

DRAFT COMPACT OF FREE ASSOCIATION

JANUARY 7, 1980

PREAMBLE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND THE GOVERNMENTS OF PALAU, THE MARSHALL  
ISLANDS AND THE FEDERATED STATES OF MICRONESIA,

(Agreed; U.S. proposes addition of underlined language).

Affirming that their Governments and their relationships as Governments are founded upon respect for human rights and fundamental freedoms for all, that the constitutions established by and for the peoples of the Trust Territory of the Pacific Islands guarantee the human rights of minorities, and that the peoples of the Trust Territory of the Pacific Islands have the right to enjoy self-government; and

Affirming the common interests of the United States of America and the peoples of the Trust Territory of the Pacific Islands in creating close and mutually beneficial relationships through three free and voluntary associations of their respective Governments; and

Affirming the interest of the Government of the United States in promoting the economic advancement and self-sufficiency of the peoples of the Trust Territory of the Pacific Islands; and

Recognizing their common desire to replace the Trusteeship Agreement with three new government-to-government relationships each of which is in accordance with a new political status based on the freely-expressed wishes of peoples of the Trust Territory of the Pacific Islands and appropriate to their particular circumstances; and

Recognizing that the peoples of the Trust Territory of the Pacific Islands have and retain their sovereignty and their sovereign right to self-determination and the inherent right to adopt and amend their own constitutions and forms of government and that the approval of the entry of their respective Governments into this Compact of Free Association by the peoples of the Trust Territory

of the Pacific Islands constitutes an exercise of their sovereign right to self-determination;

NOW, THEREFORE, AGREE to enter into relationships of free association which provide a full measure of self-government for the peoples of Palau, the Marshall Islands and the Federated States of Micronesia; and

FURTHER AGREE that the relationships of free association derive from and are as set forth in this Compact; and that, during such relationships of free association, the respective rights and responsibilities of the Government of the United States and the Governments of the freely associated states of Palau, the Marshall Islands and the Federated States of Micronesia in regard to these relationships of free association derive from and are as set forth in this Compact.

TITLE ONE

GOVERNMENTAL RELATIONS

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Article I

Self-Government

Section 111

The peoples of Palau, the Marshall Islands and the Federated States of Micronesia, acting through the Governments established under their respective Constitutions, are self-governing.

## Article II

Foreign AffairsSection 121

(a) The Governments of Palau, the Marshall Islands and the Federated States of Micronesia have the capacity to conduct foreign affairs and shall exercise the authority and responsibility for their foreign affairs in their own name and right, except as otherwise provided in this Compact or as may be otherwise agreed from time to time with the Government of the United States.

(b) The foreign affairs capacity of the Governments of Palau, the Marshall Islands and the Federated States of Micronesia includes:

(Agreed; MIPSC proposes addition of underlined language).

- (1) the conduct of foreign affairs relating to law of the sea and marine resources matters, including the harvesting or exploitation of living or non-living resources from their sea or seabed; and
- (2) the conduct of their commercial, diplomatic, consular, economic, trade, banking, postal, civil aviation, communications, and cultural relations, including negotiations for the receipt of developmental loans and grants and the conclusion of arrangements with other governments for the benefit of their individual citizens.

\*(MIPSC-CFPST agreement to Section 121 (b) (2) contingent upon\*  
Section 122)

(c) The Government of the United States recognizes that the Governments of Palau, the Marshall Islands and the Federated States of Micronesia have the capacity to conclude, in their own name and right, treaties and other international agreements with other governments and regional and international organizations.

(c) In the exercise of their authority and responsibility for foreign affairs, the Governments of Palau, the Marshall Islands and the Federated States of Micronesia confirm that they shall act in accordance with principles of international law and shall settle their international disputes by peaceful means.

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Section 122

The Government of the United States shall support applications by the Governments of Palau, the Marshall Islands and the Federated States of Micronesia for membership or other participation in regional or international organizations as may be mutually agreed. The Government of the United States shall sympathetically consider requests from the Governments of Palau, the Marshall Islands and the Federated States of Micronesia for the training of personnel in foreign affairs under arrangements to be mutually agreed.

\*(MIPSC-CFPST AGREEMENT TO SECTIONS 121 (b) (2) AND 122 CONTINGENT UPON U.S. LETTER STATING, WITHOUT PREJUDICE TO THE U.S. VIEW ON FREELY ASSOCIATED STATE PARTICIPATION IN ANY OTHER INTERNATIONAL ORGANIZATION, THE U.S. VIEW THAT THE GOVERNMENTS ARE COMPETENT TO MEET THE OBLIGATIONS AND REQUIREMENTS OF MEMBERSHIP PURSUANT TO THE PARTICULAR CHARTER SECTIONS OF THE UNIVERSAL POSTAL UNION (UPU) AND THE INTERNATIONAL TELECOMMUNICATIONS UNION (ITU) AND THAT THE U.S. WOULD VOTE IN SUPPORT AND ASSIST THEIR EFFORTS TO JOIN. FURTHER, MIPSC-CFPST REQUEST U.S. VIEW ON THEIR PARTICIPATION IN THE FOLLOWING ORGANIZATIONS:

(THE ASIAN DEVELOPMENT BANK, THE ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC (ESCAP), THE SOUTH PACIFIC COMMISSION, THE INTERNATIONAL MONETARY FUND, THE WORLD BANK, AND INTELSAT.)

\*\* (U.S. AGREEMENT CONTINGENT UPON STATEMENT ON RECORD BY PPSC, MIPSC AND CFPST THAT WORDS "AS MUTUALLY AGREED" IN FIRST SENTENCE REFER TO UNITED STATES COMMITMENT TO SUPPORT APPLICATION AS WELL AS TYPE OF MEMBERSHIP SUPPORT.)

Section 123

In recognition of the authority and responsibility of the Government of the United States under Title Three, the Governments of Palau, the Marshall Islands and the Federated States of Micronesia shall consult, in the exercise of their authority and responsibility for foreign affairs, with the Government of the United States.

Section 124

The Government of the United States may assist or act on behalf of the Government of Palau, the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs as may be requested and mutually agreed from time to time. The Government of the United States shall not be responsible to third parties for the actions of the Government of Palau, the Marshall Islands or the Federated States of Micronesia undertaken with the assistance or through the agency of the Government of the United States pursuant to this Section unless expressly agreed.

Section 125

The Government of the United States shall not be responsible for nor obligated by any actions taken by the Government of Palau, the Marshall Islands or the Federated States of Micronesia in the area of foreign affairs, except as may from time to time be expressly agreed.

Section 126

At the request of the Governments of Palau, the Marshall Islands or the Federated States of Micronesia and subject to the consent of the receiving state, the Government of the United States shall extend consular assistance on the same basis as for citizens of the United States to citizens of Palau, the Marshall Islands or the Federated States of Micronesia for travel outside Palau, the Marshall Islands, the Federated States of Micronesia, the United States and its territories and possessions.

\*(US AGREEMENT CONTINGENT UPON STATEMENT ON RECORD BY PPSC, MIPSC AND CFPST THAT SUCH REQUESTS WILL BE ON COUNTRY-BY-COUNTRY BASIS AND SHALL BE OPERATIVE FOR A REASONABLE PERIOD OF TIME.)

Section 127

Except as otherwise provided in this Compact or its related agreements, all obligations, responsibilities,

rights and benefits of the Government of the United States as Administering Authority which have resulted from the application pursuant to the Trusteeship Agreement of any treaty or other international agreement to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact are no longer assumed and enjoyed by the Government of the United States.

## Article III

Telecommunications\*Section 131

(Agreed - underlined language subject to technical review and new definition (461(e) added).

(a) The Governments of Palau, the Marshall Islands and the Federated States of Micronesia are the sole administrations entitled to make notification to the International Frequency Registration Board of the International Telecommunications Union with respect to frequencies assigned for use or used in the operation of radio communications facilities respectively in Palau, the Marshall Islands or the Federated States of Micronesia and in accordance with the terms of a separate agreement which shall come into effect simultaneously with this Compact, the Government of the United States shall so notify the International Frequency Registration Board and shall take such other actions as may be necessary to transfer to the Governments of Palau, the Marshall Islands or the Federated States of Micronesia respectively such notification authority and all rights deriving from the previous exercise of such notification authority by the Government of the United States.

\*\*Section 131(a) (U.S. PROPOSAL - ADD INTRODUCTORY PHRASE (a) ..... when admitted for membership in the International Telecommunications Union OR DELETE THE PHRASE "THE SOLE ADMINISTRATIONS"

(b) The Governments of Palau, the Marshall Islands and the Federated States of Micronesia shall permit the Government of the United States to operate telecommunications services in Palau, the Marshall Islands or the Federated States of Micronesia to the extent necessary to fulfill the obligations of the Government of the

United States under this Compact in accordance with the terms of the separate agreement referred to in Section 131(a).

## Article IV

ImmigrationSection 141

(U.S. proposed clarification changes underlined).

(a) Every person who, on the day preceding the effective date of this Compact, is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and any person who subsequent to the day preceding the effective date of this Compact, acquires the citizenship of Palau, the Marshall Islands or Federated States of Micronesia at birth, may enter into, lawfully engage in occupations, and establish residence as a non-immigrant in the United States and its territories and possessions without regard to paragraphs (14), (20), and (26) of Section 212 (a) of the Immigration and Nationality Act, 8 U.S.C. 1182 (a) (14), (20), and (26). Such person however may establish habitual residence or domicile in a territory or possession of the United States only in accordance with the law of that territory or possession. All such persons shall be considered to have the permission of the Attorney General of the United States to accept employment in the United States.

\*(CFPST-MIPSC proposal) ADD FOLLOWING LANGUAGE AFTER THE WORD "BIRTH" AT LINE 8:

, or any naturalized citizen of Palau, the Marshall Islands or the Federated States of Micronesia who has been resident there for not less than five years,

\*\* (MIPSC proposal - MIPSC to provide explanatory paper) ADD FOLLOWING LANGUAGE AFTER THE WORD "BIRTH" AT LINE 8: , or by lineal descent,

(b) The provisions of Section 141(a) shall not apply to any person who acquires United States citizenship or nationality under United States Public Law 94-241, 90 Stat. 265-66, or who takes an affirmative step to preserve or acquire a nationality other than that of Palau, the Marshall Islands, the Federated States of Micronesia or of the

United States. Section 141(a) does not confer on a citizen of Palau, the Marshall Islands or the Federated States of Micronesia the right to establish the residence necessary for naturalization under the Immigration and Nationality Act, or to petition for benefits for alien relatives under that Act. Section 141(a), however, shall not prevent a citizen of Palau, the Marshall Islands or the Federated States of Micronesia from otherwise acquiring lawful permanent resident alien status in the United States.

#### Section 142

(AGREED - U.S. PROPOSED CLARIFICATION CHANGES UNDERLINED.)

Every person having the privileges set forth in Section 141 who possesses a citizenship or nationality in addition to that of Palau, the Marshall Islands or the Federated States of Micronesia and other than that of the United States ceases to have these privileges one year after the effective date of this Compact, or within six months after becoming 21 years of age, whichever comes later, unless such person executes an oath of renunciation of that other citizenship or nationality.

#### Section 143

(AGREED - U.S. PROPOSED CLARIFICATION CHANGES UNDERLINED.)

Every citizen or national of the United States is free to enter into, lawfully engage in occupations and reside in Palau, the Marshall Islands and the Federated States of Micronesia, subject to the right of the Governments of Palau, the Marshall Islands and the Federated States of Micronesia, on statutory grounds consistent with the intent of this Section, to deny entry to or deport any such citizen or national as an undesirable alien. Every citizen or national of the United States may establish habitual residence or domicile in Palau, the Marshall Islands and the Federated States of Micronesia only in accordance with the law of the jurisdiction in which habitual residence or domicile is sought.

#### \*Section 144

(MIPSC-CFPST proposal)

The term "foreign state" as applied in 8 U.S.C. 1481 (a) (4) shall not include Palau, the Marshall Islands or the Federated States of Micronesia.

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\*\*Section 144

(U.S. PROPOSAL)

A citizen or national of the United States who accepts a post, office or employment under the Governments of Palau, the Marshall Islands, or the Federated States of Micronesia, after consultation, including prompt ratification and response, with the Government of the United States by the employing government, shall not be deprived of United States nationality pursuant to the Immigration and Nationality Act, as amended, 8 U.S.C. 1481(a)(4)

## Article V

RepresentationSection 151

The Government of the United States and the Government of Palau, the Marshall Islands or the Federated States of Micronesia may establish and maintain Representative Offices in the capital of the other for the purpose of maintaining close and regular consultations on matters arising in the course of the relationship of free association and conducting other government business. The Governments may establish and maintain additional offices on terms and in locations as may be mutually agreed.

Section 152

(a) The premises of such Representative Offices, and their archives wherever located, shall be inviolable. The property and assets of such Representative offices shall be immune from search, requisition, attachment and any form of seizure unless such immunity is expressly waived. Official communications in transit shall be inviolable and accorded the freedom and protections accorded by recognized principles of international law to official communications of a diplomatic mission.

(b) Persons designated by the sending Government may serve in the capacity of its resident representatives with the consent of the receiving Government. Such designated persons shall be immune from civil and criminal process relating to words spoken or written and all acts performed by them in their official capacity and falling within their functions as such representatives, except insofar as such immunity may be expressly waived by the sending Government. While serving in a resident representative capacity, such designated persons shall not be liable to arrest or detention pending trial, except in the case of a grave crime and pursuant to a decision by a competent judicial authority, and such persons shall enjoy immunity from seizure of personal property, immigration restrictions, and laws relating to alien registration, fingerprinting, and the registration of foreign agents.

(c) The sending Governments and their respective assets, income and other property shall be exempt from all direct taxes, except those direct taxes representing payment for specific goods and services, and shall be exempt from all customs duties and restrictions on the import or export of articles required for the official functions and personal use of their representatives and Representative Offices.

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(d) Persons designated by the sending Government to serve in the capacity of its resident representatives shall enjoy the same taxation exemptions as are set forth in Article 34 of the Vienna Convention on Diplomatic Relations.

(e) The privileges, exemptions and immunities accorded under this Section are not for the personal benefit of the individuals concerned but are to safeguard the independent exercise of their official functions. Without prejudice to those privileges, exemptions and immunities, it is the duty of all such persons to respect the laws and regulations of the Government to which they are assigned.

\*Section 153

(U.S. PROPOSAL - SEE ALSO \*Section 461(i))

Any citizen or national of the United States who is designated by the Government of Palau, the Marshall Islands or the Federated States of Micronesia as its agent, after consultation, including prompt notification and response, with the Government of the United States by the designating Government, shall enjoy exemption from the requirements of the laws of the United States relating to the registration of foreign agents.

\*\*Section 153

(MIPSC Proposal)

(a) The term "foreign principal" as applied in the Foreign Agents Registration Act of 1938, 52 Stat. 631, 22 U.S.C. 611 et seq., as amended, shall not include a government, political party or citizen of Palau, the Marshall Islands or the Federated States of Micronesia nor shall the term "foreign principal" include partnership, association,

corporation, organization or any other combination of persons organized under the laws of or having its principal place of business in Palau, the Marshall Islands or the Federated States of Micronesia.

(b) The Governments of Palau, the Marshall Islands and the Federated States of Micronesia or any subdivisions thereof shall not be considered foreign governments for purposes of 18 U.S.C. 951, 18 U.S.C. 953, or 18 U.S.C. 955.

\*\*\* Section 153

(CFPST working language)

Any citizen of the United States who is designated by the Government of Palau, the Marshall Islands or the Federated States of Micronesia as its agent, while serving in that capacity, shall enjoy exemption from the requirements of United States law relating to the registration of foreign agents.