

DRAFT

US: 17NOV73

56  
07  
4

TITLE IV

Financial Provisions

Section 401

The Government of the United States, in order to advance the economic and social welfare of the people of Micronesia and in recognition of the special relationship that has existed and continues to exist between the United States and Micronesia, agrees to provide on a grant basis to the Government of Micronesia, subject to Congressional approval, \$\_\_ million annually for the first five years of this Compact, \$\_\_ million annually for the next five years; and \$\_\_\_ million annually for the next five years. The parties shall negotiate in good faith as to the amount of such financial assistance for periods subsequent to the first fifteen years after the effective date of this Compact. These funds will be for use by the Government of Micronesia for programs and operations of that Government or any sub-division thereof as authorized by the Government of Micronesia.

Section 402

The Government of the United States shall make available to the Government of Micronesia in amounts to be agreed, funds to cover compensation paid to land owners at fair market values for the purposes specified in Title III.

*U.S. pays for compensation*

Section 403

(a) The Government of the United States agrees to provide the Government of Micronesia, without compensation, the services of the U.S. Postal

Service, U.S. Weather Service, and U.S. Federal Aviation Administration. The levels of such services shall be that extended to the Trust Territory of the Pacific Islands on the effective date of this Compact. The Government of Micronesia shall make arrangements to provide for the use of land necessary for such purposes at no cost to the U.S. Government.

(b) The Government of the United States and the Government of Micronesia, from time to time, may agree upon the extension of additional federal programs and services to Micronesia. The cost of such additional programs and services will be charged against the overall assistance figure in Section 401.

(c) The Government of Micronesia may impose taxes or other levies upon the personnel or property related to the programs and services provided by the United States in Micronesia pursuant to this Compact only as provided in Annex C.

Section 404

(a) The Government of the United States will contribute annually for fifteen years on a grant basis, \$\_\_\_ million to a Government of Micronesia Capital Improvement Program Fund. This Fund will be used for public sector investment in essential economic, social, and physical infrastructure.

(b) The Government of the United States will also make available, to the Government of Micronesia, for allocation to District Governments, financial assistance on a loan basis for economic development projects at the district level at an annual amount of \$\_\_\_ million for fifteen years, subject to the terms of long-term low interest loan agreements between the Government of the United States and the Government of Micronesia.

DRAFTUS: 17NOV73

(c) The parties shall negotiate in good faith as to the amounts of such economic assistance, as is provided for in this Section, for periods subsequent to the first fifteen years after the effective date of this Compact.

Section 405

The provisions of this Title will remain in effect for the duration of this Compact. Sections 401, 403(a) and 404 will be reviewed by the Government of Micronesia and the Government of the United States at five year intervals from the effective date of this Compact taking into account changing economic conditions.

DRAFTUS: 19NOV73TITLE VApplicable LawsSection 501

(a) The treaties and international agreements applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact shall be applicable to Micronesia, as well as the treaties and international agreements made applicable to Micronesia pursuant to Section 202 of this Compact.

(b) The statutory law of the United States applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact shall not be applicable to Micronesia except as otherwise provided in this Compact or in other agreements between the United States and Micronesia.

Section 502

(a) Treaties and international agreements applicable to Micronesia shall have the force of internal law in Micronesia without the need of implementing legislation if they are self-executing, regardless of whether such treaties or international agreements became or shall become applicable to Micronesia prior to or after the effective date of this Compact. A treaty or international agreement shall be presumed to be self-executing, if the United States has not enacted implementing legislation for itself at the time of its proclamation by the President.

(b) The Government of Micronesia will enact whatever domestic legislation is appropriate or required to enforce or implement those treaties and international agreements applicable to Micronesia pursuant to Section 501(a) of this Compact which are not self-executing. The implementing legislation enacted by the United States shall, however, have the force of internal law

DRAFTUS: 19NOV73

in Micronesia pending the enactment of the Micronesian legislation provided for in this sub-section.

(c) The Government of Micronesia will undertake to comply with and to enforce faithfully the treaties, international agreements and laws set forth in subsections (a) and (b) of this section.

Section 503

(a) The Government of Micronesia will adopt and enforce such measures as may be necessary (1) to protect the personnel, property, installations, services, programs, and official information maintained by the Government of the United States in Micronesia pursuant to this Compact, and (2) to ensure the effective implementation of the services and programs provided by the Government of the United States in Micronesia pursuant to this Compact. Such measures shall include appropriate and adequate civil and criminal remedies against:

1. Fraud against the Government of the United States.
2. Theft, embezzlement, or destruction of property belonging to or in the custody of the Government of the United States; or the theft, and unauthorized use of official information of the Government of the United States.
3. Interference with the operation of installations, programs, or services maintained by the Government of the United States in Micronesia pursuant to this Compact.

(b) In the event the Government of Micronesia does not adopt and enforce the measures required by sub-section (a) of this section, the related programs or services extended by the United States to Micronesia under Section 403 may then be withheld, to the extent that the implementation or operation of such programs or services thereby becomes impossible.

DRAFTUS: 19NOV73

(c) The Government of the United States may, with the approval of the Government of Micronesia, provide investigative and enforcement services to insure compliance with the laws and regulations relating to services and programs extended to Micronesia by the United States pursuant to this Compact.

Section 504

(a) Nothing in this Compact shall be construed as constituting a submission of the one party to the jurisdiction of the courts of the other.

(b) The Courts of Claim of either of the parties shall not have jurisdiction over any claim against either of the parties growing out of or dependent upon this Compact.

(c) The provisions of Section 1346(b) and of Chapter 171, Title 28, United States Code shall not be applicable to any claim arising in Micronesia.

Section 505

The Governments of Micronesia and the United States will cooperate with each other in the pursuit, capture, imprisonment, and delivery to appropriate authorities of fugitives from justice who have fled from the jurisdiction of one party to that of the other. The precise terms of this mutual obligation shall be subject to a separate agreement by the Government of Micronesia and the Government of the United States which shall come into force simultaneously with this Compact.

Section 506

In the conduct of its activities in Micronesia, the Government of the United States will endeavor to protect the surrounding environment from permanent or irreparable damage by adherence to standards no less restrictive than those established by the United States law, except as otherwise may be agreed.

DRAFTUS: 14NOV73TITLE VITrade and CommerceSection 601

The Government of Micronesia will have the authority to establish, change or eliminate import duties and other regulations, including internal charges, laws and conditions governing the importation of and commerce in goods from outside of Micronesia, subject only to compatibility with United States obligations under Title II of this Compact.

Section 602

(a) The Government of the United States and the Government of Micronesia will each accord to products of the other party, from whatever place and by whatever type of carrier arriving, and to products destined for exportation to the territories of such other Party, by whatever route and whatever type of carrier, treatment no less favorable than that accorded like products of, or destined for exportation to, any foreign country, in all matters relating to: (1) customs duties, as well as any other charges, regulations and formalities levied upon or in connection with importation and exportation; and (2) internal taxation, sale, distribution, storage and use. The same rule shall apply with respect to the transfer of payments for imports and exports.

(b) Neither the Government of the United States nor the Government of Micronesia shall impose restrictions or prohibitions on the importation of any product of the other Party, or on the exportation of any product to the territories of the other Party; unless the importation of the like product of, or the exportation of the like product to, all foreign countries is similarly restricted or prohibited.

Section 603

(a) In the exercise of its authority and responsibility under Section 201(a), the Government of the United States will apply to Micronesia and the Government of Micronesia will enforce appropriate international treaties, agreements and standards which relate to air and maritime commerce.

(b) The Government of the United States agrees to obtain consent of the Government of Micronesia before granting any new authority to any United States or foreign air carrier for international air commerce to or from Micronesia, except for aircraft operated for or under the control of the Government of the United States in connection with activities under Title III.

(c) The Government of Micronesia shall have the power to regulate domestic air and maritime commerce between points wholly within the territory of Micronesia to the extent that such regulation does not infringe on the treaties, agreements and standards set forth in subsection (a) of this section and does not conflict with appropriate regulations of the Federal Aviation Agency.

Section 604

The United States Government interposes no objection to having the currency of the United States continue to be the official legal tender for Micronesia until



DRAFT

US: 14NOV73

such time as the Government of Micronesia acts to institute its own currency. The terms and conditions of an appropriate currency transitional period shall be as mutually agreed.

TITLE VII

Citizenship and Nationality

Section 701

Every citizen of Micronesia who either is a citizen of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, or who thereafter becomes a citizen of Micronesia by birth, and who has not taken any affirmative step to preserve or acquire any foreign citizenship or nationality, shall be a national but not a citizen of the United States unless he is otherwise qualified for United States citizenship.

Section 702

Any person described in Section 701 who is a citizen or a national of a foreign country shall cease to be a national of the United States within one year after the effective date of this Compact, or within six months after becoming 18 years of age, whichever comes later, unless he renounces that foreign citizenship or nationality.

TITLE VIII

Immigration and Travel

Section 801

(a) The Government of Micronesia shall have the power to regulate immigration and entry of persons who are not citizens of Micronesia into Micronesia.

(b) Micronesian provisions applicable to entry and exit of United States citizens to and from Micronesia shall not be more restrictive than the comparable United States regulations governing those Micronesian citizens who are United States nationals.

DRAFT

US: 16NOV73

(c) Citizens of Micronesia who are United States nationals shall be free to enter, reside in or leave the United States at any time in accordance with the laws of the United States. Citizens of Micronesia who are not United States nationals shall be accorded treatment as aliens for these purposes.

TITLE IX

Representation and Consultation

Section 901

The Governments of the United States and of Micronesia agree to establish at the central seat of Government of Micronesia and in Washington, D.C., respectively, official Resident Offices for the purpose of maintaining close and regular consultations on matters of mutual interest to them. The privileges and immunities respecting the Resident Offices shall be subject to a separate agreement.

TITLES X

Dispute Settlement

Section 1001

Disputes between the Government of Micronesia and the Government of the United States which relate to the interpretation or application of the provisions of this Compact shall be settled by negotiation.

TITLE XI

Amendment and Change of Status

Section 1101

This Compact may be amended at any time by agreement of the parties.

Section 1102

(a) This Compact may be terminated at any time by mutual consent of the Government of Micronesia and the Government of the United States.

(b) After the expiration of the first fifteen years following its

entry into force it may also be terminated unilaterally by the Government of the United States in accordance with its constitutional processes, or the Government of Micronesia may initiate termination of this Compact by referring the issue to the people of Micronesia eligible to vote in any local or general election as defined in the Constitution of Micronesia. If two-thirds or more of such voters shall favor termination, including a two-thirds majority in each of at least two-thirds of the districts of Micronesia, the Government of Micronesia shall enact legislation certifying the results of the vote on this issue and terminating the Compact effective on a date not earlier than two years following such enactment. The Act of the Government of Micronesia and the termination of the compact shall not be applicable to any district of Micronesia in which a majority of the voters have voted against termination.

(c) If termination of this Compact is effected pursuant to Section 1102(a), that termination shall become effective on a date mutually agreed by the parties. If termination is effected pursuant to Section 1102(b) without mutual consent, that termination shall be effective not less than two years from the date that the appropriate criteria of the subsection are satisfied.

(d) During the period of two years to the effective date of termination set forth under the provisions of Section 1102(b), any district in which a majority of the voters has voted against termination shall be given the opportunity to negotiate with the United States with respect to its future political status. Upon the effective date of termination, if an agreement has not been concluded with respect to the future political status of any such district, all relevant provisions of this Compact shall continue in

full force and effect with respect to that district subject to agreement of the U.S. and that district upon an appropriate reduction in the level of financial aid to be provided by the United States under Title IV. The Constitution of Micronesia shall cease to apply to such district upon the effective date of termination of the compact by the other districts of Micronesia.

Section 1103

The defense authority of the United States over its military areas and facilities and the use thereof in Micronesia, and the rights of denial set forth in Section 302, shall upon any termination of this Compact remain in force for no less than \_\_\_ years, or thereafter as extended by agreement. To this end, these provisions, Sections 303 through 305, and Annex B to this Compact shall remain in force for such period.

TITLE XII

Approval of the Compact and Effective Date

Section 1201

(a) The Compact will be approved by Micronesia, if a majority of those voting in a referendum to be held in Micronesia, vote in favor of the Compact. All persons who would be eligible to vote in elections for the Congress of Micronesia, if such elections were held on the day the referendum is conducted, shall be eligible to vote in the referendum. In determining whether a majority has voted for or against the Compact, only the affirmative and the negative votes shall be counted.

(b) This Compact will be approved by the U.S. in accordance with its constitutional processes.

*what about district? No*

DRAFTUS: 14NOV73Section 1202

The President of the United States shall issue a proclamation announcing a date mutually acceptable to the United States Government and Micronesia at which the Compact will come into effect, when he finds:

1. That the Compact has been approved as provided for in Section 1201; and that
2. The people of Micronesia have adopted a Constitution pursuant to Section 101 of the Compact; and that
3. The requirements of the United States for the use of land and water areas set forth in Title III of this Compact have been satisfied; and that
4. The jurisdictional and extradition agreements set forth in Sections 305 and 505, respectively, of the Compact have been concluded; and that
5. The Trusteeship Agreement between the United States and the Security Council of the United Nations for the former Japanese Mandated Islands, has been terminated or will terminate on the day on which the Compact becomes effective.

01-05429

US 14 NOV73

## ANNEX C

In order to assure the maximum benefits to the people of Micronesia from the assistance to be furnished in accordance with provisions of this Compact:

(a) Any supplies, materials, equipment or funds introduced into or acquired in Micronesia by the Government of the United States of America, or any contractor financed by that Government, for purposes of any program or project conducted hereunder shall, while such supplies, materials, equipment or funds are used in Micronesia in connection with such a program or project, be exempt from any taxes imposed by the Government of Micronesia or of any subdivisions thereof on ownership or use of property, and any other such taxes, investment or deposit requirements and currency controls in Micronesia, and the import, export, purchase, or use of any such supplies, materials, equipment or funds in connection with such a program or project shall be exempt from any Micronesian tariffs, customs duties, import and export taxes, or taxes on purchase of property, and any other such taxes or similar charges in Micronesia. No direct tax (whether in the nature of an income, profits, business tax or otherwise) shall be imposed by the Government of Micronesia upon any contractor, not having a regular place of business in Micronesia, who is financed by the Government of the United States of America hereunder.

(b) All personnel, accredited to the service or program, except citizens and permanent residents of Micronesia, shall be exempt from income and social security taxes levied under the laws of Micronesia with respect to income which is paid from funds provided by the Government of the United States or any agency thereof and upon which they are subject to the income or social security tax laws of the United States of America or any other

Government and from taxes on the purchase, ownership, use or disposition of personal movable property (including automobiles) intended for their own use. Such personnel and members of their families shall receive the same treatment with respect to the payment of customs and import and export duties on personal effects, equipment and supplies imported into Micronesia for their own use, and with respect to other duties and fees, as is accorded by the Government of the United States to diplomatic personnel of foreign countries resident in the United States, subject only to the limitation that continuous customs free entry shall be limited to personnel, including their families, of comparable grade to the diplomatic personnel accorded continuous customs free entry by the United States.

(c) All personnel (other than those referred to in paragraph (b) of this Article) under contract with, or employed by public or private organizations under contract with, the Government of the United States of America, or the government of Micronesia, or financed by the Government of the United States of America, who, not being citizens of or normally resident in Micronesia are present in Micronesia to perform work in connection herewith and whose netrance into Micronesia has been approved by the Government of Micronesia shall be exempt from income and social security taxes levied under the laws of Micronesia with respect to income upon which they are obligated to pay income or social security taxes to any other government.