

APPROVAL OF COMPACT OF FREE ASSOCIATIONS BETWEEN  
THE GOVERNMENTS OF THE U.S. AND THE FEDERATED  
STATES OF MICRONESIA AND THE U.S. AND THE REPUBLIC  
OF THE MARSHALL ISLANDS; TRAFFICKING VICTIMS PROTEC-  
TION REAUTHORIZATION ACT OF 2003; AND TORTURE  
VICTIMS RELIEF REAUTHORIZATION ACT OF 2003

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MARKUP  
BEFORE THE  
COMMITTEE ON  
INTERNATIONAL RELATIONS  
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

**H.J. Res. 63, H.R. 2620 and H.R. 1813**

—————  
JULY 23, 2003  
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**APPROVAL OF COMPACT OF FREE ASSOCIATIONS BETWEEN THE GOVERNMENTS OF THE U.S. AND THE FEDERATED STATES OF MICRONESIA AND THE U.S. AND THE REPUBLIC OF THE MARSHALL ISLANDS; TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2003; AND TORTURE VICTIMS RELIEF REAUTHORIZATION ACT OF 2003**

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**WEDNESDAY, JULY 23, 2003**

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The Committee met, pursuant to call, at 11:30 a.m. In Room 2172, Rayburn House Office Building, Hon. Christopher H. Smith [Vice Chairman of the Committee] presiding.

Mr. SMITH OF NEW JERSEY. [Presiding.] The Committee will come to order. Pursuant to notice, I now call up H.J. Res. 63, the Compact of Association Amendments Act of 2003. Without objection, the resolution will be considered as read and open for open amendment at any point, and the amendment in the nature of a substitute which the Members have before them will be considered as read and be considered as the original text for purposes of amendment.

[H.J. Res. 63 follows:]

**[COMMITTEE PRINT]**

JULY 17, 2003

**[Showing H. J. Res. 63 As Adopted by the Subcommittee on  
Asia and the Pacific]**

108TH CONGRESS  
1ST SESSION

**H. J. RES. 63**

To approve the “Compact of Free Association, as amended between the Government of the United States of America and the Government of the Federated States of Micronesia”, and the “Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands”, and otherwise to amend Public Law 99–239, and to appropriate for the purposes of amended Public Law 99–239 for fiscal years ending on or before September 30, 2023, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 8, 2003

Mr. LEACH (for himself, Mr. POMBO, Mr. RAHALL, Mr. HYDE, Mr. LANTOS, and Mr. FALEOMAVAEGA) (all by request) introduced the following joint resolution; which was referred to the Committee on International Relations, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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**JOINT RESOLUTION**

To approve the “Compact of Free Association, as amended between the Government of the United States of America

and the Government of the Federated States of Micronesia”, and the “Compact of Free Association, as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands”, and otherwise to amend Public Law 99–239, and to appropriate for the purposes of amended Public Law 99–239 for fiscal years ending on or before September 30, 2023, and for other purposes.

Whereas the United States, in accordance with section 231 of the Compact of Free Association set forth in Title II of Public Law 99–239, January 14, 1986, 99 Stat. 1770, entered into negotiations with the Governments of the Federated States of Micronesia and the Republic of the Marshall Islands; and

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

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

1 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This joint resolution, together  
 3 with the Table of Contents in subsection (b) of this sec-  
 4 tion, may be cited as the “Compact of Free Association  
 5 Amendments Act of 2003”.

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

TITLE I—APPROVAL OF U.S.-FSM COMPACT AND U.S.-RMI COM-  
 PACT; INTERPRETATION OF, AND UNITED STATES POLICIES  
 REGARDING, U.S.-FSM COMPACT AND U.S.-RMI COMPACT; SUP-  
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- (a) Federated States of Micronesia.
- (b) Republic of the Marshall Islands.
- (c) References to the Compact, the U.S.-FSM Compact and the  
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- (d) Amendment, Change, or Termination in the U.S.-FSM  
 Compact, the U.S.-RMI Compact and Certain Agreements.
- (e) Subsidiary Agreement Deemed Bilateral.
- (f) Entry Into Force of Future Amendments to Subsidiary  
 Agreements.

Sec. 102. Agreements With Federated States of Micronesia.

- (a) Law Enforcement Assistance.
- (b) Agreement on Audits.

Sec. 103. Agreements With and Other Provisions Related to the Republic of the  
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- (a) Law Enforcement Assistance.
- (b) EJIT.
- (c) Section 177 Agreement.
- (d) Nuclear Test Effects.
- (e) Espousal Provisions.
- (f) DOE Radiological Health Care Program; USDA Agricul-  
 tural and Food Programs.
- (g) Rongelap.
- (h) Four Atoll Health Care Program.
- (i) Enjebi Community Trust Fund.
- (j) Bikini Atoll Cleanup.
- (k) Agreement on Audits.

Sec. 104. Interpretation of and United States Policy Regarding U.S.-FSM Com-  
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- (a) Human Rights.
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- Sec. 105. Supplemental Provisions.
- (a) Domestic Program Requirements.
  - (b) Relations With the Federated States of Micronesia and the Republic of the Marshall Islands.
  - (c) Continuing Trust Territory Authorization.
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  - (n) User Fees.
  - (o) Treatment of Judgments of Courts of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.
- Sec. 106. Construction Contract Assistance.
- (a) Assistance to U.S. Firms.
  - (b) Authorization of Appropriations.
- Sec. 107. Limitations.  
Prohibition.
- Sec. 108. Compensatory Adjustments.
- (a) Additional Programs and Services.
  - (b) Further Amounts.
- Sec. 109. Authorization and Continuing Appropriation.
- Sec. 110. Payment of Citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau Employed by the Government of the United States in the Continental United States.

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

- Sec. 201. Compacts of Free Association, as Amended.
- (a) Compact of Free Association as amended between the Government of the United States of America and the Government of the Federated States of Micronesia.

6

5

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

Title Two—Economic Relations

Article I—Grant Assistance.  
Article II—Services and Program Assistance.  
Article III—Administrative Provisions.  
Article IV—Trade.  
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Title Three—Security and Defense Relations

Article I—Authority and Responsibility.  
Article II—Defense Facilities and Operating Rights.  
Article III—Defense Treaties and International Security Agreements.  
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Title Four—General Provisions

Article I—Approval and Effective Date.  
Article II—Conference and Dispute Resolution.  
Article III—Amendment.  
Article IV—Termination.  
Article V—Survivability.  
Article VI—Definition of Terms.  
Article VII—Concluding Provisions.  
(b) Compact of Free Association as amended between the Government of the United States of America and the Government of the Republic of the Marshall Islands.

Title One—Governmental Relations

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

Title Two—Economic Relations

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

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Article I—Authority and Responsibility.  
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 Article III—Defense Treaties and International Security Agreements.  
 Article IV—Service in Armed Forces of the United States.  
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Title Four—General Provisions

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

1 **TITLE I—APPROVAL OF U.S.-FSM**  
 2 **COMPACT AND U.S.-RMI COM-**  
 3 **PACT; INTERPRETATION OF,**  
 4 **AND U.S. POLICIES REGARD-**  
 5 **ING, U.S.-FSM COMPACT AND**  
 6 **U.S.-RMI COMPACT; SUPPLE-**  
 7 **MENTAL PROVISIONS**

8 **SEC. 101. APPROVAL OF U.S.-FSM COMPACT OF FREE ASSO-**  
 9 **CIATION AND THE U.S.-RMI COMPACT OF**  
 10 **FREE ASSOCIATION; REFERENCES TO SUB-**  
 11 **SIDIARY AGREEMENTS OR SEPARATE AGREE-**  
 12 **MENTS.**

13 (a) FEDERATED STATES OF MICRONESIA.—The  
 14 Compact of Free Association, as amended with respect to  
 15 the Federated States of Micronesia and signed by the  
 16 United States and the Government of the Federated  
 17 States of Micronesia and set forth in Title II (section  
 18 201(a)) of this joint resolution, is hereby approved, and

1 Congress hereby consents to the subsidiary agreements  
2 and amended subsidiary agreements listed in section 462  
3 of the U.S.-FSM Compact. Subject to the provisions of  
4 this joint resolution, the President is authorized to agree,  
5 in accordance with section 411 of the U.S.-FSM Compact,  
6 to an effective date for and thereafter to implement such  
7 U.S.-FSM Compact.

8 (b) REPUBLIC OF THE MARSHALL ISLANDS.—The  
9 Compact of Free Association, as amended with respect to  
10 the Republic of the Marshall Islands and signed by the  
11 United States and the Government of the Republic of the  
12 Marshall Islands and set forth in Title II (section 201(b))  
13 of this joint resolution, is hereby approved, and Congress  
14 hereby consents to the subsidiary agreements and amend-  
15 ed subsidiary agreements listed in section 462 of the U.S.-  
16 RMI Compact. Subject to the provisions of this joint reso-  
17 lution, the President is authorized to agree, in accordance  
18 with section 411 of the U.S.-RMI Compact, to an effective  
19 date for and thereafter to implement such U.S.-RMI Com-  
20 pact.

21 (c) REFERENCES TO THE COMPACT, THE U.S.-FSM  
22 COMPACT, AND THE U.S.-RMI COMPACT; REFERENCES  
23 TO SUBSIDIARY AGREEMENTS OR SEPARATE AGREE-  
24 MENTS.—

1           (1) Any reference in this joint resolution (ex-  
2           cept references in Title II) to “the Compact” shall  
3           be treated as a reference to the Compact of Free As-  
4           sociation set forth in title II of Public Law 99–239,  
5           January 14, 1986, 99 Stat. 1770. Any reference in  
6           this joint resolution to the “U.S.-FSM Compact”  
7           shall be treated as a reference to the Compact of  
8           Free Association, as amended between the Govern-  
9           ment of the United States of America and the Gov-  
10          ernment of the Federated States of Micronesia and  
11          set forth in Title II (section 201(a)) of this joint res-  
12          olution. Any reference in this joint resolution to the  
13          “U.S.-RMI Compact” shall be treated as a reference  
14          to the Compact of Free Association, as amended be-  
15          tween the Government of the United States of  
16          America and the Government of the Republic of the  
17          Marshall Islands and set forth in Title II (section  
18          201(b)) of this joint resolution.

19          (2) Any reference to the term “subsidiary  
20          agreements” or “separate agreements” in this joint  
21          resolution shall be treated as a reference to agree-  
22          ments listed in section 462 of the U.S.-FSM Com-  
23          pact and the U.S.-RMI Compact, and any other  
24          agreements that the United States may from time to  
25          time enter into with either the government of the

1 Federated States of Micronesia or the government of  
2 the Republic of the Marshall Islands, or with both  
3 such governments in accordance with the provisions  
4 of the U.S.-FSM Compact and the U.S.-RMI Com-  
5 pact.

6 (d) AMENDMENT, CHANGE, OR TERMINATION IN THE  
7 U.S.-FSM COMPACT AND U.S.-RMI COMPACT AND CER-  
8 TAIN AGREEMENTS.—

9 (1) Any amendment, change, or termination by  
10 mutual agreement or by unilateral action of the Gov-  
11 ernment of the United States of all or any part of  
12 the U.S.-FSM Compact or U.S.-RMI Compact shall  
13 not enter into force until after Congress has incor-  
14 porated it in an Act of Congress.

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

17 (A) to all actions of the Government of the  
18 United States under the U.S.-FSM Compact or  
19 U.S.-RMI Compact including, but not limited  
20 to, actions taken pursuant to sections 431, 441,  
21 or 442;

22 (B) to any amendment, change, or termi-  
23 nation in the Agreement Between the Govern-  
24 ment of the United States and the Government  
25 of the Federated States of Micronesia Regard-

1 ing Friendship, Cooperation and Mutual Security  
2 Concluded Pursuant to Sections 321 and  
3 323 of the Compact of Free Association referred  
4 to in section 462(a)(2) of the U.S.-FSM  
5 Compact and the Agreement Between the Government  
6 of the United States and the Government of the  
7 Marshall Islands Regarding Mutual Security  
8 Concluded Pursuant to Sections 321  
9 and 323 of the Compact of Free Association referred  
10 to in section 462(a)(5) of the U.S.-RMI  
11 Compact;

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

19 (D) to the following subsidiary agreements,  
20 or portions thereof: Articles III, IV and X of  
21 the agreement referred to in section 462(b)(6)  
22 of the U.S.-RMI Compact:

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

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

5 (e) SUBSIDIARY AGREEMENTS DEEMED BILAT-  
6 ERAL.—For purposes of implementation of the U.S.-FSM  
7 Compact and the U.S.-RMI Compact and this joint resolu-  
8 tion, the Agreement Concluded Pursuant to Section 234  
9 of the Compact of Free Association and referred to in sec-  
10 tion 462(a)(1) of the U.S.-FSM Compact and section  
11 462(a)(4) of the U.S.-RMI Compact shall be deemed to  
12 be a bilateral agreement between the United States and  
13 each other party to such subsidiary agreement. The con-  
14 sent or concurrence of any other party shall not be re-  
15 quired for the effectiveness of any actions taken by the  
16 United States in conjunction with either the Federated  
17 States of Micronesia or the Republic of the Marshall Is-  
18 lands which are intended to affect the implementation,  
19 modification, suspension, or termination of such sub-  
20 sidiary agreement (or any provision thereof) as regards  
21 the mutual responsibilities of the United States and the  
22 party in conjunction with whom the actions are taken.

23 (f) ENTRY INTO FORCE OF FUTURE AMENDMENTS  
24 TO SUBSIDIARY AGREEMENTS.—No agreement between  
25 the United States and the government of either the Fed-



1 erated States of Micronesia or the Republic of the Mar-  
2 shall Islands which would amend, change, or terminate  
3 any subsidiary agreement or portion thereof, other than  
4 those set forth in subsection (d) of this section shall enter  
5 into force until after the President has transmitted such  
6 agreement to the President of the Senate and the Speaker  
7 of the House of Representatives together with an expla-  
8 nation of the agreement and the reasons therefor. In the  
9 case of the agreement referred to in section 462(b)(3) of  
10 the U.S.-FSM Compact and the U.S.-RMI Compact, such  
11 transmittal shall include a specific statement by the Sec-  
12 retary of Labor as to the necessity of such amendment,  
13 change, or termination, and the impact thereof.

14 **SEC. 102. AGREEMENTS WITH FEDERATED STATES OF MI-**  
15 **CRONESIA.**

16 (a) **LAW ENFORCEMENT ASSISTANCE.**—

17 (1) **TECHNICAL AND TRAINING ASSISTANCE.**—

18 Pursuant to sections 222 and 224 of the U.S.-FSM  
19 Compact, the United States shall provide non-reim-  
20 bursable technical and training assistance as appro-  
21 priate, including training and equipment for postal  
22 inspection of illicit drugs and other contraband, to  
23 enable the Government of the Federated States of  
24 Micronesia to develop and adequately enforce laws of  
25 the Federated States of Micronesia and to cooperate

1 with the United States in the enforcement of crimi-  
2 nal laws of the United States. Funds appropriated  
3 pursuant to section 105(j) of this title may be used  
4 to reimburse State or local agencies providing such  
5 assistance.

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

12 (1) GENERAL AUTHORITY OF THE COMP-  
13 TROLLER GENERAL TO AUDIT.—

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

17 (i) all grants, program assistance, and  
18 other assistance provided to the Govern-  
19 ment of the Federated States of Micro-  
20 nesia under Articles I and II of Title Two  
21 of the U.S.-FSM Compact; and

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

1 Such authority shall include authority for the  
2 Comptroller General to conduct or cause to be  
3 conducted any of the audits provided for in sec-  
4 tion 232 of the U.S.-FSM Compact. The au-  
5 thority provided in this paragraph shall con-  
6 tinue for at least three years after the last such  
7 grant has been made or assistance has been  
8 provided.

9 (B) The Comptroller General (and his duly  
10 authorized representatives) shall also have au-  
11 thority to review any audit conducted by or on  
12 behalf of the Government of the United States.  
13 In this connection, the Comptroller General  
14 shall have access to such personnel and to such  
15 records, documents, working papers, automated  
16 data and files, and other information relevant  
17 to such review.

18 (2) COMPTROLLER GENERAL ACCESS TO  
19 RECORDS.—

20 (A) In carrying out paragraph (1), the  
21 Comptroller General (and his duly authorized  
22 representatives) shall have such access to the  
23 personnel and (without cost) to records, docu-  
24 ments, working papers, automated data and  
25 files, and other information relevant to such au-

1           dits. The Comptroller General may duplicate  
2           any such records, documents, working papers,  
3           automated data and files, or other information  
4           relevant to such audits.

5           (B) Such records, documents, working pa-  
6           pers, automated data and files, and other infor-  
7           mation regarding each such grant or other as-  
8           sistance shall be maintained for at least three  
9           years after the date such grant or assistance  
10          was provided and in a manner that permits  
11          such grants, assistance, and payments to be ac-  
12          counted for distinct from any other funds of the  
13          Government of the Federated States of Micro-  
14          nesia.

15          (3) STATUS OF COMPTROLLER GENERAL REP-  
16          RESENTATIVES.—The Comptroller General and his  
17          duly authorized representatives shall be immune  
18          from civil and criminal process relating to words  
19          spoken or written and all acts performed by them in  
20          their official capacity and falling within their func-  
21          tions, except insofar as such immunity may be ex-  
22          pressly waived by the Government of the United  
23          States. The Comptroller General and his duly au-  
24          thorized representatives shall not be liable to arrest  
25          or detention pending trial, except in the case of a

1 grave crime and pursuant to a decision by a com-  
2 petent judicial authority, and such persons shall  
3 enjoy immunity from seizure of personal property,  
4 immigration restrictions, and laws relating to alien  
5 registration, fingerprinting, and the registration of  
6 foreign agents. Such persons shall enjoy the same  
7 taxation exemptions as are set forth in Article 34  
8 of the Vienna Convention on Diplomatic Relations.  
9 The privileges, exemptions and immunities accorded  
10 under this paragraph are not for the personal ben-  
11 efit of the individuals concerned but are to safeguard  
12 the independent exercise of their official functions.  
13 Without prejudice to those privileges, exemptions  
14 and immunities, it is the duty of all such persons  
15 to respect the laws and regulations of the Govern-  
16 ment of the Federated States of Micronesia.

17 (4) AUDITS DEFINED.—As used in this sub-  
18 section, the term “audits” includes financial, pro-  
19 gram, and management audits, including  
20 determining—

21 (A) whether the Government of the Fed-  
22 erated States of Micronesia has met the re-  
23 quirements set forth in the U.S.-FSM Compact,  
24 or any related agreement entered into under the  
25 U.S.-FSM Compact, regarding the purposes for

1           which such grants and other assistance are to  
2           be used; and

3                   (B) the propriety of the financial trans-  
4           actions of the Government of the Federated  
5           States of Micronesia pursuant to such grants or  
6           assistance.

7           (5) COOPERATION BY FEDERATED STATES OF  
8           MICRONESIA.—The Government of the Federated  
9           States of Micronesia will cooperate fully with the  
10          Comptroller General of the United States in the con-  
11          duct of such audits as the Comptroller General de-  
12          termines necessary to enable the Comptroller Gen-  
13          eral to fully discharge his responsibilities under this  
14          joint resolution.

15 **SEC. 103. AGREEMENTS WITH AND OTHER PROVISIONS RE-**  
16 **LATED TO THE REPUBLIC OF THE MARSHALL**  
17 **ISLANDS.**

18          (a) LAW ENFORCEMENT ASSISTANCE.—

19                   (1) TECHNICAL AND TRAINING ASSISTANCE.—  
20          Pursuant to sections 222 and 224 of the U.S.-RMI  
21          Compact, the United States shall provide non-reim-  
22          bursable technical and training assistance as appro-  
23          priate, including training and equipment for postal  
24          inspection of illicit drugs and other contraband, to  
25          enable the Government of the Marshall Islands to

1 develop and adequately enforce laws of the Marshall  
2 Islands and to cooperate with the United States in  
3 the enforcement of criminal laws of the United  
4 States. Funds appropriated pursuant to section  
5 105(j) of this title may be used to reimburse State  
6 or local agencies providing such assistance.

7 (b) EJIT.—

8 (1) In the joint resolution of January 14, 1986  
9 (Public Law 99-239) Congress provided that the  
10 President of the United States shall negotiate with  
11 the Government of the Marshall Islands an agree-  
12 ment whereby, without prejudice as to any claims  
13 which have been or may be asserted by any party as  
14 to rightful title and ownership of any lands on Ejit,  
15 the Government of the Marshall Islands shall assure  
16 that lands on Ejit used as of January 1, 1985, by  
17 the people of Bikini, will continue to be available  
18 without charge for their use, until such time as Bi-  
19 kini is restored and inhabitable and the continued  
20 use of Ejit is no longer necessary, unless a Marshall  
21 Islands court of competent jurisdiction finally deter-  
22 mines that there are legal impediments to continued  
23 use of Ejit by the people of Bikini.

24 (2) In the joint resolution of January 14, 1986  
25 (Public Law 99-239) Congress provided that if the

1 impediments described in paragraph (1) do arise,  
2 the United States will cooperate with the Govern-  
3 ment of the Marshall Islands in assisting any person  
4 adversely affected by such judicial determination to  
5 remain on Ejit, or in locating suitable and accept-  
6 able alternative lands for such person's use.

7 (3) In the joint resolution of January 14, 1986  
8 (Public Law 99-239) Congress provided that para-  
9 graph (1) shall not be applied in a manner which  
10 would prevent the Government of the Marshall Is-  
11 lands from acting in accordance with its constitu-  
12 tional processes to resolve title and ownership claims  
13 with respect to such lands or from taking substitute  
14 or additional measures to meet the needs of the peo-  
15 ple of Bikini with their democratically expressed con-  
16 sent and approval.

17 (4) The United States and the Republic of the  
18 Marshall Islands entered into an agreement in fur-  
19 therance of paragraphs (1) through (3) of this sub-  
20 section on July 21, 1986. Nothing in this subsection  
21 creates any rights or obligations beyond those pro-  
22 vided for in the original enacted version of Public  
23 Law 99-239.

24 (c) SECTION 177 AGREEMENT.—



1           (1) In the joint resolution of January 14, 1986  
2 (Public Law 99–239) Congress provided that in fur-  
3 therance of the purposes of Article I of the Sub-  
4 sidiary Agreement for Implementation of Section  
5 177 of the Compact, the payment of the amount  
6 specified therein shall be made by the United States  
7 under Article I of the Agreement between the Gov-  
8 ernment of the United States and the Government  
9 of the Marshall Islands for the Implementation of  
10 section 177 of the Compact (hereafter in this sub-  
11 section referred to as the “Section 177 Agreement”)  
12 only after the Government of the Marshall Islands  
13 has notified the President of the United States as to  
14 which investment management firm has been se-  
15 lected by such Government to act as Fund Manager  
16 under Article I of the Section 177 Agreement.

17           (2) In the joint resolution of January 14, 1986  
18 (Public Law 99–239) Congress provided that in the  
19 event that the President determines that an invest-  
20 ment management firm selected by the Government  
21 of the Marshall Islands does not meet the require-  
22 ments specified in Article I of the Section 177  
23 Agreement, the United States shall invoke the con-  
24 ference and dispute resolution procedures of Article  
25 II of Title Four of the Compact. Pending the resolu-

1 tion of such a dispute and until a qualified Fund  
2 Manager has been designated, the Government of  
3 the Marshall Islands shall place the funds paid by  
4 the United States pursuant to Article I of the Sec-  
5 tion 177 Agreement into an interest-bearing escrow  
6 account. Upon designation of a qualified Fund Man-  
7 ager, all funds in the escrow account shall be trans-  
8 ferred to the control of such Fund Manager for  
9 management pursuant to the Section 177 Agree-  
10 ment.

11 (3) In the joint resolution of January 14, 1986  
12 (Public Law 99-239) Congress provided that if the  
13 Government of the Marshall Islands determines that  
14 some other investment firm should act as Fund  
15 Manager in place of the firm first (or subsequently)  
16 selected by such Government, the Government of the  
17 Marshall Islands shall so notify the President of the  
18 United States, identifying the firm selected by such  
19 Government to become Fund Manager, and the  
20 President shall proceed to evaluate the qualifications  
21 of such identified firm.

22 (4) In the joint resolution of January 14, 1986  
23 (Public Law 99-239) Congress provided that at the  
24 end of 15 years after the effective date of the Com-  
25 pact, the firm then acting as Fund Manager shall

1 transfer to the Government of the Marshall Islands,  
2 or to such account as such Government shall so no-  
3 tify the Fund Manager, all remaining funds and as-  
4 sets being managed by the Fund Manager under the  
5 Section 177 Agreement.

6 (5) The United States made the payment called  
7 for under paragraph (1) of this subsection in No-  
8 vember 1986. Nothing in this subsection creates any  
9 rights or obligations beyond those provided for in  
10 the original enacted version of Public Law 99-239.

11 (d) NUCLEAR TEST EFFECTS.—In the joint resolu-  
12 tion of January 14, 1986 (Public Law 99-239) Congress  
13 provided that in approving the Compact, the Congress un-  
14 derstands and intends that the peoples of Bikini,  
15 Enewetak, Rongelap, and Utrik, who were affected by the  
16 United States nuclear weapons testing program in the  
17 Marshall Islands, will receive the amounts of \$75,000,000  
18 (Bikini); \$48,750,000 (Enewetak); \$37,500,000  
19 (Rongelap); and \$22,500,000 (Utrik), respectively, which  
20 amounts shall be paid out of proceeds from the fund estab-  
21 lished under Article I, section 1 of the subsidiary agree-  
22 ment for the implementation of section 177 of the Com-  
23 pact. The amounts specified in this subsection shall be in  
24 addition to any amounts which may be awarded to claim-  
25 ants pursuant to Article IV of the subsidiary agreement

1 for the implementation of Section 177 of the Compact.  
2 Nothing in this subsection creates any rights or obliga-  
3 tions beyond those provided for in the original enacted  
4 version of Public Law 99-239.

5 (e) ESPOUSAL PROVISIONS.—

6 (1) In the joint resolution of January 14, 1986  
7 (Public Law 99-239) Congress provided that it is  
8 the intention of the Congress of the United States  
9 that the provisions of section 177 of the Compact of  
10 Free Association and the Agreement between the  
11 Government of the United States and the Govern-  
12 ment of the Marshall Islands for the Implementation  
13 of Section 177 of the Compact (hereafter in this  
14 subsection referred to as the “Section 177 Agree-  
15 ment”) constitute a full and final settlement of all  
16 claims described in Articles X and XI of the Section  
17 177 Agreement, and that any such claims be termi-  
18 nated and barred except insofar as provided for in  
19 the Section 177 Agreement.

20 (2) In the joint resolution of January 14, 1986  
21 (Public Law 99-239) Congress provided that in fur-  
22 therance of the intention of Congress as stated in  
23 paragraph (1) of this subsection, the Section 177  
24 Agreement is hereby ratified and approved. It is the  
25 explicit understanding and intent of Congress that

1 the jurisdictional limitations set forth in Article XII  
2 of such Agreement are enacted solely and exclusively  
3 to accomplish the objective of Article X of such  
4 Agreement and only as a clarification of the effect  
5 of Article X, and are not to be construed or imple-  
6 mented separately from Article X.

7 (3) The amounts specified in paragraph (1) of  
8 this subsection were paid as specified. Nothing in  
9 this subsection creates any rights or obligations be-  
10 yond those provided for in the original enacted  
11 version of Public Law 99-239. The provisions of  
12 section 177 of the Compact, section 177 of the U.S.-  
13 FSM Compact, section 177 of the U.S.-RMI Com-  
14 pact, and the Section 177 Agreement constitute a  
15 full and final settlement of all claims described in  
16 Articles X and XI of the Section 177 Agreement,  
17 and any such claims are terminated and barred.

18 (f) DOE RADIOLOGICAL HEALTH CARE PROGRAM;  
19 USDA AGRICULTURAL AND FOOD PROGRAMS.—

20 (1) MARSHALL ISLANDS PROGRAM.—Notwith-  
21 standing any other provision of law, upon the re-  
22 quest of the Government of the Republic of the Mar-  
23 shall Islands, the President (either through an ap-  
24 propriate department or agency of the United States  
25 or by contract with a United States firm) shall con-

1       tinue to provide special medical care and logistical  
2       support thereto for the remaining 118 (as of April  
3       30, 2003) members of the population of Rongelap  
4       and Utrik who were exposed to radiation resulting  
5       from the 1954 United States thermo-nuclear  
6       “Bravo” test, pursuant to Public Laws 95–134 and  
7       96–205.

8               (2) AGRICULTURAL AND FOOD PROGRAMS.—In  
9       the joint resolution of January 14, 1986 (Public  
10       Law 99–239) Congress provided that notwith-  
11       standing any other provision of law, upon the re-  
12       quest of the Government of the Marshall Islands, for  
13       the first fifteen years after the effective date of the  
14       Compact, the President (either through an appro-  
15       priate department or agency of the United States or  
16       by contract with a United States firm or by a grant  
17       to the Government of the Republic of the Marshall  
18       Islands which may further contract only with a  
19       United States firm or a Republic of the Marshall Is-  
20       lands firm, the owners, officers and majority of the  
21       employees of which are citizens of the United States  
22       or the Republic of the Marshall Islands) shall pro-  
23       vide technical and other assistance—

1 (A) without reimbursement, to continue  
2 the planting and agricultural maintenance pro-  
3 gram on Enewetak;

4 (B) without reimbursement, to continue  
5 the food programs of the Bikini and Enewetak  
6 people described in section 1(d) of Article II of  
7 the Subsidiary Agreement for the Implementa-  
8 tion of Section 177 of the Compact and for con-  
9 tinued waterborne transportation of agricultural  
10 products to Enewetak including operations and  
11 maintenance of the vessel used for such pur-  
12 poses.

13 The President shall ensure the assistance provided  
14 under these programs reflects the changes in the  
15 population since the inception of such programs.

16 (3) PAYMENTS.—In the joint resolution of Jan-  
17 uary 14, 1986 (Public Law 99–239) Congress pro-  
18 vided that payments under this subsection shall be  
19 provided to such extent or in such amounts as are  
20 necessary for services and other assistance provided  
21 pursuant to this subsection. It is the sense of Con-  
22 gress that after the periods of time specified in para-  
23 graphs (1) and (2) of this subsection, consideration  
24 will be given to such additional funding for these  
25 programs as may be necessary. Nothing in this sub-

1 section creates any rights or obligations beyond  
2 those provided for in the original enacted version of  
3 Public Law 99-239.

4 (g) RONGELAP.—

5 (1) In the joint resolution of January 14, 1986  
6 (Public Law 99-239) Congress provided that be-  
7 cause Rongelap was directly affected by fallout from  
8 a 1954 United States thermonuclear test and be-  
9 cause the Rongelap people remain unconvinced that  
10 it is safe to continue to live on Rongelap Island, it  
11 is the intent of Congress to take such steps (if any)  
12 as may be necessary to overcome the effects of such  
13 fallout on the habitability of Rongelap Island, and to  
14 restore Rongelap Island, if necessary, so that it can  
15 be safely inhabited. Accordingly, it is the expectation  
16 of the Congress that the Government of the Mar-  
17 shall Islands shall use such portion of the funds  
18 specified in Article II, section 1(e) of the subsidiary  
19 agreement for the implementation of section 177 of  
20 the Compact as are necessary for the purpose of  
21 contracting with a qualified scientist or group of sci-  
22 entists to review the data collected by the Depart-  
23 ment of Energy relating to radiation levels and other  
24 conditions on Rongelap Island resulting from the  
25 thermonuclear test. It is the expectation of the Con-



1       gress that the Government of the Marshall Islands,  
2       after consultation with the people of Rongelap, shall  
3       select the party to review such data, and shall con-  
4       tract for such review and for submission of a report  
5       to the President of the United States and the Con-  
6       gress as to the results thereof.

7               (2) In the joint resolution of January 14, 1986  
8       (Public Law 99-239) Congress provided that the  
9       purpose of the review referred to in paragraph (1)  
10      of this subsection shall be to establish whether the  
11      data cited in support of the conclusions as to the  
12      habitability of Rongelap Island, as set forth in the  
13      Department of Energy report entitled: "The Mean-  
14      ing of Radiation for Those Atolls in the Northern  
15      Part of the Marshall Islands That Were Surveyed in  
16      1978", dated November 1982, are adequate and  
17      whether such conclusions are fully supported by the  
18      data. If the party reviewing the data concludes that  
19      such conclusions as to habitability are fully sup-  
20      ported by adequate data, the report to the President  
21      of the United States and the Congress shall so state.  
22      If the party reviewing the data concludes that the  
23      data are inadequate to support such conclusions as  
24      to habitability or that such conclusions as to habit-  
25      ability are not fully supported by the data, the Gov-

1 ernment of the Marshall Islands shall contract with  
2 an appropriate scientist or group of scientists to un-  
3 dertake a complete survey of radiation and other ef-  
4 fects of the nuclear testing program relating to the  
5 habitability of Rongelap Island. Such sums as are  
6 necessary for such survey and report concerning the  
7 results thereof and as to steps needed to restore the  
8 habitability of Rongelap Island are authorized to be  
9 made available to the Government of the Marshall  
10 Islands.

11 (3) In the joint resolution of January 14, 1986  
12 (Public Law 99-239) Congress provided that it is  
13 the intent of Congress that such steps (if any) as  
14 are necessary to restore the habitability of Rongelap  
15 Island and return the Rongelap people to their  
16 homeland will be taken by the United States in con-  
17 sultation with the Government of the Marshall Is-  
18 lands and, in accordance with its authority under  
19 the Constitution of the Marshall Islands, the  
20 Rongelap local government council. Nothing in this  
21 subsection creates any rights or obligations beyond  
22 those provided for in the original enacted version of  
23 Public Law 99-239.

24 (h) FOUR ATOLL HEALTH CARE PROGRAM.—

1           (1) In the joint resolution of January 14, 1986  
2           (Public Law 99-239) Congress provided that serv-  
3           ices provided by the United States Public Health  
4           Service or any other United States agency pursuant  
5           to section 1(a) of Article II of the Agreement for the  
6           Implementation of Section 177 of the Compact  
7           (hereafter in this subsection referred to as the “Sec-  
8           tion 177 Agreement”) shall be only for services to  
9           the people of the Atolls of Bikini, Enewetak,  
10          Rongelap, and Utrik who were affected by the con-  
11          sequences of the United States nuclear testing pro-  
12          gram, pursuant to the program described in Public  
13          Law 95-134 (91 Stat. 1159) and Public Law 96-  
14          205 (94 Stat. 84) and their descendants (and any  
15          other persons identified as having been so affected  
16          if such identification occurs in the manner described  
17          in such public laws). Nothing in this subsection shall  
18          be construed as prejudicial to the views or policies  
19          of the Government of the Marshall Islands as to the  
20          persons affected by the consequences of the United  
21          States nuclear testing program.

22          (2) In the joint resolution of January 14, 1986  
23          (Public Law 99-239) Congress provided that at the  
24          end of the first year after the effective date of the  
25          Compact and at the end of each year thereafter, the

1 providing agency or agencies shall return to the Gov-  
2 ernment of the Marshall Islands any unexpended  
3 funds to be returned to the Fund Manager (as de-  
4 scribed in Article I of the Section 177 Agreement)  
5 to be covered into the Fund to be available for fu-  
6 ture use.

7 (3) In the joint resolution of January 14, 1986  
8 (Public Law 99-239) Congress provided that the  
9 Fund Manager shall retain the funds returned by  
10 the Government of the Marshall Islands pursuant to  
11 paragraph (2) of this subsection, shall invest and  
12 manage such funds, and at the end of 15 years after  
13 the effective date of the Compact, shall make from  
14 the total amount so retained and the proceeds there-  
15 of annual disbursements sufficient to continue to  
16 make payments for the provision of health services  
17 as specified in paragraph (1) of this subsection to  
18 such extent as may be provided in contracts between  
19 the Government of the Marshall Islands and appro-  
20 priate United States providers of such health serv-  
21 ices. Nothing in this subsection creates any rights or  
22 obligations beyond those provided for in the original  
23 enacted version of Public Law 99-239.

24 (i) ENJEBI COMMUNITY TRUST FUND.—In the joint  
25 resolution of January 14, 1986 (Public Law 99-239) Con-

1 gress provided that notwithstanding any other provision  
2 of law, the Secretary of the Treasury shall establish on  
3 the books of the Treasury of the United States a fund  
4 having the status specified in Article V of the subsidiary  
5 agreement for the implementation of Section 177 of the  
6 Compact, to be known as the “Enjebi Community Trust  
7 Fund” (hereafter in this subsection referred to as the  
8 “Fund”), and shall credit to the Fund the amount of  
9 \$7,500,000. Such amount, which shall be ex gratia, shall  
10 be in addition to and not charged against any other funds  
11 provided for in the Compact and its subsidiary agree-  
12 ments, this joint resolution, or any other Act. Upon receipt  
13 by the President of the United States of the agreement  
14 described in this subsection, the Secretary of the Treas-  
15 ury, upon request of the Government of the Marshall Is-  
16 lands, shall transfer the Fund to the Government of the  
17 Marshall Islands, provided that the Government of the  
18 Marshall Islands agrees as follows:

19           (1) ENJEBI TRUST AGREEMENT.—In the joint  
20 resolution of January 14, 1986 (Public Law 99–  
21 239) Congress provided that the Government of the  
22 Marshall Islands and the Enewetak Local Govern-  
23 ment Council, in consultation with the people of  
24 Enjebi, shall provide for the creation of the Enjebi  
25 Community Trust Fund and the employment of the

1 manager of the Enewetak Fund established pursu-  
2 ant to the Section 177 Agreement as trustee and  
3 manager of the Enjebi Community Trust Fund, or,  
4 should the manager of the Enewetak Fund not be  
5 acceptable to the people of Enjebi, another United  
6 States investment manager with substantial experi-  
7 ence in the administration of trusts and with funds  
8 under management in excess of 250 million dollars.

9 (2) MONITOR CONDITIONS.—In the joint resolu-  
10 tion of January 14, 1986 (Public Law 99–239) Con-  
11 gress provided that upon the request of the Govern-  
12 ment of the Marshall Islands, the United States  
13 shall monitor the radiation and other conditions on  
14 Enjebi and within one year of receiving such a re-  
15 quest shall report to the Government of the Marshall  
16 Islands when the people of Enjebi may resettle  
17 Enjebi under circumstances where the radioactive  
18 contamination at Enjebi, including contamination  
19 derived from consumption of locally grown food  
20 products, can be reduced or otherwise controlled to  
21 meet whole body Federal radiation protection stand-  
22 ards for the general population, including mean an-  
23 nual dose and mean 30-year cumulative dose stand-  
24 ards.

1           (3) RESETTLEMENT OF ENJEBI.—In the joint  
2 resolution of January 14, 1986 (Public Law 99–  
3 239) Congress provided that in the event that the  
4 United States determines that the people of Enjebi  
5 can within 25 years of January 14, 1986, resettle  
6 Enjebi under the conditions set forth in paragraph  
7 (2) of this subsection, then upon such determination  
8 there shall be available to the people of Enjebi from  
9 the Fund such amounts as are necessary for the  
10 people of Enjebi to do the following, in accordance  
11 with a plan developed by the Enewetak Local Gov-  
12 ernment Council and the people of Enjebi, and con-  
13 curred with by the Government of the Marshall Is-  
14 lands to assure consistency with the government’s  
15 overall economic development plan:

16           (A) Establish a community on Enjebi Is-  
17 land for the use of the people of Enjebi.

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

20           (4) RESETTLEMENT OF OTHER LOCATION.—In  
21 the joint resolution of January 14, 1986 (Public  
22 Law 99–239) Congress provided that in the event  
23 that the United States determines that within 25  
24 years of January 14, 1986, the people of Enjebi can-  
25 not resettle Enjebi without exceeding the radiation

1 standards set forth in paragraph (2) of this sub-  
2 section, then the fund manager shall be directed by  
3 the trust instrument to distribute the Fund to the  
4 people of Enjebi for their resettlement at some other  
5 location in accordance with a plan, developed by the  
6 Enewetak Local Government Council and the people  
7 of Enjebi and concurred with by the Government of  
8 the Marshall Islands, to assure consistency with the  
9 government's overall economic development plan.

10 (5) INTEREST FROM FUND.—In the joint reso-  
11 lution of January 14, 1986 (Public Law 99-239)  
12 Congress provided that prior to and during the dis-  
13 tribution of the corpus of the Fund pursuant to  
14 paragraphs (3) and (4) of this subsection, the people  
15 of Enjebi may, if they so request, receive the interest  
16 earned by the Fund on no less frequent a basis than  
17 quarterly.

18 (6) DISCLAIMER OF LIABILITY.—In the joint  
19 resolution of January 14, 1986 (Public Law 99-  
20 239) Congress provided that neither under the laws  
21 of the Marshall Islands nor under the laws of the  
22 United States, shall the Government of the United  
23 States be liable for any loss or damage to person  
24 or property in respect to the resettlement of Enjebi



1 by the people of Enjebi, pursuant to the provision  
2 of this subsection or otherwise.

3 (7) \_\_\_\_.—The ex gratia payment provided for  
4 in this subsection was made. Nothing in this sub-  
5 section creates any rights or obligations beyond  
6 those provided for in the original enacted version of  
7 Public Law 99–239.

8 (j) BIKINI ATOLL CLEANUP.—

9 (1) DECLARATION OF POLICY.—In the joint  
10 resolution of January 14, 1986 (Public Law 99–  
11 239), the Congress determined and declared that it  
12 is the policy of the United States, to be supported  
13 by the full faith and credit of the United States,  
14 that because the United States, through its nuclear  
15 testing and other activities, rendered Bikini Atoll  
16 unsafe for habitation by the people of Bikini, the  
17 United States will fulfill its responsibility for restor-  
18 ing Bikini Atoll to habitability, as set forth in para-  
19 graph (2) and (3) of this subsection.

20 (2) CLEANUP FUNDS.—The joint resolution of  
21 January 14, 1986 (Public Law 99–239) authorized  
22 to be appropriated such sums as necessary to imple-  
23 ment the settlement agreement of March 15, 1985,  
24 in *The People of Bikini, et al. against United States*  
25 *of America, et al.*, Civ. No. 84–0425 (D. Ha.).

1           (3) CONDITIONS OF FUNDING.—In the joint  
2 resolution of January 14, 1986 (Public Law 99–  
3 239) the Congress provided that the funds referred  
4 to in paragraph (2) were to be made available pursu-  
5 ant to Article VI, Section 1 of the Compact Section  
6 177 Agreement upon completion of the events set  
7 forth in the settlement agreement referred to in  
8 paragraph (2) of this subsection. Nothing in this  
9 subsection creates any rights or obligations beyond  
10 those provided for in the original enacted version of  
11 Public Law 99–239.

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

18           (1) GENERAL AUTHORITY OF THE COMP-  
19 TROLLER GENERAL TO AUDIT.—

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

23           (i) all grants, program assistance, and  
24 other assistance provided to the Govern-  
25 ment of the Republic of the Marshall Is-

1 lands under Articles I and II of Title Two  
2 of the U.S.-RMI Compact; and

3 (ii) any other assistance provided by  
4 the Government of the United States to  
5 the Government of the Republic of the  
6 Marshall Islands.

7 Such authority shall include authority for the  
8 Comptroller General to conduct or cause to be  
9 conducted any of the audits provided for in sec-  
10 tion 232 of the U.S.-RMI Compact. The au-  
11 thority provided in this paragraph shall con-  
12 tinue for at least three years after the last such  
13 grant has been made or assistance has been  
14 provided.

15 (B) The Comptroller General (and his duly  
16 authorized representatives) shall also have au-  
17 thority to review any audit conducted by or on  
18 behalf of the Government of the United States.  
19 In this connection, the Comptroller General  
20 shall have access to such personnel and to such  
21 records, documents, working papers, automated  
22 data and files, and other information relevant  
23 to such review.

24 (2) COMPTROLLER GENERAL ACCESS TO  
25 RECORDS.—

1           (A) In carrying out paragraph (1), the  
2           Comptroller General (and his duly authorized  
3           representatives) shall have such access to the  
4           personnel and (without cost) to records, docu-  
5           ments, working papers, automated data and  
6           files, and other information relevant to such au-  
7           dits. The Comptroller General may duplicate  
8           any such records, documents, working papers,  
9           automated data and files, or other information  
10          relevant to such audits.

11          (B) Such records, documents, working pa-  
12          pers, automated data and files, and other infor-  
13          mation regarding each such grant or other as-  
14          sistance shall be maintained for at least three  
15          years after the date such grant or assistance  
16          was provided and in a manner that permits  
17          such grants, assistance and payments to be ac-  
18          counted for distinct from any other funds of the  
19          Government of the Republic of the Marshall Is-  
20          lands.

21          (3) STATUS OF COMPTROLLER GENERAL REP-  
22          RESENTATIVES.—The Comptroller General and his  
23          duly authorized representatives shall be immune  
24          from civil and criminal process relating to words  
25          spoken or written and all acts performed by them in

1 their official capacity and falling within their func-  
2 tions, except insofar as such immunity may be ex-  
3 pressly waived by the Government of the United  
4 States. The Comptroller General and his duly au-  
5 thorized representatives shall not be liable to arrest  
6 or detention pending trial, except in the case of a  
7 grave crime and pursuant to a decision by a com-  
8 petent judicial authority, and such persons shall  
9 enjoy immunity from seizure of personal property,  
10 immigration restrictions, and laws relating to alien  
11 registration, fingerprinting, and the registration of  
12 foreign agents. Such persons shall enjoy the same  
13 taxation exemptions as are set forth in Article 34 of  
14 the Vienna Convention on Diplomatic Relations. The  
15 privileges, exemptions and immunities accorded  
16 under this paragraph are not for the personal ben-  
17 efit of the individuals concerned but are to safeguard  
18 the independent exercise of their official functions.  
19 Without prejudice to those privileges, exemptions  
20 and immunities, it is the duty of all such persons to  
21 respect the laws and regulations of the Government  
22 of the Republic of the Marshall Islands.

23 (4) AUDITS DEFINED.—As used in this sub-  
24 section, the term “audits” includes financial, pro-

1 gram, and management audits, including  
2 determining—

3 (A) whether the Government of the Republic  
4 of the Marshall Islands has met the require-  
5 ments set forth in the U.S.-RMI Compact, or  
6 any related agreement entered into under the  
7 U.S.-RMI Compact, regarding the purposes for  
8 which such grants and other assistance are to  
9 be used; and

10 (B) the propriety of the financial trans-  
11 actions of the Government of the Republic of  
12 the Marshall Islands pursuant to such grants or  
13 assistance.

14 (5) COOPERATION BY THE REPUBLIC OF THE  
15 MARSHALL ISLANDS.—The Government of the Re-  
16 public of the Marshall Islands will cooperate fully  
17 with the Comptroller General of the United States in  
18 the conduct of such audits as the Comptroller Gen-  
19 eral determines necessary to enable the Comptroller  
20 General to fully discharge his responsibilities under  
21 this joint resolution.

1 **SEC. 104. INTERPRETATION OF AND UNITED STATES POL-**  
2 **ICY REGARDING U.S.-FSM COMPACT AND U.S.-**  
3 **RMI COMPACT.**

4 (a) HUMAN RIGHTS.—In approving the U.S.-FSM  
5 Compact and the U.S.-RMI Compact, the Congress notes  
6 the conclusion in the Statement of Intent of the Report  
7 of The Future Political Status Commission of the Con-  
8 gress of Micronesia in July, 1969, that “our recommenda-  
9 tion of a free associated state is indissolubly linked to our  
10 desire for such a democratic, representative, constitutional  
11 government” and notes that such desire and intention are  
12 reaffirmed and embodied in the Constitutions of the Fed-  
13 erated States of Micronesia and the Republic of the Mar-  
14 shall Islands. The Congress also notes and specifically en-  
15 dorses the preamble to the U.S.-FSM Compact and the  
16 U.S.-RMI Compact, which affirms that the governments  
17 of the parties to the U.S.-FSM Compact and the U.S.-  
18 RMI Compact are founded upon respect for human rights  
19 and fundamental freedoms for all. The Secretary of State  
20 shall include in the annual reports on the status of inter-  
21 nationally recognized human rights in foreign countries,  
22 which are submitted to the Congress pursuant to sections  
23 116 and 502B of the Foreign Assistance Act of 1961, “22  
24 USC 2151n, 2304” a full and complete report regarding  
25 the status of internationally recognized human rights in

1 the Federated States of Micronesia and the Republic of  
2 the Marshall Islands.

3 (b) IMMIGRATION AND PASSPORT SECURITY.—

4 (1) NATURALIZED CITIZENS.—The rights of a  
5 bona fide naturalized citizen of the Federated States  
6 of Micronesia or the Republic of the Marshall Is-  
7 lands to enter the United States, to lawfully engage  
8 therein in occupations, and to establish residence  
9 therein as a nonimmigrant, to the extent such rights  
10 are provided under section 141 of the U.S.-FSM  
11 Compact and U.S.-RMI Compact, shall not be  
12 deemed to extend to any such naturalized citizen  
13 with respect to whom circumstances associated with  
14 the acquisition of the status of a naturalized citizen  
15 are such as to allow a reasonable inference, on the  
16 part of appropriate officials of the United States and  
17 subject to United States procedural requirements,  
18 that such naturalized status was acquired primarily  
19 in order to obtain such rights.

20 (2) PASSPORTS.—Up to \$250,000 of the grant  
21 assistance provided to the Federated States of Mi-  
22 cronisia pursuant to section 211(a)(4) of the U.S.-  
23 FSM Compact, and up to \$250,000 of the grant as-  
24 sistance provided to the Republic of the Marshall Is-  
25 lands pursuant to section 211(a)(4) of the U.S.-RMI



1 Compact (or a greater amount of the section  
2 211(a)(4) grant, if mutually agreed between the  
3 Government of the United States and the govern-  
4 ment of the Federated States of Micronesia or the  
5 government of the Republic of the Marshall Islands),  
6 shall be used for the purpose of increasing the ma-  
7 chine-readability and security of passports issued by  
8 such jurisdictions. Such funds must be obligated by  
9 September 30, 2004 and in the amount and manner  
10 specified by the Secretary of State in consultation  
11 with the Secretary of Homeland Security and, re-  
12 spectively, with the government of the Federated  
13 States of Micronesia and the government of the Re-  
14 public of the Marshall Islands. The United States  
15 Government is authorized to require that passports  
16 used for the purpose of seeking admission under sec-  
17 tion 141 of the U.S.-FSM Compact and the U.S.-  
18 RMI Compact contain the security enhancements  
19 funded by such assistance.

20 (3) INFORMATION-SHARING.—As a condition of  
21 assistance under the U.S.-FSM Compact and the  
22 U.S.-RMI Compact, the governments of the Fed-  
23 erated States of Micronesia and the Republic of the  
24 Marshall Islands shall develop, prior to October 1,  
25 2004, the capability to provide reliable and timely

1 information as may reasonably be required by the  
2 Government of the United States in enforcing crimi-  
3 nal and security-related grounds of inadmissibility  
4 and deportability under the Immigration and Na-  
5 tionality Act, as amended, and shall provide such in-  
6 formation to the Government of the United States.

7 (4) TRANSITION; CONSTRUCTION OF SECTIONS  
8 141(A)(3) AND 141(A)(4) OF THE U.S.-FSM COMPACT  
9 AND U.S.-RMI COMPACT.—The words “the effective  
10 date of this Compact, as amended” in sections  
11 141(a)(3) and 141(a)(4) of the U.S.-FSM Compact  
12 and the U.S.-RMI Compact shall be construed to  
13 read, “on the day prior to the enactment by the  
14 United States Congress of the Amended Compact  
15 Act.”.

16 (c) NONALIENATION OF LANDS.—The Congress en-  
17 dors and encourages the maintenance of the policies of  
18 the Government of the Federated States of Micronesia and  
19 the Government of the Republic of the Marshall Islands  
20 to regulate, in accordance with their Constitutions and  
21 laws, the alienation of permanent interests in real property  
22 so as to restrict the acquisition of such interests to persons  
23 of Federated States of Micronesia citizenship and the Re-  
24 public of the Marshall Islands citizenship, respectively.

1 (d) NUCLEAR WASTE DISPOSAL.—In approving the  
2 U.S.-FSM Compact and the U.S.-RMI Compact, the Con-  
3 gress understands that the Government of the Federated  
4 States of Micronesia and the Government of the Republic  
5 of the Marshall Islands will not permit any other govern-  
6 ment or any nongovernmental party to conduct, in the Re-  
7 public of the Marshall Islands or in the Federated States  
8 of Micronesia, any of the activities specified in subsection  
9 (a) of section 314 of the U.S.-FSM Compact and the U.S.-  
10 RMI Compact.

11 (e) EFFECT OF U.S.-FSM COMPACT AND U.S.-RMI  
12 COMPACT ON CERTAIN U.S. AREAS; RELATED AUTHOR-  
13 IZATION AND CONTINUING APPROPRIATION.—

14 (1) DEFINITIONS.—For the purposes of this  
15 subsection—

16 (A) the term “affected jurisdiction” means  
17 American Samoa, Guam, the Commonwealth of  
18 the Northern Mariana Islands, or the State of  
19 Hawaii; and

20 (B) the term “qualified nonimmigrant”  
21 means person admitted pursuant to section 141  
22 of the U.S.-RMI or U.S.-FSM Compact, or sec-  
23 tion 141 of the Palau Compact who, as of a  
24 date referenced in the most recently published  
25 enumeration (i) is a resident of an affected ju-

1 jurisdiction, and (ii) has had periods of residence  
2 in American Samoa, Guam, the Commonwealth  
3 of the Northern Mariana Islands, or a State of  
4 the United States with a duration, in the aggregate,  
5 of less than 10 years; and their children  
6 under the age of 18 who were admitted as non-  
7 immigrants under the U.S.-RMI Compact, the  
8 U.S.-FSM Compact, or the Palau Compact. As  
9 used in this subsection, the term “resident”  
10 shall be a person who has a “residence,” as  
11 that term is defined in section 101(a)(33) of  
12 the Immigration and Nationality Act, as  
13 amended.

14 (2) AUTHORIZATION AND CONTINUING APPRO-  
15 PRIATION.—There is hereby authorized and appro-  
16 priated to the Secretary of the Interior, out of any  
17 money in the Treasury not otherwise appropriated,  
18 to remain available until expended, for each fiscal  
19 year from 2004 through 2023, \$15,000,000 for  
20 grants to affected jurisdictions to aid in defraying  
21 costs incurred by affected jurisdictions as a result of  
22 increased demands placed on health, educational, so-  
23 cial, or public safety services or infrastructure re-  
24 lated to such services due to the residence in af-  
25 fected jurisdictions of qualified nonimmigrants from

1 the Republic of the Marshall Islands, the Federated  
2 States of Micronesia, or the Republic of Palau. The  
3 grants shall be—

4 (A) awarded and administered by the De-  
5 partment of the Interior, Office of Insular Af-  
6 fairs, or any successor thereto, in accordance  
7 with regulations, policies and procedures appli-  
8 cable to grants so awarded and administered,  
9 and

10 (B) used only for health, educational, so-  
11 cial, or public safety services, or infrastructure  
12 related to such services, specifically affected by  
13 qualified nonimmigrants.

14 (3) ENUMERATION.—The Secretary of the Inte-  
15 rior shall conduct periodic enumerations of qualified  
16 nonimmigrants in each affected jurisdiction. The  
17 enumerations—

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

22 (B) shall be supervised by the United  
23 States Bureau of the Census or such other or-  
24 ganization as the Secretary of the Interior may  
25 select; and

1           (C) after fiscal year 2003, shall be funded  
2           by the Secretary of the Interior by deducting  
3           such sums as are necessary from funds appro-  
4           priated pursuant to the authorization contained  
5           in paragraph (2) of this subsection.

6           (4) ALLOCATION.—The Secretary of the Inte-  
7           rior shall allocate to the government of each affected  
8           jurisdiction, on the basis of the results of the most  
9           recent enumeration, grants in an aggregate amount  
10          equal to the total amount of funds appropriated  
11          under paragraph (2) of this subsection, as reduced  
12          by any deductions authorized by subparagraph (C)  
13          of paragraph (3) of this subsection, multiplied by a  
14          ratio derived by dividing the number of qualified  
15          nonimmigrants in such affected jurisdiction by the  
16          total number of qualified nonimmigrants in all af-  
17          fected jurisdictions.

18          (f) FOREIGN LOANS.—The Congress hereby reaf-  
19          firms the United States position that the United States  
20          Government is not responsible for foreign loans or debt  
21          obtained by the Governments of the Federated States of  
22          Micronesia and the Republic of the Marshall Islands.

23   **SEC. 105. SUPPLEMENTAL PROVISIONS.**

24          (a) DOMESTIC PROGRAM REQUIREMENTS.—Except  
25          as may otherwise be provided in this joint resolution, all

1 United States Federal programs and services extended to  
2 or operated in the Federated States of Micronesia or the  
3 Republic of the Marshall Islands are and shall remain sub-  
4 ject to all applicable criteria, standards, reporting require-  
5 ments, auditing procedures, and other rules and regula-  
6 tions applicable to such programs when operating in the  
7 United States (including its territories and common-  
8 wealths).

9 (b) RELATIONS WITH THE FEDERATED STATES OF  
10 MICRONESIA AND THE REPUBLIC OF THE MARSHALL IS-  
11 LANDS.—

12 (1) Appropriations made pursuant to Article I  
13 of Title Two and subsection (a)(2) of section 221 of  
14 Article II of Title Two of the U.S.-FSM Compact  
15 and the U.S.-RMI Compact shall be made to the  
16 Secretary of the Interior, who shall have the author-  
17 ity necessary to fulfill his responsibilities for moni-  
18 toring and managing the funds so appropriated con-  
19 sistent with the U.S.-FSM Compact and the U.S.-  
20 RMI Compact, including the agreements referred to  
21 in section 462(b)(4) of the U.S.-FSM Compact and  
22 U.S.-RMI Compact (relating to Fiscal Procedures)  
23 and the agreements referred to in section 462(b)(5)  
24 of the U.S.-FSM Compact and the U.S.-RMI Com-  
25 pact (regarding the Trust Fund).

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

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

15           (4) Federal agencies providing programs and  
16 services to the Federated States of Micronesia and  
17 the Republic of the Marshall Islands shall coordinate  
18 with the Secretaries of the Interior and State re-  
19 garding provision of such programs and services.  
20 The Secretaries of the Interior and State shall con-  
21 sult with the Secretary of the Treasury regarding  
22 overall economic conditions in the Federated States  
23 of Micronesia and the Republic of the Marshall Is-  
24 lands.



1           (5) United States Government employees in ei-  
2           ther the Federated States of Micronesia or the Re-  
3           public of the Marshall Islands are subject to the au-  
4           thority of the United States Chief of Mission, includ-  
5           ing as elaborated in section 207 of the Foreign Serv-  
6           ice Act and the President's Letter of Instruction to  
7           the United States Chief of Mission and any order or  
8           directive of the President in effect from time to  
9           time.

10           (6) The President is hereby authorized to ap-  
11           point an Interagency Group on Freely Associated  
12           States' Affairs to provide policy guidance and rec-  
13           ommendations on implementation of the U.S.-FSM  
14           Compact and the U.S.-RMI Compact to Federal de-  
15           partments and agencies.

16           (7) The three United States appointees (United  
17           States chair plus two members) to the Joint Eco-  
18           nomic Management Committee provided for in sec-  
19           tion 213 of the U.S.-FSM Compact and Article III  
20           of the U.S.-FSM Fiscal Procedures Agreement re-  
21           ferred to in section 462(b)(4) of the U.S.-FSM Com-  
22           pact shall be United States Government officers or  
23           employees. The three United States appointees  
24           (United States chair plus two members) to the Joint  
25           Economic Management and Financial Accountability

1 Committee provided for in section 214 of the U.S.-  
2 RMI Compact and Article III of the U.S.-RMI Fis-  
3 cal Procedures Agreement referred to in section  
4 462(b)(4) of the U.S.-RMI Compact shall be United  
5 States Government officers or employees.

6 (8) The United States voting members (United  
7 States chair plus two or more members) of the  
8 Trust Fund Committee appointed by the Govern-  
9 ment of the United States pursuant to Article 7 of  
10 the Trust Fund Agreement implementing section  
11 215 of the U.S.-FSM Compact and referred to in  
12 section 462(b)(5) of the U.S.-FSM Compact and  
13 any alternates designated by the Government of the  
14 United States shall be United States Government of-  
15 ficers or employees. The United States voting mem-  
16 bers (United States chair plus two or more mem-  
17 bers) of the Trust Fund Committee appointed by the  
18 Government of the United States pursuant to Article  
19 7 of the Trust Fund Agreement implementing sec-  
20 tion 216 of the U.S.-RMI Compact and referred to  
21 in section 462(b)(5) of the U.S.-RMI Compact and  
22 any alternates designated by the Government of the  
23 United States shall be United States Government of-  
24 ficers or employees.

1           (9) The Trust Fund Committee provided for in  
2 Article 7 of the U.S.-FSM Trust Fund Agreement  
3 implementing section 215 of the U.S.-FSM Compact  
4 shall be a non-profit corporation incorporated under  
5 the laws of the District of Columbia. To the extent  
6 that any law, rule, regulation or ordinance of the  
7 District of Columbia, or of any State or political  
8 subdivision thereof in which the Trust Fund Com-  
9 mittee is incorporated or doing business, impedes or  
10 otherwise interferes with the performance of the  
11 functions of the Trust Fund Committee pursuant to  
12 this joint resolution, such law, rule, regulation, or  
13 ordinance shall be deemed to be preempted by this  
14 joint resolution. The Trust Fund Committee pro-  
15 vided for in Article 7 of the U.S.-RMI Trust Fund  
16 Agreement implementing section 216 of the U.S.-  
17 RMI Compact shall be a non-profit corporation in-  
18 corporated under the laws of the District of Colum-  
19 bia. To the extent that any law, rule, regulation or  
20 ordinance of the District of Columbia, or of any  
21 State or political subdivision thereof in which the  
22 Trust Fund Committee is incorporated or doing  
23 business, impedes or otherwise interferes with the  
24 performance of the functions of the Trust Fund  
25 Committee pursuant to this joint resolution, such

1 law, rule, regulation, or ordinance shall be deemed  
2 to be preempted by this joint resolution.

3 (c) CONTINUING TRUST TERRITORY AUTHORIZA-  
4 TION.—The authorization provided by the Act of June 30,  
5 1954, as amended (68 Stat. 330) shall remain available  
6 after the effective date of the Compact with respect to the  
7 Federated States of Micronesia and the Republic of the  
8 Marshall Islands for the following purposes:

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

12 (2) Transition purposes, including but not lim-  
13 ited to, completion of projects and fulfillment of  
14 commitments or obligations; termination of the  
15 Trust Territory Government and termination of the  
16 High Court; health and education as a result of ex-  
17 ceptional circumstances; ex gratia contributions for  
18 the populations of Bikini, Enewetak, Rongelap, and  
19 Utrik; and technical assistance and training in fi-  
20 nancial management, program administration, and  
21 maintenance of infrastructure, except that, for pur-  
22 poses of an orderly reduction of United States pro-  
23 grams and services in the Federated States of Mi-  
24 cronnesia, the Marshall Islands, and Palau, United  
25 States programs or services not specifically author-

1        ized by the Compact of Free Association or by other  
2        provisions of law may continue but, unless reim-  
3        bursed by the respective freely associated state, not  
4        in excess of the following amounts:

5                (A) For fiscal year 1987, an amount not to  
6                exceed 75 per centum of the total amount ap-  
7                propriated for such programs for fiscal year  
8                1986.

9                (B) For fiscal year 1988, an amount not  
10               to exceed 50 per centum of the total amount  
11               appropriated for such programs for fiscal year  
12               1986.

13               (C) For fiscal year 1989, an amount not to  
14               exceed 25 per centum of the total amount ap-  
15               propriated for such programs for fiscal year  
16               1986.

17        (d) SURVIVABILITY.—In furtherance of the provi-  
18        sions of Title Four, Article V, sections 452 and 453 of  
19        the U.S.-FSM Compact and the U.S.-RMI Compact, any  
20        provisions of the U.S.-FSM Compact or the U.S.-RMI  
21        Compact which remain effective after the termination of  
22        the U.S.-FSM Compact or U.S.-RMI Compact by the act  
23        of any party thereto and which are affected in any manner  
24        by provisions of this title shall remain subject to such pro-  
25        visions.

1 (e) NONCOMPLIANCE SANCTIONS; ACTIONS INCOM-  
2 PATIBLE WITH UNITED STATES AUTHORITY.—The Con-  
3 gress expresses its understanding that the Governments  
4 of the Federated States of Micronesia and the Republic  
5 of the Marshall Islands will not act in a manner incompat-  
6 ible with the authority and responsibility of the United  
7 States for security and defense matters in or related to  
8 the Federated States of Micronesia or the Republic of the  
9 Marshall Islands pursuant to the U.S.-FSM Compact or  
10 the U.S.-RMI Compact, including the agreements referred  
11 to in sections 462(a)(2) of the U.S.-FSM Compact and  
12 462(a)(5) of the U.S.-RMI Compact. The Congress fur-  
13 ther expresses its intention that any such act on the part  
14 of either such Government will be viewed by the United  
15 States as a material breach of the U.S.-FSM Compact or  
16 U.S.-RMI Compact. The Government of the United States  
17 reserves the right in the event of such a material breach  
18 of the U.S.-FSM Compact by the Government of the Fed-  
19 erated States of Micronesia or the U.S.-RMI Compact by  
20 the Government of the Republic of the Marshall Islands  
21 to take action, including (but not limited to) the suspen-  
22 sion in whole or in part of the obligations of the Govern-  
23 ment of the United States to that Government.

24 (f) CONTINUING PROGRAMS AND LAWS.—

1           (1) FEDERATED STATES OF MICRONESIA AND  
2       REPUBLIC OF THE MARSHALL ISLANDS.—In addi-  
3       tion to the programs and services set forth in section  
4       221 of the Compact, and pursuant to section 222 of  
5       the Compact, the programs and services of the fol-  
6       lowing agencies shall be made available to the Fed-  
7       erated States of Micronesia and to the Republic of  
8       the Marshall Islands:

9           (A) The Legal Services Corporation.

10          (B) The Public Health Service.

11          (C) The Rural Housing Service (formerly,  
12       the Farmers Home Administration) in the Mar-  
13       shall Islands and each of the four States of the  
14       Federated States of Micronesia: *Provided*, That  
15       in lieu of continuation of the program in the  
16       Federated States of Micronesia, the President  
17       may agree to transfer to the Government of the  
18       Federated States of Micronesia without cost,  
19       the portfolio of the Rural Housing Service ap-  
20       plicable to the Federated States of Micronesia  
21       and provide such technical assistance in man-  
22       agement of the portfolio as may be requested by  
23       the Federated States of Micronesia).

24          (2) TORT CLAIMS.—The provisions of section  
25       178 of the U.S.-FSM Compact and the U.S.-RMI

1 Compact regarding settlement and payment of tort  
2 claims shall apply to employees of any Federal agen-  
3 cy of the Government of the United States (and to  
4 any other person employed on behalf of any Federal  
5 agency of the Government of the United States on  
6 the basis of a contractual, cooperative, or similar  
7 agreement) which provides any service or carries out  
8 any other function pursuant to or in furtherance of  
9 any provisions of the U.S.-FSM Compact or the  
10 U.S.-RMI Compact or this joint resolution, except  
11 for provisions of Title Three of the Compact and of  
12 the subsidiary agreements related to such Title, in  
13 such area to which such Agreement formerly ap-  
14 plied.

15 (3) PCB CLEANUP.—The programs and serv-  
16 ices of the Environmental Protection Agency regard-  
17 ing PCBs shall, to the extent applicable, as appro-  
18 priate, and in accordance with applicable law, be  
19 construed to be made available to such islands.

20 (g) COLLEGE OF MICRONESIA.—Until otherwise pro-  
21 vided by Act of Congress, or until termination of the U.S.-  
22 FSM Compact and the U.S.-RMI Compact, the College  
23 of Micronesia shall retain its status as a land-grant insti-  
24 tution and its eligibility for all benefits and programs  
25 available to such land-grant institutions.



1 (h) TRUST TERRITORY DEBTS TO U.S. FEDERAL  
2 AGENCIES.—Neither the Government of the Federated  
3 States of Micronesia nor the Government of the Marshall  
4 Islands shall be required to pay to any department, agen-  
5 cy, independent agency, office, or instrumentality of the  
6 United States any amounts owed to such department,  
7 agency, independent agency, office, or instrumentality by  
8 the Government of the Trust Territory of the Pacific Is-  
9 lands as of the effective date of the Compact. There is  
10 authorized to be appropriated such sums as may be nec-  
11 essary to carry out the purposes of this subsection.

12 (i) USE OF DOD MEDICAL FACILITIES.—The Sec-  
13 retary of Defense is hereby authorized to cooperate with  
14 government authorities responsible for provision of med-  
15 ical services in the Federated States of Micronesia and  
16 the Republic of the Marshall Islands in order to permit  
17 use of medical facilities of the Department of Defense for  
18 persons properly referred by such authorities in accord-  
19 ance with Article XVII of the agreements referred to in  
20 section 462(b)(7) of the U.S.-FSM Compact and the U.S.-  
21 RMI Compact. The Secretary of Health and Human Serv-  
22 ices is hereby authorized and directed to continue to make  
23 the services of the National Health Service Corps available  
24 to the residents of the Federated States of Micronesia and  
25 the Republic of the Marshall Islands to the same extent

1 and for so long as such services are authorized to be pro-  
2 vided to persons residing in any other areas within or out-  
3 side the United States.

4 (j) TECHNICAL ASSISTANCE.—Technical assistance  
5 may be provided pursuant to section 224 of the U.S.-FSM  
6 Compact or the U.S.-RMI Compact by Federal agencies  
7 and institutions of the Government of the United States  
8 to the extent such assistance may be provided to States,  
9 territories, or units of local government. Such assistance  
10 by the Forest Service, the Natural Resources Conservation  
11 Service, the USDA Resource Conservation and Develop-  
12 ment Program, the Fish and Wildlife Service, the National  
13 Marine Fisheries Service, the United States Coast Guard,  
14 and the Advisory Council on Historic Preservation, the  
15 Department of the Interior, and other agencies providing  
16 assistance under the National Historic Preservation Act  
17 (80 Stat. 915; 16 U.S.C. 470–470t), shall be on a non-  
18 reimbursable basis. During the period the U.S.-FSM Com-  
19 pact and the U.S.-RMI Compact are in effect, the grant  
20 programs under the National Historic Preservation Act  
21 shall continue to apply to the Federated States of Micro-  
22 nesia and the Republic of the Marshall Islands in the same  
23 manner and to the same extent as prior to the approval  
24 of the Compact. Any funds provided pursuant to sections  
25 102(a), 103(a), 103(b), 103(f), 103(g), 103(h), 103(j),

1 105(c), 105(g), 105(h), 105(i), 105(j), 105(k), 105(l), and  
2 105(m) of this joint resolution shall be in addition to and  
3 not charged against any amounts to be paid to either the  
4 Federated States of Micronesia or the Republic of the  
5 Marshall Islands pursuant to the U.S.-FSM Compact, the  
6 U.S.-RMI Compact, or their related subsidiary agree-  
7 ments.

8 (k) PRIOR SERVICE BENEFITS PROGRAM.—Notwith-  
9 standing any other provision of law, persons who on Janu-  
10 ary 1, 1985, were eligible to receive payment under the  
11 Prior Service Benefits Program established within the So-  
12 cial Security System of the Trust Territory of the Pacific  
13 Islands because of their services performed for the United  
14 States Navy or the Government of the Trust Territory of  
15 the Pacific Islands prior to July 1, 1968, shall continue  
16 to receive such payments on and after the effective date  
17 of the Compact.

18 (l) INDEFINITE LAND USE PAYMENTS.—There are  
19 authorized to be appropriated such sums as may be nec-  
20 essary to complete repayment by the United States of any  
21 debts owed for the use of various lands in the Federated  
22 States of Micronesia and the Marshall Islands prior to  
23 January 1, 1985.

24 (m) COMMUNICABLE DISEASE CONTROL PRO-  
25 GRAM.—There are authorized to be appropriated for

1 grants to the Government of the Federated States of Mi-  
2 cronisia such sums as may be necessary for purposes of  
3 establishing or continuing programs for the control and  
4 prevention of communicable diseases, including (but not  
5 limited to) cholera and Hansen's Disease. The Secretary  
6 of the Interior shall assist the Government of the Fed-  
7 erated States of Micronesia and the Government of the  
8 Republic of the Marshall Islands in designing and imple-  
9 menting such a program.

10 (n) USER FEES.—Any person in the Federated  
11 States of Micronesia or the Republic of the Marshall Is-  
12 lands shall be liable for user fees, if any, for services pro-  
13 vided in the Federated States of Micronesia or the Repub-  
14 lic of the Marshall Islands by the Government of the  
15 United States to the same extent as any person in the  
16 United States would be liable for fees, if any, for such  
17 services in the United States.

18 (o) TREATMENT OF JUDGMENTS OF COURTS OF THE  
19 FEDERATED STATES OF MICRONESIA, THE REPUBLIC OF  
20 THE MARSHALL ISLANDS, AND THE REPUBLIC OF  
21 PALAU.—No judgment, whenever issued, of a court of the  
22 Federated States of Micronesia, the Republic of the Mar-  
23 shall Islands, or the Republic of Palau, against the United  
24 States, its departments and agencies, or officials of the  
25 United States or any other individuals acting on behalf

1 of the United States within the scope of their official duty,  
2 shall be honored by the United States, or be subject to  
3 recognition or enforcement in a court in the United States,  
4 unless the judgment is consistent with the interpretation  
5 by the United States of international agreements relevant  
6 to the judgment. In determining the consistency of a judg-  
7 ment with an international agreement, due regard shall  
8 be given to assurances made by the Executive Branch to  
9 the Congress of the United States regarding the proper  
10 interpretation of the international agreement.

11 **SEC. 106. CONSTRUCTION CONTRACT ASSISTANCE.**

12 (a) ASSISTANCE TO U.S. FIRMS.—In order to assist  
13 the Governments of the Federated States of Micronesia  
14 and of the Republic of the Marshall Islands through pri-  
15 vate sector firms which may be awarded contracts for con-  
16 struction or major repair of capital infrastructure within  
17 the Federated States of Micronesia or the Republic of the  
18 Marshall Islands, the United States shall consult with the  
19 Governments of the Federated States of Micronesia and  
20 the Republic of the Marshall Islands with respect to any  
21 such contracts, and the United States shall enter into  
22 agreements with such firms whereby such firms will, con-  
23 sistent with applicable requirements of such  
24 Governments—

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

4           (2) to the extent that necessary skills are not  
5 possessed by citizens of the Federated States of Mi-  
6 cronnesia and the Republic of the Marshall Islands,  
7 provide on the job training, with particular emphasis  
8 on the development of skills relating to operation of  
9 machinery and routine and preventative maintenance  
10 of machinery and other facilities; and

11          (3) provide specific training or other assistance  
12 in order to enable the Government to engage in  
13 long-term maintenance of infrastructure.

14 Assistance by such firms pursuant to this section may not  
15 exceed 20 percent of the amount of the contract and shall  
16 be made available only to such firms which meet the defi-  
17 nition of United States firm under the nationality rule for  
18 suppliers of services of the Agency for International Devel-  
19 opment (hereafter in this section referred to as “United  
20 States firms”). There are authorized to be appropriated  
21 such sums as may be necessary for the purposes of this  
22 subsection.

23          (b) AUTHORIZATION OF APPROPRIATIONS.—There  
24 are authorized to be appropriated such sums as may be  
25 necessary to cover any additional costs incurred by the

1 Government of the Federated States of Micronesia or the  
2 Republic of the Marshall Islands if such Governments,  
3 pursuant to an agreement entered into with the United  
4 States, apply a preference on the award of contracts to  
5 United States firms, provided that the amount of such  
6 preference does not exceed 10 percent of the amount of  
7 the lowest qualified bid from a non-United States firm for  
8 such contract.

9 **SEC. 107. PROHIBITION.**

10 The provisions of chapter 11 of title 18, United  
11 States Code, shall apply in full to any individual who has  
12 served as the United States negotiator of amendments to  
13 the Compact or its subsidiary agreements or of related  
14 agreements or who is or was an officer or employee of  
15 the Office in the Department of State responsible for ne-  
16 gotiating amendments to the Compact or its subsidiary  
17 agreements or who is or was assigned or detailed to that  
18 Office or who served on the interagency group coordi-  
19 nating United States policy on the Compact negotiations.

20 **SEC. 108. COMPENSATORY ADJUSTMENTS.**

21 (a) **ADDITIONAL PROGRAMS AND SERVICES.**—In ad-  
22 dition to the programs and services set forth in Section  
23 221 of the U.S.-FSM Compact and the U.S.-RMI Com-  
24 pact, and pursuant to Section 222 of the U.S.-FSM Com-  
25 pact and the U.S.-RMI Compact, the services and pro-

1 grams of the following United States agencies are author-  
2 ized to be made available to the Federated States of Mi-  
3 cronesia and the Republic of the Marshall Islands: the  
4 Small Business Administration, Economic Development  
5 Administration, the Rural Utilities Services (formerly  
6 Rural Electrification Administration); and the programs  
7 and services of the Department of Labor under the Work-  
8 force Investment Act of 1998; and the programs and serv-  
9 ices of the Department of Commerce relating to tourism  
10 and to marine resource development.

11 (b) FURTHER AMOUNTS.—

12 (1) The joint resolution of January 14, 1986  
13 (Public Law 99–239) provided that the governments  
14 of the Federated States of Micronesia and the Mar-  
15 shall Islands may submit to Congress reports con-  
16 cerning the overall financial and economic impacts  
17 on such areas resulting from the effect of Title IV  
18 of that joint resolution upon Title Two of the Com-  
19 pact. There were authorized to be appropriated for  
20 fiscal years beginning after September 30, 1990,  
21 such amounts as necessary, but not to exceed \$40  
22 million for the Federated States of Micronesia and  
23 \$20 million for the Marshall Islands, as provided in  
24 appropriation acts, to further compensate the gov-  
25 ernments of such islands (in addition to the com-



1       pensation provided in subsections (a) and (b) of sec-  
2       tion 111 of the joint resolution of January 14, 1986  
3       (Public Law 99–239) for adverse impacts, if any, on  
4       the finances and economies of such areas resulting  
5       from the effect of Title IV of that joint resolution  
6       upon Title Two of the Compact. The joint resolution  
7       of January 14, 1986 (Public Law 99–239) further  
8       provided that at the end of the initial fifteen-year  
9       term of the Compact, should any portion of the total  
10      amount of funds authorized in subsection 111 of  
11      that resolution not have been appropriated, such  
12      amount not yet appropriated may be appropriated,  
13      without regard to divisions between amounts author-  
14      ized in subsection 111 for the Federated States of  
15      Micronesia and for the Marshall Islands, based on  
16      either or both such government’s showing of such  
17      adverse impact, if any, as provided in that sub-  
18      section.

19               (2) The governments of the Federated States of  
20      Micronesia and the Republic of the Marshall Islands  
21      may each submit no more than one report or request  
22      for further compensation under section 111 of the  
23      joint resolution of January 14, 1986 (Public Law  
24      99–239) and any such report or request must be  
25      submitted by September 30, 2004. Only adverse eco-



1 **SEC. 110. PAYMENT OF CITIZENS OF THE FEDERATED**  
2 **STATES OF MICRONESIA, THE REPUBLIC OF**  
3 **THE MARSHALL ISLANDS, AND THE REPUB-**  
4 **LIC OF PALAU EMPLOYED BY THE GOVERN-**  
5 **MENT OF THE UNITED STATES IN THE CONTI-**  
6 **NENTAL UNITED STATES.**

7 Section 605 of Public Law 107-67 (the Treasury and  
8 General Government Appropriations Act, 2002) is amend-  
9 ed by striking “or the Republic of the Philippines,” in the  
10 last sentence and inserting the following: “the Republic  
11 of the Philippines, the Federated States of Micronesia, the  
12 Republic of the Marshall Islands, or the Republic of  
13 Palau.”.

1 **TITLE II—COMPACTS OF FREE**  
 2 **ASSOCIATION WITH THE FED-**  
 3 **ERATED STATES OF MICRO-**  
 4 **NESIA AND THE REPUBLIC OF**  
 5 **THE MARSHALL ISLANDS**

6 **SEC. 201. COMPACTS OF FREE ASSOCIATION, AS AMENDED**  
 7 **BETWEEN THE GOVERNMENT OF THE**  
 8 **UNITED STATES OF AMERICA AND THE GOV-**  
 9 **ERNMENT OF THE FEDERATED STATES OF**  
 10 **MICRONESIA AND BETWEEN THE GOVERN-**  
 11 **MENT OF THE UNITED STATES OF AMERICA**  
 12 **AND THE GOVERNMENT OF THE REPUBLIC**  
 13 **OF THE MARSHALL ISLANDS.**

14 (a) COMPACT OF FREE ASSOCIATION, AS AMENDED,  
 15 BETWEEN THE GOVERNMENT OF THE UNITED STATES  
 16 OF AMERICA AND THE GOVERNMENT OF THE FED-  
 17 ERATED STATES OF MICRONESIA.—

18 PREAMBLE

19 THE GOVERNMENT OF THE UNITED STATES OF  
 20 AMERICA AND THE GOVERNMENT OF THE  
 21 FEDERATED STATES OF MICRONESIA

22 Affirming that their Governments and their relation-  
 23 ship as Governments are founded upon respect for human  
 24 rights and fundamental freedoms for all, and that the peo-

1 ple of the Federated States of Micronesia have the right  
2 to enjoy self-government; and

3       Affirming the common interests of the United States  
4 of America and the Federated States of Micronesia in cre-  
5 ating and maintaining their close and mutually beneficial  
6 relationship through the free and voluntary association of  
7 their respective Governments; and

8       Affirming the interest of the Government of the  
9 United States in promoting the economic advancement  
10 and budgetary self-reliance of the Federated States of Mi-  
11 cronesia; and

12       Recognizing that their relationship until the entry  
13 into force on November 3, 1986 of the Compact was based  
14 upon the International Trusteeship System of the United  
15 Nations Charter, and in particular Article 76 of the Char-  
16 ter; and that pursuant to Article 76 of the Charter, the  
17 people of the Federated States of Micronesia have progres-  
18 sively developed their institutions of self-government, and  
19 that in the exercise of their sovereign right to self-deter-  
20 mination they, through their freely-expressed wishes, have  
21 adopted a Constitution appropriate to their particular cir-  
22 cumstances; and

23       Recognizing that the Compact reflected their common  
24 desire to terminate the Trusteeship and establish a gov-  
25 ernment-to-government relationship which was in accord-

1 ance with the new political status based on the freely ex-  
2 pressed wishes of the people of the Federated States of  
3 Micronesia and appropriate to their particular cir-  
4 cumstances; and

5       Recognizing that the people of the Federated States  
6 of Micronesia have and retain their sovereignty and their  
7 sovereign right to self-determination and the inherent  
8 right to adopt and amend their own Constitution and form  
9 of government and that the approval of the entry of the  
10 Government of the Federated States of Micronesia into  
11 the Compact by the people of the Federated States of Mi-  
12 cronesia constituted an exercise of their sovereign right  
13 to self-determination; and

14       Recognizing the common desire of the people of the  
15 United States and the people of the Federated States of  
16 Micronesia to maintain their close government-to-govern-  
17 ment relationship, the United States and the Federated  
18 States of Micronesia:

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

24       FURTHER AGREE that the relationship of free as-  
25 sociation derives from and is as set forth in this Compact,

1 as amended, by the Governments of the United States and  
2 the Federated States of Micronesia; and that, during such  
3 relationship of free association, the respective rights and  
4 responsibilities of the Government of the United States  
5 and the Government of the Federated States of Micronesia  
6 in regard to this relationship of free association derive  
7 from and are as set forth in this Compact, as amended.

8 TITLE ONE

9 GOVERNMENTAL RELATIONS

10 Article I

11 Self-Government

12 Section 111

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

16 Article II

17 Foreign Affairs

18 Section 121

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

23 (b) The foreign affairs capacity of the Government  
24 of the Federated States of Micronesia includes:

1           (1) the conduct of foreign affairs relating to law  
2 of the sea and marine resources matters, including  
3 the harvesting, conservation, exploration or exploi-  
4 tation of living and non-living resources from the  
5 sea, seabed or subsoil to the full extent recognized  
6 under international law;

7           (2) the conduct of its commercial, diplomatic,  
8 consular, economic, trade, banking, postal, civil avia-  
9 tion, communications, and cultural relations, includ-  
10 ing negotiations for the receipt of developmental  
11 loans and grants and the conclusion of arrangements  
12 with other governments and international and inter-  
13 governmental organizations, including any matters  
14 specially benefiting its individual citizens.

15       (c) The Government of the United States recognizes  
16 that the Government of the Federated States of Micro-  
17 nesia has the capacity to enter into, in its own name and  
18 right, treaties and other international agreements with  
19 governments and regional and international organizations.

20       (d) In the conduct of its foreign affairs, the Govern-  
21 ment of the Federated States of Micronesia confirms that  
22 it shall act in accordance with principles of international  
23 law and shall settle its international disputes by peaceful  
24 means.

25 Section 122



1       The Government of the United States shall support  
2 applications by the Government of the Federated States  
3 of Micronesia for membership or other participation in re-  
4 gional or international organizations as may be mutually  
5 agreed.

6 Section 123

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

12       (b) In recognition of the foreign affairs capacity of  
13 the Government of the Federated States of Micronesia,  
14 the Government of the United States, in the conduct of  
15 its foreign affairs, shall consult with the Government of  
16 the Federated States of Micronesia on matters that the  
17 Government of the United States regards as relating to  
18 or affecting the Government of the Federated States of  
19 Micronesia.

20 Section 124

21       The Government of the United States may assist or  
22 act on behalf of the Government of the Federated States  
23 of Micronesia in the area of foreign affairs as may be re-  
24 quested and mutually agreed from time to time. The Gov-  
25 ernment of the United States shall not be responsible to

1 third parties for the actions of the Government of the Fed-  
2 erated States of Micronesia undertaken with the assist-  
3 ance or through the agency of the Government of the  
4 United States pursuant to this section unless expressly  
5 agreed.

6 Section 125

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

12 Section 126

13 At the request of the Government of the Federated  
14 States of Micronesia and subject to the consent of the re-  
15 ceiving state, the Government of the United States shall  
16 extend consular assistance on the same basis as for citi-  
17 zens of the United States to citizens of the Federated  
18 States of Micronesia for travel outside the Federated  
19 States of Micronesia, the United States and its territories  
20 and possessions.

21 Section 127

22 Except as otherwise provided in this Compact, as  
23 amended, or its related agreements, all obligations, re-  
24 sponsibilities, rights and benefits of the Government of the  
25 United States as Administering Authority which resulted

1 from the application pursuant to the Trusteeship Agree-  
2 ment of any treaty or other international agreement to the  
3 Trust Territory of the Pacific Islands on November 2,  
4 1986, are, as of that date, no longer assumed and enjoyed  
5 by the Government of the United States.

6 Article III

7 Communications

8 Section 131

9 (a) The Government of the Federated States of Mi-  
10 cronnesia has full authority and responsibility to regulate  
11 its domestic and foreign communications, and the Govern-  
12 ment of the United States shall provide communications  
13 assistance as mutually agreed.

14 (b) On May 24, 1993, the Government of the Fed-  
15 erated States of Micronesia elected to undertake all func-  
16 tions previously performed by the Government of the  
17 United States with respect to domestic and foreign com-  
18 munications, except for those functions set forth in a sepa-  
19 rate agreement entered into pursuant to this section of  
20 the Compact, as amended.

21 Section 132

22 The Government of the Federated States of Micro-  
23 nesia shall permit the Government of the United States  
24 to operate telecommunications services in the Federated  
25 States of Micronesia to the extent necessary to fulfill the

1 obligations of the Government of the United States under  
2 this Compact, as amended, in accordance with the terms  
3 of separate agreements entered into pursuant to this sec-  
4 tion of the Compact, as amended.

5 Article IV

6 Immigration

7 Section 141

8 (a) In furtherance of the special and unique relation-  
9 ship that exists between the United States and the Fed-  
10 erated States of Micronesia, under the Compact, as  
11 amended, any person in the following categories may be  
12 admitted to lawfully engage in occupations, and establish  
13 residence as a nonimmigrant in the United States and its  
14 territories and possessions (the “United States”) without  
15 regard to paragraph (5) or (7)(B)(i)(II) of section 212(a)  
16 of the Immigration and Nationality Act, as amended, 8  
17 U.S.C. 1182(a)(5) or (7)(B)(i)(II):

18 (1) a person who, on November 2, 1986, was a  
19 citizen of the Trust Territory of the Pacific Islands,  
20 as defined in Title 53 of the Trust Territory Code  
21 in force on January 1, 1979, and has become and  
22 remains a citizen of the Federated States of Micro-  
23 nesia;

24 (2) a person who acquires the citizenship of the  
25 Federated States of Micronesia at birth, on or after

1 the effective date of the Constitution of the Fed-  
2 erated States of Micronesia;

3 (3) an immediate relative of a person referred  
4 to in paragraphs (1) or (2) of this section, provided  
5 that such immediate relative is a naturalized citizen  
6 of the Federated States of Micronesia who has been  
7 an actual resident there for not less than five years  
8 after attaining such naturalization and who holds a  
9 certificate of actual residence, and further provided,  
10 that, in the case of a spouse, such spouse has been  
11 married to the person referred to in paragraph (1)  
12 or (2) of this section for at least five years, and fur-  
13 ther provided, that the Government of the United  
14 States is satisfied that such naturalized citizen  
15 meets the requirement of subsection (b) of section  
16 104 of Public Law 99-239 as it was in effect on the  
17 day prior to the effective date of this Compact, as  
18 amended;

19 (4) a naturalized citizen of the Federated  
20 States of Micronesia who was an actual resident  
21 there for not less than five years after attaining such  
22 naturalization and who satisfied these requirements  
23 as of April 30, 2003, who continues to be an actual  
24 resident and holds a certificate of actual residence,  
25 and whose name is included in a list furnished by

1 the Government of the Federated States of Micro-  
2 nesia to the Government of the United States no  
3 later than the effective date of the Compact, as  
4 amended, in form and content acceptable to the Gov-  
5 ernment of the United States, provided, that the  
6 Government of the United States is satisfied that  
7 such naturalized citizen meets the requirement of  
8 subsection (b) of section 104 of Public Law 99-239  
9 as it was in effect on the day prior to the effective  
10 date of this Compact, as amended; or

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

18 (b) Notwithstanding subsection (a) of this section, a  
19 person who is coming to the United States pursuant to  
20 an adoption outside the United States, or for the purpose  
21 of adoption in the United States, is ineligible for admission  
22 under the Compact and the Compact, as amended. This  
23 subsection shall apply to any person who is or was an ap-  
24 plicant for admission to the United States on or after  
25 March 1, 2003, including any applicant for admission in

1 removal proceedings (including appellate proceedings) on  
2 or after March 1, 2003, regardless of the date such pro-  
3 ceedings were commenced. This subsection shall have no  
4 effect on the ability of the Government of the United  
5 States or any United States State or local government to  
6 commence or otherwise take any action against any person  
7 or entity who has violated any law relating to the adoption  
8 of any person.

9 (c) Notwithstanding subsection (a) of this section, no  
10 person who has been or is granted citizenship in the Fed-  
11 erated States of Micronesia, or has been or is issued a  
12 Federated States of Micronesia passport pursuant to any  
13 investment, passport sale, or similar program has been or  
14 shall be eligible for admission to the United States under  
15 the Compact or the Compact, as amended.

16 (d) A person admitted to the United States under the  
17 Compact, or the Compact, as amended, shall be considered  
18 to have the permission of the Government of the United  
19 States to accept employment in the United States. An un-  
20 expired Federated States of Micronesia passport with un-  
21 expired documentation issued by the Government of the  
22 United States evidencing admission under the Compact or  
23 the Compact, as amended, shall be considered to be docu-  
24 mentation establishing identity and employment author-  
25 ization under section 274A(b)(1)(B) of the Immigration

1 and Nationality Act, as amended, 8 U.S.C.  
2 1324a(b)(1)(B). The Government of the United States  
3 will take reasonable and appropriate steps to implement  
4 and publicize this provision, and the Government of the  
5 Federated States of Micronesia will also take reasonable  
6 and appropriate steps to publicize this provision.

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

9 (1) the term “residence” with respect to a per-  
10 son means the person’s principal, actual dwelling  
11 place in fact, without regard to intent, as provided  
12 in section 101(a)(33) of the Immigration and Na-  
13 tionality Act, as amended, 8 U.S.C. 1101(a)(33),  
14 and variations of the term “residence,” including  
15 “resident” and “reside,” shall be similarly con-  
16 strued;

17 (2) the term “actual residence” means physical  
18 presence in the Federated States of Micronesia dur-  
19 ing eighty-five percent of the five-year period of resi-  
20 dency required by section 141(a)(3) and (4);

21 (3) the term “certificate of actual residence”  
22 means a certificate issued to a naturalized citizen by  
23 the Government of the Federated States of Micro-  
24 nesia stating that the citizen has complied with the



1 actual residence requirement of section 141(a)(3) or  
2 (4);

3 (4) the term “nonimmigrant” means an alien  
4 who is not an “immigrant” as defined in section  
5 101(a)(15) of such Act, 8 U.S.C. 1101(a)(15); and

6 (5) the term “immediate relative” means a  
7 spouse, or unmarried son or unmarried daughter  
8 less than 21 years of age.

9 (f) The Immigration and Nationality Act, as amend-  
10 ed, shall apply to any person admitted or seeking admis-  
11 sion to the United States (other than a United States pos-  
12 session or territory where such Act does not apply) under  
13 the Compact or the Compact, as amended, and nothing  
14 in the Compact or the Compact, as amended, shall be con-  
15 strued to limit, preclude, or modify the applicability of,  
16 with respect to such person:

17 (1) any ground of inadmissibility or deport-  
18 ability under such Act (except sections 212(a)(5)  
19 and 212(a)(7)(B)(i)(II) of such Act, as provided in  
20 subsection (a) of this section), and any defense  
21 thereto, provided that, section 237(a)(5) of such Act  
22 shall be construed and applied as if it reads as fol-  
23 lows: “any alien who has been admitted under the  
24 Compact, or the Compact, as amended, who cannot

1 show that he or she has sufficient means of support  
2 in the United States, is deportable”;

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

9 (3) Except for the treatment of certain docu-  
10 mentation for purposes of section 274A(b)(1)(B) of  
11 such Act as provided by subsection (d) of this sec-  
12 tion of the Compact, as amended, any requirement  
13 under section 274A, including but not limited to sec-  
14 tion 274A(b)(1)(E);

15 (4) Section 643 of the Illegal Immigration Re-  
16 form and Immigrant Responsibility Act of 1996,  
17 Public Law 104–208, and actions taken pursuant to  
18 section 643; and

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

23 (g) Any authority possessed by the Government of the  
24 United States under this section of the Compact or the  
25 Compact, as amended, may also be exercised by the Gov-

1 ernment of a territory or possession of the United States  
2 where the Immigration and Nationality Act, as amended,  
3 does not apply, to the extent such exercise of authority  
4 is lawful under a statute or regulation of such territory  
5 or possession that is authorized by the laws of the United  
6 States.

7 (h) Subsection (a) of this section does not confer on  
8 a citizen of the Federated States of Micronesia the right  
9 to establish the residence necessary for naturalization  
10 under the Immigration and Nationality Act, as amended,  
11 or to petition for benefits for alien relatives under that  
12 Act. Subsection (a) of this section, however, shall not pre-  
13 vent a citizen of the Federated States of Micronesia from  
14 otherwise acquiring such rights or lawful permanent resi-  
15 dent alien status in the United States.

16 Section 142

17 (a) Any citizen or national of the United States may  
18 be admitted, to lawfully engage in occupations, and reside  
19 in the Federated States of Micronesia, subject to the  
20 rights of the Government of the Federated States of Mi-  
21 cronnesia to deny entry to or deport any such citizen or  
22 national as an undesirable alien. Any determination of in-  
23 admissibility or deportability shall be based on reasonable  
24 statutory grounds and shall be subject to appropriate ad-  
25 ministrative and judicial review within the Federated

1 States of Micronesia. If a citizen or national of the United  
2 States is a spouse of a citizen of the Federated States  
3 of Micronesia, the Government of the Federated States of  
4 Micronesia shall allow the United States citizen spouse to  
5 establish residence. Should the Federated States of Micro-  
6 nesia citizen spouse predecease the United States citizen  
7 spouse during the marriage, the Government of the Fed-  
8 erated States of Micronesia shall allow the United States  
9 citizen spouse to continue to reside in the Federated  
10 States of Micronesia.

11 (b) In enacting any laws or imposing any require-  
12 ments with respect to citizens and nationals of the United  
13 States entering the Federated States of Micronesia under  
14 subsection (a) of this section, including any grounds of  
15 inadmissibility or deportability, the Government of the  
16 Federated States of Micronesia shall accord to such citi-  
17 zens and nationals of the United States treatment no less  
18 favorable than that accorded to citizens of other countries.

19 (c) Consistent with subsection (a) of this section, with  
20 respect to citizens and nationals of the United States seek-  
21 ing to engage in employment or invest in the Federated  
22 States of Micronesia, the Government of the Federated  
23 States of Micronesia shall adopt immigration-related pro-  
24 cedures no less favorable than those adopted by the Gov-  
25 ernment of the United States with respect to citizens of

1 the Federated States of Micronesia seeking employment  
2 in the United States.

3 Section 143

4 Any person who relinquishes, or otherwise loses, his  
5 United States nationality or citizenship, or his Federated  
6 States of Micronesia citizenship, shall be ineligible to re-  
7 ceive the privileges set forth in sections 141 and 142. Any  
8 such person may apply for admission to the United States  
9 or the Federated States of Micronesia, as the case may  
10 be, in accordance with any other applicable laws of the  
11 United States or the Federated States of Micronesia relat-  
12 ing to immigration of aliens from other countries. The  
13 laws of the Federated States of Micronesia or the United  
14 States, as the case may be, shall dictate the terms and  
15 conditions of any such person's stay.

16 Article V

17 Representation

18 Section 151

19 Relations between the Government of the United  
20 States and the Government of the Federated States of Mi-  
21 cronesia shall be conducted in accordance with the Vienna  
22 Convention on Diplomatic Relations. In addition to diplo-  
23 matic missions and representation, the Governments may  
24 establish and maintain other offices and designate other

1 representatives on terms and in locations as may be mutu-  
2 ally agreed.

3 Section 152

4 (a) Any citizen or national of the United States who,  
5 without authority of the United States, acts as the agent  
6 of the Government of the Federated States of Micronesia  
7 with regard to matters specified in the provisions of the  
8 Foreign Agents Registration Act of 1938, as amended (22  
9 U.S.C. 611 et seq.), that apply with respect to an agent  
10 of a foreign principal shall be subject to the requirements  
11 of such Act. Failure to comply with such requirements  
12 shall subject such citizen or national to the same penalties  
13 and provisions of law as apply in the case of the failure  
14 of such an agent of a foreign principal to comply with such  
15 requirements. For purposes of the Foreign Agents Reg-  
16 istration Act of 1938, the Federated States of Micronesia  
17 shall be considered to be a foreign country.

18 (b) Subsection (a) of this section shall not apply to  
19 a citizen or national of the United States employed by the  
20 Government of the Federated States of Micronesia with  
21 respect to whom the Government of the Federated States  
22 of Micronesia from time to time certifies to the Govern-  
23 ment of the United States that such citizen or national  
24 is an employee of the Federated States of Micronesia  
25 whose principal duties are other than those matters speci-

1 filed in the Foreign Agents Registration Act of 1938, as  
2 amended, that apply with respect to an agent of a foreign  
3 principal. The agency or officer of the United States re-  
4 ceiving such certifications shall cause them to be filed with  
5 the Attorney General, who shall maintain a publicly avail-  
6 able list of the persons so certified.

7 Article VI

8 Environmental Protection

9 Section 161

10 The Governments of the United States and the Fed-  
11 erated States of Micronesia declare that it is their policy  
12 to promote efforts to prevent or eliminate damage to the  
13 environment and biosphere and to enrich understanding  
14 of the natural resources of the Federated States of Micro-  
15 nesia. In order to carry out this policy, the Government  
16 of the United States and the Government of the Federated  
17 States of Micronesia agree to the following mutual and  
18 reciprocal undertakings.

19 (a) The Government of the United States:

20 (1) shall continue to apply the environmental  
21 controls in effect on November 2, 1986 to those of  
22 its continuing activities subject to section 161(a)(2),  
23 unless and until those controls are modified under  
24 sections 161(a)(3) and 161(a)(4);

1           (2) shall apply the National Environmental Pol-  
2     icy Act of 1969, 83 Stat. 852, 42 U.S.C. 4321 et  
3     seq., to its activities under the Compact, as amend-  
4     ed, and its related agreements as if the Federated  
5     States of Micronesia were the United States;

6           (3) shall comply also, in the conduct of any ac-  
7     tivity requiring the preparation of an Environmental  
8     Impact Statement under section 161(a)(2), with  
9     standards substantively similar to those required by  
10    the following laws of the United States, taking into  
11    account the particular environment of the Federated  
12    States of Micronesia: the Endangered Species Act of  
13    1973, as amended, 87 Stat. 884, 16 U.S.C. 1531 et  
14    seq.; the Clean Air Act, as amended, 77 Stat. 392,  
15    42 U.S.C. Supp. 7401 et seq.; the Clean Water Act  
16    (Federal Water Pollution Control Act), as amended,  
17    86 Stat. 896, 33 U.S.C. 1251 et seq.; Title I of the  
18    Marine Protection, Research and Sanctuaries Act of  
19    1972 (the Ocean Dumping Act), 33 U.S.C. 1411 et  
20    seq.; the Toxic Substances Control Act, as amended,  
21    15 U.S.C. 2601 et seq.; the Solid Waste Disposal  
22    Act, as amended, 42 U.S.C. 6901 et seq.; and such  
23    other environmental protection laws of the United  
24    States and of the Federated States of Micronesia, as  
25    may be mutually agreed from time to time with the



1 Government of the Federated States of Micronesia;  
2 and

3 (4) shall develop, prior to conducting any activ-  
4 ity requiring the preparation of an Environmental  
5 Impact Statement under section 161(a)(2), written  
6 standards and procedures, as agreed with the Gov-  
7 ernment of the Federated States of Micronesia, to  
8 implement the substantive provisions of the laws  
9 made applicable to U.S. Government activities in the  
10 Federated States of Micronesia, pursuant to section  
11 161(a)(3).

12 (b) The Government of the Federated States of Mi-  
13 cronesia shall continue to develop and implement stand-  
14 ards and procedures to protect its environment. As a re-  
15 ciprocal obligation to the undertakings of the Government  
16 of the United States under this Article, the Federated  
17 States of Micronesia, taking into account its particular en-  
18 vironment, shall continue to develop and implement stand-  
19 ards for environmental protection substantively similar to  
20 those required of the Government of the United States by  
21 section 161(a)(3) prior to its conducting activities in the  
22 Federated States of Micronesia, substantively equivalent  
23 to activities conducted there by the Government of the  
24 United States and, as a further reciprocal obligation, shall  
25 enforce those standards.

1 (c) Section 161(a), including any standard or proce-  
2 dure applicable thereunder, and section 161(b) may be  
3 modified or superseded in whole or in part by agreement  
4 of the Government of the United States and the Govern-  
5 ment of the Federated States of Micronesia.

6 (d) In the event that an Environmental Impact State-  
7 ment is no longer required under the laws of the United  
8 States for major Federal actions significantly affecting the  
9 quality of the human environment, the regulatory regime  
10 established under sections 161(a)(3) and 161(a)(4) shall  
11 continue to apply to such activities of the Government of  
12 the United States until amended by mutual agreement.

13 (e) The President of the United States may exempt  
14 any of the activities of the Government of the United  
15 States under this Compact, as amended, and its related  
16 agreements from any environmental standard or proce-  
17 dure which may be applicable under sections 161(a)(3)  
18 and 161(a)(4) if the President determines it to be in the  
19 paramount interest of the Government of the United  
20 States to do so, consistent with Title Three of this Com-  
21 pact, as amended, and the obligations of the Government  
22 of the United States under international law. Prior to any  
23 decision pursuant to this subsection, the views of the Gov-  
24 ernment of the Federated States of Micronesia shall be  
25 sought and considered to the extent practicable. If the

1 President grants such an exemption, to the extent prac-  
2 ticable, a report with his reasons for granting such exemp-  
3 tion shall be given promptly to the Government of the Fed-  
4 erated States of Micronesia.

5 (f) The laws of the United States referred to in sec-  
6 tion 161(a)(3) shall apply to the activities of the Govern-  
7 ment of the United States under this Compact, as amend-  
8 ed, and its related agreements only to the extent provided  
9 for in this section.

10 Section 162

11 The Government of the Federated States of Micro-  
12 nesia may bring an action for judicial review of any admin-  
13 istrative agency action or any activity of the Government  
14 of the United States pursuant to section 161(a) for en-  
15 forcement of the obligations of the Government of the  
16 United States arising thereunder. The United States Dis-  
17 trict Court for the District of Hawaii and the United  
18 States District Court for the District of Columbia shall  
19 have jurisdiction over such action or activity, and over ac-  
20 tions brought under section 172(b) which relate to the ac-  
21 tivities of the Government of the United States and its  
22 officers and employees, governed by section 161, provided  
23 that:

24 (a) Such actions may only be civil actions for  
25 any appropriate civil relief other than punitive dam-

1       ages against the Government of the United States  
2       or, where required by law, its officers in their official  
3       capacity; no criminal actions may arise under this  
4       section.

5               (b) Actions brought pursuant to this section  
6       may be initiated only by the Government of the Fed-  
7       erated States of Micronesia.

8               (c) Administrative agency actions arising under  
9       section 161 shall be reviewed pursuant to the stand-  
10      ard of judicial review set forth in 5 U.S.C. 706.

11              (d) The United States District Court for the  
12      District of Hawaii and the United States District  
13      Court for the District of Columbia shall have juris-  
14      diction to issue all necessary processes, and the Gov-  
15      ernment of the United States agrees to submit itself  
16      to the jurisdiction of the court; decisions of the  
17      United States District Court shall be reviewable in  
18      the United States Court of Appeals for the Ninth  
19      Circuit or the United States Court of Appeals for  
20      the District of Columbia, respectively, or in the  
21      United States Supreme Court as provided by the  
22      laws of the United States.

23              (e) The judicial remedy provided for in this sec-  
24      tion shall be the exclusive remedy for the judicial re-  
25      view or enforcement of the obligations of the Gov-

1 ernment of the United States under this Article and  
2 actions brought under section 172(b) which relate to  
3 the activities of the Government of the United  
4 States and its officers and employees governed by  
5 section 161.

6 (f) In actions pursuant to this section, the Gov-  
7 ernment of the Federated States of Micronesia shall  
8 be treated as if it were a United States citizen.

9 Section 163

10 (a) For the purpose of gathering data necessary to  
11 study the environmental effects of activities of the Govern-  
12 ment of the United States subject to the requirements of  
13 this Article, the Government of the Federated States of  
14 Micronesia shall be granted access to facilities operated  
15 by the Government of the United States in the Federated  
16 States of Micronesia, to the extent necessary for this pur-  
17 pose, except to the extent such access would unreasonably  
18 interfere with the exercise of the authority and responsi-  
19 bility of the Government of the United States under Title  
20 Three.

21 (b) The Government of the United States, in turn,  
22 shall be granted access to the Federated States of Micro-  
23 nesia for the purpose of gathering data necessary to dis-  
24 charge its obligations under this Article, except to the ex-  
25 tent such access would unreasonably interfere with the ex-

1 ercise of the authority and responsibility of the Govern-  
2 ment of the Federated States of Micronesia under Title  
3 One, and to the extent necessary for this purpose shall  
4 be granted access to documents and other information to  
5 the same extent similar access is provided the Government  
6 of the Federated States of Micronesia under the Freedom  
7 of Information Act, 5 U.S.C. 552.

8 (c) The Government of the Federated States of Mi-  
9 cronesia shall not impede efforts by the Government of  
10 the United States to comply with applicable standards and  
11 procedures.

## 12 Article VII

### 13 General Legal Provisions

#### 14 Section 171

15 Except as provided in this Compact, as amended, or  
16 its related agreements, the application of the laws of the  
17 United States to the Trust Territory of the Pacific Islands  
18 by virtue of the Trusteeship Agreement ceased with re-  
19 spect to the Federated States of Micronesia on November  
20 3, 1986, the date the Compact went into effect.

#### 21 Section 172

22 (a) Every citizen of the Federated States of Micro-  
23 nesia who is not a resident of the United States shall enjoy  
24 the rights and remedies under the laws of the United  
25 States enjoyed by any non-resident alien.

1 (b) The Government of the Federated States of Mi-  
2 cronesia and every citizen of the Federated States of Mi-  
3 cronesia shall be considered to be a “person” within the  
4 meaning of the Freedom of Information Act, 5 U.S.C.  
5 552, and of the judicial review provisions of the Adminis-  
6 trative Procedure Act, 5 U.S.C. 701–706, except that only  
7 the Government of the Federated States of Micronesia  
8 may seek judicial review under the Administrative Proce-  
9 dure Act or judicial enforcement under the Freedom of  
10 Information Act when such judicial review or enforcement  
11 relates to the activities of the Government of the United  
12 States governed by sections 161 and 162.

13 Section 173

14 The Governments of the United States and the Fed-  
15 erated States of Micronesia agree to adopt and enforce  
16 such measures, consistent with this Compact, as amended,  
17 and its related agreements, as may be necessary to protect  
18 the personnel, property, installations, services, programs  
19 and official archives and documents maintained by the  
20 Government of the United States in the Federated States  
21 of Micronesia pursuant to this Compact, as amended, and  
22 its related agreements and by the Government of the Fed-  
23 erated States of Micronesia in the United States pursuant  
24 to this Compact, as amended, and its related agreements.

25 Section 174

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

3 (a) The Government of the Federated States of  
4 Micronesia, and its agencies and officials, shall be  
5 immune from the jurisdiction of the court of the  
6 United States, and the Government of the United  
7 States, and its agencies and officials, shall be im-  
8 mune from the jurisdiction of the courts of the Fed-  
9 erated States of Micronesia.

10 (b) The Government of the United States ac-  
11 cepts responsibility for and shall pay:

12 (1) any unpaid money judgment rendered  
13 by the High Court of the Trust Territory of the  
14 Pacific Islands against the Government of the  
15 United States with regard to any cause of ac-  
16 tion arising as a result of acts or omissions of  
17 the Government of the Trust Territory of the  
18 Pacific Islands or the Government of the  
19 United States prior to November 3, 1986;

20 (2) any claim settled by the claimant and  
21 the Government of the Trust Territory of the  
22 Pacific Islands but not paid as of the November  
23 3, 1986; and

24 (3) settlement of any administrative claim  
25 or of any action before a court of the Trust



1           Territory of the Pacific Islands or the Govern-  
2           ment of the United States, arising as a result  
3           of acts or omissions of the Government of the  
4           Trust Territory of the Pacific Islands or the  
5           Government of the United States.

6           (c) Any claim not referred to in section 174(b)  
7           and arising from an act or omission of the Govern-  
8           ment of the Trust Territory of the Pacific Islands or  
9           the Government of the United States prior to the ef-  
10          fective date of the Compact shall be adjudicated in  
11          the same manner as a claim adjudicated according  
12          to section 174(d). In any claim against the Govern-  
13          ment of the Trust Territory of the Pacific Islands,  
14          the Government of the United States shall stand in  
15          the place of the Government of the Trust Territory  
16          of the Pacific Islands. A judgment on any claim re-  
17          ferred to in section 174(b) or this subsection, not  
18          otherwise satisfied by the Government of the United  
19          States, may be presented for certification to the  
20          United States Court of Appeals for the Federal Cir-  
21          cuit, or its successor courts, which shall have juris-  
22          diction therefore, notwithstanding the provisions of  
23          28 U.S.C. 1502, and which court's decisions shall be  
24          reviewable as provided by the laws of the United  
25          States. The United States Court of Appeals for the

1 Federal Circuit shall certify such judgment, and  
2 order payment thereof, unless it finds, after a hear-  
3 ing, that such judgment is manifestly erroneous as  
4 to law or fact, or manifestly excessive. In either of  
5 such cases the United States Court of Appeals for  
6 the Federal Circuit shall have jurisdiction to modify  
7 such judgment.

8 (d) The Government of the Federated States of  
9 Micronesia shall not be immune from the jurisdic-  
10 tion of the courts of the United States, and the Gov-  
11 ernment of the United States shall not be immune  
12 from the jurisdiction of the courts of the Federated  
13 States of Micronesia in any civil case in which an ex-  
14 ception to foreign state immunity is set forth in the  
15 Foreign Sovereign Immunities Act (28 U.S.C. 1602  
16 et seq.) or its successor statutes.

17 Section 175

18 (a) A separate agreement, which shall come into ef-  
19 fect simultaneously with this Compact, as amended, and  
20 shall have the force of law, shall govern mutual assistance  
21 and cooperation in law enforcement matters, including the  
22 pursuit, capture, imprisonment and extradition of fugi-  
23 tives from justice and the transfer of prisoners, as well  
24 as other law enforcement matters. In the United States,  
25 the laws of the United States governing international ex-

1 tradition, including 18 U.S.C. 3184, 3186 and 3188–95,  
2 shall be applicable to the extradition of fugitives under the  
3 separate agreement, and the laws of the United States  
4 governing the transfer of prisoners, including 18 U.S.C.  
5 4100–15, shall be applicable to the transfer of prisoners  
6 under the separate agreement; and

7 (b) A separate agreement, which shall come into ef-  
8 fect simultaneously with this Compact, as amended, and  
9 shall have the force of law, shall govern requirements re-  
10 lating to labor recruitment practices, including registra-  
11 tion, reporting, suspension or revocation of authorization  
12 to recruit persons for employment in the United States,  
13 and enforcement for violations of such requirements.

14 Section 176

15 The Government of the Federated States of Micro-  
16 nesia confirms that final judgments in civil cases rendered  
17 by any court of the Trust Territory of the Pacific Islands  
18 shall continue in full force and effect, subject to the con-  
19 stitutional power of the courts of the Federated States of  
20 Micronesia to grant relief from judgments in appropriate  
21 cases.

22 Section 177

23 Section 177 of the Compact entered into force with  
24 respect to the Federated States of Micronesia on Novem-  
25 ber 3, 1986 as follows:

1           “(a) The Government of the United States ac-  
2           cepts the responsibility for compensation owing to  
3           citizens of the Marshall Islands, or the Federated  
4           States of Micronesia, or (Palau) for loss or damage  
5           to property and person of the citizens of the Mar-  
6           shall Islands, or the Federated States of Micronesia,  
7           resulting from the nuclear testing program which  
8           the Government of the United States conducted in  
9           the Northern Marshall Islands between June 30,  
10          1946, and August 18, 1958.

11          “(b) The Government of the United States and  
12          the Government of the Marshall Islands shall set  
13          forth in a separate agreement provisions for the just  
14          and adequate settlement of all such claims which  
15          have arisen in regard to the Marshall Islands and its  
16          citizens and which have not as yet been compensated  
17          or which in the future may arise, for the continued  
18          administration by the Government of the United  
19          States of direct radiation related medical surveil-  
20          lance and treatment programs and radiological mon-  
21          itoring activities and for such additional programs  
22          and activities as may be mutually agreed, and for  
23          the assumption by the Government of the Marshall  
24          Islands of responsibility for enforcement of limita-  
25          tions on the utilization of affected areas developed

1 in cooperation with the Government of the United  
2 States and for the assistance by the Government of  
3 the United States in the exercise of such responsi-  
4 bility as may be mutually agreed. This separate  
5 agreement shall come into effect simultaneously with  
6 this Compact and shall remain in effect in accord-  
7 ance with its own terms.

8 “(c) The Government of the United States shall  
9 provide to the Government of the Marshall Islands,  
10 on a grant basis, the amount of \$150 million to be  
11 paid and distributed in accordance with the separate  
12 agreement referred to in this Section, and shall pro-  
13 vide the services and programs set forth in this sep-  
14 arate agreement, the language of which is incor-  
15 porated into this Compact.”

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

22 Section 178

23 (a) The Federal agencies of the Government of the  
24 United States that provide the services and related pro-  
25 grams in the Federated States of Micronesia pursuant to

1 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.

8 (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.

13 (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:

17 (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

24 (2) arbitration, referred to in section 178(b), in a timely manner, at a site convenient to the claim-

1 ant, in the event a claim is not otherwise settled  
2 pursuant to section 178(a).

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

5 (e) Except as otherwise explicitly provided by law of  
6 the United States, neither the Government of the United  
7 States, its instrumentalities, nor any person acting on be-  
8 half of the Government of the United States, shall be  
9 named a party in any action based on, or arising out of,  
10 the activity or activities of a recipient of any grant or other  
11 assistance provided by the Government of the United  
12 States (or the activity or activities of the recipient's agen-  
13 cy or any other person or entity acting on behalf of the  
14 recipient).

15 Section 179

16 (a) The courts of the Federated States of Micronesia  
17 shall not exercise criminal jurisdiction over the Govern-  
18 ment of the United States, or its instrumentalities.

19 (b) The courts of the Federated States of Micronesia  
20 shall not exercise criminal jurisdiction over any person if  
21 the Government of the United States provides notification  
22 to the Government of the Federated States of Micronesia  
23 that such person was acting on behalf of the Government  
24 of the United States, for actions taken in furtherance of  
25 section 221 or 224 of this amended Compact, or any other

1 provision of law authorizing financial, program, or service  
2 assistance to the Federated States of Micronesia.

3 TITLE TWO

4 ECONOMIC RELATIONS

5 Article I

6 Grant Assistance

7 Section 211 - Sector Grants

8 (a) In order to assist the Government of the Fed-  
9 erated States of Micronesia in its efforts to promote the  
10 economic advancement, budgetary self-reliance, and eco-  
11 nomic self-sufficiency of its people, and in recognition of  
12 the special relationship that exists between the Federated  
13 States of Micronesia and the United States, the Govern-  
14 ment of the United States shall provide assistance on a  
15 sector grant basis for a period of twenty years in the  
16 amounts set forth in section 216, commencing on the ef-  
17 fective date of this Compact, as amended. Such grants  
18 shall be used for assistance in the sectors of education,  
19 health care, private sector development, the environment,  
20 public sector capacity building, and public infrastructure,  
21 or for other sectors as mutually agreed, with priorities in  
22 the education and health care sectors. For each year such  
23 sector grant assistance is made available, the proposed di-  
24 vision of this amount among these sectors shall be certified  
25 to the Government of the United States by the Govern-



1 ment of the Federated States of Micronesia and shall be  
2 subject to the concurrence of the Government of the  
3 United States. In such case, the Government of the United  
4 States shall disburse the agreed upon amounts and mon-  
5 itor the use of such sector grants in accordance with the  
6 provisions of this Article and the Agreement Concerning  
7 Procedures for the Implementation of United States Eco-  
8 nomic Assistance Provided in the Compact, as Amended,  
9 of Free Association Between the Government of the  
10 United States of America and the Government of the Fed-  
11 erated States of Micronesia (“Fiscal Procedures Agree-  
12 ment”) which shall come into effect simultaneously with  
13 this Compact, as amended. The provision of any United  
14 States assistance under the Compact, as amended, the  
15 Fiscal Procedures Agreement, the Trust Fund Agreement,  
16 or any other subsidiary agreement to the Compact, as  
17 amended, shall constitute “a particular distribution . . .  
18 required by the terms or special nature of the assistance”  
19 for purposes of Article XII, section 1(b) of the Constitu-  
20 tion of the Federated States of Micronesia.

21 (1) EDUCATION.—United States grant assist-  
22 ance shall be made available in accordance with the  
23 plan described in subsection (c) of this section to  
24 support and improve the educational system of the  
25 Federated States of Micronesia and develop the

1 human, financial, and material resources necessary  
2 for the Government of the Federated States of Mi-  
3 cronesia to perform these services. Emphasis should  
4 be placed on advancing a quality basic education  
5 system.

6 (2) HEALTH.—United States grant assistance  
7 shall be made available in accordance with the plan  
8 described in subsection (c) of this section to support  
9 and improve the delivery of preventive, curative and  
10 environmental care and develop the human, finan-  
11 cial, and material resources necessary for the Gov-  
12 ernment of the Federated States of Micronesia to  
13 perform these services.

14 (3) PRIVATE SECTOR DEVELOPMENT.—United  
15 States grant assistance shall be made available in  
16 accordance with the plan described in subsection (c)  
17 of this section to support the efforts of the Govern-  
18 ment of the Federated States of Micronesia to at-  
19 tract foreign investment and increase indigenous  
20 business activity by vitalizing the commercial envi-  
21 ronment, ensuring fair and equitable application of  
22 the law, promoting adherence to core labor stand-  
23 ards, and maintaining progress toward privatization  
24 of state-owned and partially state-owned enterprises,  
25 and engaging in other reforms.

1           (4) CAPACITY BUILDING IN THE PUBLIC SEC-  
2       TOR.—United States grant assistance shall be made  
3       available in accordance with the plan described in  
4       subsection (c) of this section to support the efforts  
5       of the Government of the Federated States of Micro-  
6       nesia to build effective, accountable and transparent  
7       national, state, and local government and other pub-  
8       lic sector institutions and systems.

9           (5) ENVIRONMENT.—United States grant as-  
10      sistance shall be made available in accordance with  
11      the plan described in subsection (c) of this section  
12      to increase environmental protection; conserve and  
13      achieve sustainable use of natural resources; and en-  
14      gage in environmental infrastructure planning, de-  
15      sign construction and operation.

16      (6) PUBLIC INFRASTRUCTURE.—

17           (i) U.S. annual grant assistance shall be  
18      made available in accordance with a list of spe-  
19      cific projects included in the plan described in  
20      subsection (c) of this section to assist the Gov-  
21      ernment of the Federated States of Micronesia  
22      in its efforts to provide adequate public infra-  
23      structure.

24           (ii) INFRASTRUCTURE AND MAINTENANCE  
25      FUND.—Five percent of the annual public in-

1            frastructure grant made available under para-  
2            graph (i) of this subsection shall be set aside,  
3            with an equal contribution from the Govern-  
4            ment of the Federated States of Micronesia, as  
5            a contribution to an Infrastructure Maintenance  
6            Fund (IMF). Administration of the Infrastruc-  
7            ture Maintenance Fund shall be governed by  
8            the Fiscal Procedures Agreement.

9            (b) HUMANITARIAN ASSISTANCE.—Federated States  
10 of Micronesia Program. In recognition of the special devel-  
11 opment needs of the Federated States of Micronesia, the  
12 Government of the United States shall make available to  
13 the Government of the Federated States of Micronesia, on  
14 its request and to be deducted from the grant amount  
15 made available under subsection (a) of this section, a Hu-  
16 manitarian Assistance - Federated States of Micronesia  
17 (“HAFSM”) Program with emphasis on health, edu-  
18 cation, and infrastructure (including transportation),  
19 projects. The terms and conditions of the HAFSM shall  
20 be set forth in the Agreement Regarding the Military Use  
21 and Operating Rights of the Government of the United  
22 States in the Government of the Federated States of Mi-  
23 cronesia Concluded Pursuant to Sections 321 and 323 of  
24 the Compact of Free Association, as Amended which shall

1 come into effect simultaneously with the amendments to  
2 this Compact.

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

14 (d) DISASTER ASSISTANCE EMERGENCY FUND.—An  
15 amount of two hundred thousand dollars (\$200,000) shall  
16 be provided annually, with an equal contribution from the  
17 Government of the Federated States of Micronesia, as a  
18 contribution to a “Disaster Assistance Emergency Fund  
19 (DAEF).” Any funds from the DAEF may be used only  
20 for assistance and rehabilitation resulting from disasters  
21 and emergencies. The funds will be accessed upon declara-  
22 tion by the Government of the Federated States of Micro-  
23 nesia, with the concurrence of the United States Chief of  
24 Mission to the Federated States of Micronesia. The Ad-

1 ministration of the DAEF shall be governed by the Fiscal  
2 Procedures Agreement.

3 Section 212 - Accountability.

4 (a) Regulations and policies normally applicable to  
5 United States financial assistance to its state and local  
6 governments, as reflected in the Fiscal Procedures Agree-  
7 ment, shall apply to each sector grant described in section  
8 211, and to grants administered under section 221 below,  
9 except as modified in the separate agreements referred to  
10 in section 231 of this Compact, as amended, or by United  
11 States law. The Government of the United States, after  
12 annual consultations with the Federated States of Micro-  
13 nesia, may attach reasonable terms and conditions, includ-  
14 ing annual performance indicators that are necessary to  
15 ensure effective use of United States assistance and rea-  
16 sonable progress toward achieving program objectives. The  
17 Government of the United States may seek appropriate  
18 remedies for noncompliance with the terms and conditions  
19 attached to the assistance, or for failure to comply with  
20 section 234, including withholding assistance.

21 (b) The Government of the United States shall, for  
22 each fiscal year of the twenty years during which assist-  
23 ance is to be provided on a sector grant basis under sec-  
24 tion 211, grant the Government of the Federated States  
25 of Micronesia an amount equal to the lesser of (i) one half

1 of the reasonable, properly documented cost incurred dur-  
2 ing each fiscal year to conduct the annual audit required  
3 under Article VIII (2) of the Fiscal Procedures Agreement  
4 or (ii) \$500,000. Such amount will not be adjusted for  
5 inflation under section 217 or otherwise.

6 Section 213 - Joint Economic Management Committee

7       The Governments of the United States and the Fed-  
8 erated States of Micronesia shall establish a Joint Eco-  
9 nomic Management Committee, composed of a U.S. chair,  
10 two other members from the Government of the United  
11 States and two members from the Government of the Fed-  
12 erated States of Micronesia. The Joint Economic Manage-  
13 ment Committee shall meet at least once each year to re-  
14 view the audits and reports required under this Title,  
15 evaluate the progress made by the Federated States of Mi-  
16 cronesia in meeting the objectives identified in its plan de-  
17 scribed in subsection (c) of section 211, with particular  
18 focus on those parts of the plan dealing with the sectors  
19 identified in section subsection (a) of section 211, identify  
20 problems encountered, and recommend ways to increase  
21 the effectiveness of U.S. assistance made available under  
22 this Title. The establishment and operations of the Joint  
23 Economic Management Committee shall be governed by  
24 the Fiscal Procedures Agreement.

25 Section 214 - Annual Report

1       The Government of the Federated States of Micro-  
2 nesia shall report annually to the President of the United  
3 States on the use of United States sector grant assistance  
4 and other assistance and progress in meeting mutually  
5 agreed program and economic goals. The Joint Economic  
6 Management Committee shall review and comment on the  
7 report and make appropriate recommendations based  
8 thereon.

9 Section 215 - Trust Fund

10       (a) The United States shall contribute annually for  
11 twenty years from the effective date of this Compact, as  
12 amended, in the amounts set forth in section 216 into a  
13 Trust Fund established in accordance with the Agreement  
14 Between the Government of the United States of America  
15 and the Government of the Federated States of Micronesia  
16 Implementing Section 215 and Section 216 of the Com-  
17 pact, as Amended, Regarding a Trust Fund (“Trust Fund  
18 Agreement”). Upon termination of the annual financial  
19 assistance under section 211, the proceeds of the fund  
20 shall thereafter be used for the purposes described in sec-  
21 tion 211 or as otherwise mutually agreed.

22       (b) The United States contribution into the Trust  
23 Fund described in subsection(a) of this section is condi-  
24 tioned on the Government of the Federated States of Mi-  
25 cronesia contributing to the Trust Fund at least \$30 mil-



1 lion, prior to September 30, 2004. Any funds received by  
2 the Federated States of Micronesia under section 111 (d)  
3 of Public Law 99–239 (January 14, 1986), or successor  
4 provisions, would be contributed to the Trust Fund as a  
5 Federated States of Micronesia contribution.

6 (c) The terms regarding the investment and manage-  
7 ment of funds and use of the income of the Trust Fund  
8 shall be set forth in the separate Trust Fund Agreement  
9 described in subsection (a) of this section. Funds derived  
10 from United States investment shall not be subject to Fed-  
11 eral or state taxes in the United States or the Federated  
12 States of Micronesia. The Trust Fund Agreement shall  
13 also provide for annual reports to the Government of the  
14 United States and to the Government of the Federated  
15 States of Micronesia. The Trust Fund Agreement shall  
16 provide for appropriate distributions of trust fund pro-  
17 ceeds to the Federated States of Micronesia and for appro-  
18 priate remedies for the failure of the Federated States of  
19 Micronesia to use income of the Trust Fund for the an-  
20 nual grant purposes set forth in section 211. These rem-  
21 edies may include the return to the United States of the  
22 present market value of its contributions to the Trust  
23 Fund and the present market value of any undistributed  
24 income on the contributions of the United States. If this  
25 Compact, as amended, is terminated, the provisions of sec-

1 tions 451 through 453 of this Compact, as amended, shall  
 2 govern treatment of any U.S. contributions to the Trust  
 3 Fund or accrued interest thereon.

4 Section 216 - Sector Grant Funding and Trust Fund Con-  
 5 tributions

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

(In millions of dollars)

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

8 Section 217 - Inflation Adjustment

9 Except for the amounts provided for audits under  
 10 section 212(b), the amounts stated in this Title shall be  
 11 adjusted for each United States Fiscal Year by the percent  
 12 that equals two-thirds of the percent change in the United  
 13 States Gross Domestic Product Implicit Price Deflator, or  
 14 5 percent, whichever is less in any one year, using the  
 15 beginning of Fiscal Year 2004 as a base.

16 Section 218 - Carry-Over of Unused Funds

1       If in any year the funds made available by the Gov-  
2 ernment of the United States for that year pursuant to  
3 this Article are not completely obligated by the Govern-  
4 ment of the Federated States of Micronesia, the unobli-  
5 gated balances shall remain available in addition to the  
6 funds to be provided in subsequent years.

7       Article II

8       Services and Program Assistance

9       Section 221

10       (a) SERVICES.—The Government of the United  
11 States shall make available to the Federated States of Mi-  
12 cronnesia, in accordance with and to the extent provided  
13 in the Federal Programs and Services Agreement referred  
14 to in section 231, the services and related programs of:

15           (1) the United States Weather Service;

16           (2) the United States Postal Service;

17           (3) the United States Federal Aviation Admin-  
18 istration;

19           (4) the United States Department of Transpor-  
20 tation;

21           (5) the Federal Deposit Insurance Corporation  
22 (for the benefit only of the Bank of the Federated  
23 States of Micronesia), and

1           (6) the Department of Homeland Security, and  
2           the United States Agency for International Develop-  
3           ment, Office of Foreign Disaster Assistance.

4           Upon the effective date of this Compact, as amended, the  
5           United States Departments and Agencies named or having  
6           responsibility to provide these services and related pro-  
7           grams shall have the authority to implement the relevant  
8           provisions of the Federal Programs and Services Agree-  
9           ment referred to in section 231.

10          (b) PROGRAMS.—

11           (1) With the exception of the services and pro-  
12           grams covered by subsection (a) of this section, and  
13           unless the Congress of the United States provides  
14           otherwise, the Government of the United States  
15           shall make available to the Federated States of Mi-  
16           cronesia the services and programs that were avail-  
17           able to the Federated States of Micronesia on the ef-  
18           fective date of this Compact, as amended, to the ex-  
19           tent that such services and programs continue to be  
20           available to State and local governments of the  
21           United States. As set forth in the Fiscal Procedures  
22           Agreement, funds provided under subsection (a) of  
23           section 211 will be considered to be local revenues  
24           of the Government of the Federated States of Micro-

1 nesia when used as the local share required to obtain  
2 Federal programs and services.

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

8 (c) The Government of the United States shall have  
9 and exercise such authority as is necessary to carry out  
10 its responsibilities under this Title and the separate agree-  
11 ments referred to in amended section 231, including the  
12 authority to monitor and administer all service and pro-  
13 gram assistance provided by the United States to the Fed-  
14 erated States of Micronesia. The Federal Programs and  
15 Services Agreement referred to in amended section 231  
16 shall also set forth the extent to which services and pro-  
17 grams shall be provided to the Federated States of Micro-  
18 nesia.

19 (d) Except as provided elsewhere in this Compact, as  
20 amended, under any separate agreement entered into  
21 under this Compact, as amended, or otherwise under U.S.  
22 law, all Federal domestic programs extended to or oper-  
23 ating in the Federated States of Micronesia shall be sub-  
24 ject to all applicable criteria, standards, reporting require-  
25 ments, auditing procedures, and other rules and regula-

1 tions applicable to such programs and services when oper-  
2 ating in the United States.

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

8 Section 222

9 The Government of the United States and the Gov-  
10 ernment of the Federated States of Micronesia may agree  
11 from time to time to extend to the Federated States of  
12 Micronesia additional United States grant assistance,  
13 services and programs, as provided under the laws of the  
14 United States. Unless inconsistent with such laws, or oth-  
15 erwise specifically precluded by the Government of the  
16 United States at the time such additional grant assistance,  
17 services, or programs are extended, the Federal Programs  
18 and Services Agreement referred to section 231 shall apply  
19 to any such assistance, services or programs.

20 Section 223

21 The Government of the Federated States of Micro-  
22 nesia shall make available to the Government of the  
23 United States at no cost such land as may be necessary  
24 for the operations of the services and programs provided  
25 pursuant to this Article, and such facilities as are provided

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

5 Section 224

6 The Government of the Federated States of Micro-  
7 nesia may request, from time to time, technical assistance  
8 from the Federal agencies and institutions of the Govern-  
9 ment of the United States, which are authorized to grant  
10 such technical assistance in accordance with its laws. If  
11 technical assistance is granted pursuant to such a request,  
12 the Government of the United States shall provide the  
13 technical assistance in a manner which gives priority con-  
14 sideration to the Federated States of Micronesia over  
15 other recipients not a part of the United States, its terri-  
16 tories or possessions, and equivalent consideration to the  
17 Federated States of Micronesia with respect to other  
18 states in Free Association with the United States. Such  
19 assistance shall be made available on a reimbursable or  
20 non-reimbursable basis to the extent provided by United  
21 States law.

22 Article III

23 Administrative Provisions

24 Section 231

1       The specific nature, extent and contractual arrange-  
2 ments of the services and programs provided for in section  
3 221 of this Compact, as amended, as well as the legal sta-  
4 tus of agencies of the Government of the United States,  
5 their civilian employees and contractors, and the depend-  
6 ents of such personnel while present in the Federated  
7 States of Micronesia, and other arrangements in connec-  
8 tion with the assistance, services, or programs furnished  
9 by the Government of the United States, are set forth in  
10 a Federal Programs and Services Agreement which shall  
11 come into effect simultaneously with this Compact, as  
12 amended.

13 Section 232

14       The Government of the United States, in consultation  
15 with the Government of the Federated States of Micro-  
16 nesia, shall determine and implement procedures for the  
17 periodic audit of all grants and other assistance made  
18 under Article I of this Title and of all funds expended for  
19 the services and programs provided under Article II of this  
20 Title. Further, in accordance with the Fiscal Procedures  
21 Agreement described in subsection (a) of section 211, the  
22 Comptroller General of the United States shall have such  
23 powers and authorities as described in sections 102 (c)  
24 and 110 (c) of Public Law 99-239, 99 Stat. 1777-78,  
25 and 99 Stat. 1799 (January 14, 1986).



## 1 Section 233

2 Approval of this Compact, as amended, by the Gov-  
3 ernment of the United States, in accordance with its con-  
4 stitutional processes, shall constitute a pledge by the  
5 United States that the sums and amounts specified as sec-  
6 tor grants in section 211 of this Compact, as amended,  
7 shall be appropriated and paid to the Federated States  
8 of Micronesia for such period as those provisions of this  
9 Compact, as amended, remain in force, subject to the  
10 terms and conditions of this Title and related subsidiary  
11 agreements.

## 12 Section 234

13 The Government of the Federated States of Micro-  
14 nesia pledges to cooperate with, permit, and assist if rea-  
15 sonably requested, designated and authorized representa-  
16 tives of the Government of the United States charged with  
17 investigating whether Compact funds, or any other assist-  
18 ance authorized under this Compact, as amended, have,  
19 or are being, used for purposes other than those set forth  
20 in this Compact, as amended, or its subsidiary agree-  
21 ments. In carrying out this investigative authority, such  
22 United States Government representatives may request  
23 that the Government of the Federated States of Micro-  
24 nesia subpoena documents and records and compel testi-  
25 mony in accordance with the laws and Constitution of the

1 Federated States of Micronesia. Such assistance by the  
2 Government of the Federated States of Micronesia to the  
3 Government of the United States shall not be unreason-  
4 ably withheld. The obligation of the Government of the  
5 Federated States of Micronesia to fulfill its pledge herein  
6 is a condition to its receiving payment of such funds or  
7 other assistance authorized under this Compact, as  
8 amended. The Government of the United States shall pay  
9 any reasonable costs for extraordinary services executed  
10 by the Government of the Federated States of Micronesia  
11 in carrying out the provisions of this section.

12 Article IV

13 Trade

14 Section 241

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

17 Section 242

18 The President shall proclaim the following tariff  
19 treatment for articles imported from the Federated States  
20 of Micronesia which shall apply during the period of effec-  
21 tiveness of this title:

22 (a) Unless otherwise excluded, articles imported  
23 from the Federated States of Micronesia, subject to  
24 the limitations imposed under section 503(b) of title

1 V of the Trade Act of 1974 (19 U.S.C. 2463(b)),  
2 shall be exempt from duty.

3 (b) Only tuna in airtight containers provided  
4 for in heading 1604.14.22 of the Harmonized Tariff  
5 Schedule of the United States that is imported from  
6 the Federated States of Micronesia and the Republic  
7 of the Marshall Islands during any calendar year not  
8 to exceed 10 percent of apparent United States con-  
9 sumption of tuna in airtight containers during the  
10 immediately preceding calendar year, as reported by  
11 the National Marine Fisheries Service, shall be ex-  
12 empt from duty; but the quantity of tuna given  
13 duty-free treatment under this paragraph for any  
14 calendar year shall be counted against the aggre-  
15 gated quantity of tuna in airtight containers that is  
16 dutiable under rate column numbered 1 of such  
17 heading 1604.14.22 for that calendar year.

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

20 (1) watches, clocks, and timing apparatus  
21 provided for in Chapter 91, excluding heading  
22 9113, of the Harmonized Tariff Schedule of the  
23 United States;

1 (2) buttons (whether finished or not fin-  
2 ished) provided for in items 9606.21.40 and  
3 9606.29.20 of such Schedule;

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

6 (4) footwear, handbags, luggage, flat  
7 goods, work gloves, and leather wearing apparel  
8 which were not eligible articles for purposes of  
9 title V of the Trade Act of 1974 (19 U.S.C.  
10 2461, et seq.) on April 1, 1984.

11 (d) If the cost or value of materials produced  
12 in the customs territory of the United States is in-  
13 cluded with respect to an eligible article which is a  
14 product of the Federated States of Micronesia, an  
15 amount not to exceed 15 percent of the appraised  
16 value of the article at the time it is entered that is  
17 attributable to such United States cost or value may  
18 be applied for duty assessment purposes toward de-  
19 termining the percentage referred to in section  
20 503(a)(2) of title V of the Trade Act of 1974.

21 Section 243

22 Articles imported from the Federated States of Mi-  
23 cronesia which are not exempt from duty under sub-  
24 sections (a), (b), (c), and (d) of section 242 shall be sub-  
25 ject to the rates of duty set forth in column numbered

1 1-general of the Harmonized Tariff Schedule of the  
2 United States (HTSUS).

3 Section 244

4 (a) All products of the United States imported into  
5 the Federated States of Micronesia shall receive treatment  
6 no less favorable than that accorded like products of any  
7 foreign country with respect to customs duties or charges  
8 of a similar nature and with respect to laws and regula-  
9 tions relating to importation, exportation, taxation, sale,  
10 distribution, storage or use.

11 (b) The provisions of subsection (a) shall not apply  
12 to advantages accorded by the Federated States of Micro-  
13 nesia by virtue of their full membership in the Pacific Is-  
14 land Countries Trade Agreement (PICTA), done on Au-  
15 gust 18, 2001, to those governments listed in Article 26  
16 of PICTA, as of the date the Compact, as amended, is  
17 signed.

18 (c) Prior to entering into consultations on, or con-  
19 cluding, a free trade agreement with governments not list-  
20 ed in Article 26 of PICTA, the Federated States of Micro-  
21 nesia shall consult with the United States regarding  
22 whether or how subsection (a) of section 244 shall be ap-  
23 plied.

1 Article V

2 Finance and Taxation

3 Section 251

4 The currency of the United States is the official cir-  
5 culating legal tender of the Federated States of Micro-  
6 nesia. Should the Government of the Federated States of  
7 Micronesia act to institute another currency, the terms of  
8 an appropriate currency transitional period shall be as  
9 agreed with the Government of the United States.

10 Section 252

11 The Government of the Federated States of Micro-  
12 nesia may, with respect to United States persons, tax in-  
13 come derived from sources within its respective jurisdic-  
14 tion, property situated therein, including transfers of such  
15 property by gift or at death, and products consumed there-  
16 in, in such manner as the Government of the Federated  
17 States of Micronesia deems appropriate. The determina-  
18 tion of the source of any income, or the situs of any prop-  
19 erty, shall for purposes of this Compact be made according  
20 to the United States Internal Revenue Code.

21 Section 253

22 A citizen of the Federated States of Micronesia, dom-  
23 icated therein, shall be exempt from estate, gift, and gen-  
24 eration-skipping transfer taxes imposed by the Govern-  
25 ment of the United States, provided that such citizen of

1 the Federated States of Micronesia is neither a citizen nor  
2 a resident of the United States.

3 Section 254

4 (a) In determining any income tax imposed by the  
5 Government of the Federated States of Micronesia, the  
6 Government of the Federated States of Micronesia shall  
7 have authority to impose tax upon income derived by a  
8 resident of the Federated States of Micronesia from  
9 sources without the Federated States of Micronesia, in the  
10 same manner and to the same extent as the Government  
11 of the Federated States of Micronesia imposes tax upon  
12 income derived from within its own jurisdiction. If the  
13 Government of the Federated States of Micronesia exer-  
14 cises such authority as provided in this subsection, any  
15 individual resident of the Federated States of Micronesia  
16 who is subject to tax by the Government of the United  
17 States on income which is also taxed by the Government  
18 of the Federated States of Micronesia shall be relieved of  
19 liability to the Government of the United States for the  
20 tax which, but for this subsection, would otherwise be im-  
21 posed by the Government of the United States on such  
22 income. However, the relief from liability to the United  
23 States Government referred to in the preceding sentence  
24 means only relief in the form of the foreign tax credit (or  
25 deduction in lieu thereof) available with respect to the in-

1 come taxes of a possession of the United States, and relief  
 2 in the form of the exclusion under section 911 of the Inter-  
 3 nal Revenue Code of 1986. For purposes of this section,  
 4 the term “resident of the Federated States of Micronesia”  
 5 shall be deemed to include any person who was physically  
 6 present in the Federated States of Micronesia for a period  
 7 of 183 or more days during any taxable year.

8 (b) If the Government of the Federated States of Mi-  
 9 cronesia subjects income to taxation substantially similar  
 10 to that imposed by the Trust Territory Code in effect on  
 11 January 1, 1980, such Government shall be deemed to  
 12 have exercised the authority described in section 254(a).  
 13 Section 255

14 For purposes of section 274(h)(3)(A) of the United  
 15 States Internal Revenue Code of 1986, the term “North  
 16 American Area” shall include the Federated States of Mi-  
 17 cronesia.

## 18 TITLE THREE

### 19 SECURITY AND DEFENSE RELATIONS

#### 20 Article I

#### 21 Authority and Responsibility

22 Section 311

23 (a) The Government of the United States has full au-  
 24 thority and responsibility for security and defense matters  
 25 in or relating to the Federated States of Micronesia.



1 (b) This authority and responsibility includes:

2 (1) the obligation to defend the Federated  
3 States of Micronesia and its people from attack or  
4 threats thereof as the United States and its citizens  
5 are defended;

6 (2) the option to foreclose access to or use of  
7 the Federated States of Micronesia by military per-  
8 sonnel or for the military purposes of any third  
9 country; and

10 (3) the option to establish and use military  
11 areas and facilities in the Federated States of Micro-  
12 nesia, subject to the terms of the separate agree-  
13 ments referred to in sections 321 and 323.

14 (c) The Government of the United States confirms  
15 that it shall act in accordance with the principles of inter-  
16 national law and the Charter of the United Nations in the  
17 exercise of this authority and responsibility.

18 Section 312

19 Subject to the terms of any agreements negotiated  
20 in accordance with sections 321 and 323, the Government  
21 of the United States may conduct within the lands, waters  
22 and airspace of the Federated States of Micronesia the  
23 activities and operations necessary for the exercise of its  
24 authority and responsibility under this Title.

25 Section 313

1 (a) The Government of the Federated States of Mi-  
2 cronesia shall refrain from actions that the Government  
3 of the United States determines, after appropriate con-  
4 sultation with that Government, to be incompatible with  
5 its authority and responsibility for security and defense  
6 matters in or relating to the Federated States of Micro-  
7 nesia.

8 (b) The consultations referred to in this section shall  
9 be conducted expeditiously at senior levels of the two Gov-  
10 ernments, and the subsequent determination by the Gov-  
11 ernment of the United States referred to in this section  
12 shall be made only at senior interagency levels of the Gov-  
13 ernment of the United States.

14 (c) The Government of the Federated States of Mi-  
15 cronesia shall be afforded, on an expeditious basis, an op-  
16 portunity to raise its concerns with the United States Sec-  
17 retary of State personally and the United States Secretary  
18 of Defense personally regarding any determination made  
19 in accordance with this section.

20 Section 314

21 (a) Unless otherwise agreed, the Government of the  
22 United States shall not, in the Federated States of Micro-  
23 nesia:

1           (1) test by detonation or dispose of any nuclear  
2        weapon, nor test, dispose of, or discharge any toxic  
3        chemical or biological weapon; or

4           (2) test, dispose of, or discharge any other ra-  
5        dioactive, toxic chemical or biological materials in an  
6        amount or manner which would be hazardous to  
7        public health or safety.

8        (b) Unless otherwise agreed, other than for transit  
9        or overflight purposes or during time of a national emer-  
10       gency declared by the President of the United States, a  
11       state of war declared by the Congress of the United States  
12       or as necessary to defend against an actual or impending  
13       armed attack on the United States, the Federated States  
14       of Micronesia or the Republic of the Marshall Islands, the  
15       Government of the United States shall not store in the  
16       Federated States of Micronesia or the Republic of the  
17       Marshall Islands any toxic chemical weapon, nor any ra-  
18       dioactive materials nor any toxic chemical materials in-  
19       tended for weapons use.

20       (c) Radioactive, toxic chemical, or biological materials  
21       not intended for weapons use shall not be affected by sec-  
22       tion 314(b).

23       (d) No material or substance referred to in this sec-  
24       tion shall be stored in the Federated States of Micronesia  
25       except in an amount and manner which would not be haz-

1 arduous to public health or safety. In determining what  
2 shall be an amount or manner which would be hazardous  
3 to public health or safety under this section, the Govern-  
4 ment of the United States shall comply with any applicable  
5 mutual agreement, international guidelines accepted by  
6 the Government of the United States, and the laws of the  
7 United States and their implementing regulations.

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

12 (f) The provisions of this section shall apply in the  
13 areas in which the Government of the Federated States  
14 of Micronesia exercises jurisdiction over the living re-  
15 sources of the seabed, subsoil or water column adjacent  
16 to its coasts.

17 Section 315

18 The Government of the United States may invite  
19 members of the armed forces of other countries to use  
20 military areas and facilities in the Federated States of Mi-  
21 cronnesia, in conjunction with and under the control of  
22 United States Armed Forces. Use by units of the armed  
23 forces of other countries of such military areas and facili-  
24 ties, other than for transit and overflight purposes, shall  
25 be subject to consultation with and, in the case of major

1 units, approval of the Government of the Federated States  
2 of Micronesia.

3 Section 316

4 The authority and responsibility of the Government  
5 of the United States under this Title may not be trans-  
6 ferred or otherwise assigned.

7 Article II

8 Defense Facilities and Operating Rights

9 Section 321

10 (a) Specific arrangements for the establishment and  
11 use by the Government of the United States of military  
12 areas and facilities in the Federated States of Micronesia  
13 are set forth in separate agreements, which shall remain  
14 in effect in accordance with the terms of such agreements.

15 (b) If, in the exercise of its authority and responsi-  
16 bility under this Title, the Government of the United  
17 States requires the use of areas within the Federated  
18 States of Micronesia in addition to those for which specific  
19 arrangements are concluded pursuant to section 321(a),  
20 it may request the Government of the Federated States  
21 of Micronesia to satisfy those requirements through leases  
22 or other arrangements. The Government of the Federated  
23 States of Micronesia shall sympathetically consider any  
24 such request and shall establish suitable procedures to dis-

1 cuss it with and provide a prompt response to the Govern-  
2 ment of the United States.

3 (c) The Government of the United States recognizes  
4 and respects the scarcity and special importance of land  
5 in the Federated States of Micronesia. In making any re-  
6 quests pursuant to section 321(b), the Government of the  
7 United States shall follow the policy of requesting the min-  
8 imum area necessary to accomplish the required security  
9 and defense purpose, of requesting only the minimum in-  
10 terest in real property necessary to support such purpose,  
11 and of requesting first to satisfy its requirement through  
12 public real property, where available, rather than through  
13 private real property.

14 Section 322

15 The Government of the United States shall provide  
16 and maintain fixed and floating aids to navigation in the  
17 Federated States of Micronesia at least to the extent nec-  
18 essary for the exercise of its authority and responsibility  
19 under this Title.

20 Section 323

21 The military operating rights of the Government of  
22 the United States and the legal status and contractual ar-  
23 rangements of the United States Armed Forces, their  
24 members, and associated civilians, while present in the  
25 Federated States of Micronesia are set forth in separate

1 agreements, which shall remain in effect in accordance  
2 with the terms of such agreements.

3 Article III

4 Defense Treaties and International Security Agreements  
5 Section 331

6 Subject to the terms of this Compact, as amended,  
7 and its related agreements, the Government of the United  
8 States, exclusively, has assumed and enjoys, as to the Fed-  
9 erated States of Micronesia, all obligations, responsibil-  
10 ities, rights and benefits of:

11 (a) Any defense treaty or other international security  
12 agreement applied by the Government of the United  
13 States as Administering Authority of the Trust Territory  
14 of the Pacific Islands as of November 2, 1986.

15 (b) Any defense treaty or other international security  
16 agreement to which the Government of the United States  
17 is or may become a party which it determines to be appli-  
18 cable in the Federated States of Micronesia. Such a deter-  
19 mination by the Government of the United States shall  
20 be preceded by appropriate consultation with the Govern-  
21 ment of the Federated States of Micronesia.

22 Article IV

23 Service in Armed Forces of the United States

24 Section 341

1 Any person entitled to the privileges set forth in Sec-  
2 tion 141 (with the exception of any person described in  
3 section 141(a)(5) who is not a citizen of the Federated  
4 States of Micronesia) shall be eligible to volunteer for serv-  
5 ice in the Armed Forces of the United States, but shall  
6 not be subject to involuntary induction into military serv-  
7 ice of the United States as long as such person has resided  
8 in the United States for a period of less than one year,  
9 provided that no time shall count towards this one year  
10 while a person admitted to the United States under the  
11 Compact, or the Compact, as amended, is engaged in full-  
12 time study in the United States. Any person described in  
13 section 141(a)(5) who is not a citizen of the Federated  
14 States of Micronesia shall be subject to United States laws  
15 relating to selective service.

16 Section 342

17 The Government of the United States shall have en-  
18 rolled, at any one time, at least one qualified student from  
19 the Federated States of Micronesia, as may be nominated  
20 by the Government of the Federated States of Micronesia,  
21 in each of:

22 (a) The United States Coast Guard Academy pursu-  
23 ant to 14 U.S.C. 195.

24 (b) The United States Merchant Marine Academy  
25 pursuant to 46 U.S.C. 1295(b)(6), provided that the pro-



1 visions of 46 U.S.C. 1295b(b)(6)(C) shall not apply to the  
2 enrollment of students pursuant to section 342(b) of this  
3 Compact, as amended.

4 Article V  
5 General Provisions

6 Section 351

7 (a) The Government of the United States and the  
8 Government of the Federated States of Micronesia shall  
9 continue to maintain a Joint Committee empowered to  
10 consider disputes arising under the implementation of this  
11 Title and its related agreements.

12 (b) The membership of the Joint Committee shall  
13 comprise selected senior officials of the two Governments.  
14 The senior United States military commander in the Pa-  
15 cific area shall be the senior United States member of the  
16 Joint Committee. For the meetings of the Joint Com-  
17 mittee, each of the two Governments may designate addi-  
18 tional or alternate representatives as appropriate for the  
19 subject matter under consideration.

20 (c) Unless otherwise mutually agreed, the Joint Com-  
21 mittee shall meet annually at a time and place to be des-  
22 ignated, after appropriate consultation, by the Govern-  
23 ment of the United States. The Joint Committee also shall  
24 meet promptly upon request of either of its members. The  
25 Joint Committee shall follow such procedures, including

1 the establishment of functional subcommittees, as the  
2 members may from time to time agree. Upon notification  
3 by the Government of the United States, the Joint Com-  
4 mittee of the United States and the Federated States of  
5 Micronesia shall meet promptly in a combined session with  
6 the Joint Committee established and maintained by the  
7 Government of the United States and the Republic of the  
8 Marshall Islands to consider matters within the jurisdic-  
9 tion of the two Joint Committees.

10 (d) Unresolved issues in the Joint Committee shall  
11 be referred to the Governments for resolution, and the  
12 Government of the Federated States of Micronesia shall  
13 be afforded, on an expeditious basis, an opportunity to  
14 raise its concerns with the United States Secretary of De-  
15 fense personally regarding any unresolved issue which  
16 threatens its continued association with the Government  
17 of the United States.

18 Section 352

19 In the exercise of its authority and responsibility  
20 under Title Three, the Government of the United States  
21 shall accord due respect to the authority and responsibility  
22 of the Government of the Federated States of Micronesia  
23 under Titles One, Two and Four and to the responsibility  
24 of the Government of the Federated States of Micronesia  
25 to assure the well-being of its people.

## 1 Section 353

2 (a) The Government of the United States shall not  
3 include the Government of the Federated States of Micro-  
4 nesia as a named party to a formal declaration of war,  
5 without that Government's consent.

6 (b) Absent such consent, this Compact, as amended,  
7 is without prejudice, on the ground of belligerence or the  
8 existence of a state of war, to any claims for damages  
9 which are advanced by the citizens, nationals or Govern-  
10 ment of the Federated States of Micronesia, which arise  
11 out of armed conflict subsequent to November 3, 1986,  
12 and which are:

13 (1) petitions to the Government of the United  
14 States for redress; or

15 (2) claims in any manner against the govern-  
16 ment, citizens, nationals or entities of any third  
17 country.

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

## 20 Section 354

21 (a) The Government of the United States and the  
22 Government of the Federated States of Micronesia are  
23 jointly committed to continue their security and defense  
24 relations, as set forth in this Title. Accordingly, it is the  
25 intention of the two countries that the provisions of this

1 Title shall remain binding as long as this Compact, as  
2 amended, remains in effect, and thereafter as mutually  
3 agreed, unless earlier terminated by mutual agreement  
4 pursuant to section 441, or amended pursuant to Article  
5 III of Title Four. If at any time the Government of the  
6 United States, or the Government of the Federated States  
7 of Micronesia, acting unilaterally, terminates this Title,  
8 such unilateral termination shall be considered to be ter-  
9 mination of the entire Compact, in which case the provi-  
10 sions of section 442 and 452 (in the case of termination  
11 by the Government of the United States) or sections 443  
12 and 453 (in the case of termination by the Government  
13 of the Federated States of Micronesia), with the exception  
14 of paragraph (3) of subsection (a) of section 452 or para-  
15 graph (3) of subsection (a) of section 453, as the case  
16 may be, shall apply.

17 (b) The Government of the United States recognizes,  
18 in view of the special relationship between the Government  
19 of the United States and the Government of the Federated  
20 States of Micronesia, and in view of the existence of the  
21 separate agreement regarding mutual security concluded  
22 with the Government of the Federated States of Micro-  
23 nesia pursuant to sections 321 and 323, that, even if this  
24 Title should terminate, any attack on the Federated  
25 States of Micronesia during the period in which such sepa-

1 rate agreement is in effect, would constitute a threat to  
2 the peace and security of the entire region and a danger  
3 to the United States. In the event of such an attack, the  
4 Government of the United States would take action to  
5 meet the danger to the United States and to the Federated  
6 States of Micronesia in accordance with its constitutional  
7 processes.

8 (c) As reflected in Article 21(1)(b) of the Trust Fund  
9 Agreement, the Government of the United States and the  
10 Government of the Federated States of Micronesia further  
11 recognize, in view of the special relationship between their  
12 countries, that even if this Title should terminate, the  
13 Government of the Federated States of Micronesia shall  
14 refrain from actions which the Government of the United  
15 States determines, after appropriate consultation with  
16 that Government, to be incompatible with its authority  
17 and responsibility for security and defense matters in or  
18 relating to the Federated States of Micronesia or the Re-  
19 public of the Marshall Islands.

20 TITLE FOUR  
21 GENERAL PROVISIONS  
22 Article I  
23 Approval and Effective Date  
24 Section 411

1 Pursuant to section 432 of the Compact and subject  
2 to subsection (e) of section 461 of the Compact, as amend-  
3 ed, the Compact, as amended, shall come into effect upon  
4 mutual agreement between the Government of the United  
5 States and the Government of the Federated States of Mi-  
6 cronesia subsequent to completion of the following:

7 (a) Approval by the Government of the Fed-  
8 erated States of Micronesia in accordance with its  
9 constitutional processes.

10 (b) Approval by the Government of the United  
11 States in accordance with its constitutional pro-  
12 cesses.

## 13 Article II

### 14 Conference and Dispute Resolution

#### 15 Section 421

16 The Government of the United States shall confer  
17 promptly at the request of the Government of the Fed-  
18 erated States of Micronesia and that Government shall  
19 confer promptly at the request of the Government of the  
20 United States on matters relating to the provisions of this  
21 Compact, as amended, or of its related agreements.

#### 22 Section 422

23 In the event the Government of the United States or  
24 the Government of the Federated States of Micronesia,  
25 after conferring pursuant to section 421, determines that

1 there is a dispute and gives written notice thereof, the two  
2 Governments shall make a good faith effort to resolve the  
3 dispute between themselves.

4 Section 423

5 If a dispute between the Government of the United  
6 States and the Government of the Federated States of Mi-  
7 cronesia cannot be resolved within 90 days of written noti-  
8 fication in the manner provided in section 422, either  
9 party to the dispute may refer it to arbitration in accord-  
10 ance with section 424.

11 Section 424

12 Should a dispute be referred to arbitration as pro-  
13 vided for in section 423, an Arbitration Board shall be  
14 established for the purpose of hearing the dispute and ren-  
15 dering a decision which shall be binding upon the two par-  
16 ties to the dispute unless the two parties mutually agree  
17 that the decision shall be advisory. Arbitration shall occur  
18 according to the following terms:

19 (a) An Arbitration Board shall consist of a  
20 Chairman and two other members, each of whom  
21 shall be a citizen of a party to the dispute. Each of  
22 the two Governments which is a party to the dispute  
23 shall appoint one member to the Arbitration Board.  
24 If either party to the dispute does not fulfill the ap-  
25 pointment requirements of this section within 30

1 days of referral of the dispute to arbitration pursu-  
2 ant to section 423, its member on the Arbitration  
3 Board shall be selected from its own standing list by  
4 the other party to the dispute. Each Government  
5 shall maintain a standing list of 10 candidates. The  
6 parties to the dispute shall jointly appoint a Chair-  
7 man within 15 days after selection of the other  
8 members of the Arbitration Board. Failing agree-  
9 ment on a Chairman, the Chairman shall be chosen  
10 by lot from the standing lists of the parties to the  
11 dispute within 5 days after such failure.

12 (b) Unless otherwise provided in this Compact,  
13 as amended, or its related agreements, the Arbitra-  
14 tion Board shall have jurisdiction to hear and render  
15 its final determination on all disputes arising exclu-  
16 sively under Articles I, II, III, IV and V of Title  
17 One, Title Two, Title Four, and their related agree-  
18 ments.

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

22 (d) In determining any legal issue, the Arbitration  
23 Board may have reference to international law and, in  
24 such reference, shall apply as guidelines the provisions set



1 forth in Article 38 of the Statute of the International  
2 Court of Justice.

3 (e) The Arbitration Board shall adopt such rules for  
4 its proceedings as it may deem appropriate and necessary,  
5 but such rules shall not contravene the provisions of this  
6 Compact, as amended. Unless the parties provide other-  
7 wise by mutual agreement, the Arbitration Board shall en-  
8 deavor to render its decision within 30 days after the con-  
9 clusion of arguments. The Arbitration Board shall make  
10 findings of fact and conclusions of law and its members  
11 may issue dissenting or individual opinions. Except as may  
12 be otherwise decided by the Arbitration Board, one-half  
13 of all costs of the arbitration shall be borne by the Govern-  
14 ment of the United States and the remainder shall be  
15 borne by the Government of the Federated States of Mi-  
16 cronesia.

17 Article III

18 Amendment

19 Section 431

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

1 Article IV

2 Termination

3 Section 441

4 This Compact, as amended, may be terminated by  
5 mutual agreement of the Government of the Federated  
6 States of Micronesia and the Government of the United  
7 States, in accordance with their respective constitutional  
8 processes. Such mutual termination of this Compact, as  
9 amended, shall be without prejudice to the continued ap-  
10 plication of section 451 of this Compact, as amended, and  
11 the provisions of the Compact, as amended, set forth  
12 therein.

13 Section 442

14 Subject to section 452, this Compact, as amended,  
15 may be terminated by the Government of the United  
16 States in accordance with its constitutional processes.  
17 Such termination shall be effective on the date specified  
18 in the notice of termination by the Government of the  
19 United States but not earlier than six months following  
20 delivery of such notice. The time specified in the notice  
21 of termination may be extended. Such termination of this  
22 Compact, as amended, shall be without prejudice to the  
23 continued application of section 452 of this Compact, as  
24 amended, and the provisions of the Compact, as amended,  
25 set forth therein.

## 1 Section 443

2 This Compact, as amended, shall be terminated by  
3 the Government of the Federated States of Micronesia,  
4 pursuant to its constitutional processes, subject to section  
5 453 if the people represented by that Government vote in  
6 a plebiscite to terminate the Compact, as amended, or by  
7 another process permitted by the FSM constitution and  
8 mutually agreed between the Governments of the United  
9 States and the Federated States of Micronesia. The Gov-  
10 ernment of the Federated States of Micronesia shall notify  
11 the Government of the United States of its intention to  
12 call such a plebiscite, or to pursue another mutually  
13 agreed and constitutional process, which plebiscite or proc-  
14 ess shall take place not earlier than three months after  
15 delivery of such notice. The plebiscite or other process  
16 shall be administered by the Government of the Federated  
17 States of Micronesia in accordance with its constitutional  
18 and legislative processes. If a majority of the valid ballots  
19 cast in the plebiscite or other process favors termination,  
20 the Government of the Federated States of Micronesia  
21 shall, upon certification of the results of the plebiscite or  
22 other process, give notice of termination to the Govern-  
23 ment of the United States, such termination to be effective  
24 on the date specified in such notice but not earlier than  
25 three months following the date of delivery of such notice.

1 The time specified in the notice of termination may be  
2 extended.

3 Article V

4 Survivability

5 Section 451

6 (a) Should termination occur pursuant to section  
7 441, economic and other assistance by the Government of  
8 the United States shall continue only if and as mutually  
9 agreed by the Governments of the United States and the  
10 Federated States of Micronesia, and in accordance with  
11 the parties' respective constitutional processes.

12 (b) In view of the special relationship of the United  
13 States and the Federated States of Micronesia, as re-  
14 flected in subsections (b) and (c) of section 354 of this  
15 Compact, as amended, and the separate agreement en-  
16 tered into consistent with those subsections, if termination  
17 occurs pursuant to section 441 prior to the twentieth anni-  
18 versary of the effective date of this Compact, as amended,  
19 the United States shall continue to make contributions to  
20 the Trust Fund described in section 215 of this Compact,  
21 as amended.

22 (c) In view of the special relationship of the United  
23 States and the Federated States of Micronesia described  
24 in subsection (b) of this section, if termination occurs pur-  
25 suant to section 441 following the twentieth anniversary

1 of the effective date of this Compact, as amended, the  
2 Federated States of Micronesia shall be entitled to receive  
3 proceeds from the Trust Fund described in section 215  
4 of this Compact, as amended, in the manner described in  
5 those provisions and the Trust Fund Agreement governing  
6 the distribution of such proceeds.

7 Section 452

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

14 (1) Article VI and sections 172, 173, 176 and  
15 177 of Title One;

16 (2) Sections 232 and 234 of Title Two;

17 (3) Title Three; and

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

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

22 (1) Except as provided in paragraph (2) of this  
23 subsection and subsection (c) of this section, eco-  
24 nomic and other assistance by the United States  
25 shall continue only if and as mutually agreed by the

1 Governments of the United States and the Fed-  
2 erated States of Micronesia.

3 (2) In view of the special relationship of the  
4 United States and the Federated States of Micro-  
5 nesia, as reflected in subsections (b) and (c) of sec-  
6 tion 354 of this Compact, as amended, and the sepa-  
7 rate agreement regarding mutual security, and the  
8 Trust Fund Agreement, the United States shall con-  
9 tinue to make contributions to the Trust Fund de-  
10 scribed in section 215 of this Compact, as amended,  
11 in the manner described in the Trust Fund Agree-  
12 ment.

13 (c) In view of the special relationship of the United  
14 States and the Federated States of Micronesia, as re-  
15 flected in subsections 354(b) and (c) of this Compact, as  
16 amended, and the separate agreement regarding mutual  
17 security, and the Trust Fund Agreement, if termination  
18 occurs pursuant to section 442 following the twentieth an-  
19 niversary of the effective date of this Compact, as amend-  
20 ed, the Federated States of Micronesia shall continue to  
21 be eligible to receive proceeds from the Trust Fund de-  
22 scribed in section 215 of this Compact, as amended, in  
23 the manner described in those provisions and the Trust  
24 Fund Agreement.  
25 Section 453

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

7 (1) Article VI and sections 172, 173, 176 and  
8 177 of Title One;

9 (2) Sections 232 and 234 of Title Two;

10 (3) Title Three; and

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

12 (b) Upon receipt of notice of termination pursuant  
13 to section 443, the Government of the United States and  
14 the Government of the Federated States of Micronesia  
15 shall promptly consult with regard to their future relation-  
16 ship. Except as provided in subsection (c) and (d) of this  
17 section, these consultations shall determine the level of  
18 economic and other assistance, if any, which the Govern-  
19 ment of the United States shall provide to the Government  
20 of the Federated States of Micronesia for the period end-  
21 ing on the twentieth anniversary of the effective date of  
22 this Compact, as amended, and for any period thereafter,  
23 if mutually agreed.

24 (c) In view of the special relationship of the United  
25 States and the Federated States of Micronesia, as re-

1 flected in subsections 354(b) and (c) of this Compact, as  
2 amended, and the separate agreement regarding mutual  
3 security, and the Trust Fund Agreement, if termination  
4 occurs pursuant to section 443 prior to the twentieth anni-  
5 versary of the effective date of this Compact, as amended,  
6 the United States shall continue to make contributions to  
7 the Trust Fund described in section 215 of this Compact,  
8 as amended, in the manner described in the Trust Fund  
9 Agreement.

10 (d) In view of the special relationship of the United  
11 States and the Federated States of Micronesia, as re-  
12 flected in subsections 354(b) and (c) of this Compact, as  
13 amended, and the separate agreement regarding mutual  
14 security, and the Trust Fund Agreement, if termination  
15 occurs pursuant to section 443 following the twentieth an-  
16 niversary of the effective date of this Compact, as amend-  
17 ed, the Federated States of Micronesia shall continue to  
18 be eligible to receive proceeds from the Trust Fund de-  
19 scribed in section 215 of this Compact, as amended, in  
20 the manner described in those provisions and the Trust  
21 Fund Agreement.

22 Section 454

23 Notwithstanding any other provision of this Compact,  
24 as amended:



1           (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.

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

## 8                                 Article VI

### 9                                 Definition of Terms

#### 10    Section 461

11           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:

17           (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.

1           (b) “Trusteeship Agreement” means the agree-  
2           ment setting forth the terms of trusteeship for the  
3           Trust Territory of the Pacific Islands, approved by  
4           the Security Council of the United Nations April 2,  
5           1947, and by the United States July 18, 1947, en-  
6           tered into force July 18, 1947, 61 Stat. 3301,  
7           T.I.A.S. 1665, 8 U.N.T.S. 189.

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

14          (d) “Compact” means the Compact of Free As-  
15          sociation Between the United States and the Fed-  
16          erated States of Micronesia and the Marshall Is-  
17          lands, that was approved by the United States Con-  
18          gress in section 201 of Public Law 99-239 (Jan. 14,  
19          1986) and went into effect with respect to the Fed-  
20          erated States of Micronesia on November 3, 1986.

21          (e) “Compact, as amended” means the Com-  
22          pact of Free Association Between the United States  
23          and the Federated States of Micronesia, as amend-  
24          ed. The effective date of the Compact, as amended,  
25          shall be on a date to be determined by the President

1 of the United States, and agreed to by the Govern-  
2 ment of the Federated States of Micronesia, fol-  
3 lowing formal approval of the Compact, as amended,  
4 in accordance with section 411 of this Compact, as  
5 amended.

6 (f) “Government of the Federated States of Mi-  
7 cronnesia” means the Government established and or-  
8 ganized by the Constitution of the Federated States  
9 of Micronesia including all the political subdivisions  
10 and entities comprising that Government.

11 (g) “Government of the Republic of the Mar-  
12 shall Islands” means the Government established  
13 and organized by the Constitution of the Republic of  
14 the Marshall Islands including all the political sub-  
15 divisions and entities comprising that Government.

16 (h) The following terms shall be defined con-  
17 sistent with the 1998 Edition of the Radio Regula-  
18 tions of the International Telecommunications Union  
19 as follows:

20 (1) “Radiocommunication” means tele-  
21 communication by means of radio waves.

22 (2) “Station” means one or more transmit-  
23 ters or receivers or a combination of transmit-  
24 ters and receivers, including the accessory  
25 equipment, necessary at one location for car-

1           rying on a radiocommunication service, or the  
2           radio astronomy service.

3           (3) “Broadcasting Service” means a  
4           radiocommunication service in which the trans-  
5           missions are intended for direct reception by  
6           the general public. This service may include  
7           sound transmissions, television transmissions or  
8           other types of transmission.

9           (4) “Broadcasting Station” means a sta-  
10          tion in the broadcasting service.

11          (5) “Assignment (of a radio frequency or  
12          radio frequency channel)” means an authoriza-  
13          tion given by an administration for a radio sta-  
14          tion to use a radio frequency or radio frequency  
15          channel under specified conditions.

16          (6) “Telecommunication” means any  
17          transmission, emission or reception of signs,  
18          signals, writings, images and sounds or intel-  
19          ligence of any nature by wire, radio, optical or  
20          other electromagnetic systems.

21          (i) “Military Areas and Facilities” means those  
22          areas and facilities in the Federated States of Micro-  
23          nesia reserved or acquired by the Government of the  
24          Federated States of Micronesia for use by the Gov-

1 ernment of the United States, as set forth in the  
2 separate agreements referred to in section 321.

3 (j) “Tariff Schedules of the United States”  
4 means the Tariff Schedules of the United States as  
5 amended from time to time and as promulgated pur-  
6 suant to United States law and includes the Tariff  
7 Schedules of the United States Annotated (TSUSA),  
8 as amended.

9 (k) “Vienna Convention on Diplomatic Rela-  
10 tions” means the Vienna Convention on Diplomatic  
11 Relations, done April 18, 1961, 23 U.S.T. 3227,  
12 T.I.A.S. 7502, 500 U.N.T.S. 95.

13 Section 462

14 (a) The Government of the United States and the  
15 Government of the Federated States of Micronesia pre-  
16 viously have concluded agreements pursuant to the Com-  
17 pact, which shall remain in effect and shall survive in ac-  
18 cordance with their terms, as follows:

19 (1) Agreement Concluded Pursuant to Section  
20 234 of the Compact;

21 (2) Agreement Between the Government of the  
22 United States and the Government of the Federated  
23 States of Micronesia Regarding Friendship, Co-  
24 operation and Mutual Security Concluded Pursuant

1 to Sections 321 and 323 of the Compact of Free As-  
2 sociation; and

3 (3) Agreement between the Government of the  
4 United States of America and the Federated States  
5 of Micronesia Regarding Aspects of the Marine Sov-  
6 ereignty and Jurisdiction of the Federated States of  
7 Micronesia.

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

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

22 (i) Postal Services and Related Programs;

23 (ii) Weather Services and Related Pro-  
24 grams;

1 (iii) Civil Aviation Safety Service and Re-  
2 lated Programs;

3 (iv) Civil Aviation Economic Services and  
4 Related Programs;

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

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

9 (vii) Telecommunications Services and Re-  
10 lated Programs.

11 (2) Agreement Between the Government of the  
12 United States of America and the Government of  
13 the Federated States of Micronesia on Extradition,  
14 Mutual Assistance in Law Enforcement Matters and  
15 Penal Sanctions Concluded Pursuant to Section  
16 175(a) of the Compact of Free Association, as  
17 amended;

18 (3) Agreement Between the Government of the  
19 United States of America and the Government of  
20 the Federated States of Micronesia on Labor Re-  
21 cruitment Concluded Pursuant to Section 175(b) of  
22 the Compact of Free Association, as amended;

23 (4) Agreement Concerning Procedures for the  
24 Implementation of United States Economic Assist-  
25 ance Provided in the Compact of Free Association,

1 as Amended, of Free Association Between the Gov-  
2 ernment of the United States of America and Gov-  
3 ernment of the Federated States of Micronesia;

4 (5) Agreement Between the Government of the  
5 United States of America and the Government of  
6 the Federated States of Micronesia Implementing  
7 Section 215 and Section 216 of the Compact, as  
8 Amended, Regarding a Trust Fund;

9 (6) Agreement Regarding the Military Use and  
10 Operating Rights of the Government of the United  
11 States in the Federated States of Micronesia Con-  
12 cluded Pursuant to Sections 211(b), 321 and 323 of  
13 the Compact of Free Association, as Amended; and  
14 the

15 (7) Status of Forces Agreement Between the  
16 Government of the United States of America and  
17 the Government of the Federated States of Micro-  
18 nesia Concluded Pursuant to Section 323 of the  
19 Compact of Free Association, as Amended.

20 Section 463

21 (a) Except as set forth in subsection (b) of this sec-  
22 tion, any reference in this Compact, as amended, to a pro-  
23 vision of the United States Code or the Statutes at Large  
24 of the United States constitutes the incorporation of the  
25 language of such provision into this Compact, as amended,



1 as such provision was in force on the effective date of this  
2 Compact, as amended.

3 (b) Any reference in Articles IV and Article VI of  
4 Title One and Sections 174, 175, 178 and 342 to a provi-  
5 sion of the United States Code or the Statutes at Large  
6 of the United States or to the Privacy Act, the Freedom  
7 of Information Act, the Administrative Procedure Act or  
8 the Immigration and Nationality Act constitutes the incor-  
9 poration of the language of such provision into this Com-  
10 pact, as amended, as such provision was in force on the  
11 effective date of this Compact, as amended, or as it may  
12 be amended thereafter on a non-discriminatory basis ac-  
13 cording to the constitutional processes of the United  
14 States.

15 Article VII

16 Concluding Provisions

17 Section 471

18 Both the Government of the United States and the  
19 Government of the Federated States of Micronesia shall  
20 take all necessary steps, of a general or particular char-  
21 acter, to ensure, no later than the entry into force date  
22 of this Compact, as amended, the conformity of its laws,  
23 regulations and administrative procedures with the provi-  
24 sions of this Compact, as amended, or in the case of sub-

1 section (d) of section 141, as soon as reasonably possible  
2 thereafter.

3 Section 472

4 This Compact, as amended, may be accepted, by sig-  
5 nature or otherwise, by the Government of the United  
6 States and the Government of the Federated States of Mi-  
7 cronisia.

8 IN WITNESS WHEREOF, the undersigned, duly  
9 authorized, have signed this Compact of Free Association,  
10 as amended, which shall enter into force upon the ex-  
11 change of diplomatic notes by which the Government of  
12 the United States of America and the Government of the  
13 Federated States of Micronesia inform each other about  
14 the fulfillment of their respective requirements for entry  
15 into force.

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

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

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

19 (b) COMPACT OF FREE ASSOCIATION, AS AMENDED,  
20 BETWEEN THE GOVERNMENT OF THE UNITED STATES  
21 OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC  
22 OF THE MARSHALL ISLANDS

1

## PREAMBLE

2 THE GOVERNMENT OF THE UNITED STATES OF  
3 AMERICA AND THE GOVERNMENT OF THE  
4 REPUBLIC OF THE MARSHALL ISLANDS

5 Affirming that their Governments and their relation-  
6 ship as Governments are founded upon respect for human  
7 rights and fundamental freedoms for all, and that the peo-  
8 ple of the Republic of the Marshall Islands have the right  
9 to enjoy self-government; and

10 Affirming the common interests of the United States  
11 of America and the Republic of the Marshall Islands in  
12 creating and maintaining their close and mutually bene-  
13 ficial relationship through the free and voluntary associa-  
14 tion of their respective Governments; and

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

19 Recognizing that their relationship until the entry  
20 into force on October 21, 1986 of the Compact was based  
21 upon the International Trusteeship System of the United  
22 Nations Charter, and in particular Article 76 of the Char-  
23 ter; and that pursuant to Article 76 of the Charter, the  
24 people of the Republic of the Marshall Islands have pro-  
25 gressively developed their institutions of self-government,

1 and that in the exercise of their sovereign right to self-  
2 determination they, through their freely-expressed wishes,  
3 have adopted a Constitution appropriate to their par-  
4 ticular circumstances; and

5       Recognizing that the Compact reflected their common  
6 desire to terminate the Trusteeship and establish a gov-  
7 ernment-to-government relationship which was in accord-  
8 ance with the new political status based on the freely ex-  
9 pressed wishes of the people of the Republic of the Mar-  
10 shall Islands and appropriate to their particular cir-  
11 cumstances; and

12       Recognizing that the people of the Republic of the  
13 Marshall Islands have and retain their sovereignty and  
14 their sovereign right to self-determination and the inher-  
15 ent right to adopt and amend their own Constitution and  
16 form of government and that the approval of the entry  
17 of the Government of the Republic of the Marshall Islands  
18 into the Compact by the people of the Republic of the Mar-  
19 shall Islands constituted an exercise of their sovereign  
20 right to self-determination; and

21       Recognizing the common desire of the people of the  
22 United States and the people of the Republic of the Mar-  
23 shall Islands to maintain their close government-to-gov-  
24 ernment relationship, the United States and the Republic  
25 of the Marshall Islands:

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

6       FURTHER AGREE that the relationship of free as-  
7 sociation derives from and is as set forth in this Compact,  
8 as amended, by the Governments of the United States and  
9 the Republic of the Marshall Islands; and that, during  
10 such relationship of free association, the respective rights  
11 and responsibilities of the Government of the United  
12 States and the Government of the Republic of the Mar-  
13 shall Islands in regard to this relationship of free associa-  
14 tion derive from and are as set forth in this Compact, as  
15 amended.

16                                   TITLE ONE

17                                   GOVERNMENTAL RELATIONS

18                                   Article I

19                                   Self-Government

20       Section 111

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

1 Article II

2 Foreign Affairs

3 Section 121

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

8 (b) The foreign affairs capacity of the Government  
9 of the Republic of the Marshall Islands includes:

10 (1) the conduct of foreign affairs relating to law  
11 of the sea and marine resources matters, including  
12 the harvesting, conservation, exploration or exploi-  
13 tation of living and non-living resources from the  
14 sea, seabed or subsoil to the full extent recognized  
15 under international law;

16 (2) the conduct of its commercial, diplomatic,  
17 consular, economic, trade, banking, postal, civil avia-  
18 tion, communications, and cultural relations, includ-  
19 ing negotiations for the receipt of developmental  
20 loans and grants and the conclusion of arrangements  
21 with other governments and international and inter-  
22 governmental organizations, including any matters  
23 specially benefiting its individual citizens.

24 (c) The Government of the United States recognizes  
25 that the Government of the Republic of the Marshall Is-

1 lands has the capacity to enter into, in its own name and  
2 right, treaties and other international agreements with  
3 governments and regional and international organizations.

4 (d) In the conduct of its foreign affairs, the Govern-  
5 ment of the Republic of the Marshall Islands confirms that  
6 it shall act in accordance with principles of international  
7 law and shall settle its international disputes by peaceful  
8 means.

9 Section 122

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

15 Section 123

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

21 (b) In recognition of the foreign affairs capacity of  
22 the Government of the Republic of the Marshall Islands,  
23 the Government of the United States, in the conduct of  
24 its foreign affairs, shall consult with the Government of  
25 the Republic of the Marshall Islands on matters that the

1 Government of the United States regards as relating to  
2 or affecting the Government of the Republic of the Mar-  
3 shall Islands.

4 Section 124

5 The Government of the United States may assist or  
6 act on behalf of the Government of the Republic of the  
7 Marshall Islands in the area of foreign affairs as may be  
8 requested and mutually agreed from time to time. The  
9 Government of the United States shall not be responsible  
10 to third parties for the actions of the Government of the  
11 Republic of the Marshall Islands undertaken with the as-  
12 sistance or through the agency of the Government of the  
13 United States pursuant to this section unless expressly  
14 agreed.

15 Section 125

16 The Government of the United States shall not be  
17 responsible for nor obligated by any actions taken by the  
18 Government of the Republic of the Marshall Islands in the  
19 area of foreign affairs, except as may from time to time  
20 be expressly agreed.

21 Section 126

22 At the request of the Government of the Republic of  
23 the Marshall Islands and subject to the consent of the re-  
24 ceiving state, the Government of the United States shall  
25 extend consular assistance on the same basis as for citi-



1 zens of the United States to citizens of the Republic of  
2 the Marshall Islands for travel outside the Republic of the  
3 Marshall Islands, the United States and its territories and  
4 possessions.

5 Section 127

6 Except as otherwise provided in this Compact, as  
7 amended, or its related agreements, all obligations, re-  
8 sponsibilities, rights and benefits of the Government of the  
9 United States as Administering Authority which resulted  
10 from the application pursuant to the Trusteeship Agree-  
11 ment of any treaty or other international agreement to the  
12 Trust Territory of the Pacific Islands on October 20,  
13 1986, are, as of that date, no longer assumed and enjoyed  
14 by the Government of the United States.

15 Article III

16 Communications

17 Section 131

18 (a) The Government of the Republic of the Marshall  
19 Islands has full authority and responsibility to regulate its  
20 domestic and foreign communications, and the Govern-  
21 ment of the United States shall provide communications  
22 assistance as mutually agreed.

23 (b) The Government of the Republic of the Marshall  
24 Islands has elected to undertake all functions previously  
25 performed by the Government of the United States with

1 respect to domestic and foreign communications, except  
 2 for those functions set forth in a separate agreement en-  
 3 tered into pursuant to this section of the Compact, as  
 4 amended.

5 Section 132

6 The Government of the Republic of the Marshall Is-  
 7 lands shall permit the Government of the United States  
 8 to operate telecommunications services in the Republic of  
 9 the Marshall Islands to the extent necessary to fulfill the  
 10 obligations of the Government of the United States under  
 11 this Compact, as amended, in accordance with the terms  
 12 of separate agreements entered into pursuant to this sec-  
 13 tion of the Compact, as amended.

14 Article IV

15 Immigration

16 Section 141

17 (a) In furtherance of the special and unique relation-  
 18 ship that exists between the United States and the Repub-  
 19 lic of the Marshall Islands, under the Compact, as amend-  
 20 ed, any person in the following categories may be admitted  
 21 to lawfully engage in occupations, and establish residence  
 22 as a nonimmigrant in the United States and its territories  
 23 and possessions (the “United States”) without regard to  
 24 paragraphs (5) or (7)(B)(i)(II) of section 212(a) of the

1 Immigration and Nationality Act, as amended, 8 U.S.C.  
2 1182(a)(5) or (7)(B)(i)(II):

3 (1) a person who, on October 21, 1986, was a  
4 citizen of the Trust Territory of the Pacific Islands,  
5 as defined in Title 53 of the Trust Territory Code  
6 in force on January 1, 1979, and has become and  
7 remains a citizen of the Republic of the Marshall Is-  
8 lands;

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

13 (3) an immediate relative of a person referred  
14 to in paragraphs (1) or (2) of this section, provided  
15 that such immediate relative is a naturalized citizen  
16 of the Republic of the Marshall Islands who has  
17 been an actual resident there for not less than five  
18 years after attaining such naturalization and who  
19 holds a certificate of actual residence, and further  
20 provided, that, in the case of a spouse, such spouse  
21 has been married to the person referred to in para-  
22 graph (1) or (2) of this section for at least five  
23 years, and further provided, that the Government of  
24 the United States is satisfied that such naturalized  
25 citizen meets the requirement of subsection (b) of

1 section 104 of Public Law 99–239 as it was in effect  
2 on the day prior to the effective date of this Com-  
3 pact, as amended;

4 (4) a naturalized citizen of the Republic of the  
5 Marshall Islands who was an actual resident there  
6 for not less than five years after attaining such nat-  
7 uralization and who satisfied these requirements as  
8 of April 30, 2003, who continues to be an actual  
9 resident and holds a certificate of actual residence,  
10 and whose name is included in a list furnished by  
11 the Government of the Republic of the Marshall Is-  
12 lands to the Government of the United States no  
13 later than the effective date of the Compact, as  
14 amended, in form and content acceptable to the Gov-  
15 ernment of the United States, provided, that the  
16 Government of the United States is satisfied that  
17 such naturalized citizen meets the requirement of  
18 subsection (b) of section 104 of Public Law 99–239  
19 as it was in effect on the day prior to the effective  
20 date of this Compact, as amended; or

21 (5) an immediate relative of a citizen of the Re-  
22 public of the Marshall Islands, regardless of the im-  
23 mediate relative’s country of citizenship or period of  
24 residence in the Republic of the Marshall Islands, if  
25 the citizen of the Republic of the Marshall Islands

1 is serving on active duty in any branch of the United  
2 States Armed Forces, or in the active reserves.

3 (b) Notwithstanding subsection (a) of this section, a  
4 person who is coming to the United States pursuant to  
5 an adoption outside the United States, or for the purpose  
6 of adoption in the United States, is ineligible for admission  
7 under the Compact and the Compact, as amended. This  
8 subsection shall apply to any person who is or was an ap-  
9 plicant for admission to the United States on or after  
10 March 1, 2003, including any applicant for admission in  
11 removal proceedings (including appellate proceedings) on  
12 or after March 1, 2003, regardless of the date such pro-  
13 ceedings were commenced. This subsection shall have no  
14 effect on the ability of the Government of the United  
15 States or any United States State or local government to  
16 commence or otherwise take any action against any person  
17 or entity who has violated any law relating to the adoption  
18 of any person.

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

1 (d) A person admitted to the United States under the  
2 Compact, or the Compact, as amended, shall be considered  
3 to have the permission of the Government of the United  
4 States to accept employment in the United States. An un-  
5 expired Republic of the Marshall Islands passport with un-  
6 expired documentation issued by the Government of the  
7 United States evidencing admission under the Compact or  
8 the Compact, as amended, shall be considered to be docu-  
9 mentation establishing identity and employment author-  
10 ization under section 274A(b)(1)(B) of the Immigration  
11 and Nationality Act, as amended, 8 U.S.C.  
12 1324a(b)(1)(B). The Government of the United States  
13 will take reasonable and appropriate steps to implement  
14 and publicize this provision, and the Government of the  
15 Republic of the Marshall Islands will also take reasonable  
16 and appropriate steps to publicize this provision.

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

19 (1) the term “residence” with respect to a per-  
20 son means the person’s principal, actual dwelling  
21 place in fact, without regard to intent, as provided  
22 in section 101(a)(33) of the Immigration and Na-  
23 tionality Act, as amended, 8 U.S.C. 1101(a)(33),  
24 and variations of the term “residence,” including

1 “resident” and “reside,” shall be similarly con-  
2 strued;

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

7 (3) the term “certificate of actual residence”  
8 means a certificate issued to a naturalized citizen by  
9 the Government of the Republic of the Marshall Is-  
10 lands stating that the citizen has complied with the  
11 actual residence requirement of section 141(a)(3) or  
12 (4);

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

16 (5) the term “immediate relative” means a  
17 spouse, or unmarried son or unmarried daughter  
18 less than 21 years of age.

19 (f) The Immigration and Nationality Act, as amend-  
20 ed, shall apply to any person admitted or seeking admis-  
21 sion to the United States (other than a United States pos-  
22 session or territory where such Act does not apply) under  
23 the Compact or the Compact, as amended, and nothing  
24 in the Compact or the Compact, as amended, shall be con-

1 strued to limit, preclude, or modify the applicability of,  
2 with respect to such person:

3           (1) any ground of inadmissibility or deport-  
4 ability under such Act (except sections 212(a)(5)  
5 and 212(a)(7)(B)(i)(II) of such Act, as provided in  
6 subsection (a) of this section), and any defense  
7 thereto, provided that, section 237(a)(5) of such Act  
8 shall be construed and applied as if it reads as fol-  
9 lows: “any alien who has been admitted under the  
10 Compact, or the Compact, as amended, who cannot  
11 show that he or she has sufficient means of support  
12 in the United States, is deportable;”

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

19           (3) except for the treatment of certain docu-  
20 mentation for purposes of section 274A(b)(1)(B) of  
21 such Act as provided by subsection (d) of this sec-  
22 tion of the Compact, as amended, any requirement  
23 under section 274A, including but not limited to sec-  
24 tion 274A(b)(1)(E);



1 (4) section 643 of the Illegal Immigration Re-  
2 form and Immigrant Responsibility Act of 1996,  
3 Public Law 104–208, and actions taken pursuant to  
4 section 643; and

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

9 (g) Any authority possessed by the Government of the  
10 United States under this section of the Compact or the  
11 Compact, as amended, may also be exercised by the Gov-  
12 ernment of a territory or possession of the United States  
13 where the Immigration and Nationality Act, as amended,  
14 does not apply, to the extent such exercise of authority  
15 is lawful under a statute or regulation of such territory  
16 or possession that is authorized by the laws of the United  
17 States.

18 (h) Subsection (a) of this section does not confer on  
19 a citizen of the Republic of the Marshall Islands the right  
20 to establish the residence necessary for naturalization  
21 under the Immigration and Nationality Act, as amended,  
22 or to petition for benefits for alien relatives under that  
23 Act. Subsection (a) of this section, however, shall not pre-  
24 vent a citizen of the Republic of the Marshall Islands from

1 otherwise acquiring such rights or lawful permanent resi-  
2 dent alien status in the United States.

3 Section 142

4 (a) Any citizen or national of the United States may  
5 be admitted to lawfully engage in occupations, and reside  
6 in the Republic of the Marshall Islands, subject to the  
7 rights of the Government of the Republic of the Marshall  
8 Islands to deny entry to or deport any such citizen or na-  
9 tional as an undesirable alien. Any determination of inad-  
10 missibility or deportability shall be based on reasonable  
11 statutory grounds and shall be subject to appropriate ad-  
12 ministrative and judicial review within the Republic of the  
13 Marshall Islands. If a citizen or national of the United  
14 States is a spouse of a citizen of the Republic of the Mar-  
15 shall Islands, the Government of the Republic of the Mar-  
16 shall Islands shall allow the United States citizen spouse  
17 to establish residence. Should the Republic of the Marshall  
18 Islands citizen spouse predecease the United States citizen  
19 spouse during the marriage, the Government of the Re-  
20 public of the Marshall Islands shall allow the United  
21 States citizen spouse to continue to reside in the Republic  
22 of the Marshall Islands.

23 (b) In enacting any laws or imposing any require-  
24 ments with respect to citizens and nationals of the United  
25 States entering the Republic of the Marshall Islands under

1 subsection (a) of this section, including any grounds of  
2 inadmissibility or deportability, the Government of the Re-  
3 public of the Marshall Islands shall accord to such citizens  
4 and nationals of the United States treatment no less fa-  
5 vorable than that accorded to citizens of other countries.

6 (c) Consistent with subsection (a) of this section, with  
7 respect to citizens and nationals of the United States seek-  
8 ing to engage in employment or invest in the Republic of  
9 the Marshall Islands, the Government of the Republic of  
10 the Marshall Islands shall adopt immigration-related pro-  
11 cedures no less favorable than those adopted by the Gov-  
12 ernment of the United States with respect to citizens of  
13 the Republic of the Marshall Islands seeking employment  
14 in the United States.

15 Section 143

16 Any person who relinquishes, or otherwise loses, his  
17 United States nationality or citizenship, or his Republic  
18 of the Marshall Islands citizenship, shall be ineligible to  
19 receive the privileges set forth in sections 141 and 142.  
20 Any such person may apply for admission to the United  
21 States or the Republic of the Marshall Islands, as the case  
22 may be, in accordance with any other applicable laws of  
23 the United States or the Republic of the Marshall Islands  
24 relating to immigration of aliens from other countries. The  
25 laws of the Republic of the Marshall Islands or the United

1 States, as the case may be, shall dictate the terms and  
2 conditions of any such person's stay.

3 Article V

4 Representation

5 Section 151

6 Relations between the Government of the United  
7 States and the Government of the Republic of the Mar-  
8 shall Islands shall be conducted in accordance with the  
9 Vienna Convention on Diplomatic Relations. In addition  
10 to diplomatic missions and representation, the Govern-  
11 ments may establish and maintain other offices and des-  
12 ignate other representatives on terms and in locations as  
13 may be mutually agreed.

14 Section 152

15 (a) Any citizen or national of the United States who,  
16 without authority of the United States, acts as the agent  
17 of the Government of the Republic of the Marshall Islands  
18 with regard to matters specified in the provisions of the  
19 Foreign Agents Registration Act of 1938, as amended (22  
20 U.S.C. 611 et seq.), that apply with respect to an agent  
21 of a foreign principal shall be subject to the requirements  
22 of such Act. Failure to comply with such requirements  
23 shall subject such citizen or national to the same penalties  
24 and provisions of law as apply in the case of the failure  
25 of such an agent of a foreign principal to comply with such

1 requirements. For purposes of the Foreign Agents Reg-  
2 istration Act of 1938, the Republic of the Marshall Islands  
3 shall be considered to be a foreign country.

4 (b) Subsection (a) of this section shall not apply to  
5 a citizen or national of the United States employed by the  
6 Government of the Republic of the Marshall Islands with  
7 respect to whom the Government of the Republic of the  
8 Marshall Islands from time to time certifies to the Govern-  
9 ment of the United States that such citizen or national  
10 is an employee of the Republic of the Marshall Islands  
11 whose principal duties are other than those matters speci-  
12 fied in the Foreign Agents Registration Act of 1938, as  
13 amended, that apply with respect to an agent of a foreign  
14 principal. The agency or officer of the United States re-  
15 ceiving such certifications shall cause them to be filed with  
16 the Attorney General, who shall maintain a publicly avail-  
17 able list of the persons so certified.

18 Article VI

19 Environmental Protection

20 Section 161

21 The Governments of the United States and the Re-  
22 public of the Marshall Islands declare that it is their policy  
23 to promote efforts to prevent or eliminate damage to the  
24 environment and biosphere and to enrich understanding  
25 of the natural resources of the Republic of the Marshall

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

5 (a) The Government of the United States:

6 (1) shall, for its activities controlled by the  
7 U.S. Army at Kwajalein Atoll and in the Mid-  
8 Atoll Corridor and for U.S. Army Kwajalein  
9 Atoll activities in the Republic of the Marshall  
10 Islands, continue to apply the Environmental  
11 Standards and Procedures for United States  
12 Army Kwajalein Atoll Activities in the Republic  
13 of the Marshall Islands, unless and until those  
14 Standards or Procedures are modified by mu-  
15 tual agreement of the Governments of the  
16 United States and the Republic of the Marshall  
17 Islands;

18 (2) shall apply the National Environmental  
19 Policy Act of 1969, 83 Stat. 852, 42 U.S.C.  
20 4321 et seq., to its activities under the Com-  
21 pact, as amended, and its related agreements as  
22 if the Republic of the Marshall Islands were the  
23 United States;

24 (3) in the conduct of any activity not de-  
25 scribed in section 161(a)(1) requiring the prep-

1           aration of an Environmental Impact Statement  
2           under section 161(a)(2), shall comply with  
3           standards substantively similar to those re-  
4           quired by the following laws of the United  
5           States, taking into account the particular envi-  
6           ronment of the Republic of the Marshall Is-  
7           lands; the Endangered Species Act of 1973, as  
8           amended, 16 U.S.C. 1531 et seq.; the Clean Air  
9           Act, as amended, 42 U.S.C. 7401 et seq.; the  
10          Clean Water Act (Federal Water Pollution Con-  
11          trol Act), as amended, 33 U.S.C. 1251 et seq.;  
12          Title I of the Marine Protection, Research and  
13          Sanctuaries Act of 1972 (the Ocean Dumping  
14          Act), 33 U.S.C. 1411 et seq.; the Toxic Sub-  
15          stances Control Act, as amended, 15 U.S.C.  
16          2601 et seq.; the Solid Waste Disposal Act, as  
17          amended, 42 U.S.C. 6901 et seq.; and such  
18          other environmental protection laws of the  
19          United States and the Republic of the Marshall  
20          Islands as may be agreed from time to time  
21          with the Government of the Republic of the  
22          Marshall Islands;

23                 (4) shall, prior to conducting any activity  
24                 not described in section 161(a)(1) requiring the  
25                 preparation of an Environmental Impact State-

1           ment under section 161(a)(2), develop, as  
2           agreed with the Government of the Republic of  
3           the Marshall Islands, written environmental  
4           standards and procedures to implement the  
5           substantive provisions of the laws made applica-  
6           ble to U.S. Government activities in the Repub-  
7           lic of the Marshall Islands, pursuant to section  
8           161(a)(3).

9           (b) The Government of the Republic of the  
10          Marshall Islands shall continue to develop and im-  
11          plement standards and procedures to protect its en-  
12          vironment. As a reciprocal obligation to the under-  
13          takings of the Government of the United States  
14          under this Article, the Republic of the Marshall Is-  
15          lands, taking into account its particular environ-  
16          ment, shall continue to develop and implement  
17          standards for environmental protection substantively  
18          similar to those required of the Government of the  
19          United States by section 161(a)(3) prior to its con-  
20          ducting activities in the Republic of the Marshall Is-  
21          lands, substantively equivalent to activities con-  
22          ducted there by the Government of the United  
23          States and, as a further reciprocal obligation, shall  
24          enforce those standards.



1           (c) Section 161(a), including any standard or  
2 procedure applicable thereunder, and section 161(b)  
3 may be modified or superseded in whole or in part  
4 by agreement of the Government of the United  
5 States and the Government of the Republic of the  
6 Marshall Islands.

7           (d) In the event that an Environmental Impact  
8 Statement is no longer required under the laws of  
9 the United States for major Federal actions signifi-  
10 cantly affecting the quality of the human environ-  
11 ment, the regulatory regime established under sec-  
12 tions 161(a)(3) and 161(a)(4) shall continue to  
13 apply to such activities of the Government of the  
14 United States until amended by mutual agreement.

15           (e) The President of the United States may ex-  
16 empt any of the activities of the Government of the  
17 United States under this Compact, as amended, and  
18 its related agreements from any environmental  
19 standard or procedure which may be applicable  
20 under sections 161(a)(3) and 161(a)(4) if the Presi-  
21 dent determines it to be in the paramount interest  
22 of the Government of the United States to do so,  
23 consistent with Title Three of this Compact, as  
24 amended, and the obligations of the Government of  
25 the United States under international law. Prior to

1 any decision pursuant to this subsection, the views  
2 of the Government of the Republic of the Marshall  
3 Islands shall be sought and considered to the extent  
4 practicable. If the President grants such an exemp-  
5 tion, to the extent practicable, a report with his rea-  
6 sons for granting such exemption shall be given  
7 promptly to the Government of the Republic of the  
8 Marshall Islands.

9 (f) The laws of the United States referred to in  
10 section 161(a)(3) shall apply to the activities of the  
11 Government of the United States under this Com-  
12 pact, as amended, and its related agreements only to  
13 the extent provided for in this section.

14 Section 162

15 The Government of the Republic of the Marshall Is-  
16 lands may bring an action for judicial review of any ad-  
17 ministrative agency action or any activity of the Govern-  
18 ment of the United States pursuant to section 161(a) for  
19 enforcement of the obligations of the Government of the  
20 United States arising thereunder. The United States Dis-  
21 trict Court for the District of Hawaii and the United  
22 States District Court for the District of Columbia shall  
23 have jurisdiction over such action or activity, and over ac-  
24 tions brought under section 172(b) which relate to the ac-  
25 tivities of the Government of the United States and its

1 officers and employees, governed by section 161, provided  
2 that:

3 (a) Such actions may only be civil actions for  
4 any appropriate civil relief other than punitive dam-  
5 ages against the Government of the United States  
6 or, where required by law, its officers in their official  
7 capacity; no criminal actions may arise under this  
8 section.

9 (b) Actions brought pursuant to this section  
10 may be initiated only by the Government of the Re-  
11 public of the Marshall Islands.

12 (c) Administrative agency actions arising under  
13 section 161 shall be reviewed pursuant to the stand-  
14 ard of judicial review set forth in 5 U.S.C. 706.

15 (d) The United States District Court for the  
16 District of Hawaii and the United States District  
17 Court for the District of Columbia shall have juris-  
18 diction to issue all necessary processes, and the Gov-  
19 ernment of the United States agrees to submit itself  
20 to the jurisdiction of the court; decisions of the  
21 United States District Court shall be reviewable in  
22 the United States Court of Appeals for the Ninth  
23 Circuit or the United States Court of Appeals for  
24 the District of Columbia, respectively, or in the

1 United States Supreme Court as provided by the  
2 laws of the United States.

3 (e) The judicial remedy provided for in this sec-  
4 tion shall be the exclusive remedy for the judicial re-  
5 view or enforcement of the obligations of the Gov-  
6 ernment of the United States under this Article and  
7 actions brought under section 172(b), which relate  
8 to the activities of the Government of the United  
9 States and its officers and employees governed by  
10 section 161.

11 (f) In actions pursuant to this section, the Gov-  
12 ernment of the Republic of the Marshall Islands  
13 shall be treated as if it were a United States citizen.

14 Section 163

15 (a) For the purpose of gathering data necessary to  
16 study the environmental effects of activities of the Govern-  
17 ment of the United States subject to the requirements of  
18 this Article, the Government of the Republic of the Mar-  
19 shall Islands shall be granted access to facilities operated  
20 by the Government of the United States in the Republic  
21 of the Marshall Islands, to the extent necessary for this  
22 purpose, except to the extent such access would unreason-  
23 ably interfere with the exercise of the authority and re-  
24 sponsibility of the Government of the United States under  
25 Title Three.

1 (b) The Government of the United States, in turn,  
2 shall be granted access to the Republic of the Marshall  
3 Islands for the purpose of gathering data necessary to dis-  
4 charge its obligations under this Article, except to the ex-  
5 tent such access would unreasonably interfere with the ex-  
6 ercise of the authority and responsibility of the Govern-  
7 ment of the Republic of the Marshall Islands under Title  
8 One, and to the extent necessary for this purpose shall  
9 be granted access to documents and other information to  
10 the same extent similar access is provided the Government  
11 of the Republic of the Marshall Islands under the Freedom  
12 of Information Act, 5 U.S.C. 552.

13 (c) The Government of the Republic of the Marshall  
14 Islands shall not impede efforts by the Government of the  
15 United States to comply with applicable standards and  
16 procedures.

## 17 Article VII

### 18 General Legal Provisions

#### 19 Section 171

20 Except as provided in this Compact, as amended, or  
21 its related agreements, the application of the laws of the  
22 United States to the Trust Territory of the Pacific Islands  
23 by virtue of the Trusteeship Agreement ceased with re-  
24 spect to the Marshall Islands on October 21, 1986, the  
25 date the Compact went into effect.

## 1 Section 172

2 (a) Every citizen of the Republic of the Marshall Is-  
3 lands who is not a resident of the United States shall enjoy  
4 the rights and remedies under the laws of the United  
5 States enjoyed by any non-resident alien.

6 (b) The Government of the Republic of the Marshall  
7 Islands and every citizen of the Republic of the Marshall  
8 Islands shall be considered to be a “person” within the  
9 meaning of the Freedom of Information Act, 5 U.S.C.  
10 552, and of the judicial review provisions of the Adminis-  
11 trative Procedure Act, 5 U.S.C. 701-706, except that only  
12 the Government of the Republic of the Marshall Islands  
13 may seek judicial review under the Administrative Proce-  
14 dure Act or judicial enforcement under the Freedom of  
15 Information Act when such judicial review or enforcement  
16 relates to the activities of the Government of the United  
17 States governed by sections 161 and 162.

## 18 Section 173

19 The Governments of the United States and the Re-  
20 public of the Marshall Islands agree to adopt and enforce  
21 such measures, consistent with this Compact, as amended,  
22 and its related agreements, as may be necessary to protect  
23 the personnel, property, installations, services, programs  
24 and official archives and documents maintained by the  
25 Government of the United States in the Republic of the

1 Marshall Islands pursuant to this Compact, as amended,  
2 and its related agreements and by the Government of the  
3 Republic of the Marshall Islands in the United States pur-  
4 suant to this Compact, Compact, as amended, and its re-  
5 lated agreements.

6 Section 174

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

9 (a) The Government of the Republic of the  
10 Marshall Islands, and its agencies and officials, shall  
11 be immune from the jurisdiction of the court of the  
12 United States, and the Government of the United  
13 States, and its agencies and officials, shall be im-  
14 mune from the jurisdiction of the courts of the Re-  
15 public of the Marshall Islands.

16 (b) The Government of the United States ac-  
17 cepts responsibility for and shall pay:

18 (1) any unpaid money judgment rendered  
19 by the High Court of the Trust Territory of the  
20 Pacific Islands against the Government of the  
21 United States with regard to any cause of ac-  
22 tion arising as a result of acts or omissions of  
23 the Government of the Trust Territory of the  
24 Pacific Islands or the Government of the  
25 United States prior to October 21, 1986;

1           (2) any claim settled by the claimant and  
2           the Government of the Trust Territory of the  
3           Pacific Islands but not paid as of the October  
4           21, 1986; and

5           (3) settlement of any administrative claim  
6           or of any action before a court of the Trust  
7           Territory of the Pacific Islands or the Govern-  
8           ment of the United States, arising as a result  
9           of acts or omissions of the Government of the  
10          Trust Territory of the Pacific Islands or the  
11          Government of the United States.

12          (c) Any claim not referred to in section 174(b)  
13          and arising from an act or omission of the Govern-  
14          ment of the Trust Territory of the Pacific Islands or  
15          the Government of the United States prior to the ef-  
16          fective date of the Compact shall be adjudicated in  
17          the same manner as a claim adjudicated according  
18          to section 174(d). In any claim against the Govern-  
19          ment of the Trust Territory of the Pacific Islands,  
20          the Government of the United States shall stand in  
21          the place of the Government of the Trust Territory  
22          of the Pacific Islands. A judgment on any claim re-  
23          ferred to in section 174(b) or this subsection, not  
24          otherwise satisfied by the Government of the United  
25          States, may be presented for certification to the



1 United States Court of Appeals for the Federal Cir-  
2 cuit, or its successor courts, which shall have juris-  
3 diction therefore, notwithstanding the provisions of  
4 28 U.S.C. 1502, and which court's decisions shall be  
5 reviewable as provided by the laws of the United  
6 States. The United States Court of Appeals for the  
7 Federal Circuit shall certify such judgment, and  
8 order payment thereof, unless it finds, after a hear-  
9 ing, that such judgment is manifestly erroneous as  
10 to law or fact, or manifestly excessive. In either of  
11 such cases the United States Court of Appeals for  
12 the Federal Circuit shall have jurisdiction to modify  
13 such judgment.

14 (d) The Government of the Republic of the  
15 Marshall Islands shall not be immune from the juris-  
16 diction of the courts of the United States, and the  
17 Government of the United States shall not be im-  
18 mune from the jurisdiction of the courts of the Re-  
19 public of the Marshall Islands in any civil case in  
20 which an exception to foreign state immunity is set  
21 forth in the Foreign Sovereign Immunities Act (28  
22 U.S.C. 1602 et seq.) or its successor statutes.

23 Section 175

24 (a) A separate agreement, which shall come into ef-  
25 fect simultaneously with this Compact, as amended, and

1 shall have the force of law, shall govern mutual assistance  
2 and cooperation in law enforcement matters, including the  
3 pursuit, capture, imprisonment and extradition of fugi-  
4 tives from justice and the transfer of prisoners, as well  
5 as other law enforcement matters. In the United States,  
6 the laws of the United States governing international ex-  
7 tradition, including 18 U.S.C. 3184, 3186, and 3188-95,  
8 shall be applicable to the extradition of fugitives under the  
9 separate agreement, and the laws of the United States  
10 governing the transfer of prisoners, including 18 U.S.C.  
11 4100-15, shall be applicable to the transfer of prisoners  
12 under the separate agreement; and

13 (b) A separate agreement, which shall come into ef-  
14 fect simultaneously with this Compact, as amended, and  
15 shall have the force of law, shall govern requirements re-  
16 lating to labor recruitment practices, including registra-  
17 tion, reporting, suspension or revocation of authorization  
18 to recruit persons for employment in the United States,  
19 and enforcement for violations of such requirements.

20 Section 176

21 The Government of the Republic of the Marshall Is-  
22 lands confirms that final judgments in civil cases rendered  
23 by any court of the Trust Territory of the Pacific Islands  
24 shall continue in full force and effect, subject to the con-  
25 stitutional power of the courts of the Republic of the Mar-

1 shall Islands to grant relief from judgments in appropriate  
2 cases.

3 Section 177

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

7 “(a) The Government of the United States ac-  
8 cepts the responsibility for compensation owing to  
9 citizens of the Marshall Islands, or the Federated  
10 States of Micronesia, (or Palau) for loss or damage  
11 to property and person of the citizens of the Mar-  
12 shall Islands, or the Federated States of Micronesia,  
13 resulting from the nuclear testing program which  
14 the Government of the United States conducted in  
15 the Northern Marshall Islands between June 30,  
16 1946, and August 18, 1958.

17 (b) The Government of the United States and  
18 the Government of the Marshall Islands shall set  
19 forth in a separate agreement provisions for the just  
20 and adequate settlement of all such claims which  
21 have arisen in regard to the Marshall Islands and its  
22 citizens and which have not as yet been compensated  
23 or which in the future may arise, for the continued  
24 administration by the Government of the United  
25 States of direct radiation related medical surveil-

1 lance and treatment programs and radiological mon-  
2 itoring activities and for such additional programs  
3 and activities as may be mutually agreed, and for  
4 the assumption by the Government of the Marshall  
5 Islands of responsibility for enforcement of limita-  
6 tions on the utilization of affected areas developed in  
7 cooperation with the Government of the United  
8 States and for the assistance by the Government of  
9 the United States in the exercise of such responsi-  
10 bility as may be mutually agreed. This separate  
11 agreement shall come into effect simultaneously with  
12 this Compact and shall remain in effect in accord-  
13 ance with its own terms.

14 (c) The Government of the United States shall  
15 provide to the Government of the Marshall Islands,  
16 on a grant basis, the amount of \$150 million to be  
17 paid and distributed in accordance with the separate  
18 agreement referred to in this Section, and shall pro-  
19 vide the services and programs set forth in this sep-  
20 arate agreement, the language of which is incor-  
21 porated into this Compact.”

22 The Compact, as amended, makes no changes to, and has  
23 no effect upon, Section 177 of the Compact, nor does the  
24 Compact, as amended, change or affect the separate  
25 agreement referred to in Section 177 of the Compact in-

1 cluding Articles IX and X of that separate agreement, and  
2 measures taken by the parties thereunder.

3 Section 178

4 (a) The Federal agencies of the Government of the  
5 United States that provide services and related programs  
6 in the Republic of the Marshall Islands pursuant to Title  
7 Two are authorized to settle and pay tort claims arising  
8 in the Republic of the Marshall Islands from the activities  
9 of such agencies or from the acts or omissions of the em-  
10 ployees of such agencies. Except as provided in section  
11 178(b), the provisions of 28 U.S.C. 2672 and 31 U.S.C.  
12 1304 shall apply exclusively to such administrative settle-  
13 ments and payments.

14 (b) Claims under section 178(a) that cannot be set-  
15 tled under section 178(a) shall be disposed of exclusively  
16 in accordance with Article II of Title Four. Arbitration  
17 awards rendered pursuant to this subsection shall be paid  
18 out of funds under 31 U.S.C. 1304.

19 (c) The Government of the United States and the  
20 Government of the Republic of the Marshall Islands shall,  
21 in the separate agreement referred to in section 231, pro-  
22 vide for:

23 (1) the administrative settlement of claims re-  
24 ferred to in section 178(a), including designation of  
25 local agents in each State of the Republic of the

1 Marshall Islands; such agents to be empowered to  
2 accept, investigate and settle such claims, in a timely  
3 manner, as provided in such separate agreements;  
4 and

5 (2) arbitration, referred to in section 178(b), in  
6 a timely manner, at a site convenient to the claim-  
7 ant, in the event a claim is not otherwise settled  
8 pursuant to section 178(a).

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

11 (e) Except as otherwise explicitly provided by law of  
12 the United States, this Compact, as amended, or its re-  
13 lated agreements, neither the Government of the United  
14 States, its instrumentalities, nor any person acting on be-  
15 half of the Government of the United States, shall be  
16 named a party in any action based on, or arising out of,  
17 the activity or activities of a recipient of any grant or other  
18 assistance provided by the Government of the United  
19 States (or the activity or activities of the recipient's agen-  
20 cy or any other person or entity acting on behalf of the  
21 recipient).

22 Section 179

23 (a) The courts of the Republic of the Marshall Is-  
24 lands shall not exercise criminal jurisdiction over the Gov-  
25 ernment of the United States, or its instrumentalities.

1 (b) The courts of the Republic of the Marshall Is-  
2 lands shall not exercise criminal jurisdiction over any per-  
3 son if the Government of the United States provides notifi-  
4 cation to the Government of the Republic of the Marshall  
5 Islands that such person was acting on behalf of the Gov-  
6 ernment of the United States, for actions taken in further-  
7 ance of section 221 or 224 of this amended Compact, or  
8 any other provision of law authorizing financial, program,  
9 or service assistance to the Republic of the Marshall Is-  
10 lands.

11 TITLE TWO

12 ECONOMIC RELATIONS

13 Article I

14 Grant Assistance

15 Section 211 - Annual Grant Assistance

16 (a) In order to assist the Government of the Republic  
17 of the Marshall Islands in its efforts to promote the eco-  
18 nomic advancement and budgetary self-reliance of its peo-  
19 ple, and in recognition of the special relationship that ex-  
20 ists between the Republic of the Marshall Islands and the  
21 United States, the Government of the United States shall  
22 provide assistance on a grant basis for a period of twenty  
23 years in the amounts set forth in section 217, commencing  
24 on the effective date of this Compact, as amended. Such  
25 grants shall be used for assistance in education, health

1 care, the environment, public sector capacity building, and  
2 private sector development, or for other areas as mutually  
3 agreed, with priorities in the education and health care  
4 sectors. Consistent with the medium-term budget and in-  
5 vestment framework described in subsection (f) of this sec-  
6 tion, the proposed division of this amount among the iden-  
7 tified areas shall require the concurrence of both the Gov-  
8 ernment of the United States and the Government of the  
9 Republic of the Marshall Islands, through the Joint Eco-  
10 nomic Management and Financial Accountability Com-  
11 mittee described in section 214. The Government of the  
12 United States shall disburse the grant assistance and  
13 monitor the use of such grant assistance in accordance  
14 with the provisions of this Article and an Agreement Con-  
15 cerning Procedures for the Implementation of United  
16 States Economic Assistance Provided in the Compact, as  
17 Amended, of Free Association Between the Government  
18 of the United States of America and the Government of  
19 the Republic of the Marshall Islands (“Fiscal Procedures  
20 Agreement”) which shall come into effect simultaneously  
21 with this Compact, as amended.

22 (1) EDUCATION.—United States grant assist-  
23 ance shall be made available in accordance with the  
24 strategic framework described in subsection (f) of  
25 this section to support and improve the educational



1 system of the Republic of the Marshall Islands and  
2 develop the human, financial, and material resources  
3 necessary for the Republic of the Marshall Islands to  
4 perform these services. Emphasis should be placed  
5 on advancing a quality basic education system.

6 (2) HEALTH.—United States grant assistance  
7 shall be made available in accordance with the stra-  
8 tegic framework described in subsection (f) of this  
9 section to support and improve the delivery of pre-  
10 ventive, curative and environmental care and develop  
11 the human, financial, and material resources nec-  
12 essary for the Republic of the Marshall Islands to  
13 perform these services.

14 (3) PRIVATE SECTOR DEVELOPMENT.—United  
15 States grant assistance shall be made available in  
16 accordance with the strategic framework described  
17 in subsection (f) of this section to support the ef-  
18 forts of the Republic of the Marshall Islands to at-  
19 tract foreign investment and increase indigenous  
20 business activity by vitalizing the commercial envi-  
21 ronment, ensuring fair and equitable application of  
22 the law, promoting adherence to core labor stand-  
23 ards, maintaining progress toward privatization of  
24 state-owned and partially state-owned enterprises,  
25 and engaging in other reforms.

1           (4) CAPACITY BUILDING IN THE PUBLIC SEC-  
2           TOR.—United States grant assistance shall be made  
3           available in accordance with the strategic framework  
4           described in subsection (f) of this section to support  
5           the efforts of the Republic of the Marshall Islands  
6           to build effective, accountable and transparent na-  
7           tional and local government and other public sector  
8           institutions and systems.

9           (5) ENVIRONMENT.—United States grant as-  
10          sistance shall be made available in accordance with  
11          the strategic framework described in subsection (f)  
12          of this section to increase environmental protection;  
13          establish and manage conservation areas; engage in  
14          environmental infrastructure planning, design con-  
15          struction and operation; and to involve the citizens  
16          of the Republic of the Marshall Islands in the proc-  
17          ess of conserving their country's natural resources.

18          (b) KWAJALEIN ATOLL.—

19               (1) Of the total grant assistance made available  
20               under subsection (a) of this section, the amount  
21               specified herein shall be allocated annually from fis-  
22               cal year 2004 through fiscal year 2023 (and there-  
23               after in accordance with the Agreement between the  
24               Government of the United States and the Govern-  
25               ment of the Republic of the Marshall Islands Re-

1       garding Military Use and Operating Rights) to ad-  
2       vance the objectives and specific priorities set forth  
3       in subsections (a) and (d) of this section and the  
4       Fiscal Procedures Agreement, to address the special  
5       needs of the community at Ebeye, Kwajalein Atoll  
6       and other Marshallese communities within Kwajalein  
7       Atoll. This United States grant assistance shall be  
8       made available, in accordance with the medium-term  
9       budget and investment framework described in sub-  
10      section (f) of this section, to support and improve  
11      the infrastructure and delivery of services and de-  
12      velop the human and material resources necessary  
13      for the Republic of the Marshall Islands to carry out  
14      its responsibility to maintain such infrastructure and  
15      deliver such services. The amount of this assistance  
16      shall be \$3,100,000, with an inflation adjustment as  
17      provided in section 218, from fiscal year 2004  
18      through fiscal year 2013 and the fiscal year 2013  
19      level of funding, with an inflation adjustment as pro-  
20      vided in section 218, will be increased by \$2 million  
21      for fiscal year 2014. The fiscal year 2014 level of  
22      funding, with an inflation adjustment as provided in  
23      section 218, will be made available from fiscal year  
24      2015 through fiscal year 2023 (and thereafter as  
25      noted above).

1           (2) The Government of the United States shall  
2 also provide to the Government of the Republic of  
3 the Marshall Islands, in conjunction with section  
4 321(a) of this Compact, as amended, an annual pay-  
5 ment from fiscal year 2004 through fiscal year 2023  
6 (and thereafter in accordance with the Agreement  
7 between the Government of the United States and  
8 the Government of the Republic of the Marshall Is-  
9 lands Regarding Military Use and Operating Rights)  
10 of \$1.9 million. This grant assistance will be subject  
11 to the Fiscal Procedures Agreement and will be ad-  
12 justed for inflation under section 218 and used to  
13 address the special needs of the community at  
14 Ebeye, Kwajalein Atoll and other Marshallese com-  
15 munities within Kwajalein Atoll with emphasis on  
16 the Kwajalein landowners, as described in the Fiscal  
17 Procedures Agreement.

18           (3) Of the total grant assistance made available  
19 under subsection (a) of this section, and in conjunc-  
20 tion with section 321(a) of the Compact, as amend-  
21 ed, \$200,000, with an inflation adjustment as pro-  
22 vided in section 218, shall be allocated annually  
23 from fiscal year 2004 through fiscal year 2023 (and  
24 thereafter as provided in the Agreement between the  
25 Government of the United States and the Govern-

1       ment of the Republic of the Marshall Islands Re-  
2       garding Military Use and Operating Rights) for a  
3       grant to support increased participation of the Gov-  
4       ernment of the Republic of the Marshall Islands En-  
5       vironmental Protection Authority in the annual U.S.  
6       Army Kwajalein Atoll Environmental Standards  
7       Survey and to promote a greater Government of the  
8       Republic of the Marshall Islands capacity for inde-  
9       pendent analysis of the Survey's findings and con-  
10      clusions.

11      (c) HUMANITARIAN ASSISTANCE-REPUBLIC OF THE  
12      MARSHALL ISLANDS PROGRAM.—In recognition of the  
13      special development needs of the Republic of the Marshall  
14      Islands, the Government of the United States shall make  
15      available to the Government of the Republic of the Mar-  
16      shall Islands, on its request and to be deducted from the  
17      grant amount made available under subsection (a) of this  
18      section, a Humanitarian Assistance - Republic of the Mar-  
19      shall Islands ("HARMI") Program with emphasis on  
20      health, education, and infrastructure (including transpor-  
21      tation), projects and such other projects as mutually  
22      agreed. The terms and conditions of the HARMI shall be  
23      set forth in the Agreement Regarding the Military Use  
24      and Operating Rights of the Government of the United  
25      States in the Republic of the Marshall Islands Concluded

1 Pursuant to Sections 321 and 323 of the Compact of Free  
2 Association, as Amended, which shall come into effect si-  
3 multaneously with the amendments to this Compact.

4 (d) PUBLIC INFRASTRUCTURE.—

5 (1) Unless otherwise agreed, not less than 30  
6 percent and not more than 50 percent of U.S. an-  
7 nual grant assistance provided under this section  
8 shall be made available in accordance with a list of  
9 specific projects included in the infrastructure im-  
10 provement and maintenance plan prepared by the  
11 Government of the Republic of the Marshall Islands  
12 as part of the strategic framework described in sub-  
13 section (f) of this section.

14 (2) INFRASTRUCTURE MAINTENANCE FUND.—

15 Five percent of the annual public infrastructure  
16 grant made available under paragraph (1) of this  
17 subsection shall be set aside, with an equal contribu-  
18 tion from the Government of the Republic of the  
19 Marshall Islands, as a contribution to an Infrastruc-  
20 ture Maintenance Fund. Administration of the In-  
21 frastructure Maintenance Fund shall be governed by  
22 the Fiscal Procedures Agreement.

23 (e) DISASTER ASSISTANCE EMERGENCY FUND.—Of

24 the total grant assistance made available under subsection  
25 (a) of this section, an amount of two hundred thousand

1 dollars (\$200,000) shall be provided annually, with an  
2 equal contribution from the Government of the Republic  
3 of the Marshall Islands, as a contribution to a Disaster  
4 Assistance Emergency Fund (“DAEF”). Any funds from  
5 the DAEF may be used only for assistance and rehabilita-  
6 tion resulting from disasters and emergencies. The funds  
7 will be accessed upon declaration of a State of Emergency  
8 by the Government of the Republic of the Marshall Is-  
9 lands, with the concurrence of the United States Chief of  
10 Mission to the Republic of the Marshall Islands. Adminis-  
11 tration of the DAEF shall be governed by the Fiscal Pro-  
12 cedures Agreement.

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

1 of both the Government of the United States and the Gov-  
2 ernment of the Republic of the Marshall Islands.

3 Section 212 - Kwajalein Impact and Use

4 The Government of the United States shall provide  
5 to the Government of the Republic of the Marshall Islands  
6 in conjunction with section 321(a) of the Compact, as  
7 amended, and the agreement between the Government of  
8 the United States and the Government of the Republic of  
9 the Marshall Islands regarding military use and operating  
10 rights, a payment in fiscal year 2004 of \$15,000,000, with  
11 no adjustment for inflation. In fiscal year 2005 and  
12 through fiscal year 2013, the annual payment will be the  
13 fiscal year 2004 amount (\$15,000,000) with an inflation  
14 adjustment as provided under section 218. In fiscal year  
15 2014, the annual payment will be \$18,000,000 (with no  
16 adjustment for inflation) or the fiscal year 2013 amount  
17 with an inflation adjustment under section 218, whichever  
18 is greater. For fiscal year 2015 through fiscal year 2023  
19 (and thereafter in accordance with the Agreement between  
20 the Government of the United States and the Government  
21 of the Republic of the Marshall Islands Regarding Military  
22 Use and Operating Rights) the annual payment will be  
23 the fiscal year 2014 amount, with an inflation adjustment  
24 as provided under section 218.

25 Section 213 - Accountability



1 (a) Regulations and policies normally applicable to  
2 United States financial assistance to its state and local  
3 governments, as set forth in the Fiscal Procedures Agree-  
4 ment, shall apply to each grant described in section 211,  
5 and to grants administered under section 221 below, ex-  
6 cept as modified in the separate agreements referred to  
7 in section 231 of this Compact, as amended, or by U.S.  
8 law. As set forth in the Fiscal Procedures Agreement, rea-  
9 sonable terms and conditions, including annual perform-  
10 ance indicators that are necessary to ensure effective use  
11 of United States assistance and reasonable progress to-  
12 ward achieving program objectives may be attached. In ad-  
13 dition, the United States may seek appropriate remedies  
14 for noncompliance with the terms and conditions attached  
15 to the assistance, or for failure to comply with section 234,  
16 including withholding assistance.

17 (b) The Government of the United States shall, for  
18 each fiscal year of the twenty years during which assist-  
19 ance is to be provided on a sector grant basis under sec-  
20 tion 211 (a), grant the Government of the Republic of the  
21 Marshall Islands an amount equal to the lesser of (i) one  
22 half of the reasonable, properly documented cost incurred  
23 during such fiscal year to conduct the annual audit re-  
24 quired under Article VIII (2) of the Fiscal Procedures

1 Agreement or (ii) \$500,000. Such amount will not be ad-  
2 justed for inflation under section 218 or otherwise.

3 Section 214 - Joint Economic Management and Financial  
4 Accountability Committee

5 The Governments of the United States and the Re-  
6 public of the Marshall Islands shall establish a Joint Eco-  
7 nomic Management and Financial Accountability Com-  
8 mittee, composed of a U.S. chair, two other members from  
9 the Government of the United States and two members  
10 from the Government of the Republic of the Marshall Is-  
11 lands. The Joint Economic Management and Financial  
12 Accountability Committee shall meet at least once each  
13 year to review the audits and reports required under this  
14 Title and the Fiscal Procedures Agreement, evaluate the  
15 progress made by the Republic of the Marshall Islands in  
16 meeting the objectives identified in its framework de-  
17 scribed in subsection (f) of section 211, with particular  
18 focus on those parts of the framework dealing with the  
19 sectors and areas identified in subsection (a) of section  
20 211, identify problems encountered, and recommend ways  
21 to increase the effectiveness of U.S. assistance made avail-  
22 able under this Title. The establishment and operations  
23 of the Joint Economic Management and Financial Ac-  
24 countability Committee shall be governed by the Fiscal  
25 Procedures Agreement.

## 1 Section 215 - Annual Report

2 The Government of the Republic of the Marshall Is-  
3 lands shall report annually to the President of the United  
4 States on the use of United States sector grant assistance  
5 and other assistance and progress in meeting mutually  
6 agreed program and economic goals. The Joint Economic  
7 Management and Financial Accountability Committee  
8 shall review and comment on the report and make appro-  
9 priate recommendations based thereon.

## 10 Section 216 - Trust Fund

11 (a) The United States shall contribute annually for  
12 twenty years from the effective date of the Compact, as  
13 amended, in the amounts set forth in section 217 into a  
14 trust fund established in accordance with the Agreement  
15 Between the Government of the United States of America  
16 and the Government of the Republic of the Marshall Is-  
17 lands Implementing Section 216 and Section 217 of the  
18 Compact, as Amended, Regarding a Trust Fund (“Trust  
19 Fund Agreement”), which shall come into effect simulta-  
20 neously with this Compact, as amended. Upon termination  
21 of the annual grant assistance under section 211 (a), (d)  
22 and (e), the earnings of the fund shall thereafter be used  
23 for the purposes described in section 211 or as otherwise  
24 mutually agreed.

1 (b) The United States contribution into the Trust  
2 Fund described in subsection (a) of this section is condi-  
3 tioned on the Government of the Republic of the Marshall  
4 Islands contributing to the Trust Fund at least  
5 \$25,000,000, on the effective date of the Trust Fund  
6 Agreement or on October 1, 2003, whichever is later,  
7 \$2,500,000 prior to October 1, 2004, and \$2,500,000  
8 prior to October 1, 2005. Any funds received by the Re-  
9 public of the Marshall Islands under section 111(d) of  
10 Public Law 99-239 (January 14, 1986), or successor pro-  
11 visions, would be contributed to the Trust Fund as a Re-  
12 public of the Marshall Islands' contribution.

13 (c) The terms regarding the investment and manage-  
14 ment of funds and use of the income of the Trust Fund  
15 shall be governed by the Trust Fund Agreement. Funds  
16 derived from United States investment shall not be subject  
17 to Federal or state taxes in the United States or any taxes  
18 in the Republic of the Marshall Islands. The Trust Fund  
19 Agreement shall also provide for annual reports to the  
20 Government of the United States and to the Government  
21 of the Republic of the Marshall Islands. The Trust Fund  
22 Agreement shall provide for appropriate distributions of  
23 trust fund proceeds to the Republic of the Marshall Is-  
24 lands and for appropriate remedies for the failure of the  
25 Republic of the Marshall Islands to use income of the

217

216

1 Trust Fund for the annual grant purposes set forth in  
 2 section 211. These remedies may include the return to the  
 3 United States of the present market value of its contribu-  
 4 tions to the Trust Fund and the present market value of  
 5 any undistributed income on the contributions of the  
 6 United States. If this Compact, as amended, is termi-  
 7 nated, the provisions of sections 451–453 of the Compact,  
 8 as amended, and the Trust Fund Agreement shall govern  
 9 treatment of any U.S. contributions to the Trust Fund  
 10 or accrued income thereon.

11 Section 217 - Annual Grant Funding and Trust Fund  
 12 Contributions

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

[In millions of dollars]

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

15 Section 218 - Inflation Adjustment

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

#### 8 Section 219 - Carry-Over of Unused Funds

9 If in any year the funds made available by the Gov-  
10 ernment of the United States for that year pursuant to  
11 this Article are not completely obligated by the Govern-  
12 ment of the Republic of the Marshall Islands, the unobli-  
13 gated balances shall remain available in addition to the  
14 funds to be provided in subsequent years.

### 15 Article II

#### 16 Services and Program Assistance

#### 17 Section 221

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

23 (1) the United States Weather Service;

24 (2) the United States Postal Service;

1           (3) the United States Federal Aviation Admin-  
2           istration;

3           (4) the United States Department of Transpor-  
4           tation; and

5           (5) the Department of Homeland Security, and  
6           the United States Agency for International Develop-  
7           ment, Office of Foreign Disaster Assistance.

8 Upon the effective date of this Compact, as amended, the  
9 United States Departments and Agencies named or having  
10 responsibility to provide these services and related pro-  
11 grams shall have the authority to implement the relevant  
12 provisions of the Federal Programs and Services Agree-  
13 ment referred to in section 231.

14       (b) PROGRAMS.—

15           (1) Other than the services and programs cov-  
16           ered by subsection (a) of this section, and to the ex-  
17           tent authorized by the Congress of the United  
18           States, the Government of the United States shall  
19           make available to the Republic of the Marshall Is-  
20           lands the services and programs that were available  
21           to the Republic of the Marshall Islands on the effec-  
22           tive date of this Compact, as amended, to the extent  
23           that such services and programs continue to be  
24           available to State and local governments of the  
25           United States. As set forth in the Fiscal Procedures

1 Agreement, funds provided under subsection (a) of  
2 section 211 shall be considered to be local revenues  
3 of the Government of the Republic of the Marshall  
4 Islands when used as the local share required to ob-  
5 tain Federal programs and services.

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

11 (c) The Government of the United States shall have  
12 and exercise such authority as is necessary to carry out  
13 its responsibilities under this Title and the Federal Pro-  
14 grams and Services Agreement, including the authority to  
15 monitor and administer all service and program assistance  
16 provided by the United States to the Republic of the Mar-  
17 shall Islands. The Federal Programs and Services Agree-  
18 ment shall also set forth the extent to which services and  
19 programs shall be provided to the Republic of the Marshall  
20 Islands.

21 (d) Except as provided elsewhere in this Compact, as  
22 amended, under any separate agreement entered into  
23 under this Compact, as amended, or otherwise under U.S.  
24 law, all Federal domestic programs extended to or oper-  
25 ating in the Republic of the Marshall Islands shall be sub-



1 ject to all applicable criteria, standards, reporting require-  
2 ments, auditing procedures, and other rules and regula-  
3 tions applicable to such programs and services when oper-  
4 ating in the United States.

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

10 Section 222

11 The Government of the United States and the Gov-  
12 ernment of the Republic of the Marshall Islands may agree  
13 from time to time to extend to the Republic of the Mar-  
14 shall Islands additional United States grant assistance,  
15 services and programs, as provided under the laws of the  
16 United States. Unless inconsistent with such laws, or oth-  
17 erwise specifically precluded by the Government of the  
18 United States at the time such additional grant assistance,  
19 services, or programs are extended, the Federal Programs  
20 and Services Agreement shall apply to any such assist-  
21 ance, services or programs.

22 Section 223

23 The Government of the Republic of the Marshall Is-  
24 lands shall make available to the Government of the  
25 United States at no cost such land as may be necessary

1 for the operations of the services and programs provided  
2 pursuant to this Article, and such facilities as are provided  
3 by the Government of the Republic of the Marshall Islands  
4 at no cost to the Government of the United States as of  
5 the effective date of this Compact, as amended, or as may  
6 be mutually agreed thereafter.

7 Section 224

8       The Government of the Republic of the Marshall Is-  
9 lands may request, from the time to time, technical assist-  
10 ance from the Federal agencies and institutions of the  
11 Government of the United States, which are authorized  
12 to grant such technical assistance in accordance with its  
13 laws. If technical assistance is granted pursuant to such  
14 a request, the Government of the United States shall pro-  
15 vide the technical assistance in a manner which gives pri-  
16 ority consideration to the Republic of the Marshall Islands  
17 over other recipients not a part of the United States, its  
18 territories or possessions, and equivalent consideration to  
19 the Republic of the Marshall Islands with respect to other  
20 states in Free Association with the United States. Such  
21 assistance shall be made available on a reimbursable or  
22 non-reimbursable basis to the extent provided by United  
23 States law.

1 Article III  
2 Administrative Provisions

3 Section 231

4 The specific nature, extent and contractual arrange-  
5 ments of the services and programs provided for in section  
6 221 of this Compact, as amended, as well as the legal sta-  
7 tus of agencies of the Government of the United States,  
8 their civilian employees and contractors, and the depend-  
9 ents of such personnel while present in the Republic of  
10 the Marshall Islands, and other arrangements in connec-  
11 tion with the assistance, services, or programs furnished  
12 by the Government of the United States, are set forth in  
13 a Federal Programs and Services Agreement which shall  
14 come into effect simultaneously with this Compact, as  
15 amended.

16 Section 232

17 The Government of the United States, in consultation  
18 with the Government of the Republic of the Marshall Is-  
19 lands, shall determine and implement procedures for the  
20 periodic audit of all grants and other assistance made  
21 under Article I of this Title and of all funds expended for  
22 the services and programs provided under Article II of this  
23 Title. Further, in accordance with the Fiscal Procedures  
24 Agreement described in subsection (a) of section 211, the  
25 Comptroller General of the United States shall have such

1 powers and authorities as described in sections 103(m)  
2 and 110(c) of Public Law 99–239, 99 Stat. 1777–78, and  
3 99 Stat. 1799 (January 14, 1986).

4 Section 233

5 Approval of this Compact, as amended, by the Gov-  
6 ernment of the United States, in accordance with its con-  
7 stitutional processes, shall constitute a pledge by the  
8 United States that the sums and amounts specified as  
9 grants in section 211 of this Compact, as amended, shall  
10 be appropriated and paid to the Republic of the Marshall  
11 Islands for such period as those provisions of this Com-  
12 pact, as amended, remain in force, provided that the Re-  
13 public of the Marshall Islands complies with the terms and  
14 conditions of this Title and related subsidiary agreements.

15 Section 234

16 The Government of the Republic of the Marshall Is-  
17 lands pledges to cooperate with, permit, and assist if rea-  
18 sonably requested, designated and authorized representa-  
19 tives of the Government of the United States charged with  
20 investigating whether Compact funds, or any other assist-  
21 ance authorized under this Compact, as amended, have,  
22 or are being, used for purposes other than those set forth  
23 in this Compact, as amended, or its subsidiary agree-  
24 ments. In carrying out this investigative authority, such  
25 United States Government representatives may request

1 that the Government of the Republic of the Marshall Is-  
2 lands subpoena documents and records and compel testi-  
3 mony in accordance with the laws and Constitution of the  
4 Republic of the Marshall Islands. Such assistance by the  
5 Government of the Republic of the Marshall Islands to the  
6 Government of the United States shall not be unreason-  
7 ably withheld. The obligation of the Government of the  
8 Marshall Islands to fulfill its pledge herein is a condition  
9 to its receiving payment of such funds or other assistance  
10 authorized under this Compact, as amended. The Govern-  
11 ment of the United States shall pay any reasonable costs  
12 for extraordinary services executed by the Government of  
13 the Marshall Islands in carrying out the provisions of this  
14 section.

15 Article IV

16 Trade

17 Section 241

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

20 Section 242

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

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

6           (b) Only tuna in airtight containers provided  
7           for in heading 1604.14.22 of the Harmonized Tariff  
8           Schedule of the United States that is imported from  
9           the Republic of the Marshall Islands and the Fed-  
10          erated States of Micronesia during any calendar  
11          year not to exceed 10 percent of apparent United  
12          States consumption of tuna in airtight containers  
13          during the immediately preceding calendar year, as  
14          reported by the National Marine Fisheries Service,  
15          shall be exempt from duty; but the quantity of tuna  
16          given duty-free treatment under this paragraph for  
17          any calendar year shall be counted against the ag-  
18          gregated quantity of tuna in airtight containers that  
19          is dutiable under rate column numbered 1 of such  
20          heading 1604.14.22 for that calendar year.

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

23                  (1) watches, clocks, and timing apparatus  
24                  provided for in Chapter 91, excluding heading

1 9113, of the Harmonized Tariff Schedule of the  
2 United States;

3 (2) buttons (whether finished or not fin-  
4 ished) provided for in items 9606.21.40 and  
5 9606.29.20 of such Schedule;

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

8 (4) footwear, handbags, luggage, flat  
9 goods, work gloves, and leather wearing apparel  
10 which were not eligible articles for purposes of  
11 title V of the Trade Act of 1974 (19 U.S.C.  
12 2461, et seq.) on April 1, 1984.

13 (d) If the cost or value of materials produced  
14 in the customs territory of the United States is in-  
15 cluded with respect to an eligible article which is a  
16 product of the Republic of the Marshall Islands, an  
17 amount not to exceed 15 percent of the appraised  
18 value of the article at the time it is entered that is  
19 attributable to such United States cost or value may  
20 be applied for duty assessment purposes toward de-  
21 termining the percentage referred to in section  
22 503(a)(2) of title V of the Trade Act of 1974.

23 Section 243

1       Articles imported from the Republic of the Marshall  
2 Islands which are not exempt from duty under subsections  
3 (a), (b), (c), and

4       (d) of section 242 shall be subject to the rates of duty  
5 set forth in column numbered 1-general of the Har-  
6 monized Tariff Schedule of the United States (HTSUS).  
7 Section 244

8       (a) All products of the United States imported into  
9 the Republic of the Marshall Islands shall receive treat-  
10 ment no less favorable than that accorded like products  
11 of any foreign country with respect to customs duties or  
12 charges of a similar nature and with respect to laws and  
13 regulations relating to importation, exportation, taxation,  
14 sale, distribution, storage or use.

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

22       (c) Prior to entering into consultations on, or con-  
23 cluding, a free trade agreement with governments not list-  
24 ed in Article 26 of PICTA, the Republic of the Marshall  
25 Islands shall consult with the United States regarding



1 whether or how subsection (a) of section 244 shall be ap-  
2 plied.

3 Article V

4 Finance and Taxation

5 Section 251

6 The currency of the United States is the official cir-  
7 culating legal tender of the Republic of the Marshall Is-  
8 lands. Should the Government of the Republic of the Mar-  
9 shall Islands act to institute another currency, the terms  
10 of an appropriate currency transitional period shall be as  
11 agreed with the Government of the United States.

12 Section 252

13 The Government of the Republic of the Marshall Is-  
14 lands may, with respect to United States persons, tax in-  
15 come derived from sources within its respective jurisdic-  
16 tion, property situated therein, including transfers of such  
17 property by gift or at death, and products consumed there-  
18 in, in such manner as the Government of the Republic of  
19 the Marshall Islands deems appropriate. The determina-  
20 tion of the source of any income, or the situs of any prop-  
21 erty, shall for purposes of this Compact, as amended, be  
22 made according to the United States Internal Revenue  
23 Code.

24 Section 253

1 A citizen of the Republic of the Marshall Islands,  
2 domiciled therein, shall be exempt from estate, gift, and  
3 generation-skipping transfer taxes imposed by the Govern-  
4 ment of the United States, provided that such citizen of  
5 the Republic of the Marshall Islands is neither a citizen  
6 nor a resident of the United States.

7 Section 254

8 (a) In determining any income tax imposed by the  
9 Government of the Republic of the Marshall Islands, the  
10 Government of the Republic of the Marshall Islands shall  
11 have authority to impose tax upon income derived by a  
12 resident of the Republic of the Marshall Islands from  
13 sources without the Republic of the Marshall Islands, in  
14 the same manner and to the same extent as the Govern-  
15 ment of the Republic of the Marshall Islands imposes tax  
16 upon income derived from within its own jurisdiction. If  
17 the Government of the Republic of the Marshall Islands  
18 exercises such authority as provided in this subsection,  
19 any individual resident of the Republic of the Marshall Is-  
20 lands who is subject to tax by the Government of the  
21 United States on income which is also taxed by the Gov-  
22 ernment of the Republic of the Marshall Islands shall be  
23 relieved of liability to the Government of the United States  
24 for the tax which, but for this subsection, would otherwise  
25 be imposed by the Government of the United States on

1 such income. However, the relief from liability to the  
2 United States Government referred to in the preceding  
3 sentence means only relief in the form of the foreign tax  
4 credit (or deduction in lieu thereof) available with respect  
5 to the income taxes of a possession of the United States,  
6 and relief in the form of the exclusion under section 911  
7 of the Internal Revenue Code of 1986. For purposes of  
8 this section, the term “resident of the Republic of the  
9 Marshall Islands” shall be deemed to include any person  
10 who was physically present in the Republic of the Marshall  
11 Islands for a period of 183 or more days during any tax-  
12 able year.

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

19 Section 255

20 For purposes of section 274(h)(3)(A) of the U.S. In-  
21 ternal Revenue Code of 1986, the term “North American  
22 Area” shall include the Republic of the Marshall Islands.

1 TITLE THREE  
2 SECURITY AND DEFENSE RELATIONS  
3 Article I  
4 Authority and Responsibility  
5 Section 311  
6 (a) The Government of the United States has full au-  
7 thority and responsibility for security and defense matters  
8 in or relating to the Republic of the Marshall Islands.  
9 (b) This authority and responsibility includes:  
10 (1) the obligation to defend the Republic of the  
11 Marshall Islands and its people from attack or  
12 threats thereof as the United States and its citizens  
13 are defended;  
14 (2) the option to foreclose access to or use of  
15 the Republic of the Marshall Islands by military per-  
16 sonnel or for the military purposes of any third  
17 country; and  
18 (3) the option to establish and use military  
19 areas and facilities in the Republic of the Marshall  
20 Islands, subject to the terms of the separate agree-  
21 ments referred to in sections 321 and 323.  
22 (c) The Government of the United States confirms  
23 that it shall act in accordance with the principles of inter-  
24 national law and the Charter of the United Nations in the  
25 exercise of this authority and responsibility.

## 1 Section 312

2 Subject to the terms of any agreements negotiated  
3 in accordance with sections 321 and 323, the Government  
4 of the United States may conduct within the lands, waters  
5 and airspace of the Republic of the Marshall Islands the  
6 activities and operations necessary for the exercise of its  
7 authority and responsibility under this Title.

## 8 Section 313

9 (a) The Government of the Republic of the Marshall  
10 Islands shall refrain from actions that the Government of  
11 the United States determines, after appropriate consulta-  
12 tion with that Government, to be incompatible with its au-  
13 thority and responsibility for security and defense matters  
14 in or relating to the Republic of the Marshall Islands.

15 (b) The consultations referred to in this section shall  
16 be conducted expeditiously at senior levels of the two Gov-  
17 ernments, and the subsequent determination by the Gov-  
18 ernment of the United States referred to in this section  
19 shall be made only at senior interagency levels of the Gov-  
20 ernment of the United States.

21 (c) The Government of the Republic of the Marshall  
22 Islands shall be afforded, on an expeditious basis, an op-  
23 portunity to raise its concerns with the United States Sec-  
24 retary of State personally and the United States Secretary

1 of Defense personally regarding any determination made  
2 in accordance with this section.

3 Section 314

4 (a) Unless otherwise agreed, the Government of the  
5 United States shall not, in the Republic of the Marshall  
6 Islands:

7 (1) test by detonation or dispose of any nuclear  
8 weapon, nor test, dispose of, or discharge any toxic  
9 chemical or biological weapon; or

10 (2) test, dispose of, or discharge any other ra-  
11 dioactive, toxic chemical or biological materials in an  
12 amount or manner that would be hazardous to pub-  
13 lic health or safety.

14 (b) Unless otherwise agreed, other than for transit  
15 or overflight purposes or during time of a national emer-  
16 gency declared by the President of the United States, a  
17 state of war declared by the Congress of the United States  
18 or as necessary to defend against an actual or impending  
19 armed attack on the United States, the Republic of the  
20 Marshall Islands or the Federated States of Micronesia,  
21 the Government of the United States shall not store in  
22 the Republic of the Marshall Islands or the Federated  
23 States of Micronesia any toxic chemical weapon, nor any  
24 radioactive materials nor any toxic chemical materials in-  
25 tended for weapons use.

1 (c) Radioactive, toxic chemical, or biological materials  
2 not intended for weapons use shall not be affected by sec-  
3 tion 314(b).

4 (d) No material or substance referred to in this sec-  
5 tion shall be stored in the Republic of the Marshall Islands  
6 except in an amount and manner which would not be haz-  
7 ardous to public health or safety. In determining what  
8 shall be an amount or manner which would be hazardous  
9 to public health or safety under this section, the Govern-  
10 ment of the United States shall comply with any applicable  
11 mutual agreement, international guidelines accepted by  
12 the Government of the United States, and the laws of the  
13 United States and their implementing regulations.

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

18 (f) The provisions of this section shall apply in the  
19 areas in which the Government of the Republic of the Mar-  
20 shall Islands exercises jurisdiction over the living resources  
21 of the seabed, subsoil or water column adjacent to its  
22 coasts.

### 23 Section 315

24 The Government of the United States may invite  
25 members of the armed forces of other countries to use

1 military areas and facilities in the Republic of the Mar-  
2 shall Islands, in conjunction with and under the control  
3 of United States Armed Forces. Use by units of the armed  
4 forces of other countries of such military areas and facili-  
5 ties, other than for transit and overflight purposes, shall  
6 be subject to consultation with and, in the case of major  
7 units, approval of the Government of the Republic of the  
8 Marshall Islands.

9 Section 316

10 The authority and responsibility of the Government  
11 of the United States under this Title may not be trans-  
12 ferred or otherwise assigned.

13 Article II

14 Defense Facilities and Operating Rights

15 Section 321

16 (a) Specific arrangements for the establishment and  
17 use by the Government of the United States of military  
18 areas and facilities in the Republic of the Marshall Islands  
19 are set forth in separate agreements, which shall remain  
20 in effect in accordance with the terms of such agreements.

21 (b) If, in the exercise of its authority and responsi-  
22 bility under this Title, the Government of the United  
23 States requires the use of areas within the Republic of  
24 the Marshall Islands in addition to those for which specific  
25 arrangements are concluded pursuant to section 321(a),



1 it may request the Government of the Republic of the Mar-  
2 shall Islands to satisfy those requirements through leases  
3 or other arrangements. The Government of the Republic  
4 of the Marshall Islands shall sympathetically consider any  
5 such request and shall establish suitable procedures to dis-  
6 cuss it with and provide a prompt response to the Govern-  
7 ment of the United States.

8 (c) The Government of the United States recognizes  
9 and respects the scarcity and special importance of land  
10 in the Republic of the Marshall Islands. In making any  
11 requests pursuant to section 321(b), the Government of  
12 the United States shall follow the policy of requesting the  
13 minimum area necessary to accomplish the required secu-  
14 rity and defense purpose, of requesting only the minimum  
15 interest in real property necessary to support such pur-  
16 pose, and of requesting first to satisfy its requirement  
17 through public real property, where available, rather than  
18 through private real property.

19 Section 322

20 The Government of the United States shall provide  
21 and maintain fixed and floating aids to navigation in the  
22 Republic of the Marshall Islands at least to the extent nec-  
23 essary for the exercise of its authority and responsibility  
24 under this Title.

25 Section 323

1 The military operating rights of the Government of  
2 the United States and the legal status and contractual ar-  
3 rangements of the United States Armed Forces, their  
4 members, and associated civilians, while present in the Re-  
5 public of the Marshall Islands are set forth in separate  
6 agreements, which shall remain in effect in accordance  
7 with the terms of such agreements.

8 Article III  
9 Defense Treaties and International Security Agreements  
10 Section 331

11 Subject to the terms of this Compact, as amended,  
12 and its related agreements, the Government of the United  
13 States, exclusively, has assumed and enjoys, as to the Re-  
14 public of the Marshall Islands, all obligations, responsibil-  
15 ities, rights and benefits of:

16 (a) Any defense treaty or other international se-  
17 curity agreement applied by the Government of the  
18 United States as Administering Authority of the  
19 Trust Territory of the Pacific Islands as of October  
20 20, 1986.

21 (b) Any defense treaty or other international se-  
22 curity agreement to which the Government of the  
23 United States is or may become a party which it de-  
24 termines to be applicable in the Republic of the Mar-  
25 shall Islands. Such a determination by the Govern-



1 by the Government of the Republic of the Marshall Is-  
2 lands, in each of:

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

5 (b) The United States Merchant Marine Acad-  
6 emy pursuant to 46 U.S.C. 1295(b)(6), provided  
7 that the provisions of 46 U.S.C. 1295b(b)(6)(C)  
8 shall not apply to the enrollment of students pursu-  
9 ant to section 342(b) of this Compact, as amended.

10 Article V

11 General Provisions

12 Section 351

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

18 (b) The membership of the Joint Committee shall  
19 comprise selected senior officials of the two Governments.  
20 The senior United States military commander in the Pa-  
21 cific area shall be the senior United States member of the  
22 Joint Committee. For the meetings of the Joint Com-  
23 mittee, each of the two Governments may designate addi-  
24 tional or alternate representatives as appropriate for the  
25 subject matter under consideration.

1 (c) Unless otherwise mutually agreed, the Joint Com-  
2 mittee shall meet annually at a time and place to be des-  
3 ignated, after appropriate consultation, by the Govern-  
4 ment of the United States. The Joint Committee also shall  
5 meet promptly upon request of either of its members. The  
6 Joint Committee shall follow such procedures, including  
7 the establishment of functional subcommittees, as the  
8 members may from time to time agree. Upon notification  
9 by the Government of the United States, the Joint Com-  
10 mittee of the United States and the Republic of the Mar-  
11 shall Islands shall meet promptly in a combined session  
12 with the Joint Committee established and maintained by  
13 the Government of the United States and the Government  
14 of the Federated States of Micronesia to consider matters  
15 within the jurisdiction of the two Joint Committees.

16 (d) Unresolved issues in the Joint Committee shall  
17 be referred to the Governments for resolution, and the  
18 Government of the Republic of the Marshall Islands shall  
19 be afforded, on an expeditious basis, an opportunity to  
20 raise its concerns with the United States Secretary of De-  
21 fense personally regarding any unresolved issue which  
22 threatens its continued association with the Government  
23 of the United States.

24 Section 352

1 In the exercise of its authority and responsibility  
2 under Title Three, the Government of the United States  
3 shall accord due respect to the authority and responsibility  
4 of the Government of the Republic of the Marshall Islands  
5 under Titles One, Two and Four and to the responsibility  
6 of the Government of the Republic of the Marshall Islands  
7 to assure the well-being of its people.

8 Section 353

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

13 (b) Absent such consent, this Compact, as amended,  
14 is without prejudice, on the ground of belligerence or the  
15 existence of a state of war, to any claims for damages  
16 which are advanced by the citizens, nationals or Govern-  
17 ment of the Republic of the Marshall Islands, which arise  
18 out of armed conflict subsequent to October 21, 1986, and  
19 which are:

20 [(5)] petitions to the Government of the  
21 United States for redress; or

22 [(6)] claims in any manner against the govern-  
23 ment, citizens, nationals or entities of any third  
24 country.

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

3 Section 354

4 (a) The Government of the United States and the  
5 Government of the Republic of the Marshall Islands are  
6 jointly committed to continue their security and defense  
7 relations, as set forth in this Title. Accordingly, it is the  
8 intention of the two countries that the provisions of this  
9 Title shall remain binding as long as this Compact, as  
10 amended, remains in effect, and thereafter as mutually  
11 agreed, unless earlier terminated by mutual agreement  
12 pursuant to section 441, or amended pursuant to Article  
13 III of Title Four. If at any time the Government of the  
14 United States, or the Government of the Republic of the  
15 Marshall Islands, acting unilaterally, terminates this Title,  
16 such unilateral termination shall be considered to be ter-  
17 mination of the entire Compact, as amended, in which case  
18 the provisions of section 442 and 452 (in the case of ter-  
19 mination by the Government of the United States) or sec-  
20 tions 443 and 453 (in the case of termination by the Gov-  
21 ernment of the Republic of the Marshall Islands), with the  
22 exception of paragraph (3) of subsection (a) of section 452  
23 or paragraph (3) of subsection (a) of section 453, as the  
24 case may be, shall apply.

1           (b) The Government of the United States recognizes,  
2 in view of the special relationship between the Government  
3 of the United States and the Government of the Republic  
4 of the Marshall Islands, and in view of the existence of  
5 the separate agreement regarding mutual security con-  
6 cluded with the Government of the Republic of the Mar-  
7 shall Islands pursuant to sections 321 and 323, that, even  
8 if this Title should terminate, any attack on the Republic  
9 of the Marshall Islands during the period in which such  
10 separate agreement is in effect, would constitute a threat  
11 to the peace and security of the entire region and a danger  
12 to the United States. In the event of such an attack, the  
13 Government of the United States would take action to  
14 meet the danger to the United States and to the Republic  
15 of the Marshall Islands in accordance with its constitu-  
16 tional processes.

17           (c) As reflected in Article 21(1)(b) of the Trust Fund  
18 Agreement, the Government of the United States and the  
19 Government of the Republic of the Marshall Islands fur-  
20 ther recognize, in view of the special relationship between  
21 their countries, that even if this Title should terminate,  
22 the Government of Republic of the Marshall Islands shall  
23 refrain from actions which the Government of the United  
24 States determines, after appropriate consultation with  
25 that Government, to be incompatible with its authority



1 and responsibility for security and defense matters in or  
2 relating to the Republic of the Marshall Islands or the  
3 Federated States of Micronesia.

4 TITLE FOUR

5 GENERAL PROVISIONS

6 Article I

7 Approval and Effective Date

8 Section 411

9 Pursuant to section 432 of the Compact and subject  
10 to subsection (e) of section 461 of the Compact, as amend-  
11 ed, the Compact, as amended, shall come into effect upon  
12 mutual agreement between the Government of the United  
13 States and the Government of the Republic of the Mar-  
14 shall Islands subsequent to completion of the following:

15 (a) Approval by the Government of the Repub-  
16 lic of the Marshall Islands in accordance with its  
17 constitutional processes.

18 (b) Approval by the Government of the United  
19 States in accordance with its constitutional proc-  
20 esses.

21 Article II

22 Conference and Dispute Resolution

23 Section 421

24 The Government of the United States shall confer  
25 promptly at the request of the Government of the Republic

1 of the Marshall Islands and that Government shall confer  
2 promptly at the request of the Government of the United  
3 States on matters relating to the provisions of this Com-  
4 pact, as amended, or of its related agreements.

5 Section 422

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

12 Section 423

13 If a dispute between the Government of the United  
14 States and the Government of the Republic of the Mar-  
15 shall Islands cannot be resolved within 90 days of written  
16 notification in the manner provided in section 422, either  
17 party to the dispute may refer it to arbitration in accord-  
18 ance with section 424.

19 Section 424

20 Should a dispute be referred to arbitration as pro-  
21 vided for in section 423, an Arbitration Board shall be  
22 established for the purpose of hearing the dispute and ren-  
23 dering a decision which shall be binding upon the two par-  
24 ties to the dispute unless the two parties mutually agree

1 that the decision shall be advisory. Arbitration shall occur  
2 according to the following terms:

3 (a) An Arbitration Board shall consist of a  
4 Chairman and two other members, each of whom  
5 shall be a citizen of a party to the dispute. Each of  
6 the two Governments that is a party to the dispute  
7 shall appoint one member to the Arbitration Board.  
8 If either party to the dispute does not fulfill the ap-  
9 pointment requirements of this section within 30  
10 days of referral of the dispute to arbitration pursu-  
11 ant to section 423, its member on the Arbitration  
12 Board shall be selected from its own standing list by  
13 the other party to the dispute. Each Government  
14 shall maintain a standing list of 10 candidates. The  
15 parties to the dispute shall jointly appoint a Chair-  
16 man within 15 days after selection of the other  
17 members of the Arbitration Board. Failing agree-  
18 ment on a Chairman, the Chairman shall be chosen  
19 by lot from the standing lists of the parties to the  
20 dispute within 5 days after such failure.

21 (b) Unless otherwise provided in this Compact,  
22 as amended, or its related agreements, the Arbitra-  
23 tion Board shall have jurisdiction to hear and render  
24 its final determination on all disputes arising exclu-  
25 sively under Articles I, II, III, IV and V of Title

1 One, Title Two, Title Four, and their related agree-  
2 ments.

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

6 (d) In determining any legal issue, the Arbitra-  
7 tion Board may have reference to international law  
8 and, in such reference, shall apply as guidelines the  
9 provisions set forth in Article 38 of the Statute of  
10 the International Court of Justice.

11 (e) The Arbitration Board shall adopt such  
12 rules for its proceedings as it may deem appropriate  
13 and necessary, but such rules shall not contravene  
14 the provisions of this Compact, as amended. Unless  
15 the parties provide otherwise by mutual agreement,  
16 the Arbitration Board shall endeavor to render its  
17 decision within 30 days after the conclusion of argu-  
18 ments. The Arbitration Board shall make findings of  
19 fact and conclusions of law and its members may  
20 issue dissenting or individual opinions. Except as  
21 may be otherwise decided by the Arbitration Board,  
22 one-half of all costs of the arbitration shall be borne  
23 by the Government of the United States and the re-  
24 mainder shall be borne by the Government of the  
25 Republic of the Marshall Islands.

1 Article III

2 Amendment

3 Section 431

4 The provisions of this Compact, as amended, may be  
5 further amended by mutual agreement of the Government  
6 of the United States and the Government of the Republic  
7 of the Marshall Islands, in accordance with their respec-  
8 tive constitutional processes.

9 Article IV

10 Termination

11 Section 441

12 This Compact, as amended, may be terminated by  
13 mutual agreement of the Government of the Republic of  
14 the Marshall Islands and the Government of the United  
15 States, in accordance with their respective constitutional  
16 processes. Such mutual termination of this Compact, as  
17 amended, shall be without prejudice to the continued ap-  
18 plication of section 451 of this Compact, as amended, and  
19 the provisions of the Compact, as amended, set forth  
20 therein.

21 Section 442

22 Subject to section 452, this Compact, as amended,  
23 may be terminated by the Government of the United  
24 States in accordance with its constitutional processes.  
25 Such termination shall be effective on the date specified

1 in the notice of termination by the Government of the  
2 United States but not earlier than six months following  
3 delivery of such notice. The time specified in the notice  
4 of termination may be extended. Such termination of this  
5 Compact, as amended, shall be without prejudice to the  
6 continued application of section 452 of this Compact, as  
7 amended, and the provisions of the Compact, as amended,  
8 set forth therein.

9 Section 443

10 This Compact, as amended, shall be terminated by  
11 the Government of the Republic of the Marshall Islands,  
12 pursuant to its constitutional processes, subject to section  
13 453 if the people represented by that Government vote in  
14 a plebiscite to terminate the Compact. The Government  
15 of the Republic of the Marshall Islands shall notify the  
16 Government of the United States of its intention to call  
17 such a plebiscite, which shall take place not earlier than  
18 three months after delivery of such notice. The plebiscite  
19 shall be administered by the Government of the Republic  
20 of the Marshall Islands in accordance with its constitu-  
21 tional and legislative processes, but the Government of the  
22 United States may send its own observers and invite ob-  
23 servers from a mutually agreed party. If a majority of the  
24 valid ballots cast in the plebiscite favors termination, the  
25 Government of the Republic of the Marshall Islands shall,

1 upon certification of the results of the plebiscite, give no-  
2 tice of termination to the Government of the United  
3 States, such termination to be effective on the date speci-  
4 fied in such notice but not earlier than three months fol-  
5 lowing the date of delivery of such notice. The time speci-  
6 fied in the notice of termination may be extended.

7 Article V

8 Survivability

9 Section 451

10 (a) Should termination occur pursuant to section  
11 441, economic and other assistance by the Government of  
12 the United States shall continue only if and as mutually  
13 agreed by the Governments of the United States and the  
14 Republic of the Marshall Islands, and in accordance with  
15 the countries' respective constitutional processes.

16 (b) In view of the special relationship of the United  
17 States and the Republic of the Marshall Islands, as re-  
18 flected in subsections (b) and (c) of section 354 of this  
19 Compact, as amended, and the separate agreement en-  
20 tered into consistent with those subsections, if termination  
21 occurs pursuant to section 441 prior to the twentieth anni-  
22 versary of the effective date of this Compact, as amended,  
23 the United States shall continue to make contributions to  
24 the Trust Fund described in section 216 of this Compact,  
25 as amended.

1 (c) In view of the special relationship of the United  
2 States and the Republic of the Marshall Islands described  
3 in subsection (b) of this section, if termination occurs pur-  
4 suant to section 441 following the twentieth anniversary  
5 of the effective date of this Compact, as amended, the Re-  
6 public of the Marshall Islands shall be entitled to receive  
7 proceeds from the Trust Fund described in section 216  
8 of this Compact, as amended, in the manner described in  
9 those provisions and the Trust Fund Agreement.

10 Section 452

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

17 (1) Article VI and sections 172, 173, 176 and  
18 177 of Title One;

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

21 (3) Title Three; and

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

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



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

7           (2) In view of the special relationship of the  
8 United States and the Republic of the Marshall Is-  
9 lands, as reflected in subsections (b) and (c) of sec-  
10 tion 354 of this Compact, as amended, and the sepa-  
11 rate agreement regarding mutual security, and the  
12 Trust Fund Agreement, the United States shall con-  
13 tinue to make contributions to the Trust Fund de-  
14 scribed in section 216 of this Compact, as amended,  
15 in the manner described in the Trust Fund Agree-  
16 ment.

17          (c) In view of the special relationship of the United  
18 States and the Republic of the Marshall Islands, as re-  
19 flected in subsections 354(b) and (c) of this Compact, as  
20 amended, and the separate agreement regarding mutual  
21 security, and the Trust Fund Agreement, if termination  
22 occurs pursuant to section 442 following the twentieth an-  
23 niversary of the effective date of this Compact, as amend-  
24 ed, the Republic of the Marshall Islands shall continue to  
25 be eligible to receive proceeds from the Trust Fund de-

1 scribed in section 216 of this Compact, as amended, in  
2 the manner described in those provisions and the Trust  
3 Fund Agreement.

4 Section 453

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

11 (1) Article VI and sections 172, 173, 176 and  
12 177 of Title One;

13 (2) Sections 232 and 234 of Title Two;

14 (3) Title Three; and

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

16 (b) Upon receipt of notice of termination pursuant  
17 to section 443, the Government of the United States and  
18 the Government of the Republic of the Marshall Islands  
19 shall promptly consult with regard to their future relation-  
20 ship. Except as provided in subsections (c) and (d) of this  
21 section, these consultations shall determine the level of  
22 economic and other assistance, if any, which the Govern-  
23 ment of the United States shall provide to the Government  
24 of the Republic of the Marshall Islands for the period end-  
25 ing on the twentieth anniversary of the effective date of

1 this Compact, as amended, and for any period thereafter,  
2 if mutually agreed.

3 (c) In view of the special relationship of the United  
4 States and the Republic of the Marshall Islands, as re-  
5 flected in subsections 354(b) and (c) of this Compact, as  
6 amended, and the separate agreement regarding mutual  
7 security, and the Trust Fund Agreement, if termination  
8 occurs pursuant to section 443 prior to the twentieth anni-  
9 versary of the effective date of this Compact, as amended,  
10 the United States shall continue to make contributions to  
11 the Trust Fund described in section 216 of this Compact,  
12 as amended.

13 (d) In view of the special relationship of the United  
14 States and the Republic of the Marshall Islands, as re-  
15 flected in subsections 354(b) and (c) of this Compact, as  
16 amended, and the separate agreement regarding mutual  
17 security, and the Trust Fund Agreement, if termination  
18 occurs pursuant to section 443 following the twentieth an-  
19 niversary of the effective date of this Compact, as amend-  
20 ed, the Republic of the Marshall Islands shall continue to  
21 be eligible to receive proceeds from the Trust Fund de-  
22 scribed in section 216 of this Compact, as amended, in  
23 the manner described in those provisions and the Trust  
24 Fund Agreement.  
25 Section 454

1 Notwithstanding any other provision of this Compact,  
2 as amended:

3 (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.

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

#### 10 Article VI

#### 11 Definition of Terms

#### 12 Section 461

13 For the purpose of this Compact, as amended, only,  
14 and without prejudice to the views of the Government of  
15 the United States or the Government of the Republic of  
16 the Marshall Islands as to the nature and extent of the  
17 jurisdiction of either of them under international law, the  
18 following terms shall have the following meanings:

19 (a) "Trust Territory of the Pacific Islands"  
20 means the area established in the Trusteeship  
21 Agreement consisting of the former administrative  
22 districts of Kosrae, Yap, Ponape, the Marshall Islands  
23 and Truk as described in Title One, Trust  
24 Territory Code, section 1, in force on January 1,

1 1979. This term does not include the area of Palau  
2 or the Northern Mariana Islands.

3 (b) “Trusteeship Agreement” means the agree-  
4 ment setting forth the terms of trusteeship for the  
5 Trust Territory of the Pacific Islands, approved by  
6 the Security Council of the United Nations April 2,  
7 1947, and by the United States July 18, 1947, en-  
8 tered into force July 18, 1947, 61 Stat. 3301,  
9 T.I.A.S. 1665, 8 U.N.T.S. 189.

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

16 (d) “Compact” means the Compact of Free As-  
17 sociation Between the United States and the Fed-  
18 erated States of Micronesia and the Marshall Is-  
19 lands, that was approved by the United States Con-  
20 gress in section 201 of Public Law 99-239 (Jan. 14,  
21 1986) and went into effect with respect to the Re-  
22 public of the Marshall Islands on October 21, 1986.

23 (e) “Compact, as amended” means the Com-  
24 pact of Free Association Between the United States  
25 and the Republic of the Marshall Islands, as amend-

1 ed. The effective date of the Compact, as amended,  
2 shall be on a date to be determined by the President  
3 of the United States, and agreed to by the Govern-  
4 ment of the Republic of the Marshall Islands, fol-  
5 lowing formal approval of the Compact, as amended,  
6 in accordance with section 411 of this Compact, as  
7 amended.

8 (f) “Government of the Republic of the Mar-  
9 shall Islands” means the Government established  
10 and organized by the Constitution of the Republic of  
11 the Marshall Islands including all the political sub-  
12 divisions and entities comprising that Government.

13 (g) “Government of the Federated States of Mi-  
14 cronnesia” means the Government established and or-  
15 ganized by the Constitution of the Federated States  
16 of Micronesia including all the political subdivisions  
17 and entities comprising that Government.

18 (h) The following terms shall be defined con-  
19 sistent with the 1978 Edition of the Radio Regula-  
20 tions of the International Telecommunications as fol-  
21 lows:

22 (1) “Radiocommunication” means tele-  
23 communication by means of radio waves.

24 (2) “Station” means one or more transmit-  
25 ters or receivers or a combination of transmit-

1           ters and receivers, including the accessory  
2           equipment, necessary at one location for car-  
3           rying on a radiocommunication service, or the  
4           radio astronomy service.

5           (3) “Broadcasting Service” means a  
6           radiocommunication service in which the trans-  
7           missions are intended for direct reception by  
8           the general public. This service may include  
9           sound transmissions, television transmissions or  
10          other types of transmission.

11          (4) “Broadcasting Station” means a sta-  
12          tion in the broadcasting service.

13          (5) “Assignment (of a radio frequency or  
14          radio frequency channel)” means an authoriza-  
15          tion given by an administration for a radio sta-  
16          tion to use a radio frequency or radio frequency  
17          channel under specified conditions.

18          (6) “Telecommunication” means any  
19          transmission, emission or reception of signs,  
20          signals, writings, images and sounds or intel-  
21          ligence of any nature by wire, radio, optical or  
22          other electromagnetic systems.

23          (i) “Military Areas and Facilities” means those  
24          areas and facilities in the Republic of the Marshall  
25          Islands reserved or acquired by the Government of

1 the Republic of the Marshall Islands for use by the  
2 Government of the United States, as set forth in the  
3 separate agreements referred to in section 321.

4 (j) “Tariff Schedules of the United States”  
5 means the Tariff Schedules of the United States as  
6 amended from time to time and as promulgated pur-  
7 suant to United States law and includes the Tariff  
8 Schedules of the United States Annotated (TSUSA),  
9 as amended.

10 (k) “Vienna Convention on Diplomatic Rela-  
11 tions” means the Vienna Convention on Diplomatic  
12 Relations, done April 18, 1961, 23 U.S.T. 3227,  
13 T.I.A.S. 7502, 500 U.N.T.S. 95.

14 Section 462

15 (a) The Government of the United States and the  
16 Government of the Republic of the Marshall Islands pre-  
17 viously have concluded agreements, which shall remain in  
18 effect and shall survive in accordance with their terms,  
19 as follows:

20 (1) Agreement Between the Government of the  
21 United States and the Government of the Marshall  
22 Islands for the Implementation of Section 177 of the  
23 Compact of Free Association;

24 (2) Agreement Between the Government of the  
25 United States and the Government of the Marshall



1 Islands by Persons Displaced as a Result of the  
2 United States Nuclear Testing Program in the Mar-  
3 shall Islands;

4 (3) Agreement Between the Government of the  
5 United States and the Government of the Marshall  
6 Islands Regarding the Resettlement of Enjebi Is-  
7 land;

8 (4) Agreement Concluded Pursuant to Section  
9 234 of the Compact; and

10 (5) Agreement Between the Government of the  
11 United States and the Government of the Marshall  
12 Islands Regarding Mutual Security Concluded Pur-  
13 suant to Sections 321 and 323 of the Compact of  
14 Free Association.

15 (b) The Government of the United States and the  
16 Government of the Republic of the Marshall Islands shall  
17 conclude prior to the date of submission of this Compact  
18 to the legislatures of the two countries, the following re-  
19 lated agreements which shall come into effect on the effec-  
20 tive date of this Compact, as amended, and shall survive  
21 in accordance with their terms, as follows:

22 (1) Federal Programs and Services Agreement  
23 Between the Government of the United States of  
24 America and the Government of the Republic of the  
25 Marshall Islands Concluded Pursuant to Article III

1 of Title One, Article II of Title Two (including Sec-  
2 tion 222), and Section 231 of the Compact of Free  
3 Association, as Amended, which include:

4 (i) Postal Services and Related Programs;

5 (ii) Weather Services and Related Pro-  
6 grams;

7 (iii) Civil Aviation Safety Service and Re-  
8 lated Programs;

9 (iv) Civil Aviation Economic Services and  
10 Related Programs;

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

14 (vi) Telecommunications Services and Re-  
15 lated Programs.

16 (2) Agreement Between the Government of the  
17 United States of America and the Government of  
18 the Republic of the Marshall Islands on Extradition,  
19 Mutual Assistance in Law Enforcement Matters and  
20 Penal Sanctions Concluded Pursuant to Section 175  
21 (a) of the Compact of Free Association, as Amend-  
22 ed;

23 (3) Agreement Between the Government of the  
24 United States of America and the Government of  
25 the Republic of the Marshall Islands on Labor Re-

1       cruitment Concluded Pursuant to Section 175 (b) of  
2       the Compact of Free Association, as Amended;

3             (4) Agreement Concerning Procedures for the  
4       Implementation of United States Economic Assist-  
5       ance Provided in the Compact, as Amended, of Free  
6       Association Between the Government of the United  
7       States of America and the Government of the Re-  
8       public of the Marshall Islands;

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

14            (6) Agreement Regarding the Military Use and  
15       Operating Rights of the Government of the United  
16       States in the Republic of the Marshall Islands Con-  
17       cluded Pursuant to Sections 321 and 323 of the  
18       Compact of Free Association, as Amended; and,

19            (7) Status of Forces Agreement Between the  
20       Government of the United States of America and  
21       the Government of the Republic of the Marshall Is-  
22       lands Concluded Pursuant to Section 323 of the  
23       Compact of Free Association, as Amended.

24 Section 463

1 (a) Except as set forth in subsection (b) of this sec-  
2 tion, any reference in this Compact, as amended, to a pro-  
3 vision of the United States Code or the Statutes at Large  
4 of the United States constitutes the incorporation of the  
5 language of such provision into this Compact, as amended,  
6 as such provision was in force on the effective date of this  
7 Compact, as amended.

8 (b) Any reference in Article IV and VI of Title One,  
9 and Sections 174, 175, 178 and 342 to a provision of the  
10 United States Code or the Statutes at Large of the United  
11 States or to the Privacy Act, the Freedom of Information  
12 Act, the Administrative Procedure Act or the Immigration  
13 and Nationality Act constitutes the incorporation of the  
14 language of such provision into this Compact, as amended,  
15 as such provision was in force on the effective date of this  
16 Compact, as amended, or as it may be amended thereafter  
17 on a non-discriminatory basis according to the constitu-  
18 tional processes of the United States.

19 Article VII

20 Concluding Provisions

21 Section 471

22 Both the Government of the United States and the  
23 Government of the Republic of the Marshall Islands shall  
24 take all necessary steps, of a general or particular char-  
25 acter, to ensure, no later than the entry into force date

1 of this Compact, as amended, the conformity of its laws,  
2 regulations and administrative procedures with the provi-  
3 sions of this Compact, as amended, or, in the case of sub-  
4 section (d) of section 141, as soon as reasonably possible  
5 thereafter.

6 Section 472

7 This Compact, as amended, may be accepted, by sig-  
8 nature or otherwise, by the Government of the United  
9 States and the Government of the Republic of the Mar-  
10 shall Islands.

11 IN WITNESS WHEREOF, the undersigned, duly  
12 authorized, have signed this Compact of Free Association,  
13 as amended, which shall enter into force upon the ex-  
14 change of diplomatic notes by which the Government of  
15 the United States of America and the Government of the  
16 Republic of the Marshall Islands inform each other about  
17 the fulfillment of their respective requirements for entry  
18 into force.

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

Mr. SMITH OF NEW JERSEY. The Chair recognizes the gentleman from Iowa, the Subcommittee on Asia and the Pacific Chairman for a motion.

Mr. LEACH. Mr. Chairman, the Subcommittee on Asia and the Pacific reports favorably the resolution H.J. Res. 63 with the single amendment in the nature of a substitute and moves its favorable recommendation to the full House.

Mr. SMITH OF NEW JERSEY. Mr. Leach is recognized to explain the bill.

Mr. LEACH. Thank you, Mr. Chairman. As my colleagues may be aware, the economic assistance provisions of the current Compact of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands expired in 2001 but were extended for 2 years while the U.S. renegotiated the expired provisions with the islands, also known as the Freely Associated States. However, these negotiations were only completed late this spring, leaving Congress with little time to act before these authorities expire on September 30 of this year. Hence the need for expeditious action on the legislation.

In this regard the Subcommittee held a hearing on the newly renegotiated Compacts on June 18, receiving extensive testimony from the Department of State and Interior, the General Accounting Office, as well as testimony for the record from the Governments of the FSM and RMI.

Most recently, on July 18, the Subcommittee marked up H.J. Res. 63 and reported it favorably to the Committee with several modest technical amendments. By background, the United States has shared a uniquely close and mutually beneficial relationship with the peoples of Micronesia and the Marshall Islands. For nearly 40 years after the Second World War, the U.S. administered both islands as United Nations trust territories. In 1986, Micronesia and the Marshall Islands chose to become sovereign states and entered into a Compact of Free Association with the United States. The Compact was intended to ensure self-government for the new island nations, to assist them in their economic development toward self-sufficiency, and to advance certain mutual security objectives.

It is my strong view that the interests of the peoples of the United States and these Pacific Islands have been well served by the Compact. Our former trust territories have emerged as sovereign democracies. America's strategic interest in the Western Pacific has been protected, and the bonds of friendship forged during World War II have only strengthened with the passage of time.

The passage of time, however, also revealed a number of deficiencies in the first Compact, particularly concerning management of funds, planning and oversight. Fortunately, however, drawing on the work of the Subcommittee on Asia and the Pacific, under the leadership of the former Chairman, Doug Bereuter, and extensive work by the General Accounting Office, the new agreement completely redesigns the way Compact funds are used, thereby significantly strengthening these agreements.

The amended Compacts and related agreements address a number of issues. They preserve the United States defense veto and assure continued United States military access to Kwajalein Atoll de-

fense sites until at least 2066, and possibly 2086, at the United States option.

The amended Compact also strengthens one key additional area—immigration—by adding new restrictions and clarifying the applicability of the Immigration Nationality Act to Compact migrants.

The amended Compacts are complex and should be generally supportable by Congress. There are, however, two areas of concerns that the Committee may well want to address further or clarify as the legislation advances. One relates to the proposed termination of FEMA's role in providing disaster assistance under the amended Compacts and the future of educational assistance, such as Pell grants, provided by the Freely Associated States outside of the Compact and its related agreements. Here I would like to inform Members that all of the relevant authorizing Committees, on a bipartisan, bicameral basis, are working together with the Administration to talk through these complex substantive and jurisdictional issues in a timely manner.

It is my strong hope and intent to gain further clarification on several of these questions by the time this legislation is considered by the full House. Nevertheless, recognizing that further clarifications and minor adjustments in language may still be contemplated, I feel comfortable in bringing this Compact as negotiated by the Administration with the FSM and RMI to the Committee for approval.

I thank the Chair.

[The prepared statement of Mr. Leach follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES A. LEACH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

H.J. RES. 63

Thank you, Mr. Chairman.

As my colleagues may be aware, the economic assistance provisions of the current Compact of Free Association with the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) expired in 2001, but were extended for two years while the U.S. renegotiated the expiring provisions with the islands—also known as the Freely Associated States. However, those negotiations were only completed late this Spring, leaving Congress with little time to act before those authorities expire on September 30th of this year. Hence the need for expeditious action on this legislation.

In this regard, the Subcommittee held a hearing on the newly renegotiated Compacts on June 18, receiving extensive testimony from the Departments of State and Interior, the General Accounting Office, as well as testimony for the record from the governments of the FSM and RMI. Most recently, on July 18 the Subcommittee marked up H.J. Res. 63 and reported it favorably to the Committee with several modest technical amendments.

By background, the U.S. has shared a uniquely close and mutually beneficial relationship with the peoples of Micronesia and the Marshall Islands. For nearly forty years after the Second World War, the U.S. administered both islands as United Nations Trust Territories. In 1986, Micronesia and the Marshall Islands chose to become sovereign states and entered into a Compact of Free Association with the United States. The compact was intended to ensure self-government for the new island nations, to assist them in their economic development toward self-sufficiency and to advance certain mutual security objectives.

It is my strong view that the interests of the peoples of the U.S. and these Pacific islands have been well-served by the Compact. Our former trust territories have emerged as sovereign democracies; America's strategic interests in the Western Pacific have been protected; and the bonds of friendship forged during World War Two have only strengthened with the passage of time.

The passage of time, however, revealed a number of deficiencies in the first Compact, particularly concerning management of funds, planning, and oversight. Fortunately, however, drawing on the work of the Asia Subcommittee under the leadership of former Chairman Bereuter and extensive work by the General Accounting Office, the new agreement completely redesigns the way Compact funds are used, thereby significantly strengthening these agreements.

Here I would like to draw the Committee's attention to the impressive new accountability provisions of the amended Compacts. According to the GAO, the amended Compacts include enhanced reporting and monitoring measures that should substantially improve accountability if fully implemented. For example, assistance under the amended Compacts will be provided through grants targeted to priority areas, including health and education, with specific terms and conditions attached. Annual reporting and consultation requirements will be expanded and funds could be withheld for noncompliance with Compact terms and conditions.

More broadly, the amended Compacts of Free Association with the FSM and RMI to renew expiring assistance would require about \$3.5 billion in funding over the next 20 years, with a larger amount being possible if the U.S. exercises its option to extend military use rights on Kwajalein Atoll. The amended Compacts would provide decreasing levels of annual aid over a 20-year term, with U.S. grant assistance expiring at the end of that period. At the same time, the Compacts would require the capitalization of a trust fund for each country to generate annual interest earnings that would replace U.S. grant assistance in 2023.

The amended Compacts and related agreements address other key issues. They preserve the U.S. "defense veto" and assure continued U.S. military access to Kwajalein Atoll defense sites until at least 2066, and possibly to 2086 at the U.S. option. The amended Compact also strengthens one key additional area, immigration, by adding new restrictions and clarifying the applicability of the Immigration and Nationality Act to Compact migrants.

The amended Compacts are complex and should be generally supportable by Congress. There are, however, two areas of ongoing concern that the Committee may well want to address further or clarify as the legislation advances: the proposed termination of FEMA's role in providing disaster assistance under the amended Compacts, and the future of educational assistance, such as Pell Grants, provided to the Freely Associated States outside of the Compact and its related agreements.

Here I would like to inform Members that all of the relevant authorizing Committees, on a bipartisan and bicameral basis, are working together with the Administration to talk through these complex substantive and jurisdictional issues in a timely manner. It is my strong hope and intent to gain further clarification on several of these questions by the time this legislation is considered by the full House.

Mr. SMITH OF NEW JERSEY. I thank the Chairman for his comments. The Chair recognizes Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the last word.

Mr. SMITH OF NEW JERSEY. The gentleman is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Chairman I want to thank our distinguished Chairman of the Subcommittee on Asia and the Pacific, Mr. Leach, for his leadership and also for his sensitivity to some of the concerns that I have indicated earlier during the course of the hearings that were held in this Committee and in the Committee on Resources.

These special Compacts that we have had with the Republic of the Marshall Islands and also with the Federated States of Micronesia, Mr. Chairman, points out a very unique political relationship with these Micronesian entities. At the height of the Cold War, I don't know if many of our colleagues quite well remember, our total testing program, nuclear testing program, took place in the Marshall Islands. Some 67 nuclear devices were detonated, including the first hydrogen bomb that was also tested in the Marshall Islands.

We also have in the Marshall Islands the Kwajalein missile range facility which over the years has facilitated our ICBMs being



fired from Vandenberg Air Force Base. It really is a tremendous contribution not only to our national security, but is something that our country should also be very appreciative of: the sacrifices and the contributions that our Micronesian friends have given to our Nation.

Given the fact of the closures of Subic Naval Station and Clark Air Force Base, the Department of Defense has given even greater importance to these Micronesian Islands. I should call it "front," as a way to understand how important they are as part of our strategic umbrella in this part of the world, especially in the Pacific.

As Mr. Leach had indicated earlier, I do appreciate the gentleman's poignant concerns, because it was my intention to introduce some amendments, especially on the question of FEMA and the educational programs that have been questioned and are not being made available for the Federated States of Micronesia and the Republic of the Marshall Islands.

My concern, Mr. Chairman, is given the fact that when the Compact was first implemented 15 years ago, these Micronesian entities had no infrastructure whatsoever. They had no educational system in place. I just feel very, very strongly that we ought to continue giving these programs so that at least it will give them a better opportunity, especially for the younger generation of the Micronesians to pursue higher education, not only with the community colleges that are now established but also for transferring their college education to universities throughout the United States.

It is my understanding also that with Chairman Leach and the members of the staff that we will be working to provide for some of these areas that I have expressed concerns about and that Chairman Leach had indicated earlier.

With that, Mr. Chairman, I—

Mr. LEACH. Will the gentleman yield briefly?

Mr. FALEOMAVAEGA. I gladly yield my time.

Mr. LEACH. Let me say to the gentleman, first, the Committee ought to be aware that the gentleman has really brought distinguished leadership to the Committee on these issues. And I am personally very appreciative of his thoughtful judgment and extraordinary knowledge. And I would be very hopeful that we can make it clear by the end of this process that educational opportunity will be provided in a credible way. I think it is in the strong interest of the people of the islands and also deeply in the interest of the United States and our friendship in the region.

I also am very concerned about the disaster potential that could develop in terms of the kinds of storms that the islands are susceptible to. And so hopefully there will be some understandings that can be developed as this process continues.

Mr. FALEOMAVAEGA. I thank the gentleman for his comments. Given the fact that there is also the desire on the part of the Administration to cooperate with U.S., to work closely in seeing that we make some improvements to address the concerns that the Members of our Committee had given earlier, especially from the good lady from California, who is our former Ambassador to FSM.

But I do want to thank Chairman Leach for his concerns and accepting my offer to continue working on this as we go through the

process. And with that Mr. Chairman, I yield back the balance of my time.

Mr. SMITH OF NEW JERSEY. Are there any other Members wishing to be heard? Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chairman. I join my colleagues in supporting this legislation and urge my other colleagues to do so as well.

Mr. Chairman, I am very pleased that our Committee is moving forward today with the renewal of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands. With the approval of these Compacts, the United States will further solidify our relationship with the Western Pacific Nations, both of which are close allies and are making an ongoing contribution to our national defense.

To understand the importance of renewing the Compacts, we must remember our Nation's history in the region. During World War II, American soldiers liberated the Pacific, island by island, in the brutal bloody battles that were held, that happened in those islands. And after the war, the United States administered Micronesia and the Marshalls, maintaining a vitally important base in the atoll.

In the '40s and '50s, the United States conducted both underwater and atmospheric nuclear tests in the Marshall Islands. The Marshallese people were dramatically affected by these nuclear tests, and some entire islands still to this day remain uninhabitable. Since the independence of the Marshall Islands and Micronesia in 1986, the ties between our Nations have grown even stronger, and when this Committee approved the Compact in 1986 we received a good bargain. Funds would flow to the Island Nations in return for the strategic denial and defense veto.

The Kwajalein Army Base is vitally important to American missile test and as a listening post to the world. I have heard that not only from the Committee reports but also from my good friend, former Ambassador to Micronesia, Senator Watson. And while we undoubtedly further our Nation's security interest with approval of the Compact, the U.S. insufficiently monitored expenditures of the funds and did little to promote economic development in those islands.

These Compacts before us ensure that the funds provided to those two will be better spent in the future and will promote sound economic development and will focus on education and health care. This also will establish the trust fund for both nations to ensure that they can work toward becoming self-sufficient in the next 20 years.

And as Congress moved forwards with this legislation, Mr. Chair, as we work with our relevant Committees in the House and Senate, I will also work to ensure that various U.S. educational programs will operate in both nations and can be fully preserved.

Mr. Chairman, this legislation before us promotes our Nation's national security interest, furthers our relationship with the Marshalls and Micronesia, and protects American taxpayer dollars, and I urge its approval.

Thank you, and I yield back the balance of my time.

Mr. SMITH OF NEW JERSEY. Thank you.

Any other Member wishing to be heard? If not, are there any amendments to the pending legislation? If not, the question occurs on the amendment.

All those in favor will say aye. Opposed, say no.

The question occurs on the amendment in the nature of a substitute. Without objection, the previous question is ordered and further proceedings are postponed.

The next item on the agenda is H.R. 2620, the Trafficking Victims Protection Reauthorization Act of 2003 for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[H.R. 2620 follows:]

108TH CONGRESS  
1ST SESSION

# H. R. 2620

To authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2003

Mr. SMITH of New Jersey (for himself, Mr. LANTOS, Mr. PITTS, Ms. SLAUGHTER, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trafficking Victims  
5 Protection Reauthorization Act of 2003”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) Trafficking in persons continues to victimize  
2           countless men, women, and children in the United  
3           States and abroad.

4           (2) Since the enactment of the Trafficking Vic-  
5           tims Protection Act of 2000 (division A of Public  
6           Law 106–386), the United States Government has  
7           made significant progress in investigating and pro-  
8           secuting acts of trafficking and in responding to the  
9           needs of victims of trafficking in the United States  
10          and abroad.

11          (3) On the other hand, victims of trafficking  
12          have faced unintended obstacles in the process of se-  
13          curing needed assistance, including admission to the  
14          United States under section 101(a)(15)(T)(i) of the  
15          Immigration and Nationality Act.

16          (4) Additional research is needed to fully under-  
17          stand the phenomenon of trafficking in persons and  
18          to determine the most effective strategies for com-  
19          bating trafficking in persons.

20          (5) Corruption amongst law enforcement au-  
21          thorities continues to undermine the efforts by gov-  
22          ernments to investigate, prosecute, and convict traf-  
23          fickers.

24          (6) International Law Enforcement Academies  
25          should be more fully utilized in the effort to train

1 law enforcement authorities, prosecutors, and mem-  
2 bers of the judiciary to address trafficking in per-  
3 sons-related crimes.

4 **SEC. 3. ENHANCING PREVENTION OF TRAFFICKING IN PER-**  
5 **SONS.**

6 (a) **TERMINATION OF CERTAIN GRANTS, CONTRACTS**  
7 **AND COOPERATIVE AGREEMENTS.—**

8 (1) **TERMINATION.—**

9 (A) **IN GENERAL.—**The President shall en-  
10 sure that any grant, contract, or cooperative  
11 agreement provided or entered into by a Fed-  
12 eral department or agency under which funds  
13 described in paragraph (2) are to be provided  
14 to a private entity, in whole or in part, shall in-  
15 clude a condition that authorizes the depart-  
16 ment or agency to terminate the grant, con-  
17 tract, or cooperative agreement, without pen-  
18 alty, if the grantee or any subgrantee, or the  
19 contractor or any subcontractor (i) engages in  
20 severe forms of trafficking in persons or has  
21 procured a commercial sex act during the pe-  
22 riod of time that the grant, contract, or cooper-  
23 ative agreement is in effect, or (ii) uses forced  
24 labor in the performance of the grant, contract,  
25 or cooperative agreement.

1 (B) DEFINITION.—In subparagraph (A),  
2 the term “severe forms of trafficking in per-  
3 sons” has the meaning given the term in sec-  
4 tion 103(8) of the Trafficking Victims Protec-  
5 tion Act of 2000 (22 U.S.C. 7102(8)).

6 (2) ASSISTANCE DESCRIBED.—Funds referred  
7 to in paragraph (1) are funds made available to  
8 carry out any program, project, or activity funded  
9 under major functional budget category 150 (relat-  
10 ing to international affairs).

11 (b) BORDER INTERDICTION, PUBLIC INFORMATION  
12 PROGRAMS, AND COMBATING INTERNATIONAL SEX TOUR-  
13 ISM.—Section 106 of the Trafficking Victims Protection  
14 Act of 2000 (22 U.S.C. 7104) is amended—

15 (1) by redesignating subsection (e) as sub-  
16 section (f);

17 (2) by inserting after subsection (b) the fol-  
18 lowing new subsections:

19 “(c) BORDER INTERDICTION.—The President shall  
20 establish and carry out programs of border interdiction  
21 by providing grants to nongovernmental organizations  
22 that provide for transit shelters operating at key border  
23 crossings and that help train survivors of trafficking in  
24 persons to work with local law enforcement as border mon-  
25 itors to help identify traffickers and trafficking victims to

1 stop the cross-border transit of victims. The President  
2 shall ensure that any program established under this sub-  
3 section provides the opportunity for any trafficking victim  
4 who is freed to return to his or her previous residence if  
5 the victim so chooses.

6 “(d) INTERNATIONAL MEDIA.—The President shall  
7 establish and carry out programs that support the produc-  
8 tion of television and radio programs, including documen-  
9 taries, to inform vulnerable populations overseas of the  
10 dangers of trafficking, including fostering linkages be-  
11 tween individuals working in the media in different coun-  
12 tries to determine the best methods for informing such  
13 populations through such media.

14 “(e) COMBATING INTERNATIONAL SEX TOURISM.—  
15 “(1) DEVELOPMENT AND DISSEMINATION OF  
16 MATERIALS.—The President, pursuant to such regu-  
17 lations as may be prescribed, shall (A) require that  
18 airlines organized under the laws of the United  
19 States and other airlines operating in the United  
20 States develop and disseminate materials alerting  
21 travelers that sex tourism (as defined in section  
22 2423(c–e) of title 18, United States Code) is illegal,  
23 will be prosecuted, and presents dangers to those in-  
24 volved, and (B) encourage such airlines to work with  
25 nongovernmental organizations in developing these



1 materials. Such materials may include, for example,  
2 brochures, public service announcements, and bill-  
3 boards.

4 “(2) MONITORING OF COMPLIANCE.—The  
5 President shall monitor compliance with the require-  
6 ments of paragraph (1).”; and

7 (3) in subsection (f) (as redesignated), by strik-  
8 ing “initiatives described in subsections (a) and (b)”  
9 and inserting “initiatives and programs described in  
10 subsections (a) through (e)”.

11 **SEC. 4. ENHANCING PROTECTION FOR TRAFFICKING VIC-**  
12 **TIMS.**

13 (a) AMENDMENTS TO TRAFFICKING VICTIMS PRO-  
14 TECTION ACT OF 2000.—

15 (1) COOPERATION BETWEEN FOREIGN GOVERN-  
16 MENTS AND NONGOVERNMENTAL ORGANIZATIONS.—  
17 Section 107(a)(1)(B) of the Trafficking Victims Pro-  
18 tection Act of 2000 (22 U.S.C. 7105(a)(1)(B)) is  
19 amended by adding at the end before the period the  
20 following: “, and by facilitating contact between rel-  
21 evant foreign government agencies and such non-  
22 governmental organizations to facilitate cooperation  
23 between the foreign governments and such organiza-  
24 tions”.

1           (2) ASSISTANCE FOR FAMILY MEMBERS OF VIC-  
2           TIMS OF TRAFFICKING IN UNITED STATES.—Section  
3           107(b)(1) of the Trafficking Victims Protection Act  
4           of 2000 (22 U.S.C. 7105(b)(1)) is amended—

5                   (A) in subparagraph (A), by inserting “, or  
6                   an alien classified as a nonimmigrant under  
7                   section 101(a)(15)(T)(ii),” after “in persons”;  
8                   and

9                   (B) in subparagraph (B), by inserting  
10                  “and aliens classified as a nonimmigrant under  
11                  section 101(a)(15)(T)(ii),” after “United  
12                  States,”.

13           (3) CERTIFICATION OF VICTIMS OF A SEVERE  
14           FORM OF TRAFFICKING IN PERSONS.—Section  
15           107(b)(1)(E)(i)(I) of the Trafficking Victims Protec-  
16           tion Act of 2000 (22 U.S.C. 7105(b)(1)(E)(i)(I)) is  
17           amended by striking “the investigation and prosecu-  
18           tion” and inserting “any Federal, State, or local in-  
19           vestigation or prosecution”.

20           (4) PRIVATE RIGHT OF ACTION.—Section  
21           107(b) of the Trafficking Victims Protection Act of  
22           2000 (22 U.S.C. 7105(b)) is amended by adding at  
23           the end the following new paragraph:

24                   “(3) CIVIL ACTION.—An individual who is a  
25                   victim of a violation of section 1589, 1590, or 1591

1 of title 18, United States Code, may bring a civil  
2 tion in any appropriate district court of the United  
3 States. The court may award actual damages, puni-  
4 tive damages, reasonable attorneys' fees, and other  
5 litigation costs reasonably incurred.”.

6 (b) AMENDMENTS TO IMMIGRATION AND NATION-  
7 ALITY ACT.—

8 (1) DEFINITIONS.—Section 101(a)(15)(T) of  
9 the Immigration and Nationality Act (8 U.S.C.  
10 1101(a)(15)(T)) is amended—

11 (A) in clause (i)(III)(aa), by inserting  
12 “from any Federal, State, or local law enforce-  
13 ment agency” after “reasonable request”;

14 (B) in clause (i)(III)(bb), by striking “15  
15 years of age,” and inserting “18 years of age,”  
16 and

17 (C) in clause (ii)(I), by inserting “unmar-  
18 ried siblings under 18 years of age,” before  
19 “and parents”.

20 (2) ADMISSION OF NONIMMIGRANTS.—Section  
21 214(n)(3) of the Immigration and Nationality Act (8  
22 U.S.C. 1184(n)(3)) is amended by inserting “sib-  
23 lings,” before “or parents”.

24 (3) ADJUSTMENT OF STATUS.—Section 245(l)  
25 of the Immigration and Nationality Act (8 U.S.C.

1 1255(l)) (as added by section 107(f) of Public Law  
2 106–386) is amended—

3 (A) in paragraph (1)—

4 (i) by striking “admitted under that  
5 section” and inserting “admitted under  
6 section 101(a)(15)(T)(ii)”; and

7 (ii) by inserting “sibling,” after “par-  
8 ents,”; and

9 (B) in paragraph (3)(B), by inserting “sib-  
10 lings,” after “daughters,”.

11 (c) WAIVER OF PUBLIC CHARGE GROUND FOR INAD-  
12 MISSIBILITY; PENALTIES FOR UNLAWFUL DISCLOSURE  
13 OF INFORMATION.—Section 214(n) of the Immigration  
14 and Nationality Act (8 U.S.C. 1184(n)) is amended by  
15 adding at the end the following:

16 “(4) In determining the admissibility of an alien  
17 under section 101(a)(15)(T), section 212(a)(4) shall not  
18 apply.

19 “(5)(A) Except as otherwise provided in this para-  
20 graph, in no case may the Secretary of State, the Sec-  
21 retary of Homeland Security, or any other official or em-  
22 ployee of the Department of State or the Department of  
23 Homeland Security (including any bureau or agency of ei-  
24 ther of such Departments) permit use by, or disclosure  
25 to, anyone, other than a sworn officer or employee of one

1 of such Departments for legitimate Department purposes,  
2 of any information that relates to an alien who has prop-  
3 erly filed a bona fide application for, or been granted, a  
4 visa or nonimmigrant status under section  
5 101(a)(15)(T)(i).

6 “(B) The limitation under subparagraph (A) shall  
7 terminate when the application described in such subpara-  
8 graph is denied and all opportunities for appeal of the de-  
9 nial have been exhausted.

10 “(C) The Secretary of State and the Secretary of  
11 Homeland Security may each provide, in each Secretary’s  
12 discretion, for the disclosure of information described in  
13 subparagraph (A) in the same manner and circumstances  
14 as census information may be disclosed by the Secretary  
15 of Commerce under section 8 of title 13, United States  
16 Code.

17 “(D) The Secretary of State and the Secretary of  
18 Homeland Security may each provide, in each Secretary’s  
19 discretion, for the disclosure of information described in  
20 subparagraph (A) to law enforcement officials to be used  
21 solely for a legitimate law enforcement purpose, such as  
22 the implementation of section 105(a) of this Act, section  
23 414(c) of the Uniting and Strengthening America by Pro-  
24 viding Appropriate Tools Required to Intercept and Ob-  
25 struct Terrorism (USA PATRIOT ACT) Act of 2001 (8

1 U.S.C. 1365a note), and the interoperable electronic data  
2 system described in section 202 of the Enhanced Border  
3 Security and Visa Entry Reform Act of 2002 (8 U.S.C.  
4 1722).

5 “(E) Subparagraph (A) shall not be construed as pre-  
6 venting disclosure of information in connection with judi-  
7 cial review of a determination in a manner that protects  
8 the confidentiality of such information.

9 “(F) Subparagraph (A) shall not be construed to su-  
10 percede section 222(f).

11 “(G) Subparagraph (A) shall not apply if the alien  
12 is an adult and has waived the restrictions of such sub-  
13 paragraph.

14 “(H) Whoever willfully uses, publishes, or permits in-  
15 formation to be disclosed in violation of this paragraph  
16 shall be subject to appropriate disciplinary action and sub-  
17 ject to a civil money penalty of not more than \$5,000 for  
18 each such violation.”.

19 **SEC. 5. ENHANCING PROSECUTIONS OF TRAFFICKERS.**

20 (a) SEX TRAFFICKING OF CHILDREN OR BY FORCE,  
21 FRAUD, OR COERCION.—Section 1591 of title 18, United  
22 States Code, is amended—

23 (1) in the heading, by inserting a comma after

24 “**FRAUD**”;

1 (2) in subsection (a)(1), by striking “in or af-  
2 fecting interstate commerce” and inserting “in or af-  
3 fecting interstate or foreign commerce, or within the  
4 special maritime and territorial jurisdiction of the  
5 United States”; and

6 (3) in subsection (b), by striking “the person  
7 transported” each place it appears and inserting  
8 “the person recruited, enticed, harbored, trans-  
9 ported, provided, or obtained”.

10 (b) DEFINITION OF RACKETEERING ACTIVITY.—Sec-  
11 tion 1961(1) of title 18, United States Code, is amended  
12 by inserting after “murder-for-hire),” the following: “sec-  
13 tion 1589 (relating to forced labor), section 1590 (relating  
14 to trafficking with respect to peonage, slavery, involuntary  
15 servitude, or forced labor), section 1591 (relating to sex  
16 trafficking of children or by force, fraud, or coercion),”.

17 **SEC. 6. ENHANCING UNITED STATES EFFORTS TO COMBAT**  
18 **TRAFFICKING.**

19 (a) REPORT.—

20 (1) IN GENERAL.—Section 105(d) of the Vic-  
21 tims of Trafficking and Violence Protection Act of  
22 2000 (22 U.S.C. 7103(d)) is amended by adding at  
23 the end the following new paragraph:

24 “(7) Not later than February 1, 2004, and  
25 2005, the Task Force, acting through the Office to

1 Monitor and Combat Trafficking of the Department  
2 of State (established under subsection (e)), shall  
3 submit to the Committee on Ways and Means, the  
4 Committee on International Relations, and the Com-  
5 mittee on the Judiciary of the House of Representa-  
6 tives and the Committee on Finance, the Committee  
7 on Foreign Relations, and the Committee on the Ju-  
8 diciary of the Senate, a report on Federal agencies  
9 that are implementing any provision of this division,  
10 or any amendment made by this division, which shall  
11 include, at a minimum, information on—

12 “(A) the number of persons who received  
13 benefits or other services under section 107(b)  
14 in connection with programs or activities fund-  
15 ed or administered by the Secretary of Health  
16 and Human Services, the Secretary of Labor,  
17 the Board of Directors of the Legal Services  
18 Corporation, and other appropriate Federal  
19 agencies during the preceding fiscal year;

20 “(B) the number of persons who have been  
21 granted continued presence in the United  
22 States under section 107(c)(3) during the pre-  
23 ceding fiscal year;

24 “(C) the number of persons who have ap-  
25 plied for, been granted, or been denied a visa or



1 otherwise provided status under section  
2 101(a)(15)(T)(i) of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1101(a)(15)(T)(i)) dur-  
4 ing the preceding fiscal year;

5 “(D) the number of persons who have been  
6 charged or convicted under one or more of sec-  
7 tions 1581, 1583, 1584, 1589, 1590, 1591,  
8 1592, or 1594 of title 18, United States Code,  
9 during the preceding fiscal year and the sen-  
10 tences imposed against each such person;

11 “(E) the amount, recipient, and purpose of  
12 each grant issued by any Federal agency to  
13 carry out the purposes of sections 106 and 107  
14 of this Act, or section 134 of the Foreign As-  
15 sistance Act of 1961, during the preceding fis-  
16 cal year; and

17 “(F) the nature of training conducted pur-  
18 suant to section 107(c)(4) during the preceding  
19 fiscal year.”.

20 (2) CONFORMING AMENDMENT.—Section  
21 107(b)(1) of the Victims of Trafficking and Violence  
22 Protection Act of 2000 (22 U.S.C. 7105(b)(1)) is  
23 amended by striking subparagraph (D).

24 (b) SUPPORT FOR THE TASK FORCE.—

1           (1) AMENDMENT.—The second sentence of sec-  
2           tion 105(e) of the Victims of Trafficking and Violence  
3           Protection Act of 2000 (22 U.S.C. 7103(e)) is  
4           amended by inserting at the end before the period  
5           the following: “, who shall be appointed by the  
6           President, by and with the advice and consent of the  
7           Senate, with the rank of Ambassador-at-Large”.

8           (2) APPLICABILITY.—The individual who holds  
9           the position of Director of the Office to Monitor and  
10          Combat Trafficking of the Department of State may  
11          continue to hold such position notwithstanding the  
12          amendment made by paragraph (1).

13          (c) SENIOR POLICY OPERATING GROUP.—

14           (1) AMENDMENT.—Section 105 of the Victims  
15           of Trafficking and Violence Protection Act of 2000  
16           (22 U.S.C. 7103) is amended by adding at the end  
17           the following new subsection:

18           “(f) SENIOR POLICY OPERATING GROUP.—

19           “(1) ESTABLISHMENT.—There shall be estab-  
20           lished within the Task Force a Senior Policy Oper-  
21           ating Group.

22           “(2) MEMBERSHIP; RELATED MATTERS.—

23           “(A) IN GENERAL.—The Operating Group  
24           shall consist of the senior officials designated as  
25           representatives of the appointed members of the

1 Task Force (pursuant to Executive Order  
2 13257 of February 13, 2002).

3 “(B) CHAIRPERSON.—The Operating  
4 Group shall be chaired by the Director of the  
5 Office to Monitor and Combat Trafficking of  
6 the Department of State.

7 “(C) MEETINGS.—The Operating Group  
8 shall meet on a regular basis at the call of the  
9 Chairperson.

10 “(3) DUTIES.—The Operating Group shall co-  
11 ordinate activities of Federal departments and agen-  
12 cies regarding policies (including grants and grant  
13 policies) involving the international trafficking in  
14 persons and the implementation of this division.

15 “(4) AVAILABILITY OF INFORMATION.—The  
16 Operating Group shall fully share information re-  
17 garding plans of Federal departments and agencies,  
18 before and after final agency decisions are made, on  
19 all matters regarding grants, grant policies, and  
20 other significant actions regarding the international  
21 trafficking in persons and the implementation of this  
22 division.”.

23 (2) CONFORMING AMENDMENT.—Section 406  
24 of the Department of State and Related Agency Ap-

1        appropriations Act, 2003 (as contained in division B of  
2        Public Law 108–7) is hereby repealed.

3        (d) MINIMUM STANDARDS FOR THE ELIMINATION OF  
4        TRAFFICKING.—Section 108(b) of the Victims of Traf-  
5        ficking and Violence Protection Act of 2000 (22 U.S.C.  
6        7106(b)) is amended—

7                (1) in paragraph (1)—

8                        (A) by striking “that take place wholly or  
9                        partly within the territory of the country” and  
10                        inserting “, and convicts and sentences persons  
11                        responsible for such acts, that take place wholly  
12                        or partly within the territory of the country”;  
13                        and

14                        (B) by adding at the end the following new  
15                        sentence: “After reasonable requests from the  
16                        Department of State for data regarding inves-  
17                        tigation, prosecutions, convictions, and sen-  
18                        tences, a government which does not provide  
19                        such data consistent with its resources shall be  
20                        presumed not to have vigorously investigated,  
21                        prosecuted, convicted or sentenced such acts.”;  
22                        and

23                (2) in paragraph (7)—

1 (A) by striking “and prosecutes” and in-  
2 sserting “, prosecutes, convicts, and sentences”;  
3 and

4 (B) by adding at the end the following new  
5 sentence: “After reasonable requests from the  
6 Department of State for data regarding such  
7 investigations, prosecutions, convictions, and  
8 sentences, a government which does not provide  
9 such data consistent with its resources shall be  
10 presumed not to have vigorously investigated,  
11 prosecuted, convicted, or sentenced such acts.”.

12 (e) ENHANCING UNITED STATES ASSISTANCE.—Sec-  
13 tion 134(b)of the Foreign Assistance Act of 1961 (22  
14 U.S.C. 2152d(b)) is amended by adding at the end the  
15 following new sentence: “Assistance may be provided  
16 under this section notwithstanding section 660 of this  
17 Act.”.

18 (f) RESEARCH RELATING TO TRAFFICKING IN PER-  
19 SONS.—

20 (1) IN GENERAL.—The Victims of Trafficking  
21 and Violence Protection Act of 2000 (22 U.S.C.  
22 7101 et seq.) is amended by inserting after section  
23 112 the following new section:

1 **“SEC. 112A. RESEARCH ON DOMESTIC AND INTERNATIONAL**  
2 **TRAFFICKING IN PERSONS.**

3 “The President, acting through the Council of Eco-  
4 nomic Advisors, the National Research Council of the Na-  
5 tional Academies, the Secretary of Labor, the Secretary  
6 of Health and Human Services, the Attorney General, the  
7 Secretary of State, the Administrator of the United States  
8 Agency for International Development, and the Director  
9 of Central Intelligence, shall carry out research, including  
10 by providing grants to nongovernmental organizations,  
11 which furthers the purposes of this division and provides  
12 data to address the problems identified in the findings of  
13 this division. Such research initiatives shall, to the max-  
14 imum extent practicable, include, but not be limited to,  
15 the following:

16 “(1) The economic causes and consequences of  
17 trafficking in persons.

18 “(2) The effectiveness of programs and initia-  
19 tives funded or administered by Federal agencies to  
20 prevent trafficking in persons and to protect and as-  
21 sist victims of trafficking.

22 “(3) The interrelationship between trafficking  
23 in persons and global health risks.”

24 (2) CONFORMING AMENDMENT.—The table of  
25 contents of the Victims of Trafficking and Violence  
26 Protection Act of 2000 is amended by inserting after

1 the item relating to section 112 the following new  
2 item:

“Sec. 112A. Research on domestic and international trafficking in persons.”.

3 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS; RELATED**  
4 **MATTERS.**

5 Section 113 of the Trafficking Victims Protection Act  
6 of 2000 (22 U.S.C. 7110) is amended—

7 (1) in subsection (a), by striking “and  
8 \$3,000,000 for each of the fiscal years 2002 and  
9 2003” and inserting “, \$3,000,000 for each of the  
10 fiscal years 2002 and 2003, and \$4,000,000 for  
11 each of the fiscal years 2004 and 2005”;

12 (2) in subsection (b), by adding at the end be-  
13 fore the period the following: “and \$15,000,000 for  
14 each of the fiscal years 2004 and 2005”;

15 (3) in subsection (c)—

16 (A) in paragraph (1) to read as follows:

17 “(1) BILATERAL ASSISTANCE TO COMBAT TRAF-  
18 FICKING.—

19 “(A) PREVENTION.—To carry out the pur-  
20 poses of section 106, there are authorized to be  
21 appropriated to the Secretary of State  
22 \$15,000,000 for each of the fiscal years 2004  
23 and 2005.

24 “(B) PROTECTION.—To carry out the pur-  
25 poses of section 107(a), there are authorized to

1 be appropriated to the Secretary of State  
2 \$15,000,000 for each of the fiscal years 2003  
3 and 2005.

4 “(C) PROSECUTION AND MEETING MIN-  
5 IMUM STANDARDS.—To carry out the purposes  
6 of section 134 of the Foreign Assistance Act of  
7 1961, there are authorized to be appropriated  
8 \$15,000,000 for each of the fiscal years 2004  
9 and 2005 to assist in promoting prosecution of  
10 traffickers and otherwise to assist countries in  
11 meeting the minimum standards described in  
12 section 108 of this Act, including \$250,000 for  
13 each such fiscal year to carry out training ac-  
14 tivities for law enforcement officers, prosecu-  
15 tors, and members of the judiciary with respect  
16 to trafficking in persons at the International  
17 Law Enforcement Academies.”; and

18 (B) in paragraph (2), by striking “for each  
19 of the fiscal years 2001, 2002, and 2003” and  
20 inserting “for each of the fiscal years 2001  
21 through 2005”;

22 (4) in subsection (d)—

23 (A) by adding at the end before the period  
24 the following: “and \$15,000,000 for each of the  
25 fiscal years 2004 and 2005”; and



1 (B) by adding at the end the following new  
2 sentence: “To carry out the purposes of section  
3 134 of the Foreign Assistance Act of 1961 (as  
4 added by section 109), there are authorized to  
5 be appropriated to the President, acting  
6 through the Attorney General, \$250,000 for  
7 each of fiscal years 2004 and 2005 to carry out  
8 training activities for law enforcement officers,  
9 prosecutors, and members of the judiciary with  
10 respect to trafficking in persons at the Inter-  
11 national Law Enforcement Academies.”;

12 (5) in subsection (e)—

13 (A) in paragraphs (1) and (2), by striking  
14 “for fiscal year 2003” each place it appears and  
15 inserting “for each of the fiscal years 2003  
16 through 2005”; and

17 (B) by adding at the end the following new  
18 paragraph:

19 “(3) RESEARCH.—To carry out the purposes of  
20 section 112A, there are authorized to be appro-  
21 priated to the President \$300,000 for fiscal year  
22 2004 and \$300,000 for fiscal year 2005.”;

23 (6) in subsection (f), by adding at the end be-  
24 fore the period the following: “and \$10,000,000 for  
25 each of the fiscal years 2004 and 2005”; and

1           (7) by adding at the end the following new sub-  
2 section:

3           “(g) LIMITATION ON USE OF FUNDS.—

4           “(1) RESTRICTION ON PROGRAMS.—No funds  
5 made available to carry out this division, or any  
6 amendment made by this division, may be used to  
7 promote, support, or advocate the legalization or  
8 practice of prostitution. Nothing in the preceding  
9 sentence shall be construed to preclude assistance  
10 designed to promote the purposes of this Act by  
11 ameliorating the suffering of, or health risks to, vic-  
12 tims while they are being trafficked or after they are  
13 out of the situation that resulted from such victims  
14 being trafficked.

15           “(2) RESTRICTION ON ORGANIZATIONS.—No  
16 funds made available to carry out this division, or  
17 any amendment made by this division, may be used  
18 to implement any program that targets victims of se-  
19 vere forms of trafficking in persons described in sec-  
20 tion 103(8)(A) of this Act through any organization  
21 that has not stated in either a grant application, a  
22 grant agreement, or both, that it does not promote,  
23 support, or advocate the legalization or practice of  
24 prostitution. The preceding sentence shall not apply  
25 to organizations that provide services to individuals

1 solely after they are no longer engaged in activities  
2 that resulted from such victims being trafficked.”.

3 **SEC. 8. TECHNICAL CORRECTIONS.**

4 (a) IMMIGRATION AND NATIONALITY ACT.—

5 (1) CLASSES OF NONIMMIGRANT ALIENS.—Sec-  
6 tion 101(a)(15) of the Immigration and Nationality  
7 Act (8 U.S.C. 1101(a)(15)) is amended—

8 (A) by moving the margins of subpara-  
9 graphs (T) and (U) 2 ems to the left;

10 (B) in subparagraph (T), by striking  
11 “214(n),” and inserting “214(o),”;

12 (C) in subparagraph (U), by striking  
13 “214(o),” and inserting “214(p),”;

14 (D) in subparagraph (V), by striking  
15 “214(o),” and inserting “214(q),”.

16 (2) CLASSES OF ALIENS INELIGIBLE FOR VISAS  
17 AND ADMISSION.—Section 212(d) of the Immigra-  
18 tion and Nationality Act (8 U.S.C. 1182(d)) is  
19 amended by redesignating the paragraph (13) added  
20 by section 1513(e) of the Battered Immigrant  
21 Women Protection Act of 2000 (title V of division  
22 B of Public Law 106–386; 114 Stat. 1536) as para-  
23 graph (14).

24 (3) ADMISSION OF NONIMMIGRANTS.—Section  
25 214 of the Immigration and Nationality Act (8

1 U.S.C. 1184) is amended by redesignating sub-  
2 sections (m) (as added by section 105 of Public Law  
3 106–313), (n) (as added by section 107(e) of Public  
4 Law 106–386), (o) (as added by section 1513(e) of  
5 Public Law 106–386), (o) (as added by section  
6 1102(b) of the Legal Immigration Family Equity  
7 Act), and (p) (as added by section 1503(b) of the  
8 Legal Immigration Family Equity Act) as sub-  
9 sections (n), (o), (p), (q), and (r), respectively.

10 (4) ADJUSTMENT OF STATUS OF NON-  
11 IMMIGRANTS.—Section 245 of the Immigration and  
12 Nationality Act (8 U.S.C. 1255) is amended—

13 (A) in the subsection (l) added by section  
14 107(f) of Public Law 106–386, by redesign-  
15 ating the second paragraph (2), and para-  
16 graphs (3) and (4), as paragraphs (3), (4), and  
17 (5), respectively; and

18 (B) by redesignating the subsection (l)  
19 added by section 1513(f) of Public Law 106–  
20 386 as subsection (m).

21 (b) TRAFFICKING VICTIMS PROTECTION ACT OF  
22 2000.—(1) Section 103(7)(A)(i) of the Trafficking Vic-  
23 tims Protection Act of 2000 (22 U.S.C. 7102(7)(A)(i)) is  
24 amended by inserting after “part II of that Act” the fol-

1 lowing: “in support of programs of nongovernmental orga-  
2 nizations”.

3 (2) Section 107(g) of the Trafficking Victims Protec-  
4 tion Act of 2000 (22 U.S.C. 7105(g)) is amended by strik-  
5 ing “214(n)(1)” and inserting “214(o)(2)”.

○

Mr. SMITH OF NEW JERSEY. And the Chair yields himself 5 minutes to explain this piece of legislation. Let me just make the point to my colleagues that back in 2000 we passed landmark legislation that established a comprehensive reaction, and really with a number of proactive elements to it, to try to mitigate this modern-day slavery that we call human trafficking. It was a bipartisan bill. Mr. Davidson, Mr. Lantos and I—and many of us worked night after night. It took almost 2 years to enact that legislation.

Its desire was to protect the victims, the women who have been trafficked, or the men—but most of them are women—to provide very serious sanctions and criminal penalties and civil penalties on those who traffic. It focuses on the governments around the world that are complicit or acquiescing to this horrific problem called human trafficking.

That legislation has made a difference. But we are now at the point of a need to reauthorize many of the money aspects, although much of it was permanent law. And what you have before you today is a comprehensive reauthorization. Mr. Lantos is the principal cosponsor. I have introduced the bill, Mr. Pitts is a cosponsor, and we have a very broad bipartisan group of individuals in an attempt to make a good piece of legislation even better.

The legislation has a number of very serious components. We have discovered, as in any piece of legislation, there are always glitches, something you miss the first time around. These are fixed and remedied with the pending legislation before you and I would hope that every Member can support this.

I yield to Mr. Lantos.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND VICE CHAIRMAN, COMMITTEE ON INTERNATIONAL RELATIONS

H.R. 2620

Chairman Hyde, I thank you for taking up this reauthorization legislation as a priority matter. Your leadership and the leadership of this Committee in passing the Trafficking Victims Protection Act, and generally being champions for victims of trafficking, has made the difference in U.S. law and in the countless lives of those victimized through this modern-day slavery.

Mr. Chairman, I introduced the Trafficking Victims Protection Reauthorization Act of 2003, H.R. 2620, along with my good friends Mr. Lantos and Mr. Pitts, because our work in fighting the scourge of human trafficking did not end when the President signed the Trafficking Victims Protection Act in October 2000. We have not yet eradicated modern-day slavery and, until that day comes, all governments must continuously reinforce their efforts to end this endemic violation of human rights and human dignity.

As a result of the TVPA, and our government's resulting allocation of resources to combat trafficking, federal prosecutors initiated prosecutions of 79 traffickers in the past two years. That is three times as many as in the two previous years. Nearly 400 survivors of trafficking in the United States have received assistance through the Department of Health and Human Services to begin recovering from their trauma and to rebuild their shattered lives. Thanks to the efforts of the State Department, USAID, and the spotlight put on the issue through the annual TIP Report, governments worldwide are also taking action against human trafficking.

But, despite these inroads, countless people continue to be bought and sold for exploitation every day. Victims are facing unintended obstacles in the process of securing needed assistance, including the "T visa." Law enforcement officials have not yet seriously addressed trafficking in persons as an organized crime activity. We haven't yet targeted sex tourism as a contributing factor in the demand for trafficked persons in prostitution. And more specialized, objective research is needed to effectively

counter the phenomenon of trafficking. H.R. 2620 would address these and other areas of concern, as well as authorizing funding to continue the U.S. Government's efforts against trafficking.

H.R. 2620 is the product of months of consultation with the nongovernmental organizations and U.S. Government officials implementing the TVPA. It has five operative sections.

First, H.R. 2620 would expand the U.S. Government's trafficking prevention activities by directing the President to create programs that train trafficking survivors to educate border and law enforcement officials to identify traffickers and victims of trafficking, and the appropriate manner in which to treat such victims. It also directs the creation of media programs to inform vulnerable populations and the general public about the human rights abuses involved in trafficking.

The bill would address the involvement of U.S. Government contractors in trafficking. This issue was raised with the Committee last year during a hearing about DynCorp contractors' complicity in human trafficking while working on U.S. Government contracts in Bosnia. H.R. 2620 ensures that trafficking will be a matter of discussion between U.S. Government agencies and contractors by requiring that grants, contracts or cooperative agreements must contain a clause allowing the U.S. Government to terminate the grant, contract or cooperative agreement if the grantee or contractor (a) engages in severe forms of trafficking in persons or procures a commercial sex act while the grant, contract, or cooperative agreement is in effect, or (b) uses forced labor in the performance of the grant, contract, or cooperative agreement.

H.R. 2620 also seeks to discourage U.S. citizens and others in the U.S. from creating a demand for trafficking through sex tourism. Under the bill, airlines organized under U.S. law, or operating in the U.S., would be required to develop and disseminate materials alerting travelers that sex tourism is illegal and will be prosecuted under U.S. law. Much to the dismay of NGOs that have offered to work with U.S. airlines on such a program, U.S. carriers have not been willing to do so voluntarily. Air France, on the other hand, has been disseminating such material for some time.

In its second operative section—section number 4 in the bill—H.R. 2620 would enhance protections for trafficking victims by urging the U.S. Government to facilitate contact between foreign governments and NGOs, with a view to improving public-private cooperation in protecting victims. The remainder of this section addresses issues beyond this Committee's jurisdiction, such as improvements to the TVPA that overcome obstacles to obtaining T-visas and other benefits to which victims are entitled. The bill would also make changes to immigration laws to better fulfill the TVPA's intention to treat victims of trafficking similarly to refugees.

Likewise the third operative section of H.R. 2620, section number 5, falls outside this committee's jurisdiction, but is designed to increase prosecutions of traffickers by expanding the jurisdictional basis for prosecuting acts of sex trafficking and by add the trafficking offenses created by the TVPA to the list of "racketeering activities" for purposes of the Federal RICO statute.

Fourth, H.R. 2620 would improve U.S. efforts to combat trafficking. To accomplish this, the Interagency Task Force would be required, for the next two years, to report on federal trafficking programs and initiatives. The bill would give the Director of the State Department's Anti-Trafficking Office the rank of "Ambassador-at-Large." The bill would require the establishment of a Senior Policy Operating Group to coordinate international trafficking in persons activities of Federal departments and agencies. H.R. 2620 also directs the President, through various departments and agencies, to conduct specialized research in the area of trafficking in persons. Perhaps most significantly, H.R. 2620 would clarify one of the TVPA criteria for determining whether a foreign government is meeting minimum standards to combat trafficking by requiring that the State Department must consider foreign government's records on convictions and sentences for acts of trafficking, in addition to investigations and prosecutions as the TVPA currently provides.

Finally, the bill authorizes appropriations for fiscal years 2004 and 2005 to continue our government's efforts in this area. In fiscal year 2002, the U.S. Government allocated \$68.2 million to combat trafficking. H.R. 2620 authorizes \$105.85 million for each of fiscal years 2004 and 2005. The bill also creates a new proviso that no funds may be used to promote, support, or advocate the legalization or practice of prostitution. Any organization receiving funds must state in a grant application and/or agreement that it does not promote, support, or advocate the legalization or practice of prostitution.

Mr. Chairman, the Trafficking Victims Protection Act of 2000 enjoyed broad, bipartisan support in both Houses of Congress. We are making progress in our battle against modern day slavery, but clearly there is still much work to be done by gov-

ernment authorities, by civil society, by our faith communities, and by all men and women of good will. As lawmakers, we have the opportunity to make our contribution to this endeavor. I strongly urge my colleagues to support this commonsense reauthorization bill to support and enhance the good work which has been undertaken.

Mr. LANTOS. Thank you very much, Mr. Chairman. Let me first pay public tribute to you for your extraordinary leadership on this issue which all of us on both sides of the aisle have admired. I would like to ask permission to place my prepared statement in the record for the benefit of saving some time; also my prepared statement on the other issues that we are considering.

I also want to commend my good friends, Mr. Leach and Mr. Faleomavaega on their work with respect to the previous legislation. And if I may, Mr. Chairman, I want to recognize three members of the Democratic staff for their excellent work on these three bills: David Abramowitz on trafficking and torture victims; Hans Hogrfe on torture victims; and Peter Yeo on the Compact of Free Association.

And I yield back the balance of my time.

[The prepared statement of Mr. Lantos follows:]

PREPARED STATEMENT OF THE HONORABLE TOM LANTOS, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF CALIFORNIA

H.R. 2620

Mr. Chairman, I am proud to co-sponsor H.R. 2620, the Trafficking Victims Protection Act of 2003, with my good friend from New Jersey, the Vice-Chairman of the Committee. And I would like to congratulate him for his continuing dedication to the critical issue of trafficking in persons.

Mr. Chairman, in the 106th Congress, Mr. Smith and our former colleague, Sam Gejdenson of Connecticut, expended enormous energy to pass the Trafficking Victims Protection Act of 2000. At that time, thousands of men and women were being forced to labor in our fields without pay, to work endless hours in sweatshops, and to serve in sexual slavery in cities across this country. U.S. prosecution of traffickers faltered because attorneys in our Department of Justice did not have the right tools to pursue the new forms of trafficking, which often relied on threats, not chains, and on document fraud, not bills of sale.

Overseas, millions of people were being used as chattel, and the brothels of Bombay and Bangkok were overflowing with prostitutes, many young girls, who were forced to provide sex. Governments were barely aware of what was happening to their own people, and where they were, they usually blamed the victims and forgot about them.

Today the picture is visibly brighter. Because of the enactment of the Trafficking Victims Protection Act of 2000, the Attorney General is prosecuting cases from American Samoa to New Jersey.

Victims are coming forward because of the federal benefits we are offering to them, treating them like the refugees that they are. The naming of countries that are not making significant efforts to combat trafficking and the threat of sanctions against them are forcing measurable changes in the way that governments around the world are facing this modern day form of slavery. Modern day slavery is under assault from all directions.

But Mr. Speaker, we need to do more. In the two-and-a-half years since the enactment of the trafficking legislation, we have learned much more about the phenomena of trafficking and how to combat it. The legislation before us today, the Trafficking Victims Reauthorization Act of 2003, implements these new lessons.

Drawing from the conference earlier this year held by the Department of State, this bill authorizes new strategies for prevention, including using trafficking victims to identify traffickers at the borders and deterring sex tourism, which is part of the fuel of sex slavery around the world.

It increases protection by making measured expansions of the visa category for trafficking victims and related provisions to better enable cooperation, particularly with respect to state and local trafficking prosecutions, which are increasingly the front line of law enforcement in this area. And it enhances prosecution of traffickers



by, for example, ensuring that trafficking is treated like the organized crime that it is.

Perhaps most critically, it demonstrates Congressional commitment to fighting this scourge by authorizing additional funds for U.S. agencies to combat this human rights crisis around the world.

Mr. Chairman, this is a good bipartisan bill and I urge all my colleagues to support it.

Mr. SMITH OF NEW JERSEY. I thank you. Without objection, your full statement, Mr. Lantos, and that of all Members will be made a part of the record, and that goes for mine as well.

Let me just—I do have an amendment in the nature of a substitute at the desk and the clerk will designate.

[The information referred to follows:]

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 2620  
OFFERED BY MR. SMITH OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Trafficking Victims  
3 Protection Reauthorization Act of 2003”.

**4 SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) Trafficking in persons continues to victimize  
7 countless men, women, and children in the United  
8 States and abroad.

9 (2) Since the enactment of the Trafficking Vic-  
10 tims Protection Act of 2000 (division A of Public  
11 Law 106–386), the United States Government has  
12 made significant progress in investigating and pros-  
13 ecuting acts of trafficking and in responding to the  
14 needs of victims of trafficking in the United States  
15 and abroad.

16 (3) On the other hand, victims of trafficking  
17 have faced unintended obstacles in the process of se-  
18 curing needed assistance, including admission to the

1 United States under section 101(a)(15)(T)(i) of the  
2 Immigration and Nationality Act.

3 (4) Additional research is needed to fully under-  
4 stand the phenomenon of trafficking in persons and  
5 to determine the most effective strategies for com-  
6 bating trafficking in persons.

7 (5) Corruption among foreign law enforcement  
8 authorities continues to undermine the efforts by  
9 governments to investigate, prosecute, and convict  
10 traffickers.

11 (6) International Law Enforcement Academies  
12 should be more fully utilized in the effort to train  
13 law enforcement authorities, prosecutors, and mem-  
14 bers of the judiciary to address trafficking in per-  
15 sons-related crimes.

16 **SEC. 3. ENHANCING PREVENTION OF TRAFFICKING IN PER-**  
17 **SONS.**

18 (a) BORDER INTERDICTION, PUBLIC INFORMATION  
19 PROGRAMS, AND COMBATING INTERNATIONAL SEX TOUR-  
20 ISM.—Section 106 of the Trafficking Victims Protection  
21 Act of 2000 (22 U.S.C. 7104) is amended—

22 (1) by redesignating subsection (c) as sub-  
23 section (f);

24 (2) by inserting after subsection (b) the fol-  
25 lowing new subsections:

1       “(c) BORDER INTERDICTION.—The President shall  
2 establish and carry out programs of foreign border inter-  
3 diction by providing grants to nongovernmental organiza-  
4 tions that provide for transit shelters operating at key bor-  
5 der crossings and that help train survivors of trafficking  
6 in persons to educate and train border guards and offi-  
7 cials, and other local law enforcement officials, to identify  
8 traffickers and victims of severe forms of trafficking, and  
9 the appropriate manner in which to treat such victims, as  
10 well as, to the extent appropriate, monitoring the imple-  
11 mentation of border interdiction programs, including help-  
12 ing in the identification of such victims to stop the cross-  
13 border transit of victims. The President shall ensure that  
14 any program established under this subsection provides  
15 the opportunity for any trafficking victim who is freed to  
16 return to his or her previous residence if the victim so  
17 chooses.

18       “(d) INTERNATIONAL MEDIA.—The President shall  
19 establish and carry out programs that support the produc-  
20 tion of television and radio programs, including documen-  
21 taries, to inform vulnerable populations overseas of the  
22 dangers of trafficking, and to increase awareness of the  
23 public in countries of destination regarding the slave-like  
24 practices and other human rights abuses involved in traf-  
25 ficking, including fostering linkages between individuals

1 working in the media in different countries to determine  
2 the best methods for informing such populations through  
3 such media.

4 “(e) COMBATING INTERNATIONAL SEX TOURISM.—

5 “(1) DEVELOPMENT AND DISSEMINATION OF  
6 MATERIALS.—The President, pursuant to such regu-  
7 lations as may be prescribed, shall (A) require that  
8 airlines organized under the laws of the United  
9 States and other airlines operating in the United  
10 States develop and disseminate materials alerting  
11 travelers that sex tourism (as defined in section  
12 2423(b-e) of title 18, United States Code) is illegal,  
13 will be prosecuted, and presents dangers to those in-  
14 volved, and (B) encourage such airlines to work with  
15 nongovernmental organizations in developing these  
16 materials. Such materials may include, for example,  
17 brochures, public service announcements, and bill-  
18 boards.

19 “(2) MONITORING OF COMPLIANCE.—The  
20 President shall monitor compliance with the require-  
21 ments of paragraph (1).”; and

22 (3) in subsection (f) (as redesignated), by strik-  
23 ing “initiatives described in subsections (a) and (b)”  
24 and inserting “initiatives and programs described in  
25 subsections (a) through (e)”.

1 (b) TERMINATION OF CERTAIN GRANTS, CONTRACTS  
2 AND COOPERATIVE AGREEMENTS.—Section 106 of such  
3 Act (as amended by subsection (a)) is further amended  
4 by adding at the end the following new subsection:

5 “(g) TERMINATION OF CERTAIN GRANTS, CON-  
6 TRACTS AND COOPERATIVE AGREEMENTS.—

7 “(1) TERMINATION.—

8 “(A) IN GENERAL.—The President shall  
9 ensure that any grant, contract, or cooperative  
10 agreement provided or entered into by a Fed-  
11 eral department or agency under which funds  
12 described in paragraph (2) are to be provided  
13 to a private entity, in whole or in part, shall in-  
14 clude a condition that authorizes the depart-  
15 ment or agency to terminate the grant, con-  
16 tract, or cooperative agreement, without pen-  
17 alty, if the grantee or any subgrantee, or the  
18 contractor or any subcontractor (i) engages in  
19 severe forms of trafficking in persons or has  
20 procured a commercial sex act during the pe-  
21 riod of time that the grant, contract, or cooper-  
22 ative agreement is in effect, or (ii) uses forced  
23 labor in the performance of the grant, contract,  
24 or cooperative agreement.

1           “(B) DEFINITION.—In subparagraph (A),  
2           the term ‘severe forms of trafficking in persons’  
3           has the meaning given the term in section  
4           103(8) of the Trafficking Victims Protection  
5           Act of 2000 (22 U.S.C. 7102(8)).

6           “(2) ASSISTANCE DESCRIBED.—Funds referred  
7           to in paragraph (1) are funds made available to  
8           carry out any program, project, or activity funded  
9           under major functional budget category 150 (relat-  
10          ing to international affairs).”.

11 **SEC. 4. ENHANCING PROTECTION FOR TRAFFICKING VIC-**  
12 **TIMS.**

13          (a) AMENDMENTS TO TRAFFICKING VICTIMS PRO-  
14          TECTION ACT OF 2000.—

15               (1) COOPERATION BETWEEN FOREIGN GOVERN-  
16               MENTS AND NONGOVERNMENTAL ORGANIZATIONS.—  
17               Section 107(a)(1)(B) of the Trafficking Victims Pro-  
18               tection Act of 2000 (22 U.S.C. 7105(a)(1)(B)) is  
19               amended by adding at the end before the period the  
20               following: “, and by facilitating contact between rel-  
21               evant foreign government agencies and such non-  
22               governmental organizations to facilitate cooperation  
23               between the foreign governments and such organiza-  
24               tions”.

1           (2) ASSISTANCE FOR FAMILY MEMBERS OF VIC-  
2 TIMS OF TRAFFICKING IN UNITED STATES.—Section  
3 107(b)(1) of the Trafficking Victims Protection Act  
4 of 2000 (22 U.S.C. 7105(b)(1)) is amended—

5           (A) in subparagraph (A), by inserting “, or  
6 an alien classified as a nonimmigrant under  
7 section 101(a)(15)(T)(ii),” after “in persons”;  
8 and

9           (B) in subparagraph (B), by inserting  
10 “and aliens classified as a nonimmigrant under  
11 section 101(a)(15)(T)(ii),” after “United  
12 States,”.

13           (3) CERTIFICATION OF VICTIMS OF A SEVERE  
14 FORM OF TRAFFICKING IN PERSONS.—Section  
15 107(b)(1)(E)(i)(I) of the Trafficking Victims Protec-  
16 tion Act of 2000 (22 U.S.C. 7105(b)(1)(E)(i)(I)) is  
17 amended by striking “the investigation and prosecu-  
18 tion” and inserting “any Federal, State, or local in-  
19 vestigation or prosecution”.

20           (4) PRIVATE RIGHT OF ACTION.—Section  
21 107(b) of the Trafficking Victims Protection Act of  
22 2000 (22 U.S.C. 7105(b)) is amended by adding at  
23 the end the following new paragraph:

24           “(3) CIVIL ACTION.—An individual who is a  
25 victim of a violation of section 1589, 1590, or 1591



1 of title 18, United States Code, may bring a civil  
2 tion in any appropriate district court of the United  
3 States. The court may award actual damages, puni-  
4 tive damages, reasonable attorneys' fees, and other  
5 litigation costs reasonably incurred.”

6 (b) AMENDMENTS TO IMMIGRATION AND NATION-  
7 ALITY ACT.—

8 (1) DEFINITIONS.—Section 101(a)(15)(T) of  
9 the Immigration and Nationality Act (8 U.S.C.  
10 1101(a)(15)(T)) is amended—

11 (A) in clause (i)(III)(aa), by inserting  
12 “from any Federal, State, or local law enforce-  
13 ment agency” after “reasonable request”;

14 (B) in clause (i)(III)(bb), by striking “15  
15 years of age,” and inserting “18 years of age,”  
16 and

17 (C) in clause (ii)(I), by inserting “unmar-  
18 ried siblings under 18 years of age,” before  
19 “and parents”.

20 (2) ADMISSION OF NONIMMIGRANTS.—Section  
21 214(n)(3) of the Immigration and Nationality Act (8  
22 U.S.C. 1184(n)(3)) is amended by inserting “sib-  
23 lings,” before “or parents”.

24 (3) ADJUSTMENT OF STATUS.—Section 245(l)  
25 of the Immigration and Nationality Act (8 U.S.C.

1 1255(l)) (as added by section 107(f) of Public Law  
2 106–386) is amended—

3 (A) in paragraph (1)—

4 (i) by striking “admitted under that  
5 section” and inserting “admitted under  
6 section 101(a)(15)(T)(ii)”; and

7 (ii) by inserting “sibling,” after “par-  
8 ents,”; and

9 (B) in paragraph (3)(B), by inserting “sib-  
10 lings,” after “daughters,”.

11 (c) WAIVER OF PUBLIC CHARGE GROUND FOR INAD-  
12 MISSIBILITY; PENALTIES FOR UNLAWFUL DISCLOSURE  
13 OF INFORMATION.—Section 214(n) of the Immigration  
14 and Nationality Act (8 U.S.C. 1184(n)) is amended by  
15 adding at the end the following:

16 “(4) In determining the admissibility of an alien  
17 under section 101(a)(15)(T), section 212(a)(4) shall not  
18 apply.

19 “(5)(A) Except as otherwise provided in this para-  
20 graph, in no case may the Secretary of State, the Sec-  
21 retary of Homeland Security, or any other official or em-  
22 ployee of the Department of State or the Department of  
23 Homeland Security (including any bureau or agency of ei-  
24 ther of such Departments) permit use by, or disclosure  
25 to, anyone, other than a sworn officer or employee of one

1 of such Departments for legitimate Department purposes,  
2 of any information that relates to an alien who has prop-  
3 erly filed a bona fide application for, or been granted, a  
4 visa or nonimmigrant status under section  
5 101(a)(15)(T)(i).

6 “(B) The limitation under subparagraph (A) shall  
7 terminate when the application described in such subpara-  
8 graph is denied and all opportunities for appeal of the de-  
9 nial have been exhausted.

10 “(C) The Secretary of State and the Secretary of  
11 Homeland Security may each provide, in each Secretary’s  
12 discretion, for the disclosure of information described in  
13 subparagraph (A) in the same manner and circumstances  
14 as census information may be disclosed by the Secretary  
15 of Commerce under section 8 of title 13, United States  
16 Code.

17 “(D) The Secretary of State and the Secretary of  
18 Homeland Security may each provide, in each Secretary’s  
19 discretion, for the disclosure of information described in  
20 subparagraph (A) to law enforcement officials to be used  
21 solely for a legitimate law enforcement purpose, such as  
22 the implementation of section 105(a) of this Act, section  
23 414(c) of the Uniting and Strengthening America by Pro-  
24 viding Appropriate Tools Required to Intercept and Ob-  
25 struct Terrorism (USA PATRIOT ACT) Act of 2001 (8

1 U.S.C. 1365a note), and the interoperable electronic data  
2 system described in section 202 of the Enhanced Border  
3 Security and Visa Entry Reform Act of 2002 (8 U.S.C.  
4 1722).

5 “(E) Subparagraph (A) shall not be construed as pre-  
6 venting disclosure of information in connection with judi-  
7 cial review of a determination in a manner that protects  
8 the confidentiality of such information.

9 “(F) Subparagraph (A) shall not be construed to su-  
10 percede section 222(f).

11 “(G) Subparagraph (A) shall not apply if the alien  
12 is an adult and has waived the restrictions of such sub-  
13 paragraph.

14 “(H) Whoever willfully uses, publishes, or permits in-  
15 formation to be disclosed in violation of this paragraph  
16 shall be subject to appropriate disciplinary action and sub-  
17 ject to a civil money penalty of not more than \$5,000 for  
18 each such violation.”.

19 **SEC. 5. ENHANCING PROSECUTIONS OF TRAFFICKERS.**

20 (a) SEX TRAFFICKING OF CHILDREN OR BY FORCE,  
21 FRAUD, OR COERCION.—Section 1591 of title 18, United  
22 States Code, is amended—

23 (1) in the heading, by inserting a comma after

24 “**FRAUD**”;

1 (2) in subsection (a)(1), by striking “in or af-  
2 fecting interstate commerce” and inserting “in or af-  
3 fecting interstate or foreign commerce, or within the  
4 special maritime and territorial jurisdiction of the  
5 United States”; and

6 (3) in subsection (b), by striking “the person  
7 transported” each place it appears and inserting  
8 “the person recruited, enticed, harbored, trans-  
9 ported, provided, or obtained”.

10 (b) DEFINITION OF RACKETEERING ACTIVITY.—Sec-  
11 tion 1961(1) of title 18, United States Code, is amended  
12 by inserting after “murder-for-hire),” the following: “sec-  
13 tion 1589 (relating to forced labor), section 1590 (relating  
14 to trafficking with respect to peonage, slavery, involuntary  
15 servitude, or forced labor), section 1591 (relating to sex  
16 trafficking of children or by force, fraud, or coercion),”.

17 **SEC. 6. ENHANCING UNITED STATES EFFORTS TO COMBAT**  
18 **TRAFFICKING.**

19 (a) REPORT.—

20 (1) IN GENERAL.—Section 105(d) of the Vic-  
21 tims of Trafficking and Violence Protection Act of  
22 2000 (22 U.S.C. 7103(d)) is amended by adding at  
23 the end the following new paragraph:

24 “(7) Not later than February 1, 2004, and  
25 2005, the Task Force, acting through the Office to

1 Monitor and Combat Trafficking of the Department  
2 of State (established under subsection (e)), shall  
3 submit to the Committee on Ways and Means, the  
4 Committee on International Relations, and the Com-  
5 mittee on the Judiciary of the House of Representa-  
6 tives and the Committee on Finance, the Committee  
7 on Foreign Relations, and the Committee on the Ju-  
8 diciary of the Senate, a report on Federal agencies  
9 that are implementing any provision of this division,  
10 or any amendment made by this division, which shall  
11 include, at a minimum, information on—

12 “(A) the number of persons who received  
13 benefits or other services under section 107(b)  
14 in connection with programs or activities fund-  
15 ed or administered by the Secretary of Health  
16 and Human Services, the Secretary of Labor,  
17 the Board of Directors of the Legal Services  
18 Corporation, and other appropriate Federal  
19 agencies during the preceding fiscal year;

20 “(B) the number of persons who have been  
21 granted continued presence in the United  
22 States under section 107(c)(3) during the pre-  
23 ceding fiscal year;

24 “(C) the number of persons who have ap-  
25 plied for, been granted, or been denied a visa or

1 otherwise provided status under section  
2 101(a)(15)(T)(i) of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1101(a)(15)(T)(i)) dur-  
4 ing the preceding fiscal year;

5 “(D) the number of persons who have been  
6 charged or convicted under one or more of sec-  
7 tions 1581, 1583, 1584, 1589, 1590, 1591,  
8 1592, or 1594 of title 18, United States Code,  
9 during the preceding fiscal year and the sen-  
10 tences imposed against each such person;

11 “(E) the amount, recipient, and purpose of  
12 each grant issued by any Federal agency to  
13 carry out the purposes of sections 106 and 107  
14 of this Act, or section 134 of the Foreign As-  
15 sistance Act of 1961, during the preceding fis-  
16 cal year;

17 “(F) the nature of training conducted pur-  
18 suant to section 107(c)(4) during the preceding  
19 fiscal year; and

20 “(G) the activities undertaken by the Sen-  
21 ior Policy Operating Group to carry out its re-  
22 sponsibilities under section 105(f) of this divi-  
23 sion.”.

24 (2) CONFORMING AMENDMENT.—Section  
25 107(b)(1) of the Victims of Trafficking and Violence

1 Protection Act of 2000 (22 U.S.C. 7105(b)(1)) is  
2 amended by striking subparagraph (D).

3 (b) SUPPORT FOR THE TASK FORCE.—

4 (1) AMENDMENT.—The second sentence of sec-  
5 tion 105(e) of the Victims of Trafficking and Vio-  
6 lence Protection Act of 2000 (22 U.S.C. 7103(e)) is  
7 amended by inserting at the end before the period  
8 the following: “, who shall be appointed by the  
9 President, by and with the advice and consent of the  
10 Senate, with the rank of Ambassador-at-Large”.

11 (2) APPLICABILITY.—The individual who holds  
12 the position of Director of the Office to Monitor and  
13 Combat Trafficking of the Department of State may  
14 continue to hold such position notwithstanding the  
15 amendment made by paragraph (1).

16 (c) SENIOR POLICY OPERATING GROUP.—

17 (1) AMENDMENT.—Section 105 of the Victims  
18 of Trafficking and Violence Protection Act of 2000  
19 (22 U.S.C. 7103) is amended by adding at the end  
20 the following new subsection:

21 “(f) SENIOR POLICY OPERATING GROUP.—

22 “(1) ESTABLISHMENT.—There shall be estab-  
23 lished within the Task Force a Senior Policy Oper-  
24 ating Group.

25 “(2) MEMBERSHIP; RELATED MATTERS.—



1           “(A) IN GENERAL.—The Operating Group  
2 shall consist of the senior officials designated as  
3 representatives of the appointed members of the  
4 Task Force (pursuant to Executive Order  
5 13257 of February 13, 2002).

6           “(B) CHAIRPERSON.—The Operating  
7 Group shall be chaired by the Director of the  
8 Office to Monitor and Combat Trafficking of  
9 the Department of State.

10           “(C) MEETINGS.—The Operating Group  
11 shall meet on a regular basis at the call of the  
12 Chairperson.

13           “(3) DUTIES.—The Operating Group shall co-  
14 ordinate activities of Federal departments and agen-  
15 cies regarding policies (including grants and grant  
16 policies) involving the international trafficking in  
17 persons and the implementation of this division.

18           “(4) AVAILABILITY OF INFORMATION.—Each  
19 Federal department or agency represented on the  
20 Operating Group shall fully share all information  
21 with such Group regarding the department or agen-  
22 cy’s plans, before and after final agency decisions  
23 are made, on all matters relating to grants, grant  
24 policies, and other significant actions regarding the

1 international trafficking in persons and the imple-  
2 mentation of this division.

3 “(5) REGULATIONS.—Not later than 90 days  
4 after the date of the enactment of the Trafficking  
5 Victims Protection Reauthorization Act of 2003, the  
6 President shall promulgate regulations to implement  
7 this section, including regulations to carry out para-  
8 graph (4).”.

9 (2) CONFORMING AMENDMENT.—Section 406  
10 of the Department of State and Related Agency Ap-  
11 propriations Act, 2003 (as contained in division B of  
12 Public Law 108–7) is hereby repealed.

13 (d) MINIMUM STANDARDS FOR THE ELIMINATION OF  
14 TRAFFICKING.—Section 108(b) of the Victims of Traf-  
15 ficking and Violence Protection Act of 2000 (22 U.S.C.  
16 7106(b)) is amended—

17 (1) in paragraph (1)—

18 (A) by striking “that take place wholly or  
19 partly within the territory of the country” and  
20 inserting “, and convicts and sentences persons  
21 responsible for such acts, that take place wholly  
22 or partly within the territory of the country”;  
23 and

24 (B) by adding at the end the following new  
25 sentence: “After reasonable requests from the

1 Department of State for data regarding inves-  
2 tigations, prosecutions, convictions, and sen-  
3 tences, a government which does not provide  
4 such data consistent with its resources shall be  
5 presumed not to have vigorously investigated,  
6 prosecuted, convicted or sentenced such acts.”;  
7 and

8 (2) in paragraph (7)—

9 (A) by striking “and prosecutes” and in-  
10 sserting “, prosecutes, convicts, and sentences”;  
11 and

12 (B) by adding at the end the following new  
13 sentence: “After reasonable requests from the  
14 Department of State for data regarding such  
15 investigations, prosecutions, convictions, and  
16 sentences, a government which does not provide  
17 such data consistent with its resources shall be  
18 presumed not to have vigorously investigated,  
19 prosecuted, convicted, or sentenced such acts.”.

20 (e) ENHANCING UNITED STATES ASSISTANCE.—Sec-  
21 tion 134(b) of the Foreign Assistance Act of 1961 (22  
22 U.S.C. 2152d(b)) is amended by adding at the end the  
23 following new sentence: “Assistance may be provided  
24 under this section notwithstanding section 660 of this  
25 Act.”.

1 (f) RESEARCH RELATING TO TRAFFICKING IN PER-  
2 SONS.—

3 (1) IN GENERAL.—The Victims of Trafficking  
4 and Violence Protection Act of 2000 (22 U.S.C.  
5 7101 et seq.) is amended by inserting after section  
6 112 the following new section:

7 **“SEC. 112A. RESEARCH ON DOMESTIC AND INTERNATIONAL**  
8 **TRAFFICKING IN PERSONS.**

9 “The President, acting through the Council of Eco-  
10 nomic Advisors, the National Research Council of the Na-  
11 tional Academies, the Secretary of Labor, the Secretary  
12 of Health and Human Services, the Attorney General, the  
13 Secretary of State, the Administrator of the United States  
14 Agency for International Development, and the Director  
15 of Central Intelligence, shall carry out research, including  
16 by providing grants to nongovernmental organizations,  
17 which furthers the purposes of this division and provides  
18 data to address the problems identified in the findings of  
19 this division. Such research initiatives shall, to the max-  
20 imum extent practicable, include, but not be limited to,  
21 the following:

22 “(1) The economic causes and consequences of  
23 trafficking in persons.

24 “(2) The effectiveness of programs and initia-  
25 tives funded or administered by Federal agencies to

1 prevent trafficking in persons and to protect and as-  
2 sist victims of trafficking.

3 “(3) The interrelationship between trafficking  
4 in persons and global health risks.”

5 (2) CONFORMING AMENDMENT.—The table of  
6 contents of the Victims of Trafficking and Violence  
7 Protection Act of 2000 is amended by inserting after  
8 the item relating to section 112 the following new  
9 item:

“Sec. 112A. Research on domestic and international trafficking in persons.”

10 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS; RELATED**  
11 **MATTERS.**

12 Section 113 of the Trafficking Victims Protection Act  
13 of 2000 (22 U.S.C. 7110) is amended—

14 (1) in subsection (a)—

15 (A) by striking “105” and inserting  
16 “105(e), 105(f),”; and

17 (B) by striking “and \$3,000,000 for each  
18 of the fiscal years 2002 and 2003” and insert-  
19 ing “, \$3,000,000 for each of the fiscal years  
20 2002 and 2003, and \$5,000,000 for each of the  
21 fiscal years 2004 and 2005”;

22 (2) in subsection (b), by adding at the end be-  
23 fore the period the following: “and \$15,000,000 for  
24 each of the fiscal years 2004 and 2005”;

25 (3) in subsection (c)—

1 (A) in paragraph (1) to read as follows:

2 “(1) BILATERAL ASSISTANCE TO COMBAT TRAF-  
3 FICKING.—

4 “(A) PREVENTION.—To carry out the pur-  
5 poses of section 106, there are authorized to be  
6 appropriated to the Secretary of State  
7 \$10,000,000 for each of the fiscal years 2004  
8 and 2005.

9 “(B) PROTECTION.—To carry out the pur-  
10 poses of section 107(a), there are authorized to  
11 be appropriated to the Secretary of State  
12 \$15,000,000 for fiscal year 2003 and  
13 \$10,000,000 for each of the fiscal years 2004  
14 and 2005.

15 “(C) PROSECUTION AND MEETING MIN-  
16 IMUM STANDARDS.—To carry out the purposes  
17 of section 134 of the Foreign Assistance Act of  
18 1961, there are authorized to be appropriated  
19 \$10,000,000 for each of the fiscal years 2004  
20 and 2005 to assist in promoting prosecution of  
21 traffickers and otherwise to assist countries in  
22 meeting the minimum standards described in  
23 section 108 of this Act, including \$250,000 for  
24 each such fiscal year to carry out training ac-  
25 tivities for law enforcement officers, prosecu-

1           tors, and members of the judiciary with respect  
2           to trafficking in persons at the International  
3           Law Enforcement Academies.”; and

4           (B) in paragraph (2), by striking “for each  
5           of the fiscal years 2001, 2002, and 2003” and  
6           inserting “for each of the fiscal years 2001  
7           through 2005”;

8           (4) in subsection (d)—

9           (A) by adding at the end before the period  
10          the following: “and \$15,000,000 for each of the  
11          fiscal years 2004 and 2005”; and

12          (B) by adding at the end the following new  
13          sentence: “To carry out the purposes of section  
14          134 of the Foreign Assistance Act of 1961 (as  
15          added by section 109), there are authorized to  
16          be appropriated to the President, acting  
17          through the Attorney General, \$250,000 for  
18          each of fiscal years 2004 and 2005 to carry out  
19          training activities for law enforcement officers,  
20          prosecutors, and members of the judiciary with  
21          respect to trafficking in persons at the Inter-  
22          national Law Enforcement Academies.”;

23          (5) in subsection (e)—

24          (A) in paragraphs (1) and (2), by striking  
25          “for fiscal year 2003” each place it appears and

1 inserting “for each of the fiscal years 2003  
2 through 2005”; and

3 (B) by adding at the end the following new  
4 paragraph:

5 “(3) RESEARCH.—To carry out the purposes of  
6 section 112A, there are authorized to be appro-  
7 priated to the President \$300,000 for fiscal year  
8 2004 and \$300,000 for fiscal year 2005.”;

9 (6) in subsection (f), by adding at the end be-  
10 fore the period the following: “and \$10,000,000 for  
11 each of the fiscal years 2004 and 2005”; and

12 (7) by adding at the end the following new sub-  
13 section:

14 “(g) LIMITATION ON USE OF FUNDS.—

15 “(1) RESTRICTION ON PROGRAMS.—No funds  
16 made available to carry out this division, or any  
17 amendment made by this division, may be used to  
18 promote, support, or advocate the legalization or  
19 practice of prostitution. Nothing in the preceding  
20 sentence shall be construed to preclude assistance  
21 designed to promote the purposes of this Act by  
22 ameliorating the suffering of, or health risks to, vic-  
23 tims while they are being trafficked or after they are  
24 out of the situation that resulted from such victims  
25 being trafficked.



1           “(2) RESTRICTION ON ORGANIZATIONS.—No  
2 funds made available to carry out this division, or  
3 any amendment made by this division, may be used  
4 to implement any program that targets victims of se-  
5 vere forms of trafficking in persons described in sec-  
6 tion 103(8)(A) of this Act through any organization  
7 that has not stated in either a grant application, a  
8 grant agreement, or both, that it does not promote,  
9 support, or advocate the legalization or practice of  
10 prostitution. The preceding sentence shall not apply  
11 to organizations that provide services to individuals  
12 solely after they are no longer engaged in activities  
13 that resulted from such victims being trafficked.”.

14 **SEC. 8. TECHNICAL CORRECTIONS.**

15       (a) IMMIGRATION AND NATIONALITY ACT.—

16           (1) CLASSES OF NONIMMIGRANT ALIENS.—Sec-  
17 tion 101(a)(15) of the Immigration and Nationality  
18 Act (8 U.S.C. 1101(a)(15)) is amended—

19           (A) by moving the margins of subpara-  
20 graphs (T) and (U) 2 ems to the left;

21           (B) in subparagraph (T), by striking  
22 “214(n),” and inserting “214(o),”;

23           (C) in subparagraph (U), by striking  
24 “214(o),” and inserting “214(p),”;

1 (D) in subparagraph (V), by striking  
2 “214(o),” and inserting “214(q),”.

3 (2) CLASSES OF ALIENS INELIGIBLE FOR VISAS  
4 AND ADMISSION.—Section 212(d) of the Immigra-  
5 tion and Nationality Act (8 U.S.C. 1182(d)) is  
6 amended by redesignating the paragraph (13) added  
7 by section 1513(e) of the Battered Immigrant  
8 Women Protection Act of 2000 (title V of division  
9 B of Public Law 106–386; 114 Stat. 1536) as para-  
10 graph (14).

11 (3) ADMISSION OF NONIMMIGRANTS.—Section  
12 214 of the Immigration and Nationality Act (8  
13 U.S.C. 1184) is amended by redesignating sub-  
14 sections (m) (as added by section 105 of Public Law  
15 106–313), (n) (as added by section 107(e) of Public  
16 Law 106–386), (o) (as added by section 1513(e) of  
17 Public Law 106–386), (o) (as added by section  
18 1102(b) of the Legal Immigration Family Equity  
19 Act), and (p) (as added by section 1503(b) of the  
20 Legal Immigration Family Equity Act) as sub-  
21 sections (n), (o), (p), (q), and (r), respectively.

22 (4) ADJUSTMENT OF STATUS OF NON-  
23 IMMIGRANTS.—Section 245 of the Immigration and  
24 Nationality Act (8 U.S.C. 1255) is amended—

1           (A) in the subsection (l) added by section  
2           107(f) of Public Law 106–386, by redesignating the second paragraph (2), and paragraphs (3) and (4), as paragraphs (3), (4), and  
3           (5), respectively; and  
4           (5), respectively; and  
5           (5), respectively; and

6           (B) by redesignating the subsection (l)  
7           added by section 1513(f) of Public Law 106–  
8           386 as subsection (m).

9           (b) **TRAFFICKING VICTIMS PROTECTION ACT OF**  
10          2000.—(1) Section 103(7)(A)(i) of the Trafficking Vic-  
11          tims Protection Act of 2000 (22 U.S.C. 7102(7)(A)(i)) is  
12          amended by inserting after “part II of that Act” the fol-  
13          lowing: “in support of programs of nongovernmental orga-  
14          nizations”.

15          (2) Section 107(g) of the Trafficking Victims Protec-  
16          tion Act of 2000 (22 U.S.C. 7105(g)) is amended by strik-  
17          ing “214(n)(1)” and inserting “214(o)(2)”.

The CLERK. Amendment in the nature of a substitute offered by Mr. Smith: Strike all after the enacting clause—

Mr. SMITH OF NEW JERSEY. Without objection, the amendment in the nature of a substitute will be considered as read. And just very briefly, this is a comprehensive substitute that again as we worked through the original text in a bipartisan way with Mr. Lantos and his staff and my staff as well, and the Committee staff. And we have produced a product, I think, that makes major changes in a number of areas to make a good bill, a good law, even better.

And would anybody want to be heard on the pending amendment?

Mr. SMITH OF MICHIGAN. Mr. Chairman, could you give us just the highlights between the original bill and the changes of the substitute?

Mr. SMITH OF NEW JERSEY. Okay. What we're doing is we have a number of pieces of provisions in this to make the T visa, which was that visa that we established for the traffic victims, much more usable. We have found that the 15- to 18-year-olds, for example, were not getting the T visa in a timely fashion because of some glitches in the law that were unattended. That's fixed in a technical fashion in this legislation.

We have made better language dealing with sex tourism. We know for a fact and it's already current law that sex tourism is illegal and has a very significant penalty for those who engage in it. Our new provision in the law makes it better by requiring the airlines, either through pamphlets or some other means, to make their passengers aware that this is illegal. This is really an alert system, so that we can mitigate that kind of activity we will.

I think if more people are informed. The bill would also enhance protections for trafficking victims by urging the U.S. Government to facilitate contact between foreign governments and NGOs. We have found over the last 3 years that has not happened often enough.

This amendment seeks—and the underlying bill did it as well—but this does it in a more comprehensive fashion. One of the provisions that we have in the bill and in the amendment in the nature of a substitute is to make the Anti-Trafficking Office—right now, John Miller, our former colleague is the head of that office. This amendment would raise or elevate his position to Ambassador at Large. And that is a very important, we think, recognition of the work not only that he is doing individually, but what the office ought to be all about.

If this is as a high of a priority issue that we claim it is, and it is—just like religious persecution, we have an Ambassador at Large, John Hanford who works on religious persecution issues—trafficking ought to be similar, horizontally important in terms of its stature, Ambassador at Large doing this work as well.

So again, it is a bill filled with tweaks, changes, upgrades, and the amendment in the nature of a substitute simply further works with it in a multiple of areas. There is no real divergence from the original pending legislation.

Mr. SMITH OF MICHIGAN. Thank you.

Mr. FALEOMAVAEGA. Will the Chairman yield just for further verification?

Mr. SMITH OF NEW JERSEY. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Just for further clarification. I certainly would appreciate the Chairman's assistance again on the issue of T visas, by way of making sure that there is no abuse of the use of the T visa to the extent that people pretend like they are subjected to human trafficking when they jump into the T visa program, when in fact they really are not affected or are not in any way subjected to the things that we are trying to protect them from, like being forced labor and all of that.

I wanted to ask the Chairman if the T visa program is structured in such a way that we don't have abuse in its use.

Mr. SMITH OF NEW JERSEY. I want to assure the gentleman, Mr. Faleomavaega, that if anything, the T visa has been too narrowly construed by the Department. What we are trying to do is to make sure that every trafficked person—and again we are talking mostly about women—is given the opportunity not to be returned to that cycle of violence that they have now just recently escaped from.

As you know, prior to the trafficking legislation in the year 2000, the customary way of dealing with someone who was rescued from a brothel and had been trafficked was to put them on a plane and send them back to Kiev or Saint Petersburg or some other point where the cycle of violence would continue afresh. The legislation has changed that. But now we have found that there have been some gaps and we are trying to close those gaps.

Mr. FALEOMAVAEGA. Thank you.

Mr. SMITH OF NEW JERSEY. So I don't think of any of our immigration or asylum or any protection programs, this one probably more than just about any other is less likely to lend itself to exploitation and abuse.

Are there any amendments to the pending amendment in the nature of a substitute?

Mr. TANCREDO. No amendment, Mr. Chairman, but I do have a question.

Mr. SMITH OF NEW JERSEY. Go ahead.

Mr. TANCREDO. Mr. Chairman, just to follow on with Mr. Faleomavaega's question to you, are there provisions in the bill that are still there, or were they weakened by your amendment to the bill, that change the way in which people have to go about proving their status as a trafficked person?

Mr. SMITH OF NEW JERSEY. No, nothing is weakend. Nothing has changed in that regard. What we found—here was one of the glitches that we fix in this legislation. Those who are under 18 who are found to have been trafficked, there is a presumption that they don't have to prove force or fraud or coercion by reason of their minor status.

Unfortunately, when it came to the T visa, the 15 to 18 year-olds had to participate in and be involved in the prosecution, putting an onerous burden on a 15-year-old to be part of a prosecution against a trafficker. Even though the standard is they don't have to be the chief witness, but we believe that if we are going to provide them with this ability to find safe haven here, we ought not to put that additional burden of being part of a prosecution. They can do so voluntarily, but they don't have to do it as a prerequisite of getting

the T visa, and that was a major oversight in the original legislation.

We heard back from many of the NGOs who deal with asylum seekers, and especially women who have been exploited in this way, and it was especially for a young teenager too much of a wall for them to climb, to be part of a prosecution in that way. Again, voluntarily they can do it, but there is no mandatory aspect to it.

Mr. FALCOMAVAEGA. Will the Chairman yield further?

Mr. SMITH OF NEW JERSEY. Sure.

Mr. TANCREDO. Thank you, Mr. Chairman.

Mr. FALCOMAVAEGA. I'm sorry to ask so many questions, but I think on the basis of my presumption that the human trafficking issues are probably worse in the Asian Pacific region simply because of the numbers, and probably more, I was just curious if there was any provision in the proposed substitute where there is better identification in the region to make sure that they are addressed properly and in a more forceful fashion.

In other words, my concern is that if the trafficking is occurring in the Asian Pacific 10 times worse than it is in other parts of the world, I would hope that some provision is given that the resources obviously ought to be emphasized in the areas where it is most common.

And here again, I make this presumption that I think human trafficking in the Asian Pacific region occurs a lot more often and there are probably greater abuses there than in other regions of the world. I just wondered if the Chairman has given any provisions to address the concern that there is a priority, a sense of emergency, to really address those areas where it is most prevalent.

Mr. SMITH OF NEW JERSEY. I appreciate the question and your point is very well taken. We have a provision in the bill, and it is in the amendment in the nature of a substitute, that requires better analysis and study. What we have found is that we are still dealing, even now, 3 years later, with a dearth of information with regards to what is really going on. I mean, the State Department this year put out its third report, the *Trafficking in Persons Report*. It is the best of each of the reports that have been put out, but it still lacks a lot of basic information that we need to know.

And you know, just to get back to what are some of the changes that we made in this bill—and maybe I should have gone through my 10-minute speech. What we found in the original bill, we talked about the importance in judging nations, whether or not they are serious about mitigating and ending trafficking, as to whether or not they get investigations and prosecutions.

Well, we didn't take it the step further and say convictions and sentencing, and it turned out that that's one of the games that we think is being played. You can arrest somebody and then nothing happens. We want to know how many people went to jail, especially the ring leaders in these trafficking operations, and use that as a better criteria.

But in terms of regional we are—and your point will be well taken I think with the Administration. They need to look in your part of the world as well, to make sure that it is adequately covered.

We also have an increase in the authorization from 68.2 million to 105.8 million because we have recognized that the resources still are not enough. This is a war. This is human slavery. And it seems to me if we are serious about it, we need to match with enhanced authorizations and appropriations that need. So your point was very well taken.

Mr. FALEOMAVAEGA. Thank you.

Mr. SMITH OF NEW JERSEY. Are there any amendments by my colleagues? If not, the question occurs on the amendment in the nature of a substitute.

All those in favor say aye. Those opposed say no.

The ayes have it. Without objection, the previous question, we will take this as ordered and we will take this up later in the day.

Let me now present to the Committee the third item on our agenda, and it is H.R. 1813, the Torture Victims Relief Authorization Act of 2003 for purposes of markup and move its favorable recommendation to the House. Without objection, the bill will be considered as read and open for amendment at any point.

[H.R. 1813 follows:]

108TH CONGRESS  
1ST SESSION

# H. R. 1813

To amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 11, 2003

Mr. SMITH of New Jersey (for himself, Mr. LANTOS, Mr. PITTS, Mr. MCGOVERN, Ms. MCCOLLUM, and Mr. SABO) introduced the following bill, which was referred to the Committee on International Relations, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Torture Victims Relief  
5 Reauthorization Act of 2003”.



1 **SEC. 2. AUTHORIZATION OF APPROPRIATIONS FOR DOMES-**  
2 **TIC TREATMENT CENTERS FOR VICTIMS OF**  
3 **TORTURE.**

4 (a) AUTHORIZATION OF APPROPRIATIONS.—Section  
5 5(b)(1) of the Torture Victims Relief Act of 1998 (22  
6 U.S.C. 2152 note) is amended to read as follows:

7 “(1) AUTHORIZATION OF APPROPRIATIONS.—Of  
8 the amounts authorized to be appropriated for the  
9 Department of Health and Human Services for fis-  
10 cal years 2004, 2005, and 2006, there are author-  
11 ized to be appropriated to carry out subsection (a)  
12 (relating to assistance for domestic centers and pro-  
13 grams for the treatment of victims of torture)  
14 \$20,000,000 for fiscal year 2004, \$25,000,000 for  
15 fiscal year 2005, and \$30,000,000 for fiscal year  
16 2006.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall take effect October 1, 2003.

19 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR FOR-**  
20 **EIGN TREATMENT CENTERS FOR VICTIMS OF**  
21 **TORTURE.**

22 (a) AUTHORIZATION OF APPROPRIATIONS.—Section  
23 4(b)(1) of the Torture Victims Relief Act of 1998 (22  
24 U.S.C. 2152 note) is amended to read as follows:

25 “(1) AUTHORIZATION OF APPROPRIATIONS.—Of  
26 the amounts authorized to be appropriated for fiscal

1 years 2004, 2005, and 2006 pursuant to chapter 1  
2 of part I of the Foreign Assistance Act of 1961,  
3 there are authorized to be appropriated to the Presi-  
4 dent to carry out section 130 of such Act (relating  
5 to assistance for centers in foreign countries and  
6 programs for the treatment of victims of torture)  
7 \$11,000,000 for fiscal year 2004, \$12,000,000 for  
8 fiscal year 2005, and \$13,000,000 for fiscal year  
9 2006.”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall take effect October 1, 2003.

12 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS FOR THE**  
13 **UNITED STATES CONTRIBUTION TO THE**  
14 **UNITED NATIONS VOLUNTARY FUND FOR**  
15 **VICTIMS OF TORTURE.**

16 Of the amounts authorized to be appropriated for fis-  
17 cal years 2004, 2005, and 2006 pursuant to chapter 3  
18 of part I of the Foreign Assistance Act of 1961, there  
19 are authorized to be appropriated to the President for a  
20 voluntary contribution to the United Nations Voluntary  
21 Fund for Victims of Torture \$6,000,000 for fiscal year  
22 2004, \$7,000,000 for fiscal year 2005, and \$8,000,000  
23 for fiscal year 2006.

○

Mr. SMITH OF NEW JERSEY. I recognize myself for my opening statement. And let me just make a couple of very brief opening points. This legislation builds on two previous Torture Victims Relief Acts which have been signed into law. It is a necessary reauthorization because the authorizations are running out.

It increases the amount of money, modestly, for the foreign programs, as Mr. Lantos, who is the prime cosponsor of this and I have worked on this very, very diligently. As a result of torture by despotic countries all over the world we have a world filled with walking wounded, and that's no less of a case here in the United States. The estimates are that upwards of 500,000 people in America have been the victims of torture, and there are torture victims relief centers throughout this country, about 23, 24 strong that are funded by the United States Government. We reauthorized it in this bill, although Energy and Commerce has jurisdiction over that part and will take that up shortly. But the purpose is to try to help those people who are suffering the nightmare of torture and to give them help.

The most common problem is post-traumatic stress disorder, and we have found that with the right regimen—and we have had at this witness table frequently, witnesses who have gone through this horror, and they have spoken in superlatives about what happens when they are given the opportunity and the right psychiatric and medical regimen to come to a healing.

That's what this legislation is all about. And again, like I said, it just modestly increases the amount of money under our jurisdiction to \$11 million for 2004, \$12 million for 2005 and \$13 million for 2006, a very modest increase from the current \$10 million. And again this money is well spent.

I have visited myself these centers abroad, most recently in Romania. And when you talk to the clientele, the people who suffered under Nicolae Ceaucescu and were in his prison camps and suffered the cruel lash of the Securitate, they are on the road to recovery and to healing as a direct result of this legislation. So I would hope my colleagues could support it.

And I would like to yield to Mr. Lantos, the principal cosponsor and a very strong supporter of this entire effort.

Mr. LANTOS. Thank you, Mr. Chairman. I ask unanimous consent that my written statement be introduced in the record.

Mr. SMITH OF NEW JERSEY. Without objection, sir.

Mr. LANTOS. I want to pay tribute to you for your strong leadership on this most important issue for many years. And I want to pay tribute to a lady who is not here, a Danish physician, my very dear friend, Doctor Inga Genefke, who 29 years ago began this international movement of assisting victims of torture in Copenhagen, Denmark and has continued with her husband, also a physician, without any interruption for 3 decades now. She is really the founding mother of a movement globally to assist victims of torture, and I want to be certain that the record reflects our admiration and support for her work, and I yield back the balance of my time.

[The prepared statement of Mr. Lantos follows:]

PREPARED STATEMENT OF THE HONORABLE TOM LANTOS, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF CALIFORNIA

H.R. 1813

Mr. Chairman, I strongly support this legislation, and urge my colleagues to do so as well.

The Torture Victims Relief Reauthorization Act of 2003 is a testament to the outstanding national and international efforts our nation is undertaking to combat the most despicable of all human rights violations, the increased use of torture around the world.

As the main Democratic sponsor of this measure, I would like to commend the gentleman from New Jersey, Mr. Smith, for his longstanding leadership on this issue, and congratulate him for all of his work to support heroic endeavors around the world to treat the victims of torture.

Mr. Chairman, governments worldwide constantly fail to defend the basic human rights of their citizens, including the obligation to refrain from torture. Although exact figures are difficult to discern, Amnesty International estimates that 117 countries worldwide still practice torture. Pakistan, Guatemala, Zimbabwe, and China consistently rank high on this list of governments who employ torture as a means of controlling their citizens.

The ramifications of torture practices are beyond the realm of our comprehension. Torture leaves no victim unscarred; it shapes the remainder of their lives. Torture survivors need psychological and physical therapy to cope with the post-traumatic stress that afflicts them daily. Recovering from torture is a long-term process; it can take years before torture survivors can once again feel emotionally stable and comfortable in society.

Mr. Chairman, it sometimes just takes one person to stand strong against the darkness of human rights violations. The torture victims treatment center community is fortunate enough to have such a person in my good friend, Dr. Inge Genefke. Dr. Genefke started her work for torture victims as co-founder of the Danish Medical Group of Amnesty International in 1974. Dr. Genefke, a medical doctor, observed that during the treatment of torture victims, the physical wounds of those lucky enough to survive the torture ordeal heal with time, but the trauma of her clients remain much longer. For decades, Dr. Genefke has promoted a multi-disciplinary treatment approach, integrating physical and psychological care, and has been an international leader on this critically-important subject.

An estimated 500,000 foreign torture survivors reside in the United States and as many as 100 million exist worldwide. More than 250 treatment centers operate internationally with the sole purpose of providing crucial services to torture survivors. In the U.S., the Center for Victims of Torture in Minnesota was the first of its kind in the United States and the third torture victim's center in the world.

Those centers are among those funded through the Torture Victims Relief Act, and their work is the only hope for people who have been tortured.

Mr. Chairman, I urge my colleagues to strongly support this bill, and I again thank you for marking it up today.

Mr. SMITH OF NEW JERSEY. I thank my good friend for his comments and for his very strong support. Are there any other Members who would like to be heard on this legislation. Are there any amendments to it? If not—Mrs. Napolitano, please.

Mrs. NAPOLITANO. Mr. Chair, thank you. I'd like unanimous consent to introduce my remarks into the record. And I fully support the thrust of this legislation and commend you for looking at what can eventually be the assistance to bring people together, make them whole and working members of our society, which we sometimes neglect to do. And so I thank you all for your part in this and yield back the balance of my time.

Mr. SMITH OF NEW JERSEY. Without objection, your statement and that of any other Member who would like to be heard on this will be made part of the record, and those who went to lunch because they thought this might have been put off until later on today.

As you know, the time of this markup was changed a couple of times. We will be meeting later on today, and I would hope that Members could make that so we could get the requisite quorum to report these bills out.

Without objection, the previous question is ordered and further proceedings are postponed. And, as I said, the Committee will stand in recess.

We will reconvene in H-139 to vote on final passage on these three bills. We will alert Members as soon as possible about that. It will obviously be contingent on the Floor schedule. I want to thank Members for being here and again, I want to thank Mr. Lantos for his support.

[Whereupon, at 12:15 p.m, the Committee recessed, to reconvene in Room H-139 at 4:35 p.m., the same day.]

Mr. SMITH OF NEW JERSEY. [Presiding.] The Chair notes the presence of a reporting quorum. And the question occurs on the motion to report the following bills favorably to the House, as amended, upon which the previous question was ordered: H.J. Res. 63, to approve the Compact of Free Association; H.R. 1813, the Torture Victims Relief Reauthorization Act of 2003; and H.R. 2620, Trafficking Victims Protection Reauthorization Act of 2003.

All those in favor, signify by saying aye.

Opposed, no.

The ayes have it and the motion is agreed to. And I thank you all.

Without objection, the Chairman is authorized to move to go to conference pursuant to House rule 22.

Without objection, the staff is directed to make technical and conforming changes. Thank you.

[Whereupon, at 4:36 p.m., the Committee was adjourned.]



## A P P E N D I X

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### MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE DIANE E. WATSON, A REPRESENTATIVE IN  
CONGRESS FROM THE STATE OF CALIFORNIA

H.J. RES. 63

Mr. Chairman,

I join my colleague Rep. Faleomavaega on the issue of Education. I am deeply concerned by a message sent by this Congress to the Freely Associated States. Although the issues were considered in another committee, the recent elimination of IDEA and Head Start assistance shocks me. This action coupled with threatened Pell Grant eligibility next year, could cripple the ability of the FAS to cultivate education. The RMI and FSM children have only just begun to benefit from the establishment of an integrated education system.

Head Start is the cornerstone of education in the islands. In my years teaching, I have witnessed the impact of early structured education. Young students are much better equipped to enter the educational system, and they are exposed to the importance of their education at an early age.

Changing focus to the older students, the elimination of Pell Grant assistance would decimate the college system in the FAS altogether. A large portion of the funds to run the College of Micronesia are obtained through Pell Grants. Not only would the college collapse, but many officials feel that island suicide is directly connected with educational opportunities. The College of Micronesia is the only higher education facility in the FSM.

In conclusion, I am pleased with the overall progress of the new Compact of Free Association. With a few minor adjustments, such as the reinstatement of FEMA assistance, this Congress can produce a Compact to be proud of. I urge my colleagues to understand the importance of the FAS. This unique relationship is entrusted to the International Relations Committee. Please give proper consideration to a significant Foreign Policy decision that will affect the US-FAS relations for years to come.

