies providing such assistance.

(b) AGREEMENT ON AUDITS.—The Comptroller General (and his duly authorized representatives) shall have the authorities necessary to carry out his responsibilities under section 232 of the U.S.-FSM Compact and the agreement referred to in section 462(b)(4) of the U.S.-FSM Compact, including the following authorities:

(1) GENERAL AUTHORITY OF THE COMPTROLLER GENERAL 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 U.S.-FSM 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 232 of the U.S.-FSM 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) COMPTROLLER GENERAL 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 five 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) STATUS OF COMPTROLLER GENERAL REPRESENTATIVES.—The Comptroller General and his duly authorized representatives 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, except insofar as such immunity may be expressly waived by the Government of the United States. The Comptroller General and his duly authorized representatives 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. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this paragraph 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 of the Federated States of Micronesia.

(4) AUDITS DEFINED.—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 U.S.-FSM Compact, or any related agreement entered into under the U.S.-FSM 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.

(5) 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 REPUBLIC OF THE MARSHALL ISLANDS.

(a) LAW ENFORCEMENT ASSISTANCE.—Pursuant to sections 222 and 224 of the U.S.-RMI 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(j) of this title may be used to reimburse State or local agencies providing such assistance.

(b) EJIT.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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.

(c) SECTION 177 AGREEMENT.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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 joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that if the Government of the Marshall Islands determines that some other investment firm should act as Fund Manager in place of 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) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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.

(d) NUCLEAR TEST EFFECTS.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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.

(e) ESPOUSAL PROVISIONS.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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 the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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.

(f) 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 Republic 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 members of the population of Rongelap and Utrik who were exposed to radiation resulting from the 1954 United States thermo-nuclear "Bravo" test, pursuant to Public Laws 95–134 and 96–205.

(2) AGRICULTURAL AND FOOD PROGRAMS.—

(A) IN GENERAL.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that notwithstanding any other provision of law, upon the request of the Government of the Marshall Islands, for the first fifteen 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 or by a grant to the Government of the Republic of the Marshall Islands which may further contract only with a United States firm or a Republic of the Marshall Islands firm, the owners, officers and majority of the employees of which are citizens of the United States or the Republic of the Marshall Islands) shall provide technical and other assistance—

(i) without reimbursement, to continue the planting and agricultural maintenance program on Enewetak, as provided in subparagraph (C); and

(ii) 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.

(B) POPULATION CHANGES.—The President shall ensure the assistance provided under these programs reflects the changes in the population since the inception of such programs.

(C) PLANTING AND AGRICULTURAL MAINTENANCE PROGRAM.—

(i) IN GENERAL.—The planting and agricultural maintenance program on Enewetak shall be funded at a level of not less than $1,300,000 per year, as adjusted for inflation under section 218 of the U.S.-RMI Compact.

(ii) AUTHORIZATION AND CONTINUING APPROPRIATION.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $1,300,000, as adjusted for inflation under section 218 of the U.S.-RMI Compact, for grants to carry out the planting and agricultural maintenance program.

(3) PAYMENTS.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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.

(g) RONGELAP.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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 II, 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) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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 by the 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) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that it is the intent of Congress that such steps (if any) as 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 and, in accordance with its authority under the Constitution of the Marshall Islands, the Rongelap local government council.

(4) There are hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for fiscal year 2005, $1,780,000; for fiscal year 2006, $1,760,000;

and for fiscal year 2007, $1,760,000, as the final contributions of the United States to the Rongelap Resettlement Trust Fund as established pursuant to Public Law 102–154 (105 Stat. 1009), for the purposes of establishing a food importation program as a part of the overall resettlement program of Rongelap Island.

(h) FOUR ATOLL HEALTH CARE PROGRAM.—

(1) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that services provided by the United States Public Health Service or any other United States agency pursuant to section 1(a) of Article II 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 (91 Stat. 1159) and Public Law 96–205 (94 Stat. 84) 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) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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) In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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.

(i) ENJEBI COMMUNITY TRUST FUND.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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 $250,000,000.

(2) MONITOR CONDITIONS.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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 joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that in the event that the United States determines that the people of Enjebi can within 25 years of January 14, 1986, 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 joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that in the event that the United States determines that within 25 years of January 14, 1986, the people of Enjebi cannot resettle Enjebi without exceeding the radiation standards set forth in paragraph (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.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that 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.—In the joint resolution of January 14, 1986 (Public Law 99–239) Congress provided that neither under the laws of the 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.

(j) BIKINI ATOLL CLEANUP.—

(1) DECLARATION OF POLICY.—In the joint resolution of January 14, 1986 (Public Law 99–239), the Congress determined and declared 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 paragraph (2) and (3) of this subsection.

(2) CLEANUP FUNDS.—The joint resolution of January 14, 1986 (Public Law 99–239) authorized to be appropriated such sums as 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.—In the joint resolution of January 14, 1986 (Public Law 99–239) the Congress provided that the funds referred to in paragraph (2) were to 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.

(k) AGREEMENT ON AUDITS.—The Comptroller General (and his duly authorized representatives) shall have the authorities necessary to carry out his responsibilities under section 232 of the U.S.-RMI Compact and the agreement referred to in section 462(b)(4) of the U.S.-RMI Compact, including the following authorities:

(1) GENERAL AUTHORITY OF THE COMPTROLLER GENERAL 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 Republic of the Marshall Islands under Articles I and II of Title Two of the U.S.-RMI Compact; and

(ii) any other assistance provided by the Government of the United States to the Government of the Republic 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 232 of the U.S.-RMI 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) COMPTROLLER GENERAL 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 five 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 Republic of the Marshall Islands.

(3) STATUS OF COMPTROLLER GENERAL REPRESENTATIVES.—The Comptroller General and his duly authorized representatives 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, except insofar as such immunity may be expressly waived by the Government of the United States. The Comptroller General and his duly authorized representatives 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. Such persons shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations. The privileges, exemptions and immunities accorded under this paragraph 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 of the Republic of the Marshall Islands.

(4) AUDITS DEFINED.—As used in this subsection, the term "audits" includes financial, program, and management audits, including determining—

(A) whether the Government of the Republic of the Marshall Islands has met the requirements set forth in

the U.S.-RMI Compact, or any related agreement entered into under the U.S.-RMI 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 Republic of the Marshall Islands pursuant to such grants or assistance.

(5) COOPERATION BY THE REPUBLIC OF THE MARSHALL ISLANDS.—The Government of the Republic 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.

(l) KWAJALEIN.—

(1) STATEMENT OF POLICY.—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, or as amended or superseded, and any related allocation agreements, is required in order to ensure that the Government of the United States will be able to fulfill its obligation and responsibilities under Title Three of the U.S.-RMI Compact and the subsidiary agreements concluded pursuant to the U.S.-RMI Compact.

(2) FAILURE TO PAY.—

(A) IN GENERAL.—If the Government of the Marshall Islands fails to make payments in accordance with paragraph (1), the Government of the United States shall initiate procedures under section 313 of the U.S.-RMI Compact and consult with the Government of the Marshall Islands with respect to the basis for the nonpayment of funds.

(B) RESOLUTION.—The United States shall expeditiously resolve the matter of any nonpayment of funds required under paragraph (1) pursuant to section 313 of the U.S.-RMI 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(e).

(3) DISPOSITION OF INCREASED PAYMENTS PENDING NEW LAND USE AGREEMENT.—Until such time as the Government of the Marshall Islands and the landowners of Kwajalein Atoll have concluded an agreement amending or superseding the land use agreement reflecting the terms of and consistent with the Military Use Operating Rights Agreement dated October 19, 1982, any amounts paid by the United States to the Government of the Marshall Islands in excess of the amounts required to be paid pursuant to the land use agreement dated October 19, 1982, shall be paid into, and held in, an interest bearing escrow account in a United States financial institution by the Government of the Republic of the Marshall Islands. At such time, the funds and interest held in escrow shall be paid to the landowners of Kwajalein in accordance with the new land use agreement. If no such agreement is concluded by the date which is five years after the date of enactment of

this resolution, then such funds and interest shall, unless otherwise mutually agreed between the Government of the United States of America and the Government of the Republic of the Marshall Islands, be returned to the U.S. Treasury.

(4) NOTIFICATIONS AND REPORT.—

(A) The Government of the Republic of the Marshall Islands shall notify the Government of the United States of America when an agreement amending or superseding the land use agreement dated October 19, 1982, is concluded.

(B) If no agreement amending or superseding the land use agreement dated October 19, 1982 is concluded by the date five years after the date of enactment of this resolution, then the President shall report to Congress on the intentions of the United States with respect to the use of Kwajalein Atoll after 2016, on any plans to relocate activities carried out on Kwajalein Atoll, and on the disposition of the funds and interest held in escrow under paragraph (3).

(5) ASSISTANCE.—The President is authorized to make loans and grants to the Government of the Marshall Islands to address the special needs of the community at Ebeye, Kwajalein Atoll, and other Marshallese communities within the Kwajalein Atoll, pursuant to development plans adopted in accordance with applicable laws of the Marshall Islands. The loans and grants shall be subject to such other terms and conditions as the President, in the discretion of the President, may determine are appropriate.

SEC. 104. INTERPRETATION OF AND UNITED STATES POLICY REGARDING U.S.-FSM COMPACT AND U.S.-RMI COMPACT.

(a) HUMAN RIGHTS.—In approving the U.S.-FSM Compact and the U.S.-RMI Compact, 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 reaffirmed and embodied in the Constitutions of the Federated States of Micronesia and the Republic of the Marshall Islands. Congress also notes and specifically endorses the preamble to the U.S.-FSM Compact and the U.S.-RMI Compact, which affirms that the governments of the parties to the U.S.-FSM Compact and the U.S.-RMI 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 Congress pursuant to sections 116 and 502B of the Foreign Assistance Act of 1961, "22 U.S.C. 2151n, 2304" a full and complete report regarding the status of internationally recognized human rights in the Federated States of Micronesia and the Republic of the Marshall Islands.

(b) IMMIGRATION AND PASSPORT SECURITY.—

(1) NATURALIZED CITIZENS.—The rights of a bona fide naturalized citizen of the Federated States of Micronesia or the Republic of the Marshall Islands to enter the United States, to lawfully engage therein in occupations, and to establish

residence therein as a nonimmigrant, to the extent such rights are provided under section 141 of the U.S.-FSM Compact and U.S.-RMI Compact, shall not be deemed to 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.

(2) PASSPORTS.—It is the sense of Congress that up to $250,000 of the grant assistance provided to the Federated States of Micronesia pursuant to section 211(a)(4) of the U.S.-FSM Compact, and up to $250,000 of the grant assistance provided to the Republic of the Marshall Islands pursuant to section 211(a)(4) of the U.S.-RMI Compact (or a greater amount of the section 211(a)(4) grant, if mutually agreed between the Government of the United States and the government of the Federated States of Micronesia or the government of the Republic of the Marshall Islands), be used for the purpose of increasing the machine-readability and security of passports issued by such jurisdictions. It is further the sense of Congress that such funds be obligated by September 30, 2004 and in the amount and manner specified by the Secretary of State in consultation with the Secretary of Homeland Security and, respectively, with the government of the Federated States of Micronesia and the government of the Republic of the Marshall Islands. The United States Government is authorized to require that passports used for the purpose of seeking admission under section 141 of the U.S.-FSM Compact and the U.S.-RMI Compact contain the security enhancements funded by such assistance.

(3) INFORMATION-SHARING.—It is the sense of Congress that the governments of the Federated States of Micronesia and the Republic of the Marshall Islands develop, prior to October 1, 2004, the capability to provide reliable and timely information as may reasonably be required by the Government of the United States in enforcing criminal and security-related grounds of inadmissibility and deportability under the Immigration and Nationality Act, as amended, and shall provide such information to the Government of the United States.

(4) TRANSITION; CONSTRUCTION OF SECTIONS 141(a)(3) AND 141(a)(4) OF THE U.S.-FSM COMPACT AND U.S.-RMI COMPACT.—The words "the effective date of this Compact, as amended" in sections 141(a)(3) and 141(a)(4) of the U.S.-FSM Compact and the U.S.-RMI Compact shall be construed to read, "on the day prior to the enactment by the United States Congress of the Compact of Free Association Amendments Act of 2003.".

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

(d) NUCLEAR WASTE DISPOSAL.—In approving the U.S.-FSM Compact and the U.S.-RMI Compact, Congress understands that

the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands will not permit any other government or any nongovernmental party to conduct, in the Republic of the Marshall Islands or in the Federated States of Micronesia, any of the activities specified in subsection (a) of section 314 of the U.S.-FSM Compact and the U.S.-RMI Compact.

(e) IMPACT OF THE U.S.-FSM COMPACT AND THE U.S.-RMI COMPACT ON THE STATE OF HAWAII, GUAM, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS AND AMERICAN SAMOA; RELATED AUTHORIZATION AND CONTINUING APPROPRIATION.—

(1) STATEMENT OF CONGRESSIONAL INTENT.—In reauthorizing the U.S.-FSM Compact and the U.S.-RMI Compact, it is not the intent of Congress to cause any adverse consequences for an affected jurisdiction.

(2) DEFINITIONS.—For the purposes of this title—

(A) the term "affected jurisdiction" means American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the State of Hawaii; and

(B) the term "qualified nonimmigrant" means a person, or their children under the age of 18, admitted or resident pursuant to section 141 of the U.S.-RMI or U.S.-FSM Compact, or section 141 of the Palau Compact who, as of a date referenced in the most recently published enumeration is a resident of an affected jurisdiction. As used in this subsection, the term "resident" shall be a person who has a "residence," as that term is defined in section 101(a)(33) of the Immigration and Nationality Act, as amended.

(3) AUTHORIZATION AND CONTINUING APPROPRIATION.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $30,000,000 for grants to affected jurisdictions to aid in defraying costs incurred by affected jurisdictions as a result of increased demands placed on health, educational, social, or public safety services or infrastructure related to such services due to the residence in affected jurisdictions of qualified nonimmigrants from the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau. The grants shall be—

(A) awarded and administered by the Department of the Interior, Office of Insular Affairs, or any successor thereto, in accordance with regulations, policies and procedures applicable to grants so awarded and administered; and

(B) used only for health, educational, social, or public safety services, or infrastructure related to such services, specifically affected by qualified nonimmigrants.

(4) ENUMERATION.—The Secretary of the Interior shall conduct periodic enumerations of qualified nonimmigrants in each affected jurisdiction. The enumerations—

(A) shall be conducted at such intervals as the Secretary of the Interior shall determine, but no less frequently than every five years, beginning in fiscal year 2003;

(B) shall be supervised by the United States Bureau of the Census or such other organization as the Secretary of the Interior may select; and

(C) after fiscal year 2003, shall be funded by the Secretary of the Interior by deducting such sums as are necessary, but not to exceed $300,000 as adjusted for inflation pursuant to section 217 of the U.S.-FSM Compact with fiscal year 2003 as the base year, per enumeration, from funds appropriated pursuant to the authorization contained in paragraph (3) of this subsection.

(5) ALLOCATION.—The Secretary of the Interior shall allocate to the government of each affected jurisdiction, on the basis of the results of the most recent enumeration, grants in an aggregate amount equal to the total amount of funds appropriated under paragraph (3) of this subsection, as reduced by any deductions authorized by subparagraph (C) of paragraph (4) of this subsection, multiplied by a ratio derived by dividing the number of qualified nonimmigrants in such affected jurisdiction by the total number of qualified nonimmigrants in all affected jurisdictions.

(6) AUTHORIZATION FOR HEALTH CARE REIMBURSEMENT.—There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to reimburse health care institutions in the affected jurisdictions for costs resulting from the migration of citizens of the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Palau to the affected jurisdictions as a result of the implementation of the Compact of Free Association, approved by Public Law 99–239, or the approval of the U.S.-FSM Compact and the U.S.-RMI Compact by this resolution.

(7) USE OF DOD MEDICAL FACILITIES AND NATIONAL HEALTH SERVICE CORPS.—

(A) DOD MEDICAL FACILITIES.—The Secretary of Defense shall make available, on a space available and reimbursable basis, the medical facilities of the Department of Defense for use by citizens of the Federated States of Micronesia and the Republic of the Marshall Islands who are properly referred to the facilities by government authorities responsible for provision of medical services in the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau and the affected jurisdictions.

(B) NATIONAL HEALTH SERVICE CORPS.—The Secretary of Health and Human Services shall continue to make the services of the National Health Service Corps available to the residents of the Federated States of Micronesia and the Republic of 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.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this paragraph such sums as are necessary for each fiscal year.

(8) REPORTING REQUIREMENT.—Not later than one year after the date of enactment of this joint resolution, and at one year intervals thereafter, the Governors of Guam, the State of Hawaii, the Commonwealth of the Northern Mariana Islands, and American Samoa may provide to the Secretary of the Interior by February 1 of each year their comments with respect to the impacts of the Compacts on their respective jurisdiction.

The Secretary of the Interior, upon receipt of any such comments, shall report to the Congress not later than May 1 of each year to include the following:

(A) The Governor's comments on the impacts of the Compacts as well as the Administration's analysis of such impact.

(B) The Administration views on any recommendations for corrective action to eliminate those consequences as proposed by such Governors.

(C) With regard to immigration, 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.

(D) With regard to trade, 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 Republic of the Marshall Islands.

(9) RECONCILIATION OF UNREIMBURSED IMPACT EXPENSES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the President, to address previously accrued and unreimbursed impact expenses, may at the request of the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands, reduce, release, or waive all or part of any amounts owed by the Government of Guam or the Government of the Commonwealth of the Northern Mariana Islands (or either government's autonomous agencies or instrumentalities), respectively, to any department, agency, independent agency, office, or instrumentality of the United States.

(B) TERMS AND CONDITIONS.—

(i) SUBSTANTIATION OF IMPACT COSTS.—Not later than 120 days after the date of the enactment of this resolution, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands shall each submit to the Secretary of the Interior a report, prepared in consultation with an independent accounting firm, substantiating unreimbursed impact expenses claimed for the period from January 14, 1986, through September 30, 2003. Upon request of the Secretary of the Interior, the Governor of Guam and the Governor of the Commonwealth of the Northern Mariana Islands shall submit to the Secretary of the Interior copies of all documents upon which the report submitted by that Governor under this clause was based.

(ii) CONGRESSIONAL NOTIFICATION.—The President shall notify Congress of his intent to exercise the authority granted in subparagraph (A).

(iii) CONGRESSIONAL REVIEW AND COMMENT.—Any reduction, release, or waiver under this Act shall not take effect until 60 days after the President notifies Congress of his intent to approve a request of the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands. In exercising his authority under this section and in determining

whether to give final approval to a request, the President shall take into consideration comments he may receive after Congressional review.

(iv) EXPIRATION.—The authority granted in subparagraph (A) shall expire on February 28, 2005.

(10) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—There are hereby authorized to the Secretary of the Interior for each of fiscal years 2004 through 2023 such sums as may be necessary for grants to the governments of Guam, the State of Hawaii, the Commonwealth of the Northern Mariana Islands, and American Samoa, as a result of increased demands placed on educational, social, or public safety services or infrastructure related to service due to the presence in Guam, Hawaii, the Commonwealth of the Northern Mariana Islands, and American Samoa of qualified nonimmigrants from the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(f) FOREIGN LOANS.—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 Republic of the Marshall Islands.

(g) SENSE OF CONGRESS CONCERNING FUNDING OF PUBLIC INFRASTRUCTURE.—It is the sense of Congress that not less than 30 percent of the United States annual grant assistance provided under section 211 of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia, and not less than 30 percent of the total amount of section 211 funds allocated to each of the States of the Federated States of Micronesia, shall be invested in infrastructure improvements and maintenance in accordance with section 211(a)(6). It is further the sense of Congress that not less than 30 percent of the United States annual grant assistance provided under section 211 of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, shall be invested in infrastructure improvements and maintenance in accordance with section 211(d).

(h) REPORTS AND REVIEWS.—

(1) REPORT BY THE PRESIDENT.—Not later than the end of the first full calendar year following enactment of this resolution, and not later than December 31 of each year thereafter, the President shall report to Congress regarding the Federated States of Micronesia and the Republic of the Marshall Islands, including but not limited to—

(A) general social, political, and economic conditions, including estimates of economic growth, per capita income, and migration rates;

(B) the use and effectiveness of United States financial, program, and technical assistance;

(C) the status of economic policy reforms including but not limited to progress toward establishing self-sufficient tax rates;

(D) the status of the efforts to increase investment including: the rate of infrastructure investment of U.S. financial assistance under the U.S.-FSM Compact and the

U.S.-RMI Compact; non-U.S. contributions to the trust funds, and the level of private investment; and

(E) recommendations on ways to increase the effectiveness of United States assistance and to meet overall economic performance objectives, including, if appropriate, recommendations to Congress to adjust the inflation rate or to adjust the contributions to the Trust Funds based on non-U.S. contributions.

(2) REVIEW.—During the year of the fifth, tenth, and fifteenth anniversaries of the date of enactment of this resolution, the Government of the United States shall review the terms of the respective Compacts and consider the overall nature and development of the U.S.-FSM and U.S.-RMI relationships including the topics set forth in subparagraphs (A) through (E) of paragraph (1). In conducting the reviews, the Government of the United States shall consider the operating requirements of the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands and their progress in meeting the development objectives set forth in their respective development plans. The President shall include in the annual reports to Congress for the years following the reviews the comments of the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands on the topics described in this paragraph, the President's response to the comments, the findings resulting from the reviews, and any recommendations for actions to respond to such findings.

(3) BY THE COMPTROLLER GENERAL.—Not later than the date that is three years after the date of enactment of this joint resolution, and every 5 years thereafter, the Comptroller General of the United States shall submit to Congress a report on the Federated States of Micronesia and the Republic of the Marshall Islands including the topics set forth in paragraphs (1) (A) through (E) above, and on the effectiveness of administrative oversight by the United States.

(i) CONSTRUCTION OF SECTION 141(f).—Section 141(f)(2) of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia and of the Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands, shall be construed as though, after "may by regulations prescribe", there were included the following: ", except that any such regulations that would have a significant effect on the admission, stay and employment privileges provided under this section shall not become effective until 90 days after the date of transmission of the regulations to the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate and the Committee on Resources, the Committee on International Relations, and the Committee on the Judiciary of the House of Representatives".

(j) INFLATION ADJUSTMENT.—As of Fiscal Year 2015, if the United States Gross Domestic Product Implicit Price Deflator average for Fiscal Years 2009 through 2013 is greater than United States Gross Domestic Product Implicit Price Deflator average for Fiscal Years 2004 through 2008 (as reported in the Survey of Current Business or subsequent publication and compiled by the

Department of Interior), then section 217 of the U.S.-FSM Compact, paragraph 5 of Article II of the U.S.-FSM Fiscal Procedures Agreement, section 218 of the U.S.-RMI Compact, and paragraph 5 of Article II of the U.S.-RMI Fiscal Procedures Agreement shall be construed as if "the full" appeared in place of "two-thirds of the" each place those words appear. If an inflation adjustment is made under this subsection, the base year for calculating the inflation adjustment shall be fiscal year 2014.

(k) PARTICIPATION BY SECONDARY SCHOOLS IN THE ARMED SERVICES VOCATIONAL APTITUDE BATTERY (ASVAB) STUDENT TESTING PROGRAM.—In furtherance of the provisions of Title Three, Article IV, Section 341 of the U.S.-FSM and the U.S.-RMI Compacts, the purpose of which is to establish the privilege to volunteer for service in the U.S. Armed Forces, it is the sense of Congress that, to facilitate eligibility of FSM and RMI secondary school students to qualify for such service, the Department of Defense may extend the Armed Services Vocational Aptitude Battery (ASVAB) Student Testing Program (STP) and the ASVAB Career Exploration Program to selected secondary Schools in the FSM and the RMI to the extent such programs are available to Department of Defense Dependent Schools located in foreign jurisdictions.

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 Republic of 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) RELATIONS WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS.—

(1) Appropriations made pursuant to Article I of Title Two and subsection (a)(2) of section 221 of article II of Title Two of the U.S.-FSM Compact and the U.S.-RMI Compact shall be made to the Secretary of the Interior, who shall have the authority necessary to fulfill his responsibilities for monitoring and managing the funds so appropriated consistent with the U.S.-FSM Compact and the U.S.-RMI Compact, including the agreements referred to in section 462(b)(4) of the U.S.-FSM Compact and U.S.-RMI Compact (relating to Fiscal Procedures) and the agreements referred to in section 462(b)(5) of the U.S.-FSM Compact and the U.S.-RMI Compact (regarding the Trust Fund).

(2) Appropriations made pursuant to subsections (a)(1) and (a)(3) through (6) of section 221 of Article II of Title Two of the U.S.-FSM Compact and subsection (a)(1) and (a)(3) through (5) of the U.S.-RMI Compact shall be made directly to the agencies named in those subsections.

(3) Appropriations for services and programs referred to in subsection (b) of section 221 of Article II of Title Two of the U.S.-FSM Compact or U.S.-RMI Compact and appropriations for services and programs referred to in sections 105(f) and 108(a) of this joint resolution shall be made to the relevant agencies in accordance with the terms of the appropriations for such services and programs.

(4) Federal agencies providing programs and services to the Federated States of Micronesia and the Republic of the Marshall Islands shall coordinate with the Secretaries of the Interior and State regarding provision of such programs and services. The Secretaries of the Interior and State shall consult with appropriate officials of the Asian Development Bank and with the Secretary of the Treasury regarding overall economic conditions in the Federated States of Micronesia and the Republic of the Marshall Islands and regarding the activities of other donors of assistance to the Federated States of Micronesia and the Republic of the Marshall Islands.

(5) United States Government employees in either the Federated States of Micronesia or the Republic of the Marshall Islands are subject to the authority of the United States Chief of Mission, including as elaborated in section 207 of the Foreign Service Act and the President's Letter of Instruction to the United States Chief of Mission and any order or directive of the President in effect from time to time.

(6) INTERAGENCY GROUP ON FREELY ASSOCIATED STATES' AFFAIRS.—

(A) IN GENERAL.—The President is hereby authorized to appoint an Interagency Group on Freely Associated States' Affairs to provide policy guidance and recommendations on implementation of the U.S.-FSM Compact and the U.S.-RMI Compact to Federal departments and agencies.

(B) SECRETARIES.—It is the sense of Congress that the Secretary of State and the Secretary of the Interior shall be represented on the Interagency Group.

(7) UNITED STATES APPOINTEES TO JOINT COMMITTEES.—

(A) JOINT ECONOMIC MANAGEMENT COMMITTEE.—

(i) IN GENERAL.—The three United States appointees (United States chair plus two members) to the Joint Economic Management Committee provided for in section 213 of the U.S.-FSM Compact and Article III of the U.S.-FSM Fiscal Procedures Agreement referred to in section 462(b)(4) of the U.S.-FSM Compact shall be United States Government officers or employees.

(ii) DEPARTMENTS.—It is the sense of Congress that 2 of the 3 appointees should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank shall be consulted in order to properly coordinate U.S. and Asian Development Bank financial, program, and technical assistance.

(iii) ADDITIONAL SCOPE.—Section 213 of the U.S.-FSM Compact shall be construed to read as though the phrase, "the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates," were inserted after "with particular focus on those parts of the plan dealing with the sectors identified in subsection (a) of section 211".

(B) JOINT ECONOMIC MANAGEMENT AND FINANCIAL ACCOUNTABILITY COMMITTEE.—

(i) IN GENERAL.—The three United States appointees (United States chair plus two members)

to the Joint Economic Management and Financial Accountability Committee provided for in section 214 of the U.S.-RMI Compact and Article III of the U.S.-RMI Fiscal Procedures Agreement referred to in section 462(b)(4) of the U.S.-RMI Compact shall be United States Government officers or employees.

(ii) DEPARTMENTS.—It is the sense of Congress that 2 of the 3 appointees should be designated from the Department of State and the Department of the Interior, and that U.S. officials of the Asian Development Bank shall be consulted in order to properly coordinate U.S. and Asian Development Bank financial, program, and technical assistance.

(iii) ADDITIONAL SCOPE.—Section 214 of the U.S.-RMI Compact shall be construed to read as though the phrase, "the implementation of economic policy reforms to encourage investment and to achieve self-sufficient tax rates," were inserted after "with particular focus on those parts of the framework dealing with the sectors and areas identified in subsection (a) of section 211".

(8) OVERSIGHT AND COORDINATION.—It is the sense of Congress that the Secretary of State and the Secretary of the Interior shall ensure that there are personnel resources committed in the appropriate numbers and locations to ensure effective oversight of United States assistance, and effective coordination of assistance among United States agencies and with other international donors such as the Asian Development Bank.

(9) The United States voting members (United States chair plus two or more members) of the Trust Fund Committee appointed by the Government of the United States pursuant to Article 7 of the Trust Fund Agreement implementing section 215 of the U.S.-FSM Compact and referred to in section 462(b)(5) of the U.S.-FSM Compact and any alternates designated by the Government of the United States shall be United States Government officers or employees. The United States voting members (United States chair plus two or more members) of the Trust Fund Committee appointed by the Government of the United States pursuant to Article 7 of the Trust Fund Agreement implementing section 216 of the U.S.-RMI Compact and referred to in section 462(b)(5) of the U.S.-RMI Compact and any alternates designated by the Government of the United States shall be United States Government officers or employees. It is the sense of Congress that the appointees should be designated from the Department of State, the Department of the Interior, and the Department of the Treasury.

(10) The Trust Fund Committee provided for in Article 7 of the U.S.-FSM Trust Fund Agreement implementing section 215 of the U.S.-FSM Compact shall be a nonprofit corporation incorporated under the laws of the District of Columbia. To the extent that any law, rule, regulation or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Trust Fund Committee is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Trust Fund Committee pursuant to this joint resolution, such law, rule, regulation,

or ordinance shall be deemed to be preempted by this joint resolution. The Trust Fund Committee provided for in Article 7 of the U.S.-RMI Trust Fund Agreement implementing section 216 of the U.S.-RMI Compact shall be a non-profit corporation incorporated under the laws of the District of Columbia. To the extent that any law, rule, regulation or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Trust Fund Committee is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Trust Fund Committee pursuant to this joint resolution, such law, rule, regulation, or ordinance shall be deemed to be preempted by this joint resolution.

(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 Republic of the Marshall Islands for the following purposes:

(1) Prior to October 1, 1986, for any purpose authorized by the Compact or the joint resolution of January 14, 1986 (Public Law 99–239).

(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) SURVIVABILITY.—In furtherance of the provisions of Title Four, Article V, sections 452 and 453 of the U.S.-FSM Compact and the U.S.-RMI Compact, any provisions of the U.S.-FSM Compact or the U.S.-RMI Compact which remain effective after the termination of the U.S.-FSM Compact or U.S.-RMI 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.

(e) NONCOMPLIANCE SANCTIONS; ACTIONS INCOMPATIBLE WITH UNITED STATES AUTHORITY.—Congress expresses its understanding that the Governments of the Federated States of Micronesia and the Republic of 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 Republic of the Marshall Islands pursuant to the U.S.-FSM Compact or the U.S.-RMI Compact, including the agreements referred to in sections 462(a)(2) of the U.S.-FSM Compact and 462(a)(5) of the U.S.-RMI Compact. 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 U.S.-FSM Compact or U.S.-RMI Compact. The Government of the United States reserves the right in the event of such a material breach of the U.S.-FSM Compact by the Government of the Federated States of Micronesia or the U.S.-RMI Compact by the Government of the Republic 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.

(f) CONTINUING PROGRAMS AND LAWS.—

(1) FEDERATED STATES OF MICRONESIA AND REPUBLIC OF THE MARSHALL ISLANDS.—In addition to the programs and services set forth in section 221 of the Compact, and pursuant to section 222 of the Compact, the programs and services of the following agencies shall be made available to the Federated States of Micronesia and to the Republic of the Marshall Islands:

(A) CONTINUATION OF THE PROGRAMS AND SERVICES OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY.—Except as provided in clauses (ii) and (iii), the programs and services of the Department of Homeland Security, Federal Emergency Management Agency shall continue to be available to the Federated States of Micronesia and the Republic of the Marshall Islands to the same extent as such programs and services were available in fiscal year 2003.

(i) Paragraph (a)(6) of section 221 of the U.S.-FSM Compact and paragraph (a)(5) of the U.S.-RMI Compact shall each be construed as though the paragraph reads as follows: "the Department of Homeland Security, United States Federal Emergency Management Agency.".

(ii) Subsection (d) of section 211 of the U.S.-FSM Compact and subsection (e) of section 211 of the U.S.-RMI Compact shall each be construed as though the subsection reads as follows: "Not more than $200,000 (as adjusted for inflation pursuant to section 217 of the U.S.-FSM Compact and section 218 of the U.S.-RMI Compact) shall be made available by the Secretary of the Interior to the Department of Homeland Security, Federal Emergency Management Agency to facilitate the activities of the Federal Emergency Management Agency in accordance with and to the extent provided in the Federal Programs and Services Agreement.".

(iii) The Secretary of State, in consultation with the Department of Homeland Security and the Federal Emergency Management Agency, shall immediately undertake negotiations with the Government of the Federated States of Micronesia and the Government of the Republic of the Marshall Islands regarding disaster assistance and shall report to the appropriate committees of Congress no later than June 30, 2004, on the outcome of such negotiations, including recommendations for changes to law regarding disaster assistance under the U.S.-FSM Compact and the U.S.-RMI Compact, and including subsidiary agreements as needed to implement such changes to law. If an agreement is not concluded, and legislation enacted which reflects such agreement, before the date which is five years after the date of enactment of this Joint Resolution, the following provisions shall apply:

"Paragraph (a)(6) of section 221 of the U.S.-FSM Compact and paragraph (a)(5) of section 221 of the U.S.-RMI Compact shall each be construed and applied as if each provision reads as follows:

"The U.S. Agency for International Development shall be responsible for the provision of emergency and disaster relief assistance in accordance with its statutory authorities, regulations and policies. The Republic of the Marshall Islands and the Federated States of Micronesia may additionally request that the President make an emergency or major disaster declaration. If the President declares an emergency or major disaster, the Department of Homeland Security (DHS), the Federal Emergency Management Agency (FEMA) and the U.S. Agency for International Development shall jointly (a) assess the damage caused by the emergency or disaster and (b) prepare a reconstruction plan including an estimate of the total amount of Federal resources that are needed for reconstruction. Pursuant to an interagency agreement, FEMA shall transfer funds from the Disaster Relief Fund in the amount of the estimate, together with an amount to be determined for administrative expenses, to the U.S. Agency for International Development, which shall carry out reconstruction activities in the Republic of the Marshall Islands and the Federated States of Micronesia in accordance with the reconstruction plan. For purposes of Disaster Relief Fund appropriations, the funding of the activities to be carried out pursuant to this paragraph shall be deemed to be necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"DHS may provide to the Republic of the Marshall Islands and the Federated States of Micronesia preparedness grants to the extent that such assistance is available to the States of the United States. Funding for this assistance may be made available from appropriations made to DHS for preparedness activities.".

(B) TREATMENT OF ADDITIONAL PROGRAMS.—

(i) CONSULTATION.—The United States appointees to the committees established pursuant to section 213 of the U.S.-FSM Compact and section 214 of the U.S.-RMI Compact shall consult with the Secretary of Education regarding the objectives, use, and monitoring of United States financial, program, and technical assistance made available for educational purposes.

(ii) CONTINUING PROGRAMS.—The Government of the United States—

(I) shall continue to make available to the Federated States of Micronesia and the Republic of the Marshall Islands for fiscal years 2004 through 2023, the services to individuals eligible for such services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to the extent that such services continue to be available to individuals in the United States; and

(II) shall continue to make available to eligible institutions in the Federated States of Micronesia and the Republic of the Marshall Islands, and to students enrolled in such institutions, and in

institutions in the United States and its territories, for fiscal years 2004 through 2023, grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) to the extent that such grants continue to be available to institutions and students in the United States.

(iii) SUPPLEMENTAL EDUCATION GRANTS.—In lieu of eligibility for appropriations under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.), title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), other than subtitle C of that Act (29 U.S.C. 2881 et seq.) (Job Corps), title II of the Workforce Investment Act of 1998 (20 U.S.C. 9201 et seq.; commonly known as the Adult Education and Family Literacy Act), title I of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2321 et seq.), the Head Start Act (42 U.S.C. 9831 et seq.), and subpart 3 of part A, and part C, of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070b et seq., 42 U.S.C. 2751 et seq.), there are authorized to be appropriated to the Secretary of Education to supplement the education grants under section 211(a)(1) of the U.S.-FSM Compact and section 211(a)(1) of the U.S.-RMI Compact, respectively, the following amounts:

(I) $12,230,000 for the Federated States of Micronesia for fiscal year 2005 and an equivalent amount, as adjusted for inflation under section 217 of the U.S.-FSM Compact, for each of fiscal years 2005 through 2023; and

(II) $6,100,000 for the Republic of the Marshall Islands for fiscal year 2005 and an equivalent amount, as adjusted for inflation under section 218 of the U.S.-RMI Compact, for each of fiscal years 2005 through 2023,

except that citizens of the Federated States of Micronesia and the Republic of the Marshall Islands who attend an institution of higher education in the United States or its territories, the Federated States of Micronesia, or the Republic of the Marshall Islands on the date of enactment of this joint resolution may continue to receive assistance under such subpart 3 of part A or part C, for not more than 4 academic years after such date to enable such citizens to complete their program of study.

(iv) FISCAL PROCEDURES.—Appropriations made pursuant to clause (iii) shall be used and monitored in accordance with an agreement between the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and the Secretary of the Interior, and in accordance with the respective Fiscal Procedures Agreements referred to in section 462(b)(4) of the U.S.-FSM Compact and section 462(b)(4) of the U.S.-RMI Compact. The agreement between the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services,

and the Secretary of the Interior shall provide for the transfer, not later than 60 days after the appropriations made pursuant to clause (iii) become available to the Secretary of Education, the Secretary of Labor, and the Secretary of Health and Human Services, from the Secretary of Education, the Secretary of Labor, and the Secretary of Health and Human Services, to the Secretary of the Interior for disbursement.

(v) FORMULA EDUCATION GRANTS.—For fiscal years 2005 through 2023, except as provided in clause (ii) and the exception provided under clause (iii), the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall not receive any grant under any formula-grant program administered by the Secretary of Education or the Secretary of Labor, nor any grant provided through the Head Start Act (42 U.S.C. 9831 et seq.) administered by the Secretary of Health and Human Services.

(vi) TRANSITION.—For fiscal year 2004, the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to be eligible for appropriations and to receive grants under the provisions of law specified in clauses (ii) and (iii).

(vii) TECHNICAL ASSISTANCE.—The Federated States of Micronesia and the Republic of the Marshall Islands may request technical assistance from the Secretary of Education, the Secretary of Health and Human Services, or the Secretary of Labor the terms of which, including reimbursement, shall be negotiated with the participation of the appropriate cabinet officer for inclusion in the Federal Programs and Services Agreement.

(viii) CONTINUED ELIGIBILITY FOR COMPETITIVE GRANTS.—The Governments of the Federated States of Micronesia and the Republic of the Marshall Islands shall continue to be eligible for competitive grants administered by the Secretary of Education, the Secretary of Health and Human Services, and the Secretary of Labor to the extent that such grants continue to be available to State and local governments in the United States.

(ix) APPLICABILITY.—The Republic of Palau shall remain eligible for appropriations and to receive grants under the provisions of law specified in clauses (ii) and (iii) until the end of fiscal year 2007, to the extent the Republic of Palau was so eligible under such provisions in fiscal year 2003.

(C) The Legal Services Corporation.

(D) The Public Health Service.

(E) The Rural Housing Service (formerly, 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 Rural Housing Service 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) TORT CLAIMS.—The provisions of section 178 of the U.S.-FSM Compact and the U.S.-RMI Compact regarding settlement and payment of tort claims shall apply to employees of any Federal agency of the Government of the United States (and to any other person employed on behalf of any Federal agency of the Government of the United States on the basis of a contractual, cooperative, or similar agreement) which provides any service or carries out any other function pursuant to or in furtherance of any provisions of the U.S.-FSM Compact or the U.S.-RMI Compact or this joint resolution, 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.

(3) PCB CLEANUP.—The programs and services of the Environmental Protection Agency regarding PCBs shall, to the extent applicable, as appropriate, and in accordance with applicable law, be construed to be made available to such islands for the cleanup of PCBs imported prior to 1987. The Secretary of the Interior and the Secretary of Defense shall cooperate and assist in any such cleanup activities.

(g) COLLEGE OF MICRONESIA.—Until otherwise provided by Act of Congress, or until termination of the U.S.-FSM Compact and the U.S.-RMI Compact, the College of Micronesia shall retain its status as a land-grant institution and its eligibility for all benefits and programs available to such land-grant institutions.

(h) 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.

(i) JUDICIAL TRAINING.—

(1) IN GENERAL.—In addition to amounts provided under section 211(a)(4) of the U.S.-FSM Compact and the U.S.-RMI Compact, the Secretary of the Interior shall annually provide $300,000 for the training of judges and officials of the judiciary in the Federated States of Micronesia and the Republic of the Marshall Islands in cooperation with the Pacific Islands Committee of the Ninth Circuit Judicial Council and in accordance with and to the extent provided in the Federal Programs and Services Agreement and the Fiscal Procedure Agreement, as appropriate.

(2) AUTHORIZATION AND CONTINUING APPROPRIATION.—There is hereby authorized and appropriated to the Secretary of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, for each fiscal year from 2004 through 2023, $300,000, as adjusted for inflation under section 218 of the U.S.-FSM Compact and the U.S.-RMI Compact, to carry out the purposes of this section.

(j) TECHNICAL ASSISTANCE.—Technical assistance may be provided pursuant to section 224 of the U.S.-FSM Compact or the U.S.-RMI 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 Natural Resources 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 U.S.-FSM Compact and the U.S.-RMI Compact are in effect, the grant programs under the National Historic Preservation Act shall continue to apply to the Federated States of Micronesia and the Republic of the Marshall Islands in the same manner and to the same extent as prior to the approval of the Compact. Any funds provided pursuant to sections 102(a), 103(a), 103(b), 103(f), 103(g), 103(h), 103(j), 105(c), 105(g), 105(h), 105(i), 105(j), 105(k), 105(l), and 105(m) 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 Republic of the Marshall Islands pursuant to the U.S.-FSM Compact, the U.S.-RMI Compact, or their related subsidiary agreements.

(k) 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.

(l) 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 lands in the Federated States of Micronesia and the Marshall Islands prior to January 1, 1985.

(m) COMMUNICABLE DISEASE CONTROL PROGRAM.—There are authorized to be appropriated for grants to the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands, and the governments of the affected jurisdictions, 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, tuberculosis, and Hansen's Disease. The Secretary of the Interior shall assist the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands and the governments of the affected jurisdictions in designing and implementing such a program.

(n) USER FEES.—Any person in the Federated States of Micronesia or the Republic of the Marshall Islands shall be liable for user fees, if any, for services provided in the Federated States of Micronesia or the Republic of 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.

(o) TREATMENT OF JUDGMENTS OF COURTS OF THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU.—No judgment, whenever issued, of a court of the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, against the United States, its departments and agencies, or officials of the United States or any other individuals acting on behalf of the United States within the scope of their official duty, shall be honored by the United States, or be subject to recognition or enforcement in a court in the United States, unless the judgment is consistent with the interpretation by the United States of international agreements relevant to the judgment. In determining the consistency of a judgment with an international agreement, due regard shall be given to assurances made by the Executive Branch to Congress of the United States regarding the proper interpretation of the international agreement.

(p) ESTABLISHMENT OF TRUST FUNDS; EXPEDITION OF PROCESS.—

(1) IN GENERAL.—The Trust Fund Agreement executed pursuant to the U.S.-FSM Compact and the Trust Fund Agreement executed pursuant to the U.S.-RMI Compact each provides for the establishment of a trust fund.

(2) METHOD OF ESTABLISHMENT.—The trust fund may be established by—

(A) creating a new legal entity to constitute the trust fund; or

(B) assuming control of an existing legal entity including, without limitation, a trust fund or other legal entity that was established by or at the direction of the Government of the United States, the Government of the Federated States of Micronesia, the Government of the Republic of the Marshall Islands, or otherwise for the purpose of facilitating or expediting the establishment of the trust fund pursuant to the applicable Trust Fund Agreement.

(3) OBLIGATIONS.—For the purpose of expediting the commencement of operations of a trust fund under either Trust Fund Agreement, the trust fund may, but shall not be obligated to, assume any obligations of an existing legal entity and take assignment of any contract or other agreement to which the existing legal entity is party.

(4) ASSISTANCE.—Without limiting the authority that the United States Government may otherwise have under applicable law, the United States Government may, but shall not be obligated to, provide financial, technical, or other assistance directly or indirectly to the Government of the Federated States of Micronesia or the Government of the Republic of the Marshall Islands for the purpose of establishing and operating a trust fund or other legal entity that will solicit bids from, and enter into contracts with, parties willing to serve in such capacities as trustee, depositary, money manager, or investment advisor, with the intention that the contracts will ultimately be assumed by and assigned to a trust fund established pursuant to a Trust Fund Agreement.

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 Republic 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 United States shall consult with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands with respect to any such contracts, and the United States 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 Republic of the Marshall Islands;

(2) to the extent that necessary skills are not possessed by citizens of the Federated States of Micronesia and the Republic of 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 OF APPROPRIATIONS.—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. PROHIBITION.

All laws governing conflicts of interest and post-employment of Federal employees shall apply to the implementation of this Act.

SEC. 108. COMPENSATORY ADJUSTMENTS.

(a) ADDITIONAL PROGRAMS AND SERVICES.—In addition to the programs and services set forth in section 221 of the U.S.-FSM Compact and the U.S.-RMI Compact, and pursuant to section 222 of the U.S.-FSM Compact and the U.S.-RMI Compact, the services and programs of the following United States agencies shall be made available to the Federated States of Micronesia and the Republic of the Marshall Islands: the Small Business Administration, Economic Development Administration, the Rural Utilities

Services (formerly Rural Electrification Administration); the programs and services of the Department of Labor under subtitle C of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881 et seq.; relating to Job Corps); and the programs and services of the Department of Commerce relating to tourism and to marine resource development.

(b) FURTHER AMOUNTS.—

(1) The joint resolution of January 14, 1986 (Public Law 99–239) provided that 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 that joint resolution upon Title Two of the Compact. There were authorized to be appropriated for fiscal years beginning after September 30, 1990, such amounts as necessary, but not to exceed $40,000,000 for the Federated States of Micronesia and $20,000,000 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 section 111 of the joint resolution of January 14, 1986 (Public Law 99–239)) for adverse impacts, if any, on the finances and economies of such areas resulting from the effect of title IV of that joint resolution upon Title Two of the Compact. The joint resolution of January 14, 1986 (Public Law 99–239) further provided that at the end of the initial fifteen-year term of the Compact, should any portion of the total amount of funds authorized in section 111 of that resolution not have been appropriated, such amount not yet appropriated may be appropriated, without regard to divisions between amounts authorized in section 111 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 that subsection.

(2) The governments of the Federated States of Micronesia and the Republic of the Marshall Islands may each submit no more than one report or request for further compensation under section 111 of the joint resolution of January 14, 1986 (Public Law 99–239) and any such report or request must be submitted by September 30, 2009. Only adverse economic effects occurring during the initial 15-year term of the Compact may be considered for compensation under section 111 of the joint resolution of January 14, 1986 (Public Law 99–239).

SEC. 109. AUTHORIZATION AND CONTINUING APPROPRIATION.

(a) There are authorized and appropriated to the Department of the Interior, out of any funds in the Treasury not otherwise appropriated, to remain available until expended, such sums as are necessary to carry out the purposes of sections 105(f)(1) and 105(i) of this Act, sections 211, 212(b), 215, and 217 of the U.S.-FSM Compact, and sections 211, 212, 213(b), 216, and 218 of the U.S.-RMI Compact, in this and subsequent years.

(b) There are authorized to be appropriated to the Departments, agencies, and instrumentalities named in paragraphs (1) and (3) through (6) of section 221(a) of the U.S.-FSM Compact and paragraphs (1) and (3) through (5) of section 221(a) of the U.S.-RMI Compact, such sums as are necessary to carry out the purposes

of sections 221(a) of the U.S.-FSM Compact and the U.S.-RMI Compact, to remain available until expended.

SEC. 110. PAYMENT OF CITIZENS OF THE FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF THE MARSHALL ISLANDS, AND THE REPUBLIC OF PALAU EMPLOYED BY THE GOVERNMENT OF THE UNITED STATES IN THE CONTINENTAL UNITED STATES.

Section 605 of Public Law 107–67 (the Treasury and General Government Appropriations Act, 2002) is amended by striking "or the Republic of the Philippines," in the last sentence and inserting the following: "the Republic of the Philippines, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau,".

TITLE II—COMPACTS OF FREE ASSOCIATION WITH THE FEDERATED STATES OF MICRONESIA AND THE REPUBLIC OF THE MARSHALL ISLANDS

SEC. 201. COMPACTS OF FREE ASSOCIATION, AS AMENDED BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA AND BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS.

(a) COMPACT OF FREE ASSOCIATION, AS AMENDED, BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Federated States of Micronesia is as follows:

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Affirming that their Governments and their relationship as Governments are founded upon respect for human rights and fundamental freedoms for all, and that the people of the Federated States of Micronesia have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the Federated States of Micronesia in creating and maintaining their close and mutually beneficial relationship through the free and voluntary association of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and budgetary self-reliance of the Federated States of Micronesia; and

Recognizing that their relationship until the entry into force on November 3, 1986 of the Compact was 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 people of the Federated States of Micronesia

have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they, through their freely-expressed wishes, have adopted a Constitution appropriate to their particular circumstances; and

Recognizing that the Compact reflected their common desire to terminate the Trusteeship and establish a government-to-government relationship which was in accordance with the new political status based on the freely expressed wishes of the people of the Federated States of Micronesia and appropriate to their particular circumstances; and

Recognizing that the people of the Federated States of Micronesia have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitution and form of government and that the approval of the entry of the Government of the Federated States of Micronesia into the Compact by the people of the Federated States of Micronesia constituted an exercise of their sovereign right to self-determination; and

Recognizing the common desire of the people of the United States and the people of the Federated States of Micronesia to maintain their close government-to-government relationship, the United States and the Federated States of Micronesia:

NOW, THEREFORE, MUTUALLY AGREE to continue and strengthen their relationship of free association by amending the Compact, which continues to provide a full measure of self-government for the people of the Federated States of Micronesia; and

FURTHER AGREE that the relationship of free association derives from and is as set forth in this Compact, as amended, by the Governments of the United States and the Federated States of Micronesia; and that, during such relationship of free association, the respective rights and responsibilities of the Government of the United States and the Government of the Federated States of Micronesia in regard to this relationship of free association derive from and are as set forth in this Compact, as amended.

TITLE ONE

GOVERNMENTAL RELATIONS

Article I

Self-Government

Section 111

The people of the Federated States of Micronesia, acting through the Government established under their Constitution, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Government of the Federated States of Micronesia has the capacity to conduct foreign affairs and shall do so in its own name and right, except as otherwise provided in this Compact, as amended.

(b) The foreign affairs capacity of the Government of 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 its 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 its individual citizens.

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

(d) In the conduct of its foreign affairs, the Government of the Federated States of Micronesia confirms that it shall act in accordance with principles of international law and shall settle its international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Government of the Federated States of Micronesia for membership or other participation in regional or international organizations as may be mutually agreed.

Section 123

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

(b) In recognition of the foreign affairs capacity of the Government of 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 Federated States of Micronesia on matters that the Government of the United States regards as relating to or affecting the Government of the Federated States of Micronesia.

Section 124

The Government of the United States may assist or act on behalf of the Government of 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 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 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 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 Federated States of Micronesia for travel outside the Federated States of Micronesia, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact, as amended, or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which 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 November 2, 1986, are, as of that date, no longer assumed and enjoyed by the Government of the United States.

Article III

Communications

Section 131

(a) The Government of the Federated States of Micronesia has full authority and responsibility to regulate its domestic and foreign communications, and the Government of the United States shall provide communications assistance as mutually agreed.

(b) On May 24, 1993, the Government of the Federated States of Micronesia elected to undertake all functions previously performed by the Government of the United States with respect to domestic and foreign communications, except for those functions set forth in a separate agreement entered into pursuant to this section of the Compact, as amended.

Section 132

The Government of the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the United States under this Compact, as amended, in accordance with the terms of separate agreements entered into pursuant to this section of the Compact, as amended.

Article IV

Immigration

Section 141

(a) In furtherance of the special and unique relationship that exists between the United States and the Federated States of Micronesia, under the Compact, as amended, any person in the following categories may be admitted to, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions (the "United States") without regard to paragraph (5) or (7)(B)(i)(II) of section 212(a) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1182(a)(5) or (7)(B)(i)(II):

(1) a person who, on November 2, 1986, was 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 and remains a citizen of the Federated States of Micronesia;

(2) a person who acquires the citizenship of the Federated States of Micronesia at birth, on or after the effective date of the Constitution of the Federated States of Micronesia;

(3) an immediate relative of a person referred to in paragraphs (1) or (2) of this section, provided that such immediate relative is a naturalized citizen of 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, and further provided, that, in the case of a spouse, such spouse has been married to the person referred to in paragraph (1) or (2) of this section for at least five years, and further provided, that the Government of the United States is satisfied that such naturalized citizen meets the requirement of subsection (b) of section 104 of Public Law 99–239 as it was in effect on the day prior to the effective date of this Compact, as amended;

(4) a naturalized citizen of the Federated States of Micronesia who was an actual resident there for not less than five years after attaining such naturalization and who satisfied these requirements as of April 30, 2003, who continues to be an actual resident and holds a certificate of actual residence, and whose name is included in a list furnished by the Government of the Federated States of Micronesia to the Government of the United States no later than the effective date of the Compact, as amended, in form and content acceptable to the Government of the United States, provided, that the Government of the United States is satisfied that such naturalized citizen meets the requirement of subsection (b) of section 104 of Public Law 99–239 as it was in effect on the day prior to the effective date of this Compact, as amended; or

(5) an immediate relative of a citizen of the Federated States of Micronesia, regardless of the immediate relative's country of citizenship or period of residence in the Federated States of Micronesia, if the citizen of the Federated States of Micronesia is serving on active duty in any branch of the United States Armed Forces, or in the active reserves.

(b) Notwithstanding subsection (a) of this section, a person who is coming to the United States pursuant to an adoption outside the United States, or for the purpose of adoption in the United States, is ineligible for admission under the Compact and the Compact, as amended. This subsection shall apply to any person who is or was an applicant for admission to the United States on or after March 1, 2003, including any applicant for admission in removal proceedings (including appellate proceedings) on or after March 1, 2003, regardless of the date such proceedings were commenced. This subsection shall have no effect on the ability of the Government of the United States or any United States State or local government to commence or otherwise take any action against any person or entity who has violated any law relating to the adoption of any person.

(c) Notwithstanding subsection (a) of this section, no person who has been or is granted citizenship in the Federated States of Micronesia, or has been or is issued a Federated States of Micronesia passport pursuant to any investment, passport sale, or similar program has been or shall be eligible for admission

to the United States under the Compact or the Compact, as amended.

(d) A person admitted to the United States under the Compact, or the Compact, as amended, shall be considered to have the permission of the Government of the United States to accept employment in the United States. An unexpired Federated States of Micronesia passport with unexpired documentation issued by the Government of the United States evidencing admission under the Compact or the Compact, as amended, shall be considered to be documentation establishing identity and employment authorization under section 274A(b)(1)(B) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1324a(b)(1)(B). The Government of the United States will take reasonable and appropriate steps to implement and publicize this provision, and the Government of the Federated States of Micronesia will also take reasonable and appropriate steps to publicize this provision.

(e) For purposes of the Compact and the Compact, as amended:

(1) the term "residence" with respect to a person means the person's principal, actual dwelling place in fact, without regard to intent, as provided in section 101(a)(33) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(33), and variations of the term "residence," including "resident" and "reside," shall be similarly construed;

(2) the term "actual residence" means physical presence in the Federated States of Micronesia during eighty-five percent of the five-year period of residency required by section 141(a)(3) and (4);

(3) the term "certificate of actual residence" means a certificate issued to a naturalized citizen by the Government of the Federated States of Micronesia stating that the citizen has complied with the actual residence requirement of section 141(a)(3) or (4);

(4) the term "nonimmigrant" means an alien who is not an "immigrant" as defined in section 101(a)(15) of such Act, 8 U.S.C. 1101(a)(15); and

(5) the term "immediate relative" means a spouse, or unmarried son or unmarried daughter less than 21 years of age.

(f) The Immigration and Nationality Act, as amended, shall apply to any person admitted or seeking admission to the United States (other than a United States possession or territory where such Act does not apply) under the Compact or the Compact, as amended, and nothing in the Compact or the Compact, as amended, shall be construed to limit, preclude, or modify the applicability of, with respect to such person:

(1) any ground of inadmissibility or deportability under such Act (except sections 212(a)(5) and 212(a)(7)(B)(i)(II) of such Act, as provided in subsection (a) of this section), and any defense thereto, provided that, section 237(a)(5) of such Act shall be construed and applied as if it reads as follows: "any alien who has been admitted under the Compact, or the Compact, as amended, who cannot show that he or she has sufficient means of support in the United States, is deportable";

(2) the authority of the Government of the United States under section 214(a)(1) of such Act to provide that admission as a nonimmigrant shall be for such time and under such

conditions as the Government of the United States may by regulations prescribe;

(3) except for the treatment of certain documentation for purposes of section 274A(b)(1)(B) of such Act as provided by subsection (d) of this section of the Compact, as amended, any requirement under section 274A, including but not limited to section 274A(b)(1)(E);

(4) section 643 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, and actions taken pursuant to section 643; and

(5) the authority of the Government of the United States otherwise to administer and enforce the Immigration and Nationality Act, as amended, or other United States law.

(g) Any authority possessed by the Government of the United States under this section of the Compact or the Compact, as amended, may also be exercised by the Government of a territory or possession of the United States where the Immigration and Nationality Act, as amended, does not apply, to the extent such exercise of authority is lawful under a statute or regulation of such territory or possession that is authorized by the laws of the United States.

(h) Subsection (a) of this section does not confer on a citizen of the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, as amended, or to petition for benefits for alien relatives under that Act. Subsection (a) of this section, however, shall not prevent a citizen of 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 be admitted, to lawfully engage in occupations, and reside in the Federated States of Micronesia, subject to the rights of the Government of the Federated States of Micronesia to deny entry to or deport any such citizen or national as an undesirable alien. Any determination of inadmissibility or deportability shall be based on reasonable statutory grounds and shall be subject to appropriate administrative and judicial review within the Federated States of Micronesia. If a citizen or national of the United States is a spouse of a citizen of the Federated States of Micronesia, the Government of the Federated States of Micronesia shall allow the United States citizen spouse to establish residence. Should the Federated States of Micronesia citizen spouse predecease the United States citizen spouse during the marriage, the Government of the Federated States of Micronesia shall allow the United States citizen spouse to continue to reside in the Federated States of Micronesia.

(b) In enacting any laws or imposing any requirements with respect to citizens and nationals of the United States entering the Federated States of Micronesia under subsection (a) of this section, including any grounds of inadmissibility or deportability, the Government of the Federated States of Micronesia shall accord to such citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries.

(c) Consistent with subsection (a) of this section, with respect to citizens and nationals of the United States seeking to engage in employment or invest in the Federated States of Micronesia, the Government of the Federated States of Micronesia shall adopt

immigration-related procedures no less favorable than those adopted by the Government of the United States with respect to citizens of the Federated States of Micronesia seeking employment in the United States.

Section 143

Any person who relinquishes, or otherwise loses, his United States nationality or citizenship, or his Federated States of Micronesia citizenship, shall be ineligible to receive the privileges set forth in sections 141 and 142. Any such person may apply for admission to the United States or the Federated States of Micronesia, as the case may be, in accordance with any other applicable laws of the United States or the Federated States of Micronesia relating to immigration of aliens from other countries. The laws of the Federated States of Micronesia or the United States, as the case may be, shall dictate the terms and conditions of any such person's stay.

Article V

Representation

Section 151

Relations between the Government of the United States and the Government of the Federated States of Micronesia 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.

Section 152

(a) Any citizen or national of the United States who, without authority of the United States, acts as the agent of the Government of 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 or national 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 shall be considered to be a foreign country.

(b) Subsection (a) of this section shall not apply to a citizen or national of the United States employed by the Government of the Federated States of Micronesia with respect to whom the Government of the Federated States of Micronesia from time to time certifies to the Government of the United States that such citizen or national is an employee of the Federated States of Micronesia 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.

Article VI

Environmental Protection

Section 161

The Governments of the United States 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 Federated States of Micronesia. In order to carry out this policy, the Government of the United States and the Government of 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 November 2, 1986 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, as amended, and its related agreements as if 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 environment of the Federated States of Micronesia: the Endangered Species Act of 1973, as amended, 87 Stat. 884, 16 U.S.C. 1531 et seq.; the Clean Air Act, as amended, 77 Stat. 392, 42 U.S.C. Supp. 7401 et seq.; the Clean Water Act (Federal Water Pollution Control Act), as amended, 86 Stat. 896, 33 U.S.C. 1251 et seq.; Title I of the Marine Protection, Research and Sanctuaries Act of 1972 (the Ocean Dumping Act), 33 U.S.C. 1411 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq.; the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901 et seq.; and such other environmental protection laws of the United States and of the Federated States of Micronesia, as may be mutually agreed from time to time with the Government of 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), written standards and procedures, as agreed with the Government of the Federated States of Micronesia, to implement the substantive provisions of the laws made applicable to U.S. Government activities in the Federated States of Micronesia, pursuant to section 161(a)(3).

(b) The Government of the Federated States of Micronesia shall continue to develop and implement standards and procedures to protect its environment. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Federated States of Micronesia, taking into account its particular environment, shall continue to develop and implement standards for environmental protection substantively similar to those required of the Government of the United States by section 161(a)(3) prior to its conducting activities in the Federated States of Micronesia, 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 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, as amended, 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, as amended, 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 Government of 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 Government of the Federated States of Micronesia.

(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, as amended, and its related agreements only to the extent provided for in this section.

Section 162

The Government of 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 section 161(a) 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 of the Federated States of Micronesia.

(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 United States District Court for the District of Hawaii and the United States District Court for the District of Columbia 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 United States 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 for in this section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under section 172(b) which relate to the activities of the Government of the United States and its officers and employees governed by section 161.

(f) In actions pursuant to this section, the Government of the Federated States of Micronesia shall be treated as if it were a United States citizen.

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 Government of the Federated States of Micronesia shall be granted access to facilities operated by the Government of the United States in 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 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 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 the Government of the Federated States of Micronesia under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Government of 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, as amended, 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 ceased with respect to the Federated States of Micronesia on November 3, 1986, the date the Compact went into effect.

Section 172

(a) Every citizen of 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 Government of the Federated States of Micronesia and every citizen of the Federated States of Micronesia shall be considered to be 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 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 and the Federated States of Micronesia agree to adopt and enforce such measures, consistent with this Compact, as amended, 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 Federated States of Micronesia pursuant to this Compact, as amended, and its related agreements and by the Government of the Federated States of Micronesia in the United States pursuant to this Compact, as amended, and its related agreements.

Section 174

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

(a) The Government of the Federated States of Micronesia, and its agencies and officials, shall be immune from the jurisdiction of the court of the United States, and the Government of the United States, and its agencies and officials, shall be immune from the jurisdiction of the courts of 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 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 November 3, 1986;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of the November 3, 1986; and

(3) settlement of any administrative claim or of any action before a court 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 the 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 courts, which shall have jurisdiction therefore, 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 Government of 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 Federated States of Micronesia in any civil case in which an exception to foreign state immunity is set forth in the Foreign Sovereign Immunities Act (28 U.S.C. 1602 et seq.) or its successor statutes.

Section 175

(a) A separate agreement, which shall come into effect simultaneously with this Compact, as amended, and shall have the force of law, shall govern mutual assistance and cooperation in law enforcement matters, including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners, as well as other law enforcement matters. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186 and 3188–95, 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. 4100–15, shall be applicable to the transfer of prisoners under the separate agreement; and

(b) A separate agreement, which shall come into effect simultaneously with this Compact, as amended, and shall have the force of law, shall govern requirements relating to labor recruitment practices, including registration, reporting, suspension or revocation of authorization to recruit persons for employment in the United States, and enforcement for violations of such requirements.

Section 176

The Government of the Federated States of Micronesia confirms 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 Federated States of Micronesia to grant relief from judgments in appropriate cases.

Section 177

Section 177 of the Compact entered into force with respect to the Federated States of Micronesia on November 3, 1986 as follows:

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

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

The Compact, as amended, makes no changes to, and has no effect upon, Section 177 of the Compact, nor does the Compact, as amended, change or affect the separate agreement referred to in Section 177 of the Compact including Articles IX and X of that separate agreement, and measures taken by the parties thereunder.

Section 178

(a) The Federal agencies of the Government of the United States that provide the services and related programs in the Federated States of Micronesia pursuant to Title Two are authorized to settle and pay tort claims arising in 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) that 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 Federated States of Micronesia shall, in the separate agreement referred to in section 231, provide for:

(1) the administrative settlement of claims referred to in section 178(a), including designation of local agents in 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).

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

(e) Except as otherwise explicitly provided by law of the United States, neither the Government of the United States, its instrumentalities, nor any person acting on behalf of the Government of the United States, shall be named a party in any action based on, or arising out of, the activity or activities of a recipient of any grant or other assistance provided by the Government of the United States (or the activity or activities of the recipient's agency or any other person or entity acting on behalf of the recipient).

Section 179

(a) The courts of the Federated States of Micronesia shall not exercise criminal jurisdiction over the Government of the United States, or its instrumentalities.

(b) The courts of the Federated States of Micronesia shall not exercise criminal jurisdiction over any person if the Government of the United States provides notification to the Government of the Federated States of Micronesia that such person was acting on behalf of the Government of the United States, for actions taken in furtherance of section 221 or 224 of this amended Compact, or any other provision of law authorizing financial, program, or service assistance to the Federated States of Micronesia.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211 - Sector Grants

(a) In order to assist the Government of the Federated States of Micronesia in its efforts to promote the economic advancement, budgetary self-reliance, and economic self-sufficiency of its people, and in recognition of the special relationship that exists between the Federated States of Micronesia and the United States, the Government of the United States shall provide assistance on a sector grant basis for a period of twenty years in the amounts set forth in section 216, commencing on the effective date of this Compact, as amended. Such grants shall be used for assistance in the sectors of education, health care, private sector development, the environment, public sector capacity building, and public infrastructure, or for other sectors as mutually agreed, with priorities in the education and health care sectors. For each year such sector grant assistance is made available, the proposed division of this amount among these sectors shall be certified to the Government of the United States by the Government of the Federated States

of Micronesia and shall be subject to the concurrence of the Government of the United States. In such case, the Government of the United States shall disburse the agreed upon amounts and monitor the use of such sector grants in accordance with the provisions of this Article and the Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact, as Amended, of Free Association Between the Government of the United States of America and the Government of the Federated States of Micronesia ("Fiscal Procedures Agreement") which shall come into effect simultaneously with this Compact, as amended. The provision of any United States assistance under the Compact, as amended, the Fiscal Procedures Agreement, the Trust Fund Agreement, or any other subsidiary agreement to the Compact, as amended, shall constitute "a particular distribution . . . required by the terms or special nature of the assistance" for purposes of Article XII, section 1(b) of the Constitution of the Federated States of Micronesia.

(1) EDUCATION.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to support and improve the educational system of the Federated States of Micronesia and develop the human, financial, and material resources necessary for the Government of the Federated States of Micronesia to perform these services. Emphasis should be placed on advancing a quality basic education system.

(2) HEALTH.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to support and improve the delivery of preventive, curative and environmental care and develop the human, financial, and material resources necessary for the Government of the Federated States of Micronesia to perform these services.

(3) PRIVATE SECTOR DEVELOPMENT.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to support the efforts of the Government of the Federated States of Micronesia to attract foreign investment and increase indigenous business activity by vitalizing the commercial environment, ensuring fair and equitable application of the law, promoting adherence to core labor standards, and maintaining progress toward privatization of state-owned and partially state-owned enterprises, and engaging in other reforms.

(4) CAPACITY BUILDING IN THE PUBLIC SECTOR.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to support the efforts of the Government of the Federated States of Micronesia to build effective, accountable and transparent national, state, and local government and other public sector institutions and systems.

(5) ENVIRONMENT.—United States grant assistance shall be made available in accordance with the plan described in subsection (c) of this section to increase environmental protection; conserve and achieve sustainable use of natural resources; and engage in environmental infrastructure planning, design construction and operation.

(6) PUBLIC INFRASTRUCTURE.—

(i) U.S. annual grant assistance shall be made available in accordance with a list of specific projects included in

the plan described in subsection (c) of this section to assist the Government of the Federated States of Micronesia in its efforts to provide adequate public infrastructure.

(ii) INFRASTRUCTURE AND MAINTENANCE FUND.—Five percent of the annual public infrastructure grant made available under paragraph (i) of this subsection shall be set aside, with an equal contribution from the Government of the Federated States of Micronesia, as a contribution to an Infrastructure Maintenance Fund (IMF). Administration of the Infrastructure Maintenance Fund shall be governed by the Fiscal Procedures Agreement.

(b) HUMANITARIAN ASSISTANCE.—Federated States of Micronesia Program. In recognition of the special development needs of the Federated States of Micronesia, the Government of the United States shall make available to the Government of the Federated States of Micronesia, on its request and to be deducted from the grant amount made available under subsection (a) of this section, a Humanitarian Assistance - Federated States of Micronesia ("HAFSM") Program with emphasis on health, education, and infrastructure (including transportation), projects. The terms and conditions of the HAFSM shall be set forth in the Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Government of the Federated States of Micronesia Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as Amended which shall come into effect simultaneously with the amendments to this Compact.

(c) DEVELOPMENT PLAN.—The Government of the Federated States of Micronesia shall prepare and maintain an official overall development plan. The plan shall be strategic in nature, shall be continuously reviewed and updated through the annual budget process, and shall make projections on a multi-year rolling basis. Each of the sectors named in subsection (a) of this section, or other sectors as mutually agreed, shall be accorded specific treatment in the plan. Insofar as grants funds are involved, the plan shall be subject to the concurrence of the Government of the United States.

(d) DISASTER ASSISTANCE EMERGENCY FUND.—An amount of two hundred thousand dollars ($200,000) shall be provided annually, with an equal contribution from the Government of the Federated States of Micronesia, as a contribution to a "Disaster Assistance Emergency Fund (DAEF)." Any funds from the DAEF may be used only for assistance and rehabilitation resulting from disasters and emergencies. The funds will be accessed upon declaration by the Government of the Federated States of Micronesia, with the concurrence of the United States Chief of Mission to the Federated States of Micronesia. The Administration of the DAEF shall be governed by the Fiscal Procedures Agreement.

Section 212 - Accountability

(a) Regulations and policies normally applicable to United States financial assistance to its state and local governments, as reflected in the Fiscal Procedures Agreement, shall apply to each sector grant described in section 211, and to grants administered under section 221 below, except as modified in the separate agreements referred to in section 231 of this Compact, as amended, or by United States law. The Government of the United States, after annual consultations with the Federated States of Micronesia, may attach reasonable terms and conditions, including annual

performance indicators that are necessary to ensure effective use of United States assistance and reasonable progress toward achieving program objectives. The Government of the United States may seek appropriate remedies for noncompliance with the terms and conditions attached to the assistance, or for failure to comply with section 234, including withholding assistance.

(b) The Government of the United States shall, for each fiscal year of the twenty years during which assistance is to be provided on a sector grant basis under section 211, grant the Government of the Federated States of Micronesia an amount equal to the lesser of (i) one half of the reasonable, properly documented cost incurred during each fiscal year to conduct the annual audit required under Article VIII (2) of the Fiscal Procedures Agreement or (ii) $500,000. Such amount will not be adjusted for inflation under section 217 or otherwise.

Section 213 - Joint Economic Management Committee

The Governments of the United States and the Federated States of Micronesia shall establish a Joint Economic Management Committee, composed of a U.S. chair, two other members from the Government of the United States and two members from the Government of the Federated States of Micronesia. The Joint Economic Management Committee shall meet at least once each year to review the audits and reports required under this Title, evaluate the progress made by the Federated States of Micronesia in meeting the objectives identified in its plan described in subsection (c) of section 211, with particular focus on those parts of the plan dealing with the sectors identified in subsection (a) of section 211, identify problems encountered, and recommend ways to increase the effectiveness of U.S. assistance made available under this Title. The establishment and operations of the Joint Economic Management Committee shall be governed by the Fiscal Procedures Agreement.

Section 214 - Annual Report

The Government of the Federated States of Micronesia shall report annually to the President of the United States on the use of United States sector grant assistance and other assistance and progress in meeting mutually agreed program and economic goals. The Joint Economic Management Committee shall review and comment on the report and make appropriate recommendations based thereon.

Section 215 - Trust Fund

(a) The United States shall contribute annually for twenty years from the effective date of this Compact, as amended, in the amounts set forth in section 216 into a Trust Fund established in accordance with the Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Implementing Section 215 and Section 216 of the Compact, as Amended, Regarding a Trust Fund ("Trust Fund Agreement"). Upon termination of the annual financial assistance under section 211, the proceeds of the fund shall thereafter be used for the purposes described in section 211 or as otherwise mutually agreed.

(b) The United States contribution into the Trust Fund described in subsection(a) of this section is conditioned on the Government of the Federated States of Micronesia contributing to the Trust Fund at least $30 million, prior to September 30, 2004. Any funds received by the Federated States of Micronesia

under section 111 (d) of Public Law 99–239 (January 14, 1986), or successor provisions, would be contributed to the Trust Fund as a Federated States of Micronesia contribution.

(c) The terms regarding the investment and management of funds and use of the income of the Trust Fund shall be set forth in the separate Trust Fund Agreement described in subsection (a) of this section. Funds derived from United States investment shall not be subject to Federal or state taxes in the United States or the Federated States of Micronesia. The Trust Fund Agreement shall also provide for annual reports to the Government of the United States and to the Government of the Federated States of Micronesia. The Trust Fund Agreement shall provide for appropriate distributions of trust fund proceeds to the Federated States of Micronesia and for appropriate remedies for the failure of the Federated States of Micronesia to use income of the Trust Fund for the annual grant purposes set forth in section 211. These remedies may include the return to the United States of the present market value of its contributions to the Trust Fund and the present market value of any undistributed income on the contributions of the United States. If this Compact, as amended, is terminated, the provisions of sections 451 through 453 of this Compact, as amended, shall govern treatment of any U.S. contributions to the Trust Fund or accrued interest thereon.

Section 216 - Sector Grant Funding and Trust Fund Contributions

The funds described in sections 211, 212(b) and 215 shall be made available as follows:

[In millions of dollars]

Fiscal year	Annual Grants Section 211	Audit Grant Section 212(b) (amount up to)	Trust Fund Section 215	Total
2004	76.2	.5	16	92.7
2005	76.2	.5	16	92.7
2006	76.2	.5	16	92.7
2007	75.4	.5	16.8	92.7
2008	74.6	.5	17.6	92.7
2009	73.8	.5	18.4	92.7
2010	73	.5	19.2	92.7
2011	72.2	.5	20	92.7
2012	71.4	.5	20.8	92.7
2013	70.6	.5	21.6	92.7
2014	69.8	.5	22.4	92.7
2015	69	.5	23.2	92.7
2016	68.2	.5	24	92.7
2017	67.4	.5	24.8	92.7
2018	66.6	.5	25.6	92.7
2019	65.8	.5	26.4	92.7
2020	65	.5	27.2	92.7
2021	64.2	.5	28	92.7
2022	63.4	.5	28.8	92.7
2023	62.6	.5	29.6	92.7

Section 217 - Inflation Adjustment

Except for the amounts provided for audits under section 212(b), the amounts stated in this Title shall be adjusted for each United States Fiscal Year by the percent that equals two-thirds of the percent change in the United States Gross Domestic Product Implicit Price Deflator, or 5 percent, whichever is less in any one year, using the beginning of Fiscal Year 2004 as a base.

Section 218 - Carry-Over of Unused Funds

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

Article II

Services and Program Assistance

Section 221

(a) SERVICES.—The Government of the United States shall make available to the Federated States of Micronesia, in accordance with and to the extent provided in the Federal Programs and Services Agreement referred to in section 231, the services and related programs of:

(1) the United States Weather Service;

(2) the United States Postal Service;

(3) the United States Federal Aviation Administration;

(4) the United States Department of Transportation;

(5) the Federal Deposit Insurance Corporation (for the benefit only of the Bank of the Federated States of Micronesia); and

(6) the Department of Homeland Security, and the United States Agency for International Development, Office of Foreign Disaster Assistance.

Upon the effective date of this Compact, as amended, the United States Departments and Agencies named or having responsibility to provide these services and related programs shall have the authority to implement the relevant provisions of the Federal Programs and Services Agreement referred to in section 231.

(b) PROGRAMS.—

(1) With the exception of the services and programs covered by subsection (a) of this section, and unless the Congress of the United States provides otherwise, the Government of the United States shall make available to the Federated States of Micronesia the services and programs that were available to the Federated States of Micronesia on the effective date of this Compact, as amended, to the extent that such services and programs continue to be available to State and local governments of the United States. As set forth in the Fiscal Procedures Agreement, funds provided under subsection (a) of section 211 will be considered to be local revenues of the Government of the Federated States of Micronesia when used as the local share required to obtain Federal programs and services.

(2) Unless provided otherwise by U.S. law, the services and programs described in paragraph (1) of this subsection shall be extended in accordance with the terms of the Federal Programs and Services Agreement referred to in section 231.

(c) The Government of the United States shall have and exercise such authority as is necessary to carry out its responsibilities under this Title and the separate agreements referred to in amended section 231, including the authority to monitor and administer all service and program assistance provided by the United States to the Federated States of Micronesia. The Federal Programs and Services Agreement referred to in amended section 231 shall also

set forth the extent to which services and programs shall be provided to the Federated States of Micronesia.

(d) Except as provided elsewhere in this Compact, as amended, under any separate agreement entered into under this Compact, as amended, or otherwise under U.S. law, all Federal domestic programs extended to or operating in the Federated States of Micronesia shall be subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs and services when operating in the United States.

(e) The Government of the United States shall make available to the Federated States of Micronesia alternate energy development projects, studies, and conservation measures to the extent provided for the Freely Associated States in the laws of the United States.

Section 222

The Government of the United States and the Government of the Federated States of Micronesia may agree from time to time to extend to the Federated States of Micronesia additional United States grant assistance, services and programs, as provided under the laws of the United States. Unless inconsistent with such laws, or otherwise specifically precluded by the Government of the United States at the time such additional grant assistance, services, or programs are extended, the Federal Programs and Services Agreement referred to section 231 shall apply to any such assistance, services or programs.

Section 223

The Government of 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 Federated States of Micronesia at no cost to the Government of the United States as of the effective date of this Compact, as amended, or as may be mutually agreed thereafter.

Section 224

The Government of 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. If technical assistance is granted pursuant to such a request, the Government of the United States shall provide the technical assistance in a manner which gives priority consideration to the Federated States of Micronesia over other recipients not a part of the United States, its territories or possessions, and equivalent consideration to the Federated States of Micronesia with respect to other states in Free Association with the United States. Such assistance shall be made available on a reimbursable or non-reimbursable basis to the extent provided by United States law.

Article III

Administrative Provisions

Section 231

The specific nature, extent and contractual arrangements of the services and programs provided for in section 221 of this Compact, as amended, 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 Federated States of Micronesia, and other arrangements in connection with the assistance, services, or programs furnished by the Government of the United States, are set forth in a Federal Programs and Services Agreement which shall come into effect simultaneously with this Compact, as amended.

Section 232

The Government of the United States, in consultation with the Government of 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. Further, in accordance with the Fiscal Procedures Agreement described in subsection (a) of section 211, the Comptroller General of the United States shall have such powers and authorities as described in sections 102 (c) and 110 (c) of Public Law 99–239, 99 Stat. 1777–78, and 99 Stat. 1799 (January 14, 1986).

Section 233

Approval of this Compact, as amended, by the Government of the United States, in accordance with its constitutional processes, shall constitute a pledge by the United States that the sums and amounts specified as sector grants in section 211 of this Compact, as amended, shall be appropriated and paid to the Federated States of Micronesia for such period as those provisions of this Compact, as amended, remain in force, subject to the terms and conditions of this Title and related subsidiary agreements.

Section 234

The Government of the Federated States of Micronesia pledges to cooperate with, permit, and assist if reasonably requested, designated and authorized representatives of the Government of the United States charged with investigating whether Compact funds, or any other assistance authorized under this Compact, as amended, have, or are being, used for purposes other than those set forth in this Compact, as amended, or its subsidiary agreements. In carrying out this investigative authority, such United States Government representatives may request that the Government of the Federated States of Micronesia subpoena documents and records and compel testimony in accordance with the laws and Constitution of the Federated States of Micronesia. Such assistance by the Government of the Federated States of Micronesia to the Government of the United States shall not be unreasonably withheld. The obligation of the Government of the Federated States of Micronesia to fulfill its pledge herein is a condition to its receiving payment of such funds or other assistance authorized under this Compact, as amended. The Government of the United States shall pay any reasonable costs for extraordinary services executed by the Government of the Federated States of Micronesia in carrying out the provisions of this section.

Article IV

Trade

Section 241

The Federated States of Micronesia is not included in the customs territory of the United States.

Section 242

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

(a) Unless otherwise excluded, articles imported from the Federated States of Micronesia, subject to the limitations imposed under section 503(b) of title V of the Trade Act of 1974 (19 U.S.C. 2463(b)), shall be exempt from duty.

(b) Only tuna in airtight containers provided for in heading 1604.14.22 of the Harmonized Tariff Schedule of the United States that is imported from the Federated States of Micronesia and the Republic of the Marshall Islands during any calendar year not to exceed 10 percent of apparent United States consumption of tuna in airtight containers 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 aggregated quantity of tuna in airtight containers that is dutiable under rate column numbered 1 of such heading 1604.14.22 for that calendar year.

(c) The duty-free treatment provided under subsection (a) shall not apply to—

(1) watches, clocks, and timing apparatus provided for in Chapter 91, excluding heading 9113, of the Harmonized Tariff Schedule of the United States;

(2) buttons (whether finished or not finished) provided for in items 9606.21.40 and 9606.29.20 of such Schedule;

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

(4) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

(d) 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, 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(a)(2) of title V of the Trade Act of 1974.

Section 243

Articles imported from the Federated States of Micronesia which are not exempt from duty under subsections (a), (b), (c), and (d) of section 242 shall be subject to the rates of duty set forth in column numbered 1-general of the Harmonized Tariff Schedule of the United States (HTSUS).

Section 244

(a) All products of the United States imported into 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.

(b) The provisions of subsection (a) shall not apply to advantages accorded by the Federated States of Micronesia by virtue of their full membership in the Pacific Island Countries Trade Agreement (PICTA), done on August 18, 2001, to those governments listed in Article 26 of PICTA, as of the date the Compact, as amended, is signed.

(c) Prior to entering into consultations on, or concluding, a free trade agreement with governments not listed in Article 26 of PICTA, the Federated States of Micronesia shall consult with the United States regarding whether or how subsection (a) of section 244 shall be applied.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Federated States of Micronesia. Should the Government of 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 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 the Government of the Federated States of Micronesia 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 Federated States of Micronesia, domiciled therein, shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States, provided that such citizen of the Federated States of Micronesia is neither a citizen nor a resident of the United States.

Section 254

(a) In determining any income tax imposed by the Government of the Federated States of Micronesia, the Government of the Federated States of Micronesia shall have authority to impose tax upon income derived by a resident of the Federated States of Micronesia from sources without the Federated States of Micronesia, in the same manner and to the same extent as the Government of the Federated States of Micronesia imposes tax upon income derived from within its own jurisdiction. If the Government of the Federated States of Micronesia exercises such authority as provided in this subsection, any individual resident of 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 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. However, the relief from liability to the United States Government referred to in the preceding sentence means only 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 relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1986. For purposes of this section, the term "resident of the Federated States of Micronesia" shall be deemed to include any person who was physically present in the Federated States of Micronesia for a period of 183 or more days during any taxable year.

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

Section 255

For purposes of section 274(h)(3)(A) of the United States Internal Revenue Code of 1986, the term "North American Area" shall include the Federated States of Micronesia.

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 Federated States of Micronesia.

(b) This authority and responsibility includes:

(1) the obligation to defend the Federated States of Micronesia and its people 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 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 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 Federated States of Micronesia the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

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

(b) The consultations referred to in this section shall be conducted expeditiously at senior levels of the two Governments, 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 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 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 Federated States of Micronesia or the Republic of the Marshall Islands, the Government of the United States shall not store in the Federated States of Micronesia or the Republic of the Marshall Islands 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 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 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 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 of the Government of 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 Federated States of Micronesia are set forth in separate agreements, which shall remain in effect in accordance with the terms of such agreements.

(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 Federated States of Micronesia in addition to those for which specific arrangements are concluded pursuant to section 321(a), it may request the Government of the Federated States of Micronesia to satisfy those requirements through leases or other arrangements. The Government of 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 Federated States of Micronesia. In making any requests pursuant to section 321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the 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 Federated States of Micronesia are set forth in separate agreements, which shall remain in effect in accordance with the terms of such agreements.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact, as amended, and its related agreements, the Government of the United States, exclusively, has assumed and enjoys, as to 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 November 2, 1986.

(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 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 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 (with the exception of any person described in section 141(a)(5) who is not a citizen of the Federated States of Micronesia) 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 as long as such person has resided in the United States for a period of less than one year, provided that no time shall count towards this one year while a person admitted to the United States under the Compact, or the Compact, as amended, is engaged in full-time study in the United States. Any person described in section 141(a)(5) who is not a citizen of the Federated States of Micronesia shall be subject to United States laws relating to selective service.

Section 342

The Government of the United States shall have enrolled, at any one time, at least one qualified student from the Federated States of Micronesia, as may be nominated by the Government of the Federated States of Micronesia, 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. 1295(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, as amended.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of the Federated States of Micronesia shall continue to maintain

a Joint Committee empowered to consider disputes arising under the implementation of this Title and its related agreements.

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

(c) Unless otherwise mutually agreed, the Joint Committee shall meet annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. The Joint Committee also shall meet promptly upon request of either of its members. The Joint Committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree. Upon notification by the Government of the United States, the Joint Committee of the United States and the Federated States of Micronesia shall meet promptly in a combined session with the Joint Committee established and maintained by the Government of the United States and the Republic of the Marshall Islands to consider matters within the jurisdiction of the two Joint Committees.

(d) Unresolved issues in the Joint Committee shall be referred to the Governments for resolution, and the Government of 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 Government of the Federated States of Micronesia under Titles One, Two and Four and to the responsibility of the Government of the Federated States of Micronesia to assure the well-being of its people.

Section 353

(a) The Government of the United States shall not include the Government of the Federated States of Micronesia as a named party to a formal declaration of war, without that Government's consent.

(b) Absent such consent, this Compact, as amended, 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 Federated States of Micronesia, which arise out of armed conflict subsequent to November 3, 1986, 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) The Government of the United States and the Government of the Federated States of Micronesia are jointly committed to continue their security and defense relations, as set forth in this

Title. Accordingly, it is the intention of the two countries that the provisions of this Title shall remain binding as long as this Compact, as amended, remains in effect, and thereafter as mutually agreed, unless earlier terminated by mutual agreement pursuant to section 441, or amended pursuant to Article III of Title Four. If at any time the Government of the United States, or the Government of the Federated States of Micronesia, acting unilaterally, terminates this Title, such unilateral termination shall be considered to be termination of the entire Compact, in which case the provisions of section 442 and 452 (in the case of termination by the Government of the United States) or sections 443 and 453 (in the case of termination by the Government of the Federated States of Micronesia), with the exception of paragraph (3) of subsection (a) of section 452 or paragraph (3) of subsection (a) of section 453, as the case may be, shall apply.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Government of the Federated States of Micronesia, and in view of the existence of the separate agreement regarding mutual security concluded with the Government of the Federated States of Micronesia pursuant to sections 321 and 323, that, even if this Title should terminate, any attack on the Federated States of Micronesia during the period in which such separate agreement is 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 Federated States of Micronesia in accordance with its constitutional processes.

(c) As reflected in Article 21(1)(b) of the Trust Fund Agreement, the Government of the United States and the Government of the Federated States of Micronesia further recognize, in view of the special relationship between their countries, that even if this Title should terminate, the Government of the Federated States of Micronesia shall refrain from actions which the Government of the United States determines, after appropriate consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Federated States of Micronesia or the Republic of the Marshall Islands.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

Pursuant to section 432 of the Compact and subject to subsection (e) of section 461 of the Compact, as amended, the Compact, as amended, shall come into effect upon mutual agreement between the Government of the United States and the Government of the Federated States of Micronesia subsequent to completion of the following:

(a) Approval by the Government of the Federated States of Micronesia in accordance with its constitutional processes.

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

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 Federated States of Micronesia and that Government shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact, as amended, or of its related agreements.

Section 422

In the event the Government of the United States or the Government of the Federated States of Micronesia, after conferring pursuant to section 421, determines that there is a dispute and gives written notice thereof, the two Governments shall make a good faith effort to resolve the dispute between themselves.

Section 423

If a dispute between the Government of the United States and the Government of 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) Unless otherwise provided in this Compact, as amended, or its related agreements, 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, as amended. 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 Government of the Federated States of Micronesia.

Article III

Amendment

Section 431

The provisions of this Compact, as amended, may be further amended by mutual agreement of the Government of the United States and the Government of the Federated States of Micronesia, in accordance with their respective constitutional processes.

Article IV

Termination

Section 441

This Compact, as amended, may be terminated by mutual agreement of the Government of the Federated States of Micronesia and the Government of the United States, in accordance with their respective constitutional processes. Such mutual termination of this Compact, as amended, shall be without prejudice to the continued application of section 451 of this Compact, as amended, and the provisions of the Compact, as amended, set forth therein.

Section 442

Subject to section 452, this Compact, as amended, may be terminated by the Government of the United States in accordance with its constitutional processes. Such termination shall 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. Such termination of this Compact, as amended, shall be without prejudice to the continued application of section 452 of this Compact, as amended, and the provisions of the Compact, as amended, set forth therein.

Section 443

This Compact, as amended, shall be terminated by the Government of the Federated States of Micronesia, pursuant to its constitutional processes, subject to section 453 if the people represented by that Government vote in a plebiscite to terminate the Compact, as amended, or by another process permitted by the FSM constitution and mutually agreed between the Governments of the United

States and the Federated States of Micronesia. The Government of the Federated States of Micronesia shall notify the Government of the United States of its intention to call such a plebiscite, or to pursue another mutually agreed and constitutional process, which plebiscite or process shall take place not earlier than three months after delivery of such notice. The plebiscite or other process shall be administered by the Government of the Federated States of Micronesia in accordance with its constitutional and legislative processes. If a majority of the valid ballots cast in the plebiscite or other process favors termination, the Government of the Federated States of Micronesia shall, upon certification of the results of the plebiscite or other process, 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

(a) Should termination occur pursuant to section 441, economic and other assistance by the Government of the United States shall continue only if and as mutually agreed by the Governments of the United States and the Federated States of Micronesia, and in accordance with the parties' respective constitutional processes.

(b) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections (b) and (c) of section 354 of this Compact, as amended, and the separate agreement entered into consistent with those subsections, if termination occurs pursuant to section 441 prior to the twentieth anniversary of the effective date of this Compact, as amended, the United States shall continue to make contributions to the Trust Fund described in section 215 of this Compact, as amended.

(c) In view of the special relationship of the United States and the Federated States of Micronesia described in subsection (b) of this section, if termination occurs pursuant to section 441 following the twentieth anniversary of the effective date of this Compact, as amended, the Federated States of Micronesia shall be entitled to receive proceeds from the Trust Fund described in section 215 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement governing the distribution of such proceeds.

Section 452

(a) Should termination occur pursuant to section 442 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this Compact, as amended, shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

(1) Article VI and sections 172, 173, 176 and 177 of Title One;

(2) Sections 232 and 234 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) Should termination occur pursuant to section 442 before the twentieth anniversary of the effective date of the Compact, as amended:

(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, economic and other assistance by the United States shall continue only if and as mutually agreed by the Governments of the United States and the Federated States of Micronesia.

(2) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections (b) and (c) of section 354 of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, the United States shall continue to make contributions to the Trust Fund described in section 215 of this Compact, as amended, in the manner described in the Trust Fund Agreement.

(c) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 442 following the twentieth anniversary of the effective date of this Compact, as amended, the Federated States of Micronesia shall continue to be eligible to receive proceeds from the Trust Fund described in section 215 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 453

(a) Should termination occur pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this Compact, as amended, shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

(1) Article VI and sections 172, 173, 176 and 177 of Title One;

(2) Sections 232 and 234 of Title Two;

(3) Title Three; and

(4) Articles 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 of the Federated States of Micronesia shall promptly consult with regard to their future relationship. Except as provided in subsection (c) and (d) of this section, these consultations shall determine the level of economic and other assistance, if any, which the Government of the United States shall provide to the Government of the Federated States of Micronesia for the period ending on the twentieth anniversary of the effective date of this Compact, as amended, and for any period thereafter, if mutually agreed.

(c) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the United States shall continue to make contributions to the Trust Fund described in section 215 of this Compact, as amended, in the manner described in the Trust Fund Agreement.

(d) In view of the special relationship of the United States and the Federated States of Micronesia, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 443 following the twentieth anniversary of the effective date of this Compact, as amended, the Federated States of Micronesia shall continue to be eligible to receive proceeds from the Trust Fund described in section 215 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 454

Notwithstanding any other provision of this Compact, as amended:

(a) The Government of the United States reaffirms its continuing interest in promoting the economic advancement and budgetary self-reliance of the people of the Federated States of Micronesia.

(b) The separate agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact, as amended, only, and without prejudice to the views of the Government of the United States or the Government of the Federated States of Micronesia as to the nature and extent of the jurisdiction of either of them under international law, 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 former 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 Federated States of Micronesia" and "the Republic of the Marshall Islands" 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) "Compact" means the Compact of Free Association Between the United States and the Federated States of Micronesia and the Marshall Islands, that was approved by the United States Congress in section 201 of Public Law 99–239 (Jan. 14, 1986) and went into effect with respect to the Federated States of Micronesia on November 3, 1986.

(e) "Compact, as amended" means the Compact of Free Association Between the United States and the Federated States of Micronesia, as amended. The effective date of the Compact, as amended, shall be on a date to be determined by the President of the United States, and agreed to by the Government of the Federated States of Micronesia, following formal approval of the Compact, as amended, in accordance with section 411 of this Compact, as amended.

(f) "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.

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

(h) The following terms shall be defined consistent with the 1998 Edition of the Radio Regulations of the International Telecommunications Union as follows:

(1) "Radiocommunication" 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 radiocommunication service, or the radio astronomy service.

(3) "Broadcasting Service" means a radiocommunication service in which the transmissions are intended for direct reception by the general public. This service may include sound transmissions, television transmissions or other types of transmission.

(4) "Broadcasting Station" means a station in the broadcasting service.

(5) "Assignment (of a radio frequency or radio frequency channel)" means an authorization given by an administration for a radio station to use a radio frequency or radio frequency channel under specified conditions.

(6) "Telecommunication" means any transmission, emission or reception of signs, signals, writings, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

(i) "Military Areas and Facilities" means those areas and facilities in the Federated States of Micronesia reserved or acquired by the Government of 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) "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.

(k) "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

(a) The Government of the United States and the Government of the Federated States of Micronesia previously have concluded agreements pursuant to the Compact, which shall remain in effect and shall survive in accordance with their terms, as follows:

(1) Agreement Concluded Pursuant to Section 234 of the Compact;

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

(3) Agreement Between the Government of the United States of America and the Federated States of Micronesia Regarding Aspects of the Marine Sovereignty and Jurisdiction of the Federated States of Micronesia.

(b) The Government of the United States and the Government of the Federated States of Micronesia shall conclude prior to the date of submission of this Compact, as amended, to the legislatures of the two countries, the following related agreements which shall come into effect on the effective date of this Compact, as amended, and shall survive in accordance with their terms, as follows:

(1) Federal Programs and Services Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Concluded Pursuant to Article III of Title One, Article II of Title Two (including Section 222), and Section 231 of the Compact of Free Association, as amended which includes:

(i) Postal Services and Related Programs;

(ii) Weather Services and Related Programs;

(iii) Civil Aviation Safety Service and Related Programs;

(iv) Civil Aviation Economic Services and Related Programs;

(v) United States Disaster Preparedness and Response Services and Related Programs;

(vi) Federal Deposit Insurance Corporation Services and Related Programs; and

(vii) Telecommunications Services and Related Programs.

(2) Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175(a) of the Compact of Free Association, as amended;

(3) Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia on Labor Recruitment Concluded Pursuant to Section 175(b) of the Compact of Free Association, as amended;

(4) Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact of Free Association, as Amended, of Free Association Between the Government of the United States of America and Government of the Federated States of Micronesia;

(5) Agreement Between the Government of the United States of America and the Government of the Federated States

of Micronesia Implementing Section 215 and Section 216 of the Compact, as Amended, Regarding a Trust Fund;

(6) 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 211(b), 321 and 323 of the Compact of Free Association, as Amended; and the

(7) Status of Forces Agreement Between the Government of the United States of America and the Government of the Federated States of Micronesia Concluded Pursuant to Section 323 of the Compact of Free Association, as Amended.

Section 463

(a) Except as set forth in subsection (b) of this section, any reference in this Compact, as amended, 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 amended, as such provision was in force on the effective date of this Compact, as amended.

(b) Any reference in Articles IV and Article VI of Title One and Sections 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, the Administrative Procedure Act or the Immigration and Nationality Act constitutes the incorporation of the language of such provision into this Compact, as amended, as such provision was in force on the effective date of this Compact, as amended, 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

Both the Government of the United States and the Government of the Federated States of Micronesia shall take all necessary steps, of a general or particular character, to ensure, no later than the entry into force date of this Compact, as amended, the conformity of its laws, regulations and administrative procedures with the provisions of this Compact, as amended, or in the case of subsection (d) of section 141, as soon as reasonably possible thereafter.

Section 472

This Compact, as amended, 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 Compact of Free Association, as amended, which shall enter into force upon the exchange of diplomatic notes by which the Government of the United States of America and the Government of the Federated States of Micronesia inform each other about the fulfillment of their respective requirements for entry into force.

DONE at Pohnpei, Federated States of Micronesia, in duplicate, this fourteenth (14) day of May, 2003, each text being equally authentic.

Signed (May 14, 2003)
For the Government of the United States of America:

Ambassador Larry M. Dinger
U.S. Ambassador to the Federated States of Micronesia

Signed (May 14, 2003)
For the Government of the Federated States of Micronesia:

His Excellency Jesse B. Marehalau
Ambassador Extraordinary and Plenipotentiary

(b) COMPACT OF FREE ASSOCIATION, AS AMENDED, BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS.—The Compact of Free Association, as amended, between the Government of the United States of America and the Government of the Republic of the Marshall Islands is as follows:

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE MARSHALL ISLANDS

Affirming that their Governments and their relationship as Governments are founded upon respect for human rights and fundamental freedoms for all, and that the people of the Republic of the Marshall Islands have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the Republic of the Marshall Islands in creating and maintaining their close and mutually beneficial relationship through the free and voluntary association of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and budgetary self-reliance of the Republic of the Marshall Islands; and

Recognizing that their relationship until the entry into force on October 21, 1986 of the Compact was 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 people of the Republic of the Marshall Islands have progressively developed their institutions of self-government, and that in the exercise of their sovereign right to self-determination they, through their freely-expressed wishes, have adopted a Constitution appropriate to their particular circumstances; and

Recognizing that the Compact reflected their common desire to terminate the Trusteeship and establish a government-to-government relationship which was in accordance with the new political status based on the freely expressed wishes of the people of the Republic of the Marshall Islands and appropriate to their particular circumstances; and

Recognizing that the people of the Republic of the Marshall Islands have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own Constitution and form of government and that the approval of the entry of the Government of the Republic of the Marshall Islands into the Compact by the people of the Republic of the Marshall Islands constituted an exercise of their sovereign right to self-determination; and

Recognizing the common desire of the people of the United States and the people of the Republic of the Marshall Islands

to maintain their close government-to-government relationship, the United States and the Republic of the Marshall Islands:

NOW, THEREFORE, MUTUALLY AGREE to continue and strengthen their relationship of free association by amending the Compact, which continues to provide a full measure of self-government for the people of the Republic of the Marshall Islands; and

FURTHER AGREE that the relationship of free association derives from and is as set forth in this Compact, as amended, by the Governments of the United States and the Republic of the Marshall Islands; and that, during such relationship of free association, the respective rights and responsibilities of the Government of the United States and the Government of the Republic of the Marshall Islands in regard to this relationship of free association derive from and are as set forth in this Compact, as amended.

TITLE ONE

GOVERNMENTAL RELATIONS

Article I

Self-Government

Section 111

The people of the Republic of the Marshall Islands, acting through the Government established under their Constitution, are self-governing.

Article II

Foreign Affairs

Section 121

(a) The Government of the Republic of the Marshall Islands has the capacity to conduct foreign affairs and shall do so in its own name and right, except as otherwise provided in this Compact, as amended.

(b) The foreign affairs capacity of the Government of the Republic of the Marshall Islands 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 its 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 its individual citizens.

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

(d) In the conduct of its foreign affairs, the Government of the Republic of the Marshall Islands confirms that it shall act

in accordance with principles of international law and shall settle its international disputes by peaceful means.

Section 122

The Government of the United States shall support applications by the Government of the Republic of the Marshall Islands for membership or other participation in regional or international organizations as may be mutually agreed.

Section 123

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

(b) In recognition of the foreign affairs capacity of the Government of the Republic of the Marshall Islands, the Government of the United States, in the conduct of its foreign affairs, shall consult with the Government of the Republic of the Marshall Islands on matters that the Government of the United States regards as relating to or affecting the Government of the Republic of the Marshall Islands.

Section 124

The Government of the United States may assist or act on behalf of the Government of the Republic of the Marshall Islands 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 Republic of the Marshall Islands 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 Republic of the Marshall Islands 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 Republic of the Marshall Islands 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 Republic of the Marshall Islands for travel outside the Republic of the Marshall Islands, the United States and its territories and possessions.

Section 127

Except as otherwise provided in this Compact, as amended, or its related agreements, all obligations, responsibilities, rights and benefits of the Government of the United States as Administering Authority which 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 October 20, 1986, are, as of that date, no longer assumed and enjoyed by the Government of the United States.

Article III

Communications

Section 131

(a) The Government of the Republic of the Marshall Islands has full authority and responsibility to regulate its domestic and foreign communications, and the Government of the United States shall provide communications assistance as mutually agreed.

(b) The Government of the Republic of the Marshall Islands has elected to undertake all functions previously performed by the Government of the United States with respect to domestic and foreign communications, except for those functions set forth in a separate agreement entered into pursuant to this section of the Compact, as amended.

Section 132

The Government of the Republic of the Marshall Islands shall permit the Government of the United States to operate telecommunications services in the Republic of the Marshall Islands to the extent necessary to fulfill the obligations of the Government of the United States under this Compact, as amended, in accordance with the terms of separate agreements entered into pursuant to this section of the Compact, as amended.

Article IV

Immigration

Section 141

(a) In furtherance of the special and unique relationship that exists between the United States and the Republic of the Marshall Islands, under the Compact, as amended, any person in the following categories may be admitted to lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions (the "United States") without regard to paragraphs (5) or (7)(B)(i)(II) of section 212(a) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1182(a)(5) or (7)(B)(i)(II):

(1) a person who, on October 21, 1986, was 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 and remains a citizen of the Republic of the Marshall Islands;

(2) a person who acquires the citizenship of the Republic of the Marshall Islands at birth, on or after the effective date of the Constitution of the Republic of the Marshall Islands;

(3) an immediate relative of a person referred to in paragraphs (1) or (2) of this section, provided that such immediate relative is a naturalized citizen of the Republic of the Marshall Islands 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, and further provided, that, in the case of a spouse, such spouse has been married to the person referred to in paragraph (1) or (2) of this section for at least five years, and further provided, that the Government of the United States is satisfied that such naturalized citizen meets the requirement of subsection (b) of section 104 of Public Law 99–239 as it was in effect on the day prior to the effective date of this Compact, as amended;

(4) a naturalized citizen of the Republic of the Marshall Islands who was an actual resident there for not less than five years after attaining such naturalization and who satisfied

these requirements as of April 30, 2003, who continues to be an actual resident and holds a certificate of actual residence, and whose name is included in a list furnished by the Government of the Republic of the Marshall Islands to the Government of the United States no later than the effective date of the Compact, as amended, in form and content acceptable to the Government of the United States, provided, that the Government of the United States is satisfied that such naturalized citizen meets the requirement of subsection (b) of section 104 of Public Law 99–239 as it was in effect on the day prior to the effective date of this Compact, as amended; or

(5) an immediate relative of a citizen of the Republic of the Marshall Islands, regardless of the immediate relative's country of citizenship or period of residence in the Republic of the Marshall Islands, if the citizen of the Republic of the Marshall Islands is serving on active duty in any branch of the United States Armed Forces, or in the active reserves.

(b) Notwithstanding subsection (a) of this section, a person who is coming to the United States pursuant to an adoption outside the United States, or for the purpose of adoption in the United States, is ineligible for admission under the Compact and the Compact, as amended. This subsection shall apply to any person who is or was an applicant for admission to the United States on or after March 1, 2003, including any applicant for admission in removal proceedings (including appellate proceedings) on or after March 1, 2003, regardless of the date such proceedings were commenced. This subsection shall have no effect on the ability of the Government of the United States or any United States State or local government to commence or otherwise take any action against any person or entity who has violated any law relating to the adoption of any person.

(c) Notwithstanding subsection (a) of this section, no person who has been or is granted citizenship in the Republic of the Marshall Islands, or has been or is issued a Republic of the Marshall Islands passport pursuant to any investment, passport sale, or similar program has been or shall be eligible for admission to the United States under the Compact or the Compact, as amended.

(d) A person admitted to the United States under the Compact, or the Compact, as amended, shall be considered to have the permission of the Government of the United States to accept employment in the United States. An unexpired Republic of the Marshall Islands passport with unexpired documentation issued by the Government of the United States evidencing admission under the Compact or the Compact, as amended, shall be considered to be documentation establishing identity and employment authorization under section 274A(b)(1)(B) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1324a(b)(1)(B). The Government of the United States will take reasonable and appropriate steps to implement and publicize this provision, and the Government of the Republic of the Marshall Islands will also take reasonable and appropriate steps to publicize this provision.

(e) For purposes of the Compact and the Compact, as amended:

(1) the term "residence" with respect to a person means the person's principal, actual dwelling place in fact, without regard to intent, as provided in section 101(a)(33) of the Immigration and Nationality Act, as amended, 8 U.S.C.

1101(a)(33), and variations of the term "residence," including "resident" and "reside," shall be similarly construed;

(2) the term "actual residence" means physical presence in the Republic of the Marshall Islands during eighty-five percent of the five-year period of residency required by section 141(a)(3) and (4);

(3) the term "certificate of actual residence" means a certificate issued to a naturalized citizen by the Government of the Republic of the Marshall Islands stating that the citizen has complied with the actual residence requirement of section 141(a)(3) or (4);

(4) the term "nonimmigrant" means an alien who is not an "immigrant" as defined in section 101(a)(15) of such Act, 8 U.S.C. 1101(a)(15); and

(5) the term "immediate relative" means a spouse, or unmarried son or unmarried daughter less than 21 years of age.

(f) The Immigration and Nationality Act, as amended, shall apply to any person admitted or seeking admission to the United States (other than a United States possession or territory where such Act does not apply) under the Compact or the Compact, as amended, and nothing in the Compact or the Compact, as amended, shall be construed to limit, preclude, or modify the applicability of, with respect to such person:

(1) any ground of inadmissibility or deportability under such Act (except sections 212(a)(5) and 212(a)(7)(B)(i)(II) of such Act, as provided in subsection (a) of this section), and any defense thereto, provided that, section 237(a)(5) of such Act shall be construed and applied as if it reads as follows: "any alien who has been admitted under the Compact, or the Compact, as amended, who cannot show that he or she has sufficient means of support in the United States, is deportable;"

(2) the authority of the Government of the United States under section 214(a)(1) of such Act to provide that admission as a nonimmigrant shall be for such time and under such conditions as the Government of the United States may by regulations prescribe;

(3) except for the treatment of certain documentation for purposes of section 274A(b)(1)(B) of such Act as provided by subsection (d) of this section of the Compact, as amended, any requirement under section 274A, including but not limited to section 274A(b)(1)(E);

(4) section 643 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, and actions taken pursuant to section 643; and

(5) the authority of the Government of the United States otherwise to administer and enforce the Immigration and Nationality Act, as amended, or other United States law.

(g) Any authority possessed by the Government of the United States under this section of the Compact or the Compact, as amended, may also be exercised by the Government of a territory or possession of the United States where the Immigration and Nationality Act, as amended, does not apply, to the extent such exercise of authority is lawful under a statute or regulation of such territory or possession that is authorized by the laws of the United States.

(h) Subsection (a) of this section does not confer on a citizen of the Republic of the Marshall Islands the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, as amended, or to petition for benefits for alien relatives under that Act. Subsection (a) of this section, however, shall not prevent a citizen of the Republic of the Marshall Islands 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 be admitted to lawfully engage in occupations, and reside in the Republic of the Marshall Islands, subject to the rights of the Government of the Republic of the Marshall Islands to deny entry to or deport any such citizen or national as an undesirable alien. Any determination of inadmissibility or deportability shall be based on reasonable statutory grounds and shall be subject to appropriate administrative and judicial review within the Republic of the Marshall Islands. If a citizen or national of the United States is a spouse of a citizen of the Republic of the Marshall Islands, the Government of the Republic of the Marshall Islands shall allow the United States citizen spouse to establish residence. Should the Republic of the Marshall Islands citizen spouse predecease the United States citizen spouse during the marriage, the Government of the Republic of the Marshall Islands shall allow the United States citizen spouse to continue to reside in the Republic of the Marshall Islands.

(b) In enacting any laws or imposing any requirements with respect to citizens and nationals of the United States entering the Republic of the Marshall Islands under subsection (a) of this section, including any grounds of inadmissibility or deportability, the Government of the Republic of the Marshall Islands shall accord to such citizens and nationals of the United States treatment no less favorable than that accorded to citizens of other countries.

(c) Consistent with subsection (a) of this section, with respect to citizens and nationals of the United States seeking to engage in employment or invest in the Republic of the Marshall Islands, the Government of the Republic of the Marshall Islands shall adopt immigration-related procedures no less favorable than those adopted by the Government of the United States with respect to citizens of the Republic of the Marshall Islands seeking employment in the United States.

Section 143

Any person who relinquishes, or otherwise loses, his United States nationality or citizenship, or his Republic of the Marshall Islands citizenship, shall be ineligible to receive the privileges set forth in sections 141 and 142. Any such person may apply for admission to the United States or the Republic of the Marshall Islands, as the case may be, in accordance with any other applicable laws of the United States or the Republic of the Marshall Islands relating to immigration of aliens from other countries. The laws of the Republic of the Marshall Islands or the United States, as the case may be, shall dictate the terms and conditions of any such person's stay.

Article V

Representation

Section 151

Relations between the Government of the United States and the Government of 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.

Section 152

(a) Any citizen or national of the United States who, without authority of the United States, acts as the agent of the Government of the Republic of the Marshall Islands 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 or national 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 Republic of the Marshall Islands shall be considered to be a foreign country.

(b) Subsection (a) of this section shall not apply to a citizen or national of the United States employed by the Government of the Republic of the Marshall Islands with respect to whom the Government of the Republic of the Marshall Islands from time to time certifies to the Government of the United States that such citizen or national is an employee of the Republic of the Marshall Islands 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.

Article VI

Environmental Protection

Section 161

The Governments of the United States and the Republic of the Marshall Islands 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 Republic of the Marshall Islands. In order to carry out this policy, the Government of the United States and the Government of the Republic of the Marshall Islands agree to the following mutual and reciprocal undertakings:

(a) The Government of the United States:

(1) shall, for its activities controlled by the U.S. Army at Kwajalein Atoll and in the Mid-Atoll Corridor and for U.S. Army Kwajalein Atoll activities in the Republic of the Marshall Islands, continue to apply the Environmental

Standards and Procedures for United States Army Kwajalein Atoll Activities in the Republic of the Marshall Islands, unless and until those Standards or Procedures are modified by mutual agreement of the Governments of the United States and the Republic of the Marshall Islands;

(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, as amended, and its related agreements as if the Republic of the Marshall Islands were the United States;

(3) in the conduct of any activity not described in section 161(a)(1) requiring the preparation of an Environmental Impact Statement under section 161(a)(2), shall comply with standards substantively similar to those required by the following laws of the United States, taking into account the particular environment of the Republic of the Marshall Islands; the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq.; the Clean Air Act, as amended, 42 U.S.C. 7401 et seq.; the Clean Water Act (Federal Water Pollution Control Act), as amended, 33 U.S.C. 1251 et seq.; Title I of the Marine Protection, Research and Sanctuaries Act of 1972 (the Ocean Dumping Act), 33 U.S.C. 1411 et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq.; the Solid Waste Disposal Act, as amended, 42 U.S.C. 6901 et seq.; and such other environmental protection laws of the United States and the Republic of the Marshall Islands as may be agreed from time to time with the Government of the Republic of the Marshall Islands;

(4) shall, prior to conducting any activity not described in section 161(a)(1) requiring the preparation of an Environmental Impact Statement under section 161(a)(2), develop, as agreed with the Government of the Republic of the Marshall Islands, written environmental standards and procedures to implement the substantive provisions of the laws made applicable to U.S. Government activities in the Republic of the Marshall Islands, pursuant to section 161(a)(3).

(b) The Government of the Republic of the Marshall Islands shall continue to develop and implement standards and procedures to protect its environment. As a reciprocal obligation to the undertakings of the Government of the United States under this Article, the Republic of the Marshall Islands, taking into account its particular environment, shall continue to develop and implement standards for environmental protection substantively similar to those required of the Government of the United States by section 161(a)(3) prior to its conducting activities in the Republic of the Marshall Islands, 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 Republic of the Marshall Islands.

(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, as amended, 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, as amended, 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 Government of the Republic of the Marshall Islands 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 Government of the Republic of the Marshall Islands.

(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, as amended, and its related agreements only to the extent provided for in this section.

Section 162

The Government of the Republic of the Marshall Islands may bring an action for judicial review of any administrative agency action or any activity of the Government of the United States pursuant to section 161(a) 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 of the Republic of the Marshall Islands.

(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 United States District Court for the District of Hawaii and the United States District Court for the District of Columbia 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 United States 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 for in this section shall be the exclusive remedy for the judicial review or enforcement of the obligations of the Government of the United States under this Article and actions brought under section 172(b), which relate to the activities of the Government of the United States and its officers and employees governed by section 161.

(f) In actions pursuant to this section, the Government of the Republic of the Marshall Islands shall be treated as if it were a United States citizen.

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 Government of the Republic of the Marshall Islands shall be granted access to facilities operated by the Government of the United States in the Republic of the Marshall Islands, 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 Republic of the Marshall Islands 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 Republic of the Marshall Islands 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 the Government of the Republic of the Marshall Islands under the Freedom of Information Act, 5 U.S.C. 552.

(c) The Government of the Republic of the Marshall Islands 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, as amended, 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 ceased with respect to the Marshall Islands on October 21, 1986, the date the Compact went into effect.

Section 172

(a) Every citizen of the Republic of the Marshall Islands 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 Government of the Republic of the Marshall Islands and every citizen of the Republic of the Marshall Islands shall be considered to be 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 Republic of the Marshall Islands 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 and the Republic of the Marshall Islands agree to adopt and enforce such measures, consistent with this Compact, as amended, 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 Republic of the Marshall Islands pursuant to this Compact, as amended, and its related agreements and by the Government of the Republic of the Marshall Islands in the United States pursuant to this Compact, Compact, as amended, and its related agreements.

Section 174

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

(a) The Government of the Republic of the Marshall Islands, and its agencies and officials, shall be immune from the jurisdiction of the court of the United States, and the Government of the United States, and its agencies and officials, shall be immune from the jurisdiction of the courts of the Republic of the Marshall Islands.

(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 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 October 21, 1986;

(2) any claim settled by the claimant and the Government of the Trust Territory of the Pacific Islands but not paid as of October 21, 1986; and

(3) settlement of any administrative claim or of any action before a court 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 the 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 courts, which shall have jurisdiction therefore, 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 Government of the Republic of the Marshall Islands 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 Republic of the Marshall Islands in any civil case in which an exception to foreign state immunity is set forth in the Foreign Sovereign Immunities Act (28 U.S.C. 1602 et seq.) or its successor statutes.

Section 175

(a) A separate agreement, which shall come into effect simultaneously with this Compact, as amended, and shall have the force of law, shall govern mutual assistance and cooperation in law enforcement matters, including the pursuit, capture, imprisonment and extradition of fugitives from justice and the transfer of prisoners, as well as other law enforcement matters. In the United States, the laws of the United States governing international extradition, including 18 U.S.C. 3184, 3186, and 3188–95, 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. 4100–15, shall be applicable to the transfer of prisoners under the separate agreement; and

(b) A separate agreement, which shall come into effect simultaneously with this Compact, as amended, and shall have the force of law, shall govern requirements relating to labor recruitment practices, including registration, reporting, suspension or revocation of authorization to recruit persons for employment in the United States, and enforcement for violations of such requirements.

Section 176

The Government of the Republic of the Marshall Islands confirms 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 Republic of the Marshall Islands to grant relief from judgments in appropriate cases.

Section 177

Section 177 of the Compact entered into force with respect to the Marshall Islands on October 21, 1986 as follows:

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

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

The Compact, as amended, makes no changes to, and has no effect upon, Section 177 of the Compact, nor does the Compact, as amended, change or affect the separate agreement referred to in Section 177 of the Compact including Articles IX and X of that separate agreement, and measures taken by the parties thereunder.

Section 178

(a) The Federal agencies of the Government of the United States that provide services and related programs in the Republic of the Marshall Islands pursuant to Title Two are authorized to settle and pay tort claims arising in the Republic of the Marshall Islands 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) that 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 Republic of the Marshall Islands shall, in the separate agreement referred to in section 231, provide for:

(1) the administrative settlement of claims referred to in section 178(a), including designation of local agents in each State of the Republic of the Marshall Islands; 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).

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

(e) Except as otherwise explicitly provided by law of the United States, this Compact, as amended, or its related agreements, neither the Government of the United States, its instrumentalities, nor any person acting on behalf of the Government of the United States, shall be named a party in any action based on, or arising out of, the activity or activities of a recipient of any grant or other assistance provided by the Government of the United States (or the activity or activities of the recipient's agency or any other person or entity acting on behalf of the recipient).

Section 179

(a) The courts of the Republic of the Marshall Islands shall not exercise criminal jurisdiction over the Government of the United States, or its instrumentalities.

(b) The courts of the Republic of the Marshall Islands shall not exercise criminal jurisdiction over any person if the Government of the United States provides notification to the Government of the Republic of the Marshall Islands that such person was acting on behalf of the Government of the United States, for actions taken in furtherance of section 221 or 224 of this amended Compact, or any other provision of law authorizing financial, program, or service assistance to the Republic of the Marshall Islands.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211 - Annual Grant Assistance

(a) In order to assist the Government of the Republic of the Marshall Islands in its efforts to promote the economic advancement and budgetary self-reliance of its people, and in recognition of the special relationship that exists between the Republic of the Marshall Islands and the United States, the Government of the United States shall provide assistance on a grant basis for a period of twenty years in the amounts set forth in section 217, commencing on the effective date of this Compact, as amended. Such grants shall be used for assistance in education, health care, the environment, public sector capacity building, and private sector development, or for other areas as mutually agreed, with priorities in the education and health care sectors. Consistent with the medium-term budget and investment framework described in subsection (f) of this section, the proposed division of this amount among the identified areas shall require the concurrence of both the Government of the United States and the Government of the Republic of the Marshall Islands, through the Joint Economic Management and Financial Accountability Committee described in section 214. The Government of the United States shall disburse the grant assistance and monitor the use of such grant assistance in accordance with the provisions of this Article and an Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact, as Amended, of Free Association Between the Government of the United States of America and the Government of the Republic of the Marshall

Islands ("Fiscal Procedures Agreement") which shall come into effect simultaneously with this Compact, as amended.

(1) EDUCATION.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support and improve the educational system of the Republic of the Marshall Islands and develop the human, financial, and material resources necessary for the Republic of the Marshall Islands to perform these services. Emphasis should be placed on advancing a quality basic education system.

(2) HEALTH.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support and improve the delivery of preventive, curative and environmental care and develop the human, financial, and material resources necessary for the Republic of the Marshall Islands to perform these services.

(3) PRIVATE SECTOR DEVELOPMENT.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support the efforts of the Republic of the Marshall Islands to attract foreign investment and increase indigenous business activity by vitalizing the commercial environment, ensuring fair and equitable application of the law, promoting adherence to core labor standards, maintaining progress toward privatization of state-owned and partially state-owned enterprises, and engaging in other reforms.

(4) CAPACITY BUILDING IN THE PUBLIC SECTOR.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support the efforts of the Republic of the Marshall Islands to build effective, accountable and transparent national and local government and other public sector institutions and systems.

(5) ENVIRONMENT.—United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to increase environmental protection; establish and manage conservation areas; engage in environmental infrastructure planning, design construction and operation; and to involve the citizens of the Republic of the Marshall Islands in the process of conserving their country's natural resources.

(b) KWAJALEIN ATOLL.—

(1) Of the total grant assistance made available under subsection (a) of this section, the amount specified herein shall be allocated annually from fiscal year 2004 through fiscal year 2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) to advance the objectives and specific priorities set forth in subsections (a) and (d) of this section and the Fiscal Procedures Agreement, to address the special needs of the community at Ebeye, Kwajalein Atoll and other Marshallese communities within Kwajalein Atoll. This United States grant assistance shall be made available, in accordance with the medium-term budget and investment framework described in subsection (f) of this section, to support and

improve the infrastructure and delivery of services and develop the human and material resources necessary for the Republic of the Marshall Islands to carry out its responsibility to maintain such infrastructure and deliver such services. The amount of this assistance shall be $3,100,000, with an inflation adjustment as provided in section 218, from fiscal year 2004 through fiscal year 2013 and the fiscal year 2013 level of funding, with an inflation adjustment as provided in section 218, will be increased by $2 million for fiscal year 2014. The fiscal year 2014 level of funding, with an inflation adjustment as provided in section 218, will be made available from fiscal year 2015 through fiscal year 2023 (and thereafter as noted above).

(2) The Government of the United States shall also provide to the Government of the Republic of the Marshall Islands, in conjunction with section 321(a) of this Compact, as amended, an annual payment from fiscal year 2004 through fiscal year 2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) of $1.9 million. This grant assistance will be subject to the Fiscal Procedures Agreement and will be adjusted for inflation under section 218 and used to address the special needs of the community at Ebeye, Kwajalein Atoll and other Marshallese communities within Kwajalein Atoll with emphasis on the Kwajalein landowners, as described in the Fiscal Procedures Agreement.

(3) Of the total grant assistance made available under subsection (a) of this section, and in conjunction with section 321(a) of the Compact, as amended, $200,000, with an inflation adjustment as provided in section 218, shall be allocated annually from fiscal year 2004 through fiscal year 2023 (and thereafter as provided in the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) for a grant to support increased participation of the Government of the Republic of the Marshall Islands Environmental Protection Authority in the annual U.S. Army Kwajalein Atoll Environmental Standards Survey and to promote a greater Government of the Republic of the Marshall Islands capacity for independent analysis of the Survey's findings and conclusions.

(c) HUMANITARIAN ASSISTANCE—REPUBLIC OF THE MARSHALL ISLANDS PROGRAM.—In recognition of the special development needs of the Republic of the Marshall Islands, the Government of the United States shall make available to the Government of the Republic of the Marshall Islands, on its request and to be deducted from the grant amount made available under subsection (a) of this section, a Humanitarian Assistance—Republic of the Marshall Islands ("HARMI") Program with emphasis on health, education, and infrastructure (including transportation), projects and such other projects as mutually agreed. The terms and conditions of the HARMI shall be set forth in the Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Republic of the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as

Amended, which shall come into effect simultaneously with the amendments to this Compact.

(d) PUBLIC INFRASTRUCTURE.—

(1) Unless otherwise agreed, not less than 30 percent and not more than 50 percent of U.S. annual grant assistance provided under this section shall be made available in accordance with a list of specific projects included in the infrastructure improvement and maintenance plan prepared by the Government of the Republic of the Marshall Islands as part of the strategic framework described in subsection (f) of this section.

(2) INFRASTRUCTURE MAINTENANCE FUND.—Five percent of the annual public infrastructure grant made available under paragraph (1) of this subsection shall be set aside, with an equal contribution from the Government of the Republic of the Marshall Islands, as a contribution to an Infrastructure Maintenance Fund. Administration of the Infrastructure Maintenance Fund shall be governed by the Fiscal Procedures Agreement.

(e) DISASTER ASSISTANCE EMERGENCY FUND.—Of the total grant assistance made available under subsection (a) of this section, an amount of two hundred thousand dollars ($200,000) shall be provided annually, with an equal contribution from the Government of the Republic of the Marshall Islands, as a contribution to a Disaster Assistance Emergency Fund ("DAEF"). Any funds from the DAEF may be used only for assistance and rehabilitation resulting from disasters and emergencies. The funds will be accessed upon declaration of a State of Emergency by the Government of the Republic of the Marshall Islands, with the concurrence of the United States Chief of Mission to the Republic of the Marshall Islands. Administration of the DAEF shall be governed by the Fiscal Procedures Agreement.

(f) BUDGET AND INVESTMENT FRAMEWORK.—The Government of the Republic of the Marshall Islands shall prepare and maintain an official medium-term budget and investment framework. The framework shall be strategic in nature, shall be continuously reviewed and updated through the annual budget process, and shall make projections on a multi-year rolling basis. Each of the sectors and areas named in subsections (a), (b), and (d) of this section, or other sectors and areas as mutually agreed, shall be accorded specific treatment in the framework. Those portions of the framework that contemplate the use of United States grant funds shall require the concurrence of both the Government of the United States and the Government of the Republic of the Marshall Islands.

Section 212 - Kwajalein Impact and Use

The Government of the United States shall provide to the Government of the Republic of the Marshall Islands in conjunction with section 321(a) of the Compact, as amended, and the agreement between the Government of the United States and the Government of the Republic of the Marshall Islands regarding military use and operating rights, a payment in fiscal year 2004 of $15,000,000, with no adjustment for inflation. In fiscal year 2005 and through fiscal year 2013, the annual payment will be the fiscal year 2004 amount ($15,000,000) with an inflation adjustment as provided under section 218. In fiscal year 2014, the annual payment will be $18,000,000 (with no adjustment for inflation) or the fiscal year

2013 amount with an inflation adjustment under section 218, whichever is greater. For fiscal year 2015 through fiscal year 2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) the annual payment will be the fiscal year 2014 amount, with an inflation adjustment as provided under section 218.

Section 213 - Accountability

(a) Regulations and policies normally applicable to United States financial assistance to its state and local governments, as set forth in the Fiscal Procedures Agreement, shall apply to each grant described in section 211, and to grants administered under section 221 below, except as modified in the separate agreements referred to in section 231 of this Compact, as amended, or by U.S. law. As set forth in the Fiscal Procedures Agreement, reasonable terms and conditions, including annual performance indicators that are necessary to ensure effective use of United States assistance and reasonable progress toward achieving program objectives may be attached. In addition, the United States may seek appropriate remedies for noncompliance with the terms and conditions attached to the assistance, or for failure to comply with section 234, including withholding assistance.

(b) The Government of the United States shall, for each fiscal year of the twenty years during which assistance is to be provided on a sector grant basis under section 211 (a), grant the Government of the Republic of the Marshall Islands an amount equal to the lesser of (i) one half of the reasonable, properly documented cost incurred during such fiscal year to conduct the annual audit required under Article VIII (2) of the Fiscal Procedures Agreement or (ii) $500,000. Such amount will not be adjusted for inflation under section 218 or otherwise.

Section 214 - Joint Economic Management and Financial Accountability Committee

The Governments of the United States and the Republic of the Marshall Islands shall establish a Joint Economic Management and Financial Accountability Committee, composed of a U.S. chair, two other members from the Government of the United States and two members from the Government of the Republic of the Marshall Islands. The Joint Economic Management and Financial Accountability Committee shall meet at least once each year to review the audits and reports required under this Title and the Fiscal Procedures Agreement, evaluate the progress made by the Republic of the Marshall Islands in meeting the objectives identified in its framework described in subsection (f) of section 211, with particular focus on those parts of the framework dealing with the sectors and areas identified in subsection (a) of section 211, identify problems encountered, and recommend ways to increase the effectiveness of U.S. assistance made available under this Title. The establishment and operations of the Joint Economic Management and Financial Accountability Committee shall be governed by the Fiscal Procedures Agreement.

Section 215 - Annual Report

The Government of the Republic of the Marshall Islands shall report annually to the President of the United States on the use of United States sector grant assistance and other assistance and progress in meeting mutually agreed program and economic goals. The Joint Economic Management and Financial Accountability

Committee shall review and comment on the report and make appropriate recommendations based thereon.

Section 216 - Trust Fund

(a) The United States shall contribute annually for twenty years from the effective date of the Compact, as amended, in the amounts set forth in section 217 into a trust fund established in accordance with the Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Implementing Section 216 and Section 217 of the Compact, as Amended, Regarding a Trust Fund ("Trust Fund Agreement"), which shall come into effect simultaneously with this Compact, as amended. Upon termination of the annual grant assistance under section 211 (a), (d) and (e), the earnings of the fund shall thereafter be used for the purposes described in section 211 or as otherwise mutually agreed.

(b) The United States contribution into the Trust Fund described in subsection (a) of this section is conditioned on the Government of the Republic of the Marshall Islands contributing to the Trust Fund at least $25,000,000, on the effective date of the Trust Fund Agreement or on October 1, 2003, whichever is later, $2,500,000 prior to October 1, 2004, and $2,500,000 prior to October 1, 2005. Any funds received by the Republic of the Marshall Islands under section 111(d) of Public Law 99–239 (January 14, 1986), or successor provisions, would be contributed to the Trust Fund as a Republic of the Marshall Islands' contribution.

(c) The terms regarding the investment and management of funds and use of the income of the Trust Fund shall be governed by the Trust Fund Agreement. Funds derived from United States investment shall not be subject to Federal or state taxes in the United States or any taxes in the Republic of the Marshall Islands. The Trust Fund Agreement shall also provide for annual reports to the Government of the United States and to the Government of the Republic of the Marshall Islands. The Trust Fund Agreement shall provide for appropriate distributions of trust fund proceeds to the Republic of the Marshall Islands and for appropriate remedies for the failure of the Republic of the Marshall Islands to use income of the Trust Fund for the annual grant purposes set forth in section 211. These remedies may include the return to the United States of the present market value of its contributions to the Trust Fund and the present market value of any undistributed income on the contributions of the United States. If this Compact, as amended, is terminated, the provisions of sections 451–453 of the Compact, as amended, and the Trust Fund Agreement shall govern treatment of any U.S. contributions to the Trust Fund or accrued income thereon.

Section 217 - Annual Grant Funding and Trust Fund Contributions

The funds described in sections 211, 212, 213(b), and 216 shall be made available as follows:

[In millions of dollars]

Fiscal year	Annual Grants Section 211	Audit Grant Section 213(b)	Trust Fund Section 216 (a&c)	Kwajalein Impact Section 212	Total
2004	35.2	.5	7	15.0	57.7
2005	34.7	.5	7.5	15.0	57.7
2006	34.2	.5	8	15.0	57.7
2007	33.7	.5	8.5	15.0	57.7

[In millions of dollars]

Fiscal year	Annual Grants Section 211	Audit Grant Section 213(b)	Trust Fund Section 216 (a&c)	Kwajalein Impact Section 212	Total
2008	33.2	.5	9	15.0	57.7
2009	32.7	.5	9.5	15.0	57.7
2010	32.2	.5	10	15.0	57.7
2011	31.7	.5	10.5	15.0	57.7
2012	31.2	.5	11	15.0	57.7
2013	30.7	.5	11.5	15.0	57.7
2014	32.2	.5	12	18.0	62.7
2015	31.7	.5	12.5	18.0	62.7
2016	31.2	.5	13	18.0	62.7
2017	30.7	.5	13.5	18.0	62.7
2018	30.2	.5	14	18.0	62.7
2019	29.7	.5	14.5	18.0	62.7
2020	29.2	.5	15	18.0	62.7
2021	28.7	.5	15.5	18.0	62.7
2022	28.2	.5	16	18.0	62.7
2023	27.7	.5	16.5	18.0	62.7

Section 218 - Inflation Adjustment

Except as otherwise provided, the amounts stated in this Title shall be adjusted for each United States Fiscal Year by the percent that equals two-thirds of the percent change in the United States Gross Domestic Product Implicit Price Deflator, or 5 percent, whichever is less in any one year, using the beginning of Fiscal Year 2004 as a base.

Section 219 - Carry-Over of Unused Funds

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

Article II

Services and Program Assistance

Section 221

(a) SERVICES.—The Government of the United States shall make available to the Republic of the Marshall Islands, in accordance with and to the extent provided in the Federal Programs and Services Agreement referred to in Section 231, the services and related programs of:

(1) the United States Weather Service;

(2) the United States Postal Service;

(3) the United States Federal Aviation Administration;

(4) the United States Department of Transportation; and

(5) the Department of Homeland Security, and the United States Agency for International Development, Office of Foreign Disaster Assistance.

Upon the effective date of this Compact, as amended, the United States Departments and Agencies named or having responsibility to provide these services and related programs shall have the authority to implement the relevant provisions of the Federal Programs and Services Agreement referred to in section 231.

(b) PROGRAMS.—

(1) Other than the services and programs covered by subsection (a) of this section, and to the extent authorized by the Congress of the United States, the Government of the

United States shall make available to the Republic of the Marshall Islands the services and programs that were available to the Republic of the Marshall Islands on the effective date of this Compact, as amended, to the extent that such services and programs continue to be available to State and local governments of the United States. As set forth in the Fiscal Procedures Agreement, funds provided under subsection (a) of section 211 shall be considered to be local revenues of the Government of the Republic of the Marshall Islands when used as the local share required to obtain Federal programs and services.

(2) Unless provided otherwise by U.S. law, the services and programs described in paragraph (1) of this subsection shall be extended in accordance with the terms of the Federal Programs and Services Agreement.

(c) The Government of the United States shall have and exercise such authority as is necessary to carry out its responsibilities under this Title and the Federal Programs and Services Agreement, including the authority to monitor and administer all service and program assistance provided by the United States to the Republic of the Marshall Islands. The Federal Programs and Services Agreement shall also set forth the extent to which services and programs shall be provided to the Republic of the Marshall Islands.

(d) Except as provided elsewhere in this Compact, as amended, under any separate agreement entered into under this Compact, as amended, or otherwise under U.S. law, all Federal domestic programs extended to or operating in the Republic of the Marshall Islands shall be subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs and services when operating in the United States.

(e) The Government of the United States shall make available to the Republic of the Marshall Islands alternate energy development projects, studies, and conservation measures to the extent provided for the Freely Associated States in the laws of the United States.

Section 222

The Government of the United States and the Government of the Republic of the Marshall Islands may agree from time to time to extend to the Republic of the Marshall Islands additional United States grant assistance, services and programs, as provided under the laws of the United States. Unless inconsistent with such laws, or otherwise specifically precluded by the Government of the United States at the time such additional grant assistance, services, or programs are extended, the Federal Programs and Services Agreement shall apply to any such assistance, services or programs.

Section 223

The Government of the Republic of the Marshall Islands 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 Republic of the Marshall Islands at no cost to the Government of the United States as of the effective date of this Compact, as amended, or as may be mutually agreed thereafter.

Section 224

The Government of the Republic of the Marshall Islands may request, from the 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. If technical assistance is granted pursuant to such a request, the Government of the United States shall provide the technical assistance in a manner which gives priority consideration to the Republic of the Marshall Islands over other recipients not a part of the United States, its territories or possessions, and equivalent consideration to the Republic of the Marshall Islands with respect to other states in Free Association with the United States. Such assistance shall be made available on a reimbursable or non-reimbursable basis to the extent provided by United States law.

Article III

Administrative Provisions

Section 231

The specific nature, extent and contractual arrangements of the services and programs provided for in section 221 of this Compact, as amended, 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 Republic of the Marshall Islands, and other arrangements in connection with the assistance, services, or programs furnished by the Government of the United States, are set forth in a Federal Programs and Services Agreement which shall come into effect simultaneously with this Compact, as amended.

Section 232

The Government of the United States, in consultation with the Government of the Republic of the Marshall Islands, 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. Further, in accordance with the Fiscal Procedures Agreement described in subsection (a) of section 211, the Comptroller General of the United States shall have such powers and authorities as described in sections 103(m) and 110(c) of Public Law 99–239, 99 Stat. 1777–78, and 99 Stat. 1799 (January 14, 1986).

Section 233

Approval of this Compact, as amended, by the Government of the United States, in accordance with its constitutional processes, shall constitute a pledge by the United States that the sums and amounts specified as grants in section 211 of this Compact, as amended, shall be appropriated and paid to the Republic of the Marshall Islands for such period as those provisions of this Compact, as amended, remain in force, provided that the Republic of the Marshall Islands complies with the terms and conditions of this Title and related subsidiary agreements.

Section 234

The Government of the Republic of the Marshall Islands pledges to cooperate with, permit, and assist if reasonably requested, designated and authorized representatives of the Government of the United States charged with investigating whether Compact funds,

or any other assistance authorized under this Compact, as amended, have, or are being, used for purposes other than those set forth in this Compact, as amended, or its subsidiary agreements. In carrying out this investigative authority, such United States Government representatives may request that the Government of the Republic of the Marshall Islands subpoena documents and records and compel testimony in accordance with the laws and Constitution of the Republic of the Marshall Islands. Such assistance by the Government of the Republic of the Marshall Islands to the Government of the United States shall not be unreasonably withheld. The obligation of the Government of the Marshall Islands to fulfill its pledge herein is a condition to its receiving payment of such funds or other assistance authorized under this Compact, as amended. The Government of the United States shall pay any reasonable costs for extraordinary services executed by the Government of the Marshall Islands in carrying out the provisions of this section.

Article IV

Trade

Section 241

The Republic of the Marshall Islands is not included in the customs territory of the United States.

Section 242

The President shall proclaim the following tariff treatment for articles imported from the Republic of the Marshall Islands which shall apply during the period of effectiveness of this title:

(a) Unless otherwise excluded, articles imported from the Republic of the Marshall Islands, subject to the limitations imposed under section 503(b) of title V of the Trade Act of 1974 (19 U.S.C. 2463(b)), shall be exempt from duty.

(b) Only tuna in airtight containers provided for in heading 1604.14.22 of the Harmonized Tariff Schedule of the United States that is imported from the Republic of the Marshall Islands and the Federated States of Micronesia during any calendar year not to exceed 10 percent of apparent United States consumption of tuna in airtight containers 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 aggregated quantity of tuna in airtight containers that is dutiable under rate column numbered 1 of such heading 1604.14.22 for that calendar year.

(c) The duty-free treatment provided under subsection (a) shall not apply to:

(1) watches, clocks, and timing apparatus provided for in Chapter 91, excluding heading 9113, of the Harmonized Tariff Schedule of the United States;

(2) buttons (whether finished or not finished) provided for in items 9606.21.40 and 9606.29.20 of such Schedule;

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

(4) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible

articles for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.

(d) 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 Republic of 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(a)(2) of title V of the Trade Act of 1974.

Section 243

Articles imported from the Republic of the Marshall Islands which are not exempt from duty under subsections (a), (b), (c), and (d) of section 242 shall be subject to the rates of duty set forth in column numbered 1-general of the Harmonized Tariff Schedule of the United States (HTSUS).

Section 244

(a) All products of the United States imported into the Republic of 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.

(b) The provisions of subsection (a) shall not apply to advantages accorded by the Republic of the Marshall Islands by virtue of their full membership in the Pacific Island Countries Trade Agreement (PICTA), done on August 18, 2001, to those governments listed in Article 26 of PICTA, as of the date the Compact, as amended, is signed.

(c) Prior to entering into consultations on, or concluding, a free trade agreement with governments not listed in Article 26 of PICTA, the Republic of the Marshall Islands shall consult with the United States regarding whether or how subsection (a) of section 244 shall be applied.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Republic of the Marshall Islands. Should the Government of the Republic of the Marshall Islands 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 Republic of the Marshall Islands 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 the Government of the Republic of the Marshall Islands deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact, as amended, be made according to the United States Internal Revenue Code.

Section 253

A citizen of the Republic of the Marshall Islands, domiciled therein, shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States, provided that such citizen of the Republic of the Marshall Islands is neither a citizen nor a resident of the United States.

Section 254

(a) In determining any income tax imposed by the Government of the Republic of the Marshall Islands, the Government of the Republic of the Marshall Islands shall have authority to impose tax upon income derived by a resident of the Republic of the Marshall Islands from sources without the Republic of the Marshall Islands, in the same manner and to the same extent as the Government of the Republic of the Marshall Islands imposes tax upon income derived from within its own jurisdiction. If the Government of the Republic of the Marshall Islands exercises such authority as provided in this subsection, any individual resident of the Republic of the Marshall Islands who is subject to tax by the Government of the United States on income which is also taxed by the Government of the Republic of the Marshall Islands 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. However, the relief from liability to the United States Government referred to in the preceding sentence means only 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 relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1986. For purposes of this section, the term "resident of the Republic of the Marshall Islands" shall be deemed to include any person who was physically present in the Republic of the Marshall Islands for a period of 183 or more days during any taxable year.

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

Section 255

For purposes of section 274(h)(3)(A) of the U.S. Internal Revenue Code of 1986, the term "North American Area" shall include the Republic of the Marshall Islands.

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 Republic of the Marshall Islands.

(b) This authority and responsibility includes:

(1) the obligation to defend the Republic of the Marshall Islands and its people 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 Republic of the Marshall Islands 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 Republic of the Marshall Islands, 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 Republic of the Marshall Islands the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

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

(b) The consultations referred to in this section shall be conducted expeditiously at senior levels of the two Governments, 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 Republic of the Marshall Islands 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 Republic of the Marshall Islands:

(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 that 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 Republic of the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall not store in the Republic of 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 Republic of the Marshall Islands 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 Republic of the Marshall Islands 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 Republic of the Marshall Islands, 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 of the Government of the Republic of the Marshall Islands.

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 Republic of the Marshall Islands are set forth in separate agreements, which shall remain in effect in accordance with the terms of such agreements.

(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 Republic of the Marshall Islands in addition to those for which specific arrangements are concluded pursuant to section 321(a), it may request the Government of the Republic of the Marshall Islands to satisfy those requirements through leases or other arrangements. The Government of the Republic of the Marshall Islands 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 Republic of the Marshall Islands. In making any requests pursuant to section

321(b), the Government of the United States shall follow the policy of requesting the minimum area necessary to accomplish the required security and defense purpose, of requesting only the minimum interest in real property necessary to support such purpose, and of requesting first to satisfy its requirement through public real property, where available, rather than through private real property.

Section 322

The Government of the United States shall provide and maintain fixed and floating aids to navigation in the Republic of the Marshall Islands 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 Republic of the Marshall Islands are set forth in separate agreements, which shall remain in effect in accordance with the terms of such agreements.

Article III

Defense Treaties and International Security Agreements

Section 331

Subject to the terms of this Compact, as amended, and its related agreements, the Government of the United States, exclusively, has assumed and enjoys, as to the Republic of the Marshall Islands, 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 October 20, 1986.

(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 Republic of the Marshall Islands. Such a determination by the Government of the United States shall be preceded by appropriate consultation with the Government of the Republic of the Marshall Islands.

Article IV

Service in Armed Forces of the United States

Section 341

Any person entitled to the privileges set forth in Section 141 (with the exception of any person described in section 141(a)(5) who is not a citizen of the Republic of the Marshall Islands) 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 as long as such person has resided in the United States for a period of less than one year, provided that no time shall count towards this one year while a person admitted to the United States under the Compact, or the Compact, as amended, is engaged in full-time study in the United States. Any person described in section 141(a)(5) who

is not a citizen of the Republic of the Marshall Islands shall be subject to United States laws relating to selective service.

Section 342

The Government of the United States shall have enrolled, at any one time, at least one qualified student from the Republic of the Marshall Islands, as may be nominated by the Government of the Republic of the Marshall Islands, 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. 1295(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, as amended.

Article V

General Provisions

Section 351

(a) The Government of the United States and the Government of the Republic of the Marshall Islands shall continue to maintain a Joint Committee empowered to consider disputes arising under the implementation of this Title and its related agreements.

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

(c) Unless otherwise mutually agreed, the Joint Committee shall meet annually at a time and place to be designated, after appropriate consultation, by the Government of the United States. The Joint Committee also shall meet promptly upon request of either of its members. The Joint Committee shall follow such procedures, including the establishment of functional subcommittees, as the members may from time to time agree. Upon notification by the Government of the United States, the Joint Committee of the United States and the Republic of the Marshall Islands shall meet promptly in a combined session with the Joint Committee established and maintained by the Government of the United States and the Government of the Federated States of Micronesia to consider matters within the jurisdiction of the two Joint Committees.

(d) Unresolved issues in the Joint Committee shall be referred to the Governments for resolution, and the Government of the Republic of the Marshall Islands 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 Government of the Republic of the Marshall Islands under Titles One, Two and Four and to the responsibility of the Government of the Republic of the Marshall Islands to assure the well-being of its people.

Section 353

(a) The Government of the United States shall not include the Government of the Republic of the Marshall Islands as a named party to a formal declaration of war, without that Government's consent.

(b) Absent such consent, this Compact, as amended, 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 Republic of the Marshall Islands, which arise out of armed conflict subsequent to October 21, 1986, 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) The Government of the United States and the Government of the Republic of the Marshall Islands are jointly committed to continue their security and defense relations, as set forth in this Title. Accordingly, it is the intention of the two countries that the provisions of this Title shall remain binding as long as this Compact, as amended, remains in effect, and thereafter as mutually agreed, unless earlier terminated by mutual agreement pursuant to section 441, or amended pursuant to Article III of Title Four. If at any time the Government of the United States, or the Government of the Republic of the Marshall Islands, acting unilaterally, terminates this Title, such unilateral termination shall be considered to be termination of the entire Compact, as amended, in which case the provisions of section 442 and 452 (in the case of termination by the Government of the United States) or sections 443 and 453 (in the case of termination by the Government of the Republic of the Marshall Islands), with the exception of paragraph (3) of subsection (a) of section 452 or paragraph (3) of subsection (a) of section 453, as the case may be, shall apply.

(b) The Government of the United States recognizes, in view of the special relationship between the Government of the United States and the Government of the Republic of the Marshall Islands, and in view of the existence of the separate agreement regarding mutual security concluded with the Government of the Republic of the Marshall Islands pursuant to sections 321 and 323, that, even if this Title should terminate, any attack on the Republic of the Marshall Islands during the period in which such separate agreement is 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 Republic of the Marshall Islands in accordance with its constitutional processes.

(c) As reflected in Article 21(1)(b) of the Trust Fund Agreement, the Government of the United States and the Government of the Republic of the Marshall Islands further recognize, in view of the special relationship between their countries, that even if this Title should terminate, the Government of Republic of the Marshall Islands shall refrain from actions which the Government of the United States determines, after appropriate consultation with that

Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Republic of the Marshall Islands or the Federated States of Micronesia.

TITLE FOUR

GENERAL PROVISIONS

Article I

Approval and Effective Date

Section 411

Pursuant to section 432 of the Compact and subject to subsection (e) of section 461 of the Compact, as amended, the Compact, as amended, shall come into effect upon mutual agreement between the Government of the United States and the Government of the Republic of the Marshall Islands subsequent to completion of the following:

(a) Approval by the Government of the Republic of the Marshall Islands in accordance with its constitutional processes.

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

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 Republic of the Marshall Islands and that Government shall confer promptly at the request of the Government of the United States on matters relating to the provisions of this Compact, as amended, or of its related agreements.

Section 422

In the event the Government of the United States or the Government of the Republic of the Marshall Islands, after conferring pursuant to section 421, determines that there is a dispute and gives written notice thereof, the two Governments shall make a good faith effort to resolve the dispute between themselves.

Section 423

If a dispute between the Government of the United States and the Government of the Republic of the Marshall Islands 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 that 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) Unless otherwise provided in this Compact, as amended, or its related agreements, 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, as amended. 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 Government of the Republic of the Marshall Islands.

Article III

Amendment

Section 431

The provisions of this Compact, as amended, may be further amended by mutual agreement of the Government of the United States and the Government of the Republic of the Marshall Islands, in accordance with their respective constitutional processes.

Article IV

Termination

Section 441

This Compact, as amended, may be terminated by mutual agreement of the Government of the Republic of the Marshall Islands and the Government of the United States, in accordance

with their respective constitutional processes. Such mutual termination of this Compact, as amended, shall be without prejudice to the continued application of section 451 of this Compact, as amended, and the provisions of the Compact, as amended, set forth therein.

Section 442

Subject to section 452, this Compact, as amended, may be terminated by the Government of the United States in accordance with its constitutional processes. Such termination shall 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. Such termination of this Compact, as amended, shall be without prejudice to the continued application of section 452 of this Compact, as amended, and the provisions of the Compact, as amended, set forth therein.

Section 443

This Compact, as amended, shall be terminated by the Government of the Republic of the Marshall Islands, pursuant to its constitutional processes, subject to section 453 if the people represented by that Government vote in a plebiscite to terminate the Compact. The Government of the Republic of the Marshall Islands 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 the Government of the Republic of the Marshall Islands 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, the Government of the Republic of the Marshall Islands 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

(a) Should termination occur pursuant to section 441, economic and other assistance by the Government of the United States shall continue only if and as mutually agreed by the Governments of the United States and the Republic of the Marshall Islands, and in accordance with the countries' respective constitutional processes.

(b) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections (b) and (c) of section 354 of this Compact, as amended, and the separate agreement entered into consistent with those subsections, if termination occurs pursuant to section 441 prior to the twentieth anniversary of the effective date of this Compact, as amended, the United States shall continue to make contributions to the Trust Fund described in section 216 of this Compact, as amended.

(c) In view of the special relationship of the United States and the Republic of the Marshall Islands described in subsection (b) of this section, if termination occurs pursuant to section 441 following the twentieth anniversary of the effective date of this Compact, as amended, the Republic of the Marshall Islands shall be entitled to receive proceeds from the Trust Fund described in section 216 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 452

(a) Should termination occur pursuant to section 442 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this amended Compact shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

(1) Article VI and sections 172, 173, 176 and 177 of Title One;

(2) Article One and sections 232 and 234 of Title Two;

(3) Title Three; and

(4) Articles II, III, V and VI of Title Four.

(b) Should termination occur pursuant to section 442 before the twentieth anniversary of the effective date of this Compact, as amended:

(1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, economic and other assistance by the United States shall continue only if and as mutually agreed by the Governments of the United States and the Republic of the Marshall Islands.

(2) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections (b) and (c) of section 354 of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, the United States shall continue to make contributions to the Trust Fund described in section 216 of this Compact, as amended, in the manner described in the Trust Fund Agreement.

(c) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 442 following the twentieth anniversary of the effective date of this Compact, as amended, the Republic of the Marshall Islands shall continue to be eligible to receive proceeds from the Trust Fund described in section 216 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 453

(a) Should termination occur pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the following provisions of this Compact, as amended, shall remain in full force and effect until the twentieth anniversary of the effective date of this Compact, as amended, and thereafter as mutually agreed:

(1) Article VI and sections 172, 173, 176 and 177 of Title One;

(2) Sections 232 and 234 of Title Two;

(3) Title Three; and

(4) Articles 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 of the Republic of the Marshall Islands shall promptly consult with regard to their future relationship. Except as provided in subsections (c) and (d) of this section, these consultations shall determine the level of economic and other assistance, if any, which the Government of the United States shall provide to the Government of the Republic of the Marshall Islands for the period ending on the twentieth anniversary of the effective date of this Compact, as amended, and for any period thereafter, if mutually agreed.

(c) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 443 prior to the twentieth anniversary of the effective date of this Compact, as amended, the United States shall continue to make contributions to the Trust Fund described in section 216 of this Compact, as amended.

(d) In view of the special relationship of the United States and the Republic of the Marshall Islands, as reflected in subsections 354(b) and (c) of this Compact, as amended, and the separate agreement regarding mutual security, and the Trust Fund Agreement, if termination occurs pursuant to section 443 following the twentieth anniversary of the effective date of this Compact, as amended, the Republic of the Marshall Islands shall continue to be eligible to receive proceeds from the Trust Fund described in section 216 of this Compact, as amended, in the manner described in those provisions and the Trust Fund Agreement.

Section 454

Notwithstanding any other provision of this Compact, as amended:

(a) The Government of the United States reaffirms its continuing interest in promoting the economic advancement and budgetary self-reliance of the people of the Republic of the Marshall Islands.

(b) The separate agreements referred to in Article II of Title Three shall remain in effect in accordance with their terms.

Article VI

Definition of Terms

Section 461

For the purpose of this Compact, as amended, only, and without prejudice to the views of the Government of the United States or the Government of the Republic of the Marshall Islands as to the nature and extent of the jurisdiction of either of them under international law, 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 former 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 Republic of 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) "Compact" means the Compact of Free Association Between the United States and the Federated States of Micronesia and the Marshall Islands, that was approved by the United States Congress in section 201 of Public Law 99–239 (Jan. 14, 1986) and went into effect with respect to the Republic of the Marshall Islands on October 21, 1986.

(e) "Compact, as amended" means the Compact of Free Association Between the United States and the Republic of the Marshall Islands, as amended. The effective date of the Compact, as amended, shall be on a date to be determined by the President of the United States, and agreed to by the Government of the Republic of the Marshall Islands, following formal approval of the Compact, as amended, in accordance with section 411 of this Compact, as amended.

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

(g) "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.

(h) The following terms shall be defined consistent with the 1978 Edition of the Radio Regulations of the International Telecommunications as follows:

(1) "Radiocommunication" 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 radiocommunication service, or the radio astronomy service.

(3) "Broadcasting Service" means a radiocommunication service in which the transmissions are intended for direct reception by the general public. This service may include sound transmissions, television transmissions or other types of transmission.

(4) "Broadcasting Station" means a station in the broadcasting service.

(5) "Assignment (of a radio frequency or radio frequency channel)" means an authorization given by an

administration for a radio station to use a radio frequency or radio frequency channel under specified conditions.

(6) "Telecommunication" means any transmission, emission or reception of signs, signals, writings, images and sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems.

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

(j) "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.

(k) "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

(a) The Government of the United States and the Government of the Republic of the Marshall Islands previously have concluded agreements, which shall remain in effect and shall survive in accordance with their terms, as follows:

(1) 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;

(2) Agreement Between the Government of the United States and the Government of the Marshall Islands by Persons Displaced as a Result of the United States Nuclear Testing Program in the Marshall Islands;

(3) Agreement Between the Government of the United States and the Government of the Marshall Islands Regarding the Resettlement of Enjebi Island;

(4) Agreement Concluded Pursuant to Section 234 of the Compact; and

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

(b) The Government of the United States and the Government of the Republic of the Marshall Islands shall conclude prior to the date of submission of this Compact to the legislatures of the two countries, the following related agreements which shall come into effect on the effective date of this Compact, as amended, and shall survive in accordance with their terms, as follows:

(1) Federal Programs and Services Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Concluded Pursuant to Article III of Title One, Article II of Title Two (including Section 222), and Section 231 of the Compact of Free Association, as Amended, which include:

(i) Postal Services and Related Programs;

(ii) Weather Services and Related Programs;

(iii) Civil Aviation Safety Service and Related Programs;

(iv) Civil Aviation Economic Services and Related Programs;

(v) United States Disaster Preparedness and Response Services and Related Programs; and

(vi) Telecommunications Services and Related Programs.

(2) Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands on Extradition, Mutual Assistance in Law Enforcement Matters and Penal Sanctions Concluded Pursuant to Section 175 (a) of the Compact of Free Association, as Amended;

(3) Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands on Labor Recruitment Concluded Pursuant to Section 175 (b) of the Compact of Free Association, as Amended;

(4) Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact, as Amended, of Free Association Between the Government of the United States of America and the Government of the Republic of the Marshall Islands;

(5) Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Implementing Section 216 and Section 217 of the Compact, as Amended, Regarding a Trust Fund;

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

(7) Status of Forces Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Concluded Pursuant to Section 323 of the Compact of Free Association, as Amended.

Section 463

(a) Except as set forth in subsection (b) of this section, any reference in this Compact, as amended, 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 amended, as such provision was in force on the effective date of this Compact, as amended.

(b) Any reference in Article IV and VI of Title One, and Sections 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, the Administrative Procedure Act or the Immigration and Nationality Act constitutes the incorporation of the language of such provision into this Compact, as amended, as such provision was in force on the effective date of this Compact, as amended, 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

Both the Government of the United States and the Government of the Republic of the Marshall Islands shall take all necessary steps, of a general or particular character, to ensure, no later than the entry into force date of this Compact, as amended, the conformity of its laws, regulations and administrative procedures with the provisions of this Compact, as amended, or, in the case of subsection (d) of section 141, as soon as reasonably possible thereafter.

Section 472

This Compact, as amended, may be accepted, by signature or otherwise, by the Government of the United States and the Government of the Republic of the Marshall Islands.

IN WITNESS WHEREOF, the undersigned, duly authorized, have signed this Compact of Free Association, as amended, which shall enter into force upon the exchange of diplomatic notes by which the Government of the United States of America and the Government of the Republic of the Marshall Islands inform each other about the fulfillment of their respective requirements for entry into force.

DONE at Majuro, Republic of the Marshall Islands, in duplicate, this thirtieth (30) day of April, 2003, each text being equally authentic.

Signed (April 30, 2003)
For the Government of the United States of America:

Ambassador Michael J. Senko
U.S. Ambassador to the Republic of the Marshall Islands

Signed (April 30, 2003)
For the Government of the Republic of the Marshall Islands:

His Excellency Banny deBrum
Ambassador Extraordinary and Plenipotentiary

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.