

- (2) arbitration, referred to in section 178(b), in a timely manner, at a site convenient to the claimant, in the event a claim is not otherwise settled pursuant to section 178(a).
- (d) The provisions of section 174(d) shall not apply to claims covered by this section.
- (e) Except as otherwise explicitly provided by law of the United States, this Compact, as amended, or its related agreements, neither the Government of the United States, its instrumentalities, nor any person acting on behalf of the Government of the United States, shall be named a party in any action based on, or arising out of, the activity or activities of a recipient of any grant or other assistance provided by the Government of the United States (or the activity or activities of the recipient's agency or any other person or entity acting on behalf of the recipient).

Section 179

- (a) The courts of the Republic of the Marshall Islands shall not exercise criminal jurisdiction over the Government of the United States, or its instrumentalities.
- (b) The courts of the Republic of the Marshall Islands shall not exercise criminal jurisdiction over any person if the Government of the United States provides notification to the Government of the Republic of the Marshall Islands that such person was acting on behalf of the Government of the United States, for actions taken in furtherance of section 221 or 224 of the Compact, or any other provision of law authorizing financial, program, or service assistance to the Republic of the Marshall Islands.

TITLE TWO

ECONOMIC RELATIONS

Article I

Grant Assistance

Section 211 – Annual Grant Assistance

- (a) In order to assist the Government of the Republic of the Marshall Islands in its efforts to promote the economic advancement and budgetary self-reliance of its people, and in recognition of the special relationship that exists between the Republic of the Marshall Islands and the United States, the Government of the United States shall provide assistance on a grant basis for a period of twenty years in the amounts set forth in section 217, commencing on the effective date of this Compact, as amended. Such grants shall be used for assistance in education, health care, the environment, public sector capacity building, and private sector development, or for other areas as mutually agreed, with priorities in the education and health care sectors. Consistent with the medium-term budget and investment framework described in subsection (f) of this section, the proposed division of this amount among the

identified areas shall require the concurrence of both the Government of the United States and the Government of the Republic of the Marshall Islands, through the Joint Economic Management and Financial Accountability Committee described in section 214. The Government of the United States shall disburse the grant assistance and monitor the use of such grant assistance in accordance with the provisions of this Article and an Agreement Concerning Procedures for the Implementation of United States Economic Assistance Provided in the Compact, as Amended, of Free Association Between the Government of the United States of America and the Government of the Republic of the Marshall Islands ("Fiscal Procedures Agreement") which shall come into effect simultaneously with this Compact, as amended.

- (1) Education. United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support and improve the educational system of the Republic of the Marshall Islands and develop the human, financial, and material resources necessary for the Republic of the Marshall Islands to perform these services. Emphasis should be placed on advancing a quality basic education system.
- (2) Health. United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support and improve the delivery of preventive, curative and environmental care and develop the human, financial, and material resources necessary for the Republic of the Marshall Islands to perform these services.
- (3) Private Sector Development. United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support the efforts of the Republic of the Marshall Islands to attract foreign investment and increase indigenous business activity by vitalizing the commercial environment, ensuring fair and equitable application of the law, promoting adherence to core labor standards, maintaining progress toward privatization of state-owned and partially state-owned enterprises, and engaging in other reforms.
- (4) Capacity Building in the Public Sector. United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to support the efforts of the Republic of the Marshall Islands to build effective, accountable and transparent national and local government and other public sector institutions and systems.
- (5) Environment. United States grant assistance shall be made available in accordance with the strategic framework described in subsection (f) of this section to increase environmental protection; establish and manage conservation areas; engage in environmental infrastructure planning, design construction and operation; and to involve the citizens of the

Republic of the Marshall Islands in the process of conserving their country's natural resources.

(b) Kwajalein Atoll.

- (1) Of the total grant assistance made available under subsection (a) of this section, the amount specified herein shall be allocated annually from FY-2004 through FY-2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) to advance the objectives and specific priorities set forth in subsections (a) and (d) of this section and the Fiscal Procedures Agreement, to address the special needs of the community at Ebeye, Kwajalein Atoll and other Marshallese communities within Kwajalein Atoll. This United States grant assistance shall be made available, in accordance with the medium-term budget and investment framework described in subsection (f) of this section, to support and improve the infrastructure and delivery of services and develop the human and material resources necessary for the Republic of the Marshall Islands to carry out its responsibility to maintain such infrastructure and deliver such services. The amount of this assistance shall be \$3.1 million, with an inflation adjustment as provided in section 218, from FY 2004 through FY 2013 and the FY 2013 level of funding, with an inflation adjustment as provided in section 218, will be increased by \$2 million for FY 2014. The FY 2014 level of funding, with an inflation adjustment as provided in section 218, will be made available from FY 2015 through FY 2023 (and thereafter as noted above).
- (2) The Government of the United States shall also provide to the Government of the Republic of the Marshall Islands, in conjunction with section 321(a) of this Compact, as amended, an annual payment from FY 2004 through FY 2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) of \$1.9 million. This grant assistance will be subject to the Fiscal Procedures Agreement and will be adjusted for inflation under section 218 and used to address the special needs of the community at Ebeye, Kwajalein Atoll and other Marshallese communities within Kwajalein Atoll with emphasis on the Kwajalein landowners, as described in the Fiscal Procedures Agreement.
- (3) Of the total grant assistance made available under subsection (a) of this section, and in conjunction with section 321(a) of the Compact, as amended, \$200,000, with an inflation adjustment as provided in section 218, shall be allocated annually from FY 2004 through FY 2023 (and thereafter as provided in the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights)

for a grant to support increased participation of the Government of the Republic of the Marshall Islands Environmental Protection Authority in the annual U.S. Army Kwajalein Atoll Environmental Standards Survey and to promote a greater Government of the Republic of the Marshall Islands capacity for independent analysis of the Survey's findings and conclusions.

(c) Humanitarian Assistance – Republic of the Marshall Islands Program. In recognition of the special development needs of the Republic of the Marshall Islands, the Government of the United States shall make available to the Government of the Republic of the Marshall Islands, on its request and to be deducted from the grant amount made available under subsection (a) of this section, a Humanitarian Assistance - Republic of the Marshall Islands ("HARMI") Program with emphasis on health, education, and infrastructure (including transportation), projects and such other projects as mutually agreed. The terms and conditions of the HARMI shall be set forth in the Agreement Regarding the Military Use and Operating Rights of the Government of the United States in the Republic of the Marshall Islands Concluded Pursuant to Sections 321 and 323 of the Compact of Free Association, as Amended, which shall come into effect simultaneously with the amendments to this Compact.

(d) Public Infrastructure.

(1) Unless otherwise agreed, not less than 30 percent and not more than 50 percent of U.S. annual grant assistance provided under this section shall be made available in accordance with a list of specific projects included in the infrastructure improvement and maintenance plan prepared by the Government of the Republic of the Marshall Islands as part of the strategic framework described in subsection (f) of this section.

(2) Infrastructure Maintenance Fund. Five percent of the annual public infrastructure grant made available under paragraph (i) of this subsection shall be set aside, with an equal contribution from the Government of the Republic of the Marshall Islands, as a contribution to an Infrastructure Maintenance Fund. Administration of the Infrastructure Maintenance Fund shall be governed by the Fiscal Procedures Agreement.

(e) Disaster Assistance Emergency Fund. Of the total grant assistance made available under subsection (a) of this section, an amount of two hundred thousand dollars (\$200,000) shall be provided annually, with an equal contribution from the Government of the Republic of the Marshall Islands, as a contribution to a Disaster Assistance Emergency Fund ("DAEF"). Any funds from the DAEF may be used only for assistance and rehabilitation resulting from disasters and emergencies. The funds will be accessed upon declaration of a State of Emergency by the Government of the Republic of the Marshall Islands, with the concurrence of the United States Chief of Mission to the Republic of the Marshall Islands. Administration of the DAEF shall be governed by the Fiscal Procedures Agreement.

- (f) **Budget and Investment Framework.** The Government of the Republic of the Marshall Islands shall prepare and maintain an official medium-term budget and investment framework. The framework shall be strategic in nature, shall be continuously reviewed and updated through the annual budget process, and shall make projections on a multi-year rolling basis. Each of the sectors and areas named in subsections (a), (b), and (d) of this section, or other sectors and areas as mutually agreed, shall be accorded specific treatment in the framework. Those portions of the framework that contemplate the use of United States grant funds shall require the concurrence of both the Government of the United States and the Government of the Republic of the Marshall Islands.

Section 212 – Kwajalein Impact and Use

The Government of the United States shall provide to the Government of the Republic of the Marshall Islands in conjunction with section 321(a) of the Compact, as amended, and the agreement between the Government of the United States and the Government of the Republic of the Marshall Islands regarding military use and operating rights, a payment in FY 2004 of \$15 million, with no adjustment for inflation. In FY 2005 and through FY 2013, the annual payment will be the FY 2004 amount (\$15 million) with an inflation adjustment as provided under section 218. In FY 2014, the annual payment will be \$18 million (with no adjustment for inflation) or the FY 2013 amount with an inflation adjustment under section 218, whichever is greater. For FY 2015 through FY 2023 (and thereafter in accordance with the Agreement between the Government of the United States and the Government of the Republic of the Marshall Islands Regarding Military Use and Operating Rights) the annual payment will be the FY 2014 amount, with an inflation adjustment as provided under section 218.

Section 213 – Accountability.

- (a) Regulations and policies normally applicable to United States financial assistance to its state and local governments, as set forth in the *Fiscal Procedures Agreement*, shall apply to each grant described in section 211, and to grants administered under section 221 below, except as modified in the separate agreements referred to in section 231 of this Compact, as amended, or by U.S. law. As set forth in the *Fiscal Procedures Agreement*, reasonable terms and conditions, including annual performance indicators that are necessary to ensure effective use of United States assistance and reasonable progress toward achieving program objectives may be attached. In addition, the United States may seek appropriate remedies for noncompliance with the terms and conditions attached to the assistance, or for failure to comply with section 234, including withholding assistance.
- (b) The Government of the United States shall, for each fiscal year of the twenty years during which assistance is to be provided on a sector grant basis under section 211 (a), grant the Government of the Republic of the Marshall Islands an amount equal to the lesser of (i) one half of the reasonable, properly documented cost incurred during such fiscal year to conduct the annual audit required under Article VIII (2) of the *Fiscal Procedures Agreement* or (ii)

\$500,000. Such amount will not be adjusted for inflation under section 218 or otherwise.

Section 214 – Joint Economic Management and Financial Accountability Committee

The Governments of the United States and the Republic of the Marshall Islands shall establish a Joint Economic Management and Financial Accountability Committee, composed of a U.S. chair, two other members from the Government of the United States and two members from the Government of the Republic of the Marshall Islands. The Joint Economic Management and Financial Accountability Committee shall meet at least once each year to review the audits and reports required under this Title and the Fiscal Procedures Agreement, evaluate the progress made by the Republic of the Marshall Islands in meeting the objectives identified in its framework described in subsection (f) of section 211, with particular focus on those parts of the framework dealing with the sectors and areas identified in subsection (a) of section 211, identify problems encountered, and recommend ways to increase the effectiveness of U.S. assistance made available under this Title. The establishment and operations of the Joint Economic Management and Financial Accountability Committee shall be governed by the Fiscal Procedures Agreement.

Section 215 - Annual Report

The Government of the Republic of the Marshall Islands shall report annually to the President of the United States on the use of United States sector grant assistance and other assistance and progress in meeting mutually agreed program and economic goals. The Joint Economic Management and Financial Accountability Committee shall review and comment on the report and make appropriate recommendations based thereon.

Section 216 - Trust Fund

- (a) The United States shall contribute annually for twenty years from the effective date of the Compact, as amended, in the amounts set forth in section 217 into a trust fund established in accordance with the Agreement Between the Government of the United States of America and the Government of the Republic of the Marshall Islands Implementing Section 216 and Section 217 of the Compact, as Amended, Regarding a Trust Fund ("Trust Fund Agreement"), which shall come into effect simultaneously with this Compact, as amended. Upon termination of the annual grant assistance under section 211 (a), (d) and (e), the earnings of the fund shall thereafter be used for the purposes described in section 211 or as otherwise mutually agreed.
- (b) The United States contribution into the Trust Fund described in subsection (a) of this section is conditioned on the Government of the Republic of the Marshall Islands contributing to the Trust Fund at least \$25 million, on the effective date of the Trust Fund Agreement or on October 1, 2003, whichever is later, \$2.5 million prior to October 1, 2004, and \$2.5 million prior to October 1, 2005. Any funds received by the Republic of the Marshall Islands under section 111 (d) of PL 99-239 (January 14, 1986), or successor provisions, would be contributed to the Trust Fund as a Republic of the Marshall Islands' contribution.

(c) The terms regarding the investment and management of funds and use of the income of the Trust Fund shall be governed by the Trust Fund Agreement. Funds derived from United States investment shall not be subject to federal or state taxes in the United States or any taxes in the Republic of the Marshall Islands. The Trust Fund Agreement shall also provide for annual reports to the Government of the United States and to the Government of the Republic of the Marshall Islands. The Trust Fund Agreement shall provide for appropriate distributions of trust fund proceeds to the Republic of the Marshall Islands and for appropriate remedies for the failure of the Republic of the Marshall Islands to use income of the Trust Fund for the annual grant purposes set forth in section 211. These remedies may include the return to the United States of the present market value of its contributions to the Trust Fund and the present market value of any undistributed income on the contributions of the United States. If this Compact, as amended, is terminated, the provisions of sections 451-453 of the Compact, as amended, and the Trust Fund Agreement shall govern treatment of any U.S. contributions to the Trust Fund or accrued income thereon.

Section 217 - Annual Grant Funding and Trust Fund Contributions

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

(In millions of U.S. dollars)

FY	Annual Grants Section 211	Audit Grants 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

Section 218 - Inflation Adjustment

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

Section 219 – Carry-Over of Unused Funds

If in any year the funds made available by the Government of the United States for that year pursuant to this Article are not completely obligated by the Government of the Republic of the Marshall Islands, the unobligated balances shall remain available in addition to the funds to be provided in subsequent years.

Article II

Services and Program Assistance

Section 221

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

- (1) the United States Weather Service;
- (2) the United States Postal Service;
- (3) the United States Federal Aviation Administration;
- (4) the United States Department of Transportation; and
- (5) the Department of Homeland Security, and the United States Agency for International Development, Office of Foreign Disaster Assistance.

Upon the effective date of this Compact, as amended, the United States Departments and Agencies named or having responsibility to provide these services and related programs shall have the authority to implement the relevant provisions of the Federal Programs and Services Agreement referred to in section 231.

(b) Programs.

(1) Other than the services and programs covered by subsection (a) of this section, and to the extent authorized by the Congress of the United States, the Government of the United States shall make available to the Republic of the Marshall Islands the services and programs that were available to the Republic of the Marshall Islands on the effective date of this Compact, as amended, to the extent that such services and programs continue to be available to State and local governments of the United States. As set forth in the Fiscal Procedures Agreement, funds provided under subsection (a) of section 211 shall be considered to be local revenues of the Government of the Republic of the Marshall Islands when used as the local share required to obtain federal programs and services.

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

(c) The Government of the United States shall have and exercise such authority as is necessary to carry out its responsibilities under this Title and the Federal Programs and Services Agreement, including the authority to monitor and administer all service and program assistance provided by the United States to the Republic of the Marshall Islands. The Federal Programs and Services Agreement shall also set forth the extent to which services and programs shall be provided to the Republic of the Marshall Islands.

(d) Except as provided elsewhere in this Compact, as amended, under any separate agreement entered into under this Compact, as amended, or otherwise under U.S. law, all federal domestic programs extended to or operating in the Republic of the Marshall Islands shall be subject to all applicable criteria, standards, reporting requirements, auditing procedures, and other rules and regulations applicable to such programs and services when operating in the United States.

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

Section 222

The Government of the United States and the Government of the Republic of the Marshall Islands may agree from time to time to extend to the Republic of the Marshall Islands additional United States grant assistance, services and programs, as provided

under the laws of the United States. Unless inconsistent with such laws, or otherwise specifically precluded by the Government of the United States at the time such additional grant assistance, services, or programs are extended, the Federal Programs and Services Agreement shall apply to any such assistance, services or programs.

Section 223

The Government of the Republic of the Marshall Islands shall make available to the Government of the United States at no cost such land as may be necessary for the operations of the services and programs provided pursuant to this Article, and such facilities as are provided by the Government of the Republic of the Marshall Islands at no cost to the Government of the United States as of the effective date of this Compact, as amended, or as may be mutually agreed thereafter.

Section 224

The Government of the Republic of the Marshall Islands may request, from the time to time, technical assistance from the federal agencies and institutions of the Government of the United States, which are authorized to grant such technical assistance in accordance with its laws. If technical assistance is granted pursuant to such a request, the Government of the United States shall provide the technical assistance in a manner which gives priority consideration to the Republic of the Marshall Islands over other recipients not a part of the United States, its territories or possessions, and equivalent consideration to the Republic of the Marshall Islands with respect to other states in Free Association with the United States. Such assistance shall be made available on a reimbursable or non-reimbursable basis to the extent provided by United States law.

Article III

Administrative Provisions

Section 231

The specific nature, extent and contractual arrangements of the services and programs provided for in section 221 of this Compact, as amended, as well as the legal status of agencies of the Government of the United States, their civilian employees and contractors, and the dependents of such personnel while present in the Republic of the Marshall Islands, and other arrangements in connection with the assistance, services, or programs furnished by the Government of the United States, are set forth in a Federal Programs and Services Agreement which shall come into effect simultaneously with this Compact, as amended.

Section 232

The Government of the United States, in consultation with the Government of the Republic of the Marshall Islands, shall determine and implement procedures for the periodic audit of all grants and other assistance made under Article I of this Title and of all funds expended for the services and programs provided under Article II of this Title. Further, in accordance with the Fiscal Procedures Agreement described in subsection (a) of section 211, the Comptroller General of the United States shall have such powers and

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

Section 233

Approval of this Compact, as amended, by the Government of the United States, in accordance with its constitutional processes, shall constitute a pledge by the United States that the sums and amounts specified as grants in section 211 of this Compact, as amended, shall be appropriated and paid to the Republic of the Marshall Islands for such period as those provisions of this Compact, as amended, remain in force, provided that the Republic of the Marshall Islands complies with the terms and conditions of this Title and related subsidiary agreements.

Section 234

The Government of the Republic of the Marshall Islands pledges to cooperate with, permit, and assist if reasonably requested, designated and authorized representatives of the Government of the United States charged with investigating whether Compact funds, or any other assistance authorized under this Compact, as amended, have, or are being, used for purposes other than those set forth in this Compact, as amended, or its subsidiary agreements. In carrying out this investigative authority, such United States Government representatives may request that the Government of the Republic of the Marshall Islands subpoena documents and records and compel testimony in accordance with the laws and Constitution of the Republic of the Marshall Islands. Such assistance by the Government of the Republic of the Marshall Islands to the Government of the United States shall not be unreasonably withheld. The obligation of the Government of the Marshall Islands to fulfill its pledge herein is a condition to its receiving payment of such funds or other assistance authorized under this Compact, as amended. The Government of the United States shall pay any reasonable costs for extraordinary services executed by the Government of the Marshall Islands in carrying out the provisions of this section.

Article IV

Trade

Section 241

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

Section 242

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

- (a) Unless otherwise excluded, articles imported from the Republic of the Marshall Islands, subject to the limitations imposed under section 503(b) of

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

- (b) Only tuna in airtight containers provided for in heading 1604.14.22 of the Harmonized Tariff Schedule of the United States that is imported from the Republic of the Marshall Islands and the Federated States of Micronesia during any calendar year not to exceed 10 percent of apparent United States consumption of tuna in airtight containers during the immediately preceding calendar year, as reported by the National Marine Fisheries Service, shall be exempt from duty; but the quantity of tuna given duty-free treatment under this paragraph for any calendar year shall be counted against the aggregated quantity of tuna in airtight containers that is dutiable under rate column numbered 1 of such heading 1604.14.22 for that calendar year.
- (c) The duty-free treatment provided under subsection (a) shall not apply to:
 - (1) watches, clocks, and timing apparatus provided for in Chapter 91, excluding heading 9113, of the Harmonized Tariff Schedule of the United States;
 - (2) buttons (whether finished or not finished) provided for in items 9606.21.40 and 9606.29.20 of such Schedule;
 - (3) textile and apparel articles which are subject to textile agreements; and
 - (4) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.) on April 1, 1984.
- (d) If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article which is a product of the Republic of the Marshall Islands, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributable to such United States cost or value may be applied for duty assessment purposes toward determining the percentage referred to in section 503(a)(2) of title V of the Trade Act of 1974.

Section 243

Articles imported from the Republic of the Marshall Islands which are not exempt from duty under subsections (a), (b), (c), and (d) of section 242 shall be subject to the rates of duty set forth in column numbered 1-general of the Harmonized Tariff Schedule of the United States (HTSUS).

Section 244

- (a) All products of the United States imported into the Republic of the Marshall Islands shall receive treatment no less favorable than that accorded like products of any foreign country with respect to customs duties or charges of a similar nature and with respect to laws and regulations relating to importation, exportation, taxation, sale, distribution, storage or use.
- (b) The provisions of subsection (a) shall not apply to advantages accorded by the Republic of the Marshall Islands by virtue of their full membership in the Pacific Island Countries Trade Agreement (PICTA), done on August, 18,

2001, to those governments listed in Article 26 of PICTA, as of the date the Compact, as amended, is signed.

- (c) Prior to entering into consultations on, or concluding, a free trade agreement with governments not listed in Article 26 of PICTA, the Republic of the Marshall Islands shall consult with the United States regarding whether or how subsection (a) of section 244 shall be applied.

Article V

Finance and Taxation

Section 251

The currency of the United States is the official circulating legal tender of the Republic of the Marshall Islands. Should the Government of the Republic of the Marshall Islands act to institute another currency, the terms of an appropriate currency transitional period shall be as agreed with the Government of the United States.

Section 252

The Government of the Republic of the Marshall Islands may, with respect to ~~United States persons, tax income derived from sources within its respective jurisdiction,~~ property situated therein, including transfers of such property by gift or at death, and products consumed therein, in such manner as the Government of the Republic of the Marshall Islands deems appropriate. The determination of the source of any income, or the situs of any property, shall for purposes of this Compact, as amended, be made according to the United States Internal Revenue Code.

Section 253

A citizen of the Republic of the Marshall Islands, domiciled therein, shall be exempt from estate, gift, and generation-skipping transfer taxes imposed by the Government of the United States, provided that such citizen of the Republic of the Marshall Islands is neither a citizen nor a resident of the United States.

Section 254

- (a) In determining any income tax imposed by the Government of the Republic of the Marshall Islands, the Government of the Republic of the Marshall Islands shall have authority to impose tax upon income derived by a resident of the Republic of the Marshall Islands from sources without the Republic of the Marshall Islands, in the same manner and to the same extent as the Government of the Republic of the Marshall Islands imposes tax upon income derived from within its own jurisdiction. If the Government of the Republic of the Marshall Islands exercises such authority as provided in this subsection, any individual resident of the Republic of the Marshall Islands who is subject to tax by the Government of the United States on income which is also taxed by the Government of the Republic of the Marshall Islands shall be relieved of liability to the Government of the United States for the tax which, but for this subsection, would otherwise be imposed by the Government of the United

States on such income. However, the relief from liability to the United States Government referred to in the preceding sentence means only relief in the form of the foreign tax credit (or deduction in lieu thereof) available with respect to the income taxes of a possession of the United States, and relief in the form of the exclusion under section 911 of the Internal Revenue Code of 1986. For purposes of this section, the term "resident of the Republic of the Marshall Islands" shall be deemed to include any person who was physically present in the Republic of the Marshall Islands for a period of 183 or more days during any taxable year.

- (b) If the Government of the Republic of the Marshall Islands subjects income to taxation substantially similar to that which was imposed by the Trust Territory Code in effect on January 1, 1980, such Government shall be deemed to have exercised the authority described in section 254(a).

Section 255

For purposes of section 274(h)(3)(A) of the U.S. Internal Revenue Code of 1986, the term "North American Area" shall include the Republic of the Marshall Islands.

TITLE THREE

SECURITY AND DEFENSE RELATIONS

Article I

Authority and Responsibility

Section 311

- (a) The Government of the United States has full authority and responsibility for security and defense matters in or relating to the Republic of the Marshall Islands.
- (b) This authority and responsibility includes:
- (1) the obligation to defend the Republic of the Marshall Islands and its people from attack or threats thereof as the United States and its citizens are defended;
 - (2) the option to foreclose access to or use of the Republic of the Marshall Islands by military personnel or for the military purposes of any third country; and
 - (3) the option to establish and use military areas and facilities in the Republic of the Marshall Islands, subject to the terms of the separate agreements referred to in sections 321 and 323.
- (c) The Government of the United States confirms that it shall act in accordance with the principles of international law and the Charter of the United Nations in the exercise of this authority and responsibility.

Section 312

Subject to the terms of any agreements negotiated in accordance with sections 321 and 323, the Government of the United States may conduct within the lands, waters and airspace of the Republic of the Marshall Islands the activities and operations necessary for the exercise of its authority and responsibility under this Title.

Section 313

- (a) The Government of the Republic of the Marshall Islands shall refrain from actions that the Government of the United States determines, after appropriate consultation with that Government, to be incompatible with its authority and responsibility for security and defense matters in or relating to the Republic of the Marshall Islands.
- (b) The consultations referred to in this section shall be conducted expeditiously at senior levels of the two Governments, and the subsequent determination by the Government of the United States referred to in this section shall be made only at senior interagency levels of the Government of the United States.
- (c) The Government of the Republic of the Marshall Islands shall be afforded, on an expeditious basis, an opportunity to raise its concerns with the United States Secretary of State personally and the United States Secretary of Defense personally regarding any determination made in accordance with this section.

Section 314

- (a) Unless otherwise agreed, the Government of the United States shall not, in the Republic of the Marshall Islands:
 - (1) test by detonation or dispose of any nuclear weapon, nor test, dispose of, or discharge any toxic chemical or biological weapon; or
 - (2) test, dispose of, or discharge any other radioactive, toxic chemical or biological materials in an amount or manner that would be hazardous to public health or safety.
- (b) Unless otherwise agreed, other than for transit or overflight purposes or during time of a national emergency declared by the President of the United States, a state of war declared by the Congress of the United States or as necessary to defend against an actual or impending armed attack on the United States, the Republic of the Marshall Islands or the Federated States of Micronesia, the Government of the United States shall not store in the Republic of the Marshall Islands or the Federated States of Micronesia any toxic chemical weapon, nor any radioactive materials nor any toxic chemical materials intended for weapons use.
- (c) Radioactive, toxic chemical, or biological materials not intended for weapons use shall not be affected by section 314(b).
- (d) No material or substance referred to in this section shall be stored in the Republic of the Marshall Islands except in an amount and manner which would not be hazardous to public health or safety. In determining what shall be an amount or manner which would be hazardous to public health or safety under this section, the Government of the United States shall comply with any applicable mutual agreement, international guidelines accepted by the