

## REFERENCES IN TEXT

The Compact, referred to in text, is the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, which is contained in section 201 of Pub. L. 99-239, set out as a note under section 1901 of this title.

The Job Partnership Training Act, referred to in subsec. (a), probably means the Job Training Partnership Act, Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§1501 et seq.) of Title 29, Labor, and was repealed by Pub. L. 105-220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000. Pursuant to section 2940(b) of Title 29, references to a provision of the Job Training Partnership Act, effective Aug. 7, 1998, are deemed to refer to that provision or the corresponding provision of the Workforce Investment Act of 1998, Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and effective July 1, 2000, are deemed to refer to the corresponding provision of the Workforce Investment Act of 1998. For complete classification of the Job Training Partnership Act to the Code, see Tables. For complete classification of the Workforce Investment Act of 1998 to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

For Oct. 21, 1986, as the effective date of the Compact of Free Association with the Marshall Islands, and Nov. 3, 1986, as the effective date of the Compact of Free Association with the Federated States of Micronesia, referred to in subsec. (b)(1), see Proc. No. 5564, Nov. 3, 1986, 51 F.R. 40399, set out as a note under section 1801 of this title.

This joint resolution, referred to in subsec. (d), is Pub. L. 99-239, Jan. 14, 1986, 99 Stat. 1770, as amended, known as the Compact of Free Association Act of 1985. Title IV of this Act is set out as a note under section 1901 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1901 of this title and Tables.

## CODIFICATION

Section was formerly set out as a note under section 1681 of this title.

**§ 1912. Jurisdiction**

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

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

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

(3) The United States District Court for the District of Hawaii shall have jurisdiction to try all criminal offenses against the United States, including the laws of the State of Hawaii made applicable to the defense sites in the Marshall

Islands or the Federated States of Micronesia by virtue of paragraph (2) of this subsection, committed by any person referred to in subsection (a) of this section.

(4) The United States District Court for the District of Hawaii may appoint one or more magistrate judges for the defense sites in the Marshall Islands. Such Magistrate Judges shall have the power and the status of Magistrate Judges appointed pursuant to chapter 43, title 28, provided, however that such Magistrate Judges shall have the power to try persons accused of and sentence persons convicted of petty offenses, as defined in section 1(3),<sup>1</sup> title 18, including violations of regulations for the maintenance of peace, order, and health issued by the Commanding Officer on such defense sites, without being subject to the restrictions provided for in section 3401(b), title 18.

(Pub. L. 99-239, title II, §202, Jan. 14, 1986, 99 Stat. 1835; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

## REFERENCES IN TEXT

The Compact of Free Association, referred to in subsecs. (a) and (b)(1), is the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia, which is contained in section 201 of Pub. L. 99-239, set out as a note under section 1901 of this title.

Section 1 of title 18, referred to in subsec. (b)(4), was repealed by Pub. L. 98-473, title II, §218(a)(1), Oct. 12, 1984, 98 Stat. 2027.

## CODIFICATION

Section was formerly set out as a note under section 1681 of this title.

Section was enacted as part of title II of Pub. L. 99-239, and not as part of title I of Pub. L. 99-239 which comprises this part.

## CHANGE OF NAME

Words “magistrate judges” and “Magistrate Judges” substituted for “magistrates” and “Magistrates”, respectively, wherever appearing in subsec. (b)(4) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

## PART B—APPROVAL AND IMPLEMENTATION OF COMPACTS, AS AMENDED

**§ 1921. 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, including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the

<sup>1</sup> See References in Text note below.

Federated States of Micronesia, as amended under the Agreement to Amend Article X that was signed by those two Governments on June 30, 2004, which shall serve as the authority to implement the provisions thereof. 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, including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Republic of the Marshall Islands, as amended under the Agreement to Amend Article X that was signed by those two Governments on June 18, 2004, which shall serve as the authority to implement the provisions thereof. 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.

(Pub. L. 108-188, title I, §101, Dec. 17, 2003, 117 Stat. 2723; Pub. L. 110-229, title VIII, §801(a), May 8, 2008, 122 Stat. 869.)

## REFERENCES IN TEXT

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, referred to in subssecs. (a) and (c)(1), is contained in section 201(a) of Pub. L. 108-188, set out below.

This joint resolution, referred to in text, is Pub. L. 108-188, Dec. 17, 2003, 117 Stat. 2720, known as the Compact of Free Association Amendments Act of 2003, which enacted this part and provisions set out as notes under this section and section 1901 of this title and amended provisions set out as a note under section 3101 of Title 5, Government Organization and Employees. Title II of this joint resolution enacted provisions set out as notes under this section. For complete classification of this Act to the Code, see Short Title of 2003 Amendment note set out under section 1901 of this title and Tables.

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, referred to in subssecs. (b) and (c)(1), is contained in section 201(b) of Pub. L. 108-188, set out below.

## AMENDMENTS

2008—Subsec. (a). Pub. L. 110-229, §801(a)(1), inserted before period at end of first sentence “, including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Federated States of Micronesia, as amended under the Agreement to Amend Article X that was signed by those two Governments on June 30, 2004, which shall serve as the authority to implement the provisions thereof”.

Subsec. (b). Pub. L. 110-229, §801(a)(2), inserted before period at end of first sentence “, including Article X of the Federal Programs and Services Agreement Between the Government of the United States and the Government of the Republic of the Marshall Islands, as amended under the Agreement to Amend Article X that was signed by those two Governments on June 18, 2004, which shall serve as the authority to implement the provisions thereof”.

## EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-229, title VIII, §801(b), May 8, 2008, 122 Stat. 870, provided that: “The amendments made by

this section [amending this section] shall be effective as of the date that is 180 days after the date of enactment of this Act [May 8, 2008].”

## CLARIFICATION OF TAX-FREE STATUS OF TRUST FUNDS

Pub. L. 110-229, title VIII, §809, May 8, 2008, 122 Stat. 874, provided that: “In the U.S.-RMI Compact [section 201(b) of Pub. L. 108-188, set out below], the U.S.-FSM Compact [section 201(a) of Pub. L. 108-188, set out below], and their respective trust fund subsidiary agreements, for the purposes of taxation by the United States or its subsidiary jurisdictions, the term ‘State’ means ‘State, territory, or the District of Columbia’.”

## RECITAL CLAUSES

Pub. L. 108-188, Dec. 17, 2003, 117 Stat. 2723, which enacted this part and provisions set out as notes under this section and amended provisions set out as a note under section 3101 of Title 5, Government Organization and Employees, contained several “Whereas” clauses reading as follows:

“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 [set out as a note under section 1901 of this title], 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’ [set out below], 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’ [set out below], 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”.

## COMPACT OF FREE ASSOCIATION, AS AMENDED, BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE FEDERATED STATES OF MICRONESIA

Pub. L. 108-188, title II, §201(a), Dec. 17, 2003, 117 Stat. 2757, as amended by Pub. L. 110-229, title VIII, §806(b)(1), May 8, 2008, 122 Stat. 871, provided that: “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 inter-governmental 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 pol-

icy 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 Mi-

cronesia 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 court 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 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. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(A), May 8, 2008, 122 Stat. 871.]

###### “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. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(B), May 8, 2008, 122 Stat. 872.]

## “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 Compact, as amended, [sic] or any other provision of law authorizing financial, program, or service assistance to the Federated States of Micronesia. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(C), May 8, 2008, 122 Stat. 872.]

## “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 of Free Association, as amended[,] 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 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), 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 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 211(b), 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 and the Federal Programs and Services Agreement referred to in section 231. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(D), May 8, 2008, 122 Stat. 872.]

“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. [As amended Pub. L. 110-229, title VIII, § 806(b)(1)(E), May 8, 2008, 122 Stat. 872.]

“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

[In millions of dollars]

Fiscal year	Annual Grants Section 211	Audit Grant Section 212(b) (amount up to)	Trust Fund Section 215	Total
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 (Federal Emergency Management Agency), 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 agreement 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. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(F), May 8, 2008, 122 Stat. 872.]

#### “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 in section 231 shall apply to any such assistance, services or programs. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(G), May 8, 2008, 122 Stat. 872.]

#### “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 section 102(b) of Public Law 108-188, 117 Stat. 2726, December 17, 2003. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(H), May 8, 2008, 122 Stat. 872.]

##### “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 Micro-

nesia. 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, as amended, be made according to the United States Internal Revenue Code. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(I), May 8, 2008, 122 Stat. 872.]

“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. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(J), May 8, 2008, 122 Stat. 872.]

“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 section 195 of title 14, United States Code.

“(b) The United States Merchant Marine Academy pursuant to section 1303(b)(6) of the Merchant Marine Act, 1936 [former] 46 U.S.C. [App.] 1295b(b)(6) [see 46 U.S.C. 51304], provided that the provisions of section 1303(b)(6)(C) of that Act [now 46 U.S.C. 51304(b)(2)] shall not apply to the enrollment of students pursuant to section 342(b) of this Compact, as amended. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(K), May 8, 2008, 122 Stat. 872.]

“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 sections 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. [As amended Pub. L. 110-229, title VIII, § 806(b)(1)(L), May 8, 2008, 122 Stat. 873.]

#### “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 Com-

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 Telecommunication 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, nec-

essary 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. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(M), May 8, 2008, 122 Stat. 873.]

“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, 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. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(N), May 8, 2008, 122 Stat. 873.]

“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 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. [As amended Pub. L. 110-229, title VIII, §806(b)(1)(O), May 8, 2008, 122 Stat. 873.]

“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”**

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

Pub. L. 108-188, title II, §201(b), Dec. 17, 2003, 117 Stat. 2795, as amended by Pub. L. 110-229, title VIII, §806(b)(2), May 8, 2008, 122 Stat. 873, provided that: “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 inter-governmental 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 ad-

ministrative 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 courts 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 pre-

ented 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. [As amended Pub. L. 110-229, title VIII, § 806(b)(2)(A), May 8, 2008, 122 Stat. 873.]

“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. [As amended Pub. L. 110-229, title VIII, §806(b)(2)(B), May 8, 2008, 122 Stat. 873.]

“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 Compact, as amended, or any other provision of law authorizing financial, program, or service assistance to the Republic of the Marshall Islands. [As amended Pub. L. 110-229, title VIII, §806(b)(2)(C), May 8, 2008, 122 Stat. 873.]

“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 of Free Association, as amended[,] 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 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 (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 and the Federal Programs and Services Agreement referred to in section 231.

“(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. [As amended Pub. L. 110-229, title VIII, §806(b)(2)(D), May 8, 2008, 122 Stat. 873.]

“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 ef-

fectiveness 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

[In millions of dollars]

Fiscal year	Annual Grants Section 211	Audit Grant Sec- tion 213(b)	Trust Fund Sec- tion 216 (a&c)	Kwajalein Impact Section 212	Total
2006 .....	34.2	.5	8	15.0	57.7
2007 .....	33.7	.5	8.5	15.0	57.7
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 (Federal Emergency Management Agency), 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. [As amended Pub. L. 110-229, title VIII, §806(b)(2)(E), May 8, 2008, 122 Stat. 873.]

“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 section 103(k) of Public Law 108-188, 117 Stat. 2734, December 17, 2003. [As amended Pub. L. 110-229, title VIII, §806(b)(2)(F), May 8, 2008, 122 Stat. 873.]

“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. [As amended Pub. L. 110-229, title VIII, § 806(b)(2)(G), May 8, 2008, 122 Stat. 874.]

#### “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 section 195 of title 14, United States Code.

“(b) The United States Merchant Marine Academy pursuant to section 1303(b)(6) of the Merchant Marine Act, 1936 ([former] 46 U.S.C. [App.] 1295b(b)(6)) [see 46 U.S.C. 51304], provided that the provisions of section 1303(b)(6)(C) of that Act [now 46 U.S.C. 51304(b)(2)] shall not apply to the enrollment of students pursuant to section 342(b) of this Compact, as amended. [As amended Pub. L. 110-229, title VIII, § 806(b)(2)(H), May 8, 2008, 122 Stat. 874.]

“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 sections 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. [As amended Pub. L. 110-229, title VIII, § 806(b)(2)(I), May 8, 2008, 122 Stat. 874.]

“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 Re-



public 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 Govern-

ment 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, as amended. [sic] 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. [As amended Pub. L. 110-229, title VIII, §806(b)(2)(J), May 8, 2008, 122 Stat. 874.]

“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 de-

scribed 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 re-

flected 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 1998 Edition of the Radio Regulations of the International Telecommunication 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 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. [As amended Pub. L. 110-229, title VIII, § 806(b)(2)(K), May 8, 2008, 122 Stat. 874.]

“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 Pursu-

ant 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 Articles 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. [As amended Pub. L. 110-229, title VIII, § 806(b)(2)(L), May 8, 2008, 122 Stat. 874.]

“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”**

[Pub. L. 110-229, title VIII, §806(b)(2)(D)(ii), May 8, 2008, 122 Stat. 873, which directed substitution of “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 (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 “Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights” in the first sentence of subsection (b) in 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, set out above, was executed by making the substitution for “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 reflect the probable intent of Congress.]

**§ 1921a. 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 1921d(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.