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AGREED TEXT 8/21/02

*Micronesia
Marshall Is.
Palau***Article IX****Civil Aviation**
Economic Services and Related Programs

1. The Government of the United States and the Government of the Federated States of Micronesia agree that the following provisions shall apply to the economic regulation of air services of the Federated States of Micronesia.
2. The Government of the Federated States of Micronesia shall exercise independent economic regulatory jurisdiction over air services to, from, and within the Federated States of Micronesia, which for the purposes of this Agreement are points outside the United States, as the term "United States" is defined in 49 U.S.C. § 40102.
3. In accordance with Section [124] of the Compact, the Government of the United States, if requested by the Government of the Federated States of Micronesia and as mutually agreed, shall negotiate or assist in negotiations for air rights with third countries on behalf of the Government of the Federated States of Micronesia.
4. The U.S. Department of Transportation, upon request of the Government of the Federated States of Micronesia, shall provide the following assistance to the Government of the Federated States of Micronesia:
 - (a) preparation of statutory and regulatory proposals for the economic regulation of civil aviation;
 - (b) processing, in Washington, D.C., on behalf of and on the basis of procedures mutually agreed with the Government of the Federated States of Micronesia, of applications from any person seeking authority from the Government of the Federated States of Micronesia to engage in air services to, from or within the Federated States of Micronesia; the power of ultimate disposition of such applications rests with the Government of the Federated States of Micronesia;
 - (c) training in the processing of air service applications, in Washington, D.C., of not more than two persons annually, and a total of not more than six persons during the life of this Agreement, designated by the Government of the Federated States of Micronesia. The Government of the Federated States of Micronesia shall be responsible for travel, subsistence and similar expenses of its designated persons while in such training; and
 - (d) such other assistance as may from time to time be specifically agreed to by the U.S. Department of Transportation.
5. Subject to the approval of the Congress of the United States, the Government of the United States shall maintain:

(a) A distinct classification of foreign air carrier, as the term "foreign air carrier" is defined in 49 U.S.C. § 40102, to be known as "Freely Associated State Air Carrier." This classification shall apply exclusively to a carrier which:

- (1) is organized under the laws of the Federated States of Micronesia or the United States; and
- (2) has consent to such classification from the Government of the Federated States of Micronesia, and consent to such classification from the Government of the United States pursuant to standards adopted by the Government of the United States for such classification.

(b) Authority for the U.S. Department of Transportation to authorize Freely Associated State Air Carriers to carry local traffic between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, and within the Commonwealth of the Northern Mariana Islands.

(c) Notwithstanding the provisions of 49 U.S.C. § 40102(a)(15), Air Micronesia, Inc. and Continental Micronesia, Inc. each shall qualify as a U.S. citizen air carrier, within the meaning of 49 U.S.C. § 40102(a)(2), for so long as they continue to be (1) incorporated in the United States or its Territories or possessions, and (2) controlled by citizens of the United States or by a corporation or corporations controlled by citizens of the United States.

(d) The U.S. Department of Transportation shall maintain rules to implement the provisions of this paragraph as the Department, in its discretion, deems appropriate. The Government of the Federated States of Micronesia shall be given notice of any proposed change in these rules and an opportunity to present its views, which shall be considered in any such revision.

6. (a) Notwithstanding paragraph 2, the Government of the Federated States of Micronesia shall authorize, without restrictions or impairment, United States air carriers to operate air services to, through, beyond, within and between the Federated States of Micronesia and to establish prices applicable to such air services.

(b) The Government of the United States shall promptly and sympathetically consider applications by air carriers of the Federated States of Micronesia to serve the United States, subject to all requirements normally applied.

(c) The Governments of the Federated States of Micronesia and the United States shall, on the basis of reciprocity, exempt air carriers that are authorized by each other to provide air services, from customs duties and taxes imposed by their national authorities, and shall not impose user charges that exceed an equitable proportion of the reasonable costs of providing the facilities, or which are discriminatory.

7. (a) The Government of the United States shall promptly notify the Government of the Federated States of Micronesia of the filing with the U.S. Department of Transportation of any application by a United States air carrier for authority under the laws of the United States to operate air services pursuant to paragraph 6. The Government of the Federated States of Micronesia shall designate competent authorities pursuant to Article [II, paragraph 10] of this Agreement for the purpose of receiving such notice. The Government of the Federated States of Micronesia shall be accorded an opportunity to present its views, which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the United States in connection with any such application, the Government of the Federated States of Micronesia shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules.

(b) The Government of the Federated States of Micronesia shall promptly notify the Government of the United States of the filing with the Department of Transportation, Infrastructure and Communications of any application by an air carrier of the Federated States of Micronesia for authority under the laws of the Federated States of Micronesia to operate air services between the Federated States of Micronesia and the United States. The Government of the United States shall designate competent authorities pursuant to Article [II, paragraph 10] of this Agreement for the purpose of receiving such notice. The Government of the United States shall be accorded an opportunity to present its views, which shall be considered in reaching any decision. Should a formal or informal proceeding be instituted by the Government of the Federated States of Micronesia in connection with any such application, the Government of the United States shall be made a party to such proceeding with full rights in accordance with the applicable procedural rules.

8. The Government of the United States and the Government of the Federated States of Micronesia shall sympathetically consider a request by the other Government for the negotiation of a bilateral air transport agreement.

9. The Government of the Federated States of Micronesia may terminate the operation of paragraphs 3, 4, 5 or 7 of this Article. Such partial termination may be effected in the same manner as this Article may be terminated in accordance with Article [XIII] of this Agreement. If the Government of the Federated States of Micronesia terminates the operation of paragraphs 3, 4, 5 and 7 of this Article, the Government of the Federated States of Micronesia may, in accordance with Article [XIII] of this Agreement, also terminate the operation of paragraph 6 of this Article.

10. If the Government of the Federated States of Micronesia elects to terminate the operation of paragraphs 3, 4, 5 and 7 of this Article, and the operation of paragraph 6 of this Article, the remaining provisions of this Article shall cease to be in effect two years after such termination, unless otherwise agreed by the Government of the Federated States of Micronesia and the Government of the United States. Notwithstanding the entry into force of an air transport agreement between the Government of the Federated States of Micronesia and the Government of the United States, this Article IX shall remain in full force and effect except as may be provided in paragraphs 9 and 10 of this Article.