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THE UNDER SECRETARY OF THE INTERIOR
WASHINGTON, D.C. 20240

MAR 25 1986

Mr. John H. Carley
General Counsel
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Carley:

In a letter dated February 13, 1986, you had requested that the Department of the Interior review a draft prepared by the President's Personal Representative for Micronesian Status Negotiations. Solicitor Ralph W. Tarr responded on March 4, 1986 expressing the concern of the Department of the Interior that the proposed draft was in conflict with the Compact of Free Association Act in numerous particulars.

Please find enclosed a copy of a draft Executive Order which was jointly prepared by the Office of Territorial and International Affairs and the Office of the Solicitor in response to a request from Mrs. Diane G. Weinstein of your staff.

Pursuant to Mrs. Weinstein's request, I am pleased to provide you with a proposed draft which represents the views of the Department of the Interior and properly complies with the intent of Public Law 99-239.

Sincerely,

Ann McLaughlin

Enclosure



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DRAFT

EXECUTIVE ORDER NO. _____

MANAGEMENT OF THE COMPACT OF FREE ASSOCIATION WITH THE REPUBLIC OF THE MARSHALL ISLANDS, THE FEDERATED STATES OF MICRONESIA, AND THE REPUBLIC OF PALAU

WHEREAS the United States, in accordance with the Trusteeship Agreement, the Charter of the United Nations, and the objectives of the international trusteeship system, has promoted the development of the peoples of the Trust Territory of the Pacific Islands toward self-government or independence as appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned; and

WHEREAS the Trusteeship Agreement under which the United States administered the former Trust Territory of the Pacific Islands, and the rights and obligations of the United States under that Agreement, have been duly terminated; and

WHEREAS a Compact of Free Association (hereinafter referred to as the Compact) has been freely negotiated by the United States with the duly elected representatives of the people and governments of the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau (hereafter referred to as Freely Associated States), and has been approved by those people and governments, respectively, in exercises of their rights of self-determination and according to their constitutional processes; and

WHEREAS the Compact and its enacting legislation, together with certain subsidiary agreements, have been duly approved, all as contained in Public Law 99-239, which together set forth the full nature of the relationship between the Government of the United States and the Government of each of the Freely Associated States, including the rights and responsibilities of each; and

WHEREAS in order that the Government of the United States performs its responsibilities under Public Law 99-239 effectively and efficiently, it is necessary that guidance be provided to departments and agencies of the Executive Branch:

NOW, THEREFORE, by virtue of the authority vested in me by Public Law 99-239 and as President of the United States, it is ordered as follows:

Section 1. Responsibility of the Secretary of State. (a) The Secretary of State shall have responsibility for government to government relations between the Government of the United States and the Government of each of the Freely Associated States, consistent with the authority of the Secretary of the Interior set forth in sections 2 and 4 hereof. The term "government to government relations" means issues involving the international relations of each of the Freely Associated States, and consular issues involving citizens of the Freely Associated States or of the United States.

(b) The President shall nominate, and with the advice and consent of the Senate shall appoint, a United States Representative to each of the Freely Associated States, in



accordance with Article V of Title One of the Compact. Each representative shall be under the supervision of the Secretary of State.

(c) Personnel of any department or agency of the United States Government who are assigned, on a temporary or permanent basis, to a Freely Associated State shall, during the period of such assignment, be subject to the supervision of the United States Representative to that Freely Associated State.

Section 2. Responsibility of the Secretary of the Interior.

(a) The Secretary of the Interior shall be responsible for seeking the appropriation of funds needed to fulfill the obligations of the United States under Public Law 99-239. Such funds shall include the economic and financial assistance specified in Article I of Title Two of the Compact, and the services and program assistance specified in Article II of Title Two.

(b) The head of any department or agency of the Government of the United States that proposes to provide a program or services to a Freely Associated State shall first consult with the Secretary of the Interior. Any such program or services shall be provided under the supervision and direction of the Secretary of the Interior.

(c) Any department or agency of the Government of the United States that proposes to provide any program or activity to a Freely Associated State for which appropriations are required, or that proposes to perform any other activity pursuant to Public Law 99-239 for which appropriations are required, shall submit the budget request and the justification therefor to the Secretary



of the Interior for his consideration. The Secretary shall include in the Department of the Interior's budget request for the next fiscal year, or for the current fiscal year, as he determines, such amount as he deems appropriate for any such program or activity. Funds appropriated to the Department of the Interior by the Congress pursuant to such request by the Secretary of the Interior shall not be allocated to any other department or agency, except as may otherwise be provided by law.

(d) The head of each Federal agency is directed to cooperate with the Secretary of the Interior and to make such personnel and services available as the Secretary of the Interior may request, with or without reimbursement, as they may mutually agree. In the event that a further appropriation is required in order to permit the agency to comply with such request by the Secretary of the Interior, then the head of the agency shall submit the necessary budget request and the justification therefor to the Secretary of the Interior for his consideration. Thereafter, the last two sentences of subsection (c) hereof shall apply.

(e) The Secretary of the Interior shall coordinate and monitor any program or activity by any department or agency of the Government of the United States provided to a Freely Associated State, and shall also coordinate and monitor the economic development activity conducted pursuant to section 211(b) of the Compact: Provided, That such authority of the Secretary of the Interior shall not extend to section 161(e) of the Compact, pertaining to exemptions from environmental standards, to sections 313 and 351

of the Compact, pertaining to security and defense relations, or to section 101 of Public Law 99-239, pertaining to an effective date.

(f) Subsections (a) through (e) of this section shall not be applied so as to restrict the Secretary of Defense in carrying out the responsibilities conferred upon him or upon the Department of Defense by Public Law 99-239.

Section 3. Creation and responsibility of the Interagency Group on Freely Associated States' Affairs. There is established within the National Security Council system an Interagency Group on Freely Associated States' Affairs, for the purpose of providing advice to Federal departments and agencies. The Interagency Group may make recommendations to the President through the Special Assistant for National Security Affairs, shall be chaired by the Secretary of State or his designated principal officer of the Department of State, and shall include principal officers or their designees from the Departments of the Interior, Defense, Energy, Commerce, and Justice, the Organization of the Joint Chiefs of Staff, the Office of Management and Budget, the National Security Council, and from such other departments and agencies as may from time to time be appropriate in the view of the Interagency Group. The Interagency Group shall have no management responsibilities, nor shall it affect the responsibility or authority of the Secretary of State, the Secretary of the Interior, or the head of any other Federal agency, under Public Law 99-239.





Section 4(a). Delegation of authority. The Secretary of the Interior is hereby designated and empowered to perform the following described functions of the President under Public Law 99-239, without the approval, ratification, or other action by the President:

- (i) The authority vested in the President by section 102(c), in consultation with the Comptroller General of the United States, to negotiate with the Government of the Federated States of Micronesia modifications to the "Agreement Concerning Procedures for the Implementation of United States Economic Assistance, Programs and Services Provided in the Compact of Free Association".
- (ii) The authority vested in the President by section 103(c), to negotiate with the Government of the Marshall Islands an agreement for use of lands on Ejit by the people of Bikini.
- (iii) The authority vested in the President by paragraphs (1), (2), and (3) of section 103(e), to receive notification of the selection of an investment management firm, to evaluate the qualifications of such firm, and to determine whether such firm meets the requirements specified in Article I of the Subsidiary Agreement for Implementation of Section 177 of the Compact.
- (iv) The authority vested in the President by section 103(i), to receive the report on conditions on Rongelap Island resulting from the thermonuclear test.
- (v) The authority vested in the President by section 103(k), to receive the Enjebi Trust Agreement.



- (vi) The authority vested in the President by section 103(m), to negotiate with the Government of the Marshall Islands an agreement on audits.
 - (vii) The authority vested in the President by section 104(e), to report to the Congress on the impact of the Compact on the United States territories and commonwealths, and on the State of Hawaii.
 - (viii) The authority vested in the President by paragraph (3) of section 105(d), to assure that the funds appropriated for the payment of obligations incurred for the use of medical facilities are used only for that purpose.
 - (ix) The authority vested in the President by section 106(a), to consult with the Governments of the Freely Associated States and to enter into agreements with private sector firms which may be awarded contracts for construction or major repair of capital infrastructure.
 - (x) The authority vested in the President by subsections (a) and (b) of section 110, to transmit annual financial statements to the Congress, to cause an annual audit to be conducted, and to develop and implement, procedures to carry out such audits.
 - (xi) The authority vested in the President by section 111(c), to establish Boards of Advisors for the Investment Development Funds.
- (b) The Attorney General is hereby designated and empowered to perform the following described functions of the President under

Public Law 99-239, without the approval, ratification, or other action by the President:

- (i) The authority vested in the President by section 102(a), to negotiate with the Government of the Federated States of Micronesia an agreement pertaining to law enforcement assistance, and to report annually to the Congress.
- (ii) The authority vested in the President by section 103(a) to negotiate with the Government of the Marshall Islands an agreement pertaining to law enforcement, and to report annually to the Congress.

(c) The Secretary of State is hereby designated and empowered to perform, without the approval, ratification, or other action by the President, the authority vested in the President by section 104(f) of Public Law 99-239, to provide certifications pursuant to section 5 of the Fishermen's Protective Act of 1967, as modified by such section 104(f).

Section 5. Redelelegation of authority. (a) The responsibility placed in the Secretary of State by sections 1 and 4(c) of this order may be exercised through such officers or employees of the Department of State, or through such other persons under the jurisdiction of the Secretary of State, as the Secretary may designate, and shall be exercised in such manner as the Secretary, or any person or persons acting under the authority of the Secretary, may direct or authorize.

(b) The responsibility placed in the Secretary of the Interior by sections 2 and 4(a) of this order may be exercised through such

officers or employees of the Department of the Interior, or through such other persons under the jurisdiction of the Secretary of the Interior, as the Secretary may designate, and shall be exercised in such manner as the Secretary, or any person or persons acting under the authority of the Secretary, may direct or authorize.

(c) The responsibility placed in the Attorney General by section 4(b) of this order may be exercised through such officers or employees of the Department of Justice, or through such other persons under the jurisdiction of the Attorney General, as the Attorney General may designate, and shall be exercised in such manner as the Attorney General, or any person or persons acting under the authority of the Attorney General, may direct or authorize.

Section 6. Supersessions and saving provisions. (a) Prior Executive orders concerning the former Trust Territory of the Pacific Islands, including Executive Order No. 11021 of May 7, 1962, are hereby superseded: Provided, That Executive Order No. 11021 of May 7, 1962, shall remain in force for such period as the Secretary of the Interior may deem necessary for transition purposes, to carry out section 105(c) of Public Law 99-239.

(b) Nothing contained in this Order shall be construed as modifying the rights or obligations of the United States under the provisions of the Compact or as affecting or modifying the responsibility of the Secretary of State to interpret the international obligations of the United States arising out of the Compact.



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Section 7. Effective date. The provisions of this order shall become effective simultaneously with the entry into force of the Compact.