



HOUSE COMMITTEE ON  
**NATURAL RESOURCES**  
CHAIRMAN BRUCE WESTERMAN

**To:** House Committee on Natural Resources Republican Members  
**From:** Indian and Insular Affairs Subcommittee staff: Ken Degenfelder  
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**Date:** Thursday, October 19, 2023  
**Subject:** Legislative Hearing on a Discussion Draft of H.J. Res. \_\_\_\_ (Rep. Westerman),  
“*Compact of Free Association Amendments Act of 2023*”

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The Subcommittee on Indian and Insular Affairs will hold a legislative hearing on a Discussion Draft of **H.J. Res. \_\_\_\_ (Rep. Westerman)**, “*Compact of Free Association Amendments Act of 2023*” on **Thursday, October 19, 2023, at 3:00 p.m. in Room 1324 Longworth House Office Building.**

Member offices are requested to notify Ransom Fox ([Ransom.Fox@mail.house.gov](mailto:Ransom.Fox@mail.house.gov)) by 4:30 p.m. on Wednesday, October 18, 2023, if their Member intends to participate in the hearing.

## **I. KEY MESSAGES**

- The U.S. has international agreements known as the Compact of Free Association (COFA or COFAs) with three Pacific Island countries, the Republic of Palau (Palau), the Republic of the Marshall Islands (RMI), and the Federated States of Micronesia (FSM), collectively referred to as the Freely Associated States (FAS). The COFAs for the RMI and the FSM expired at the end of FY 2023, however an extension of certain COFA provisions for FSM and RMI was included in the FY 2023 Continuing Resolution (CR).<sup>1</sup> The COFA for Palau will expire at the end of FY 2024.
- To deter the People’s Republic of China’s (PRC) influence and to maintain the United States’ capacity to secure its interests, the U.S. must remain engaged with the FAS, and the Indo-Pacific region as a whole and must respond accordingly to malign PRC coercive activity. The COFAs are critical to U.S. relationships with the FAS and for U.S. strategy in the Indo-Pacific.
- The Discussion Draft H.J. Res.\_\_\_\_, the Compact of Free Association Amendments Act of 2023 (COFAA 2023) would approve recently negotiated and updated COFAs with the FSM, Palau, and the RMI. While FSM and Palau have signed new agreements with the United States, RMI is expected to sign its agreement in the coming days. The Discussion Draft contains bracketed text to serve as a placeholder for the COFA

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<sup>1</sup> P.L. 118-15.

agreement between the U.S. and the RMI, which is anticipated to be signed on October 16, 2023. There is also bracketed text to serve as placeholders for the Federal Program and Service Agreements (FPSA) for FSM and RMI, which are being finalized and have not yet been transmitted to Congress.

- The COFAs are essential to U.S. interests in and relationships with the FAS, and ultimately the Indo-Pacific region. Renewing economic assistance and continuing federal programs and services to the FAS reaffirms U.S. commitment to its allies and reliability as a partner.

## II. WITNESSES

- **The Honorable Joseph Y. Yun**, Special Presidential Envoy for Compact Negotiations, United States of America, Washington, D.C.
- **The Honorable Carmen Cantor**, Assistant Secretary, Office of Insular and International Affairs, U.S. Department of the Interior, Washington, D.C.

## III. BACKGROUND

### *Freely Associated States*

In 1986, the FAS emerged from the U.S. administered United Nations (UN) Trust Territory of the Pacific Islands in Micronesia that had been established after World War II.<sup>2</sup> The Marshall Island group became the Republic of the Marshall Islands, and the Caroline Island group became the Republic of Palau and the Federated States of Micronesia.<sup>3</sup> The FAS cover a maritime area comparable in size to the continental United States, govern over 1,000 islands, and have a combined population of approximately 100,000 people.<sup>4</sup> The FAS economies face structural challenges similar to many other Pacific Island counties, including a lack of economies of scale, small land areas, limited natural and human resources, remote locations, and poor infrastructure.<sup>5</sup> Each Freely Associated State is an independent nation with full membership in the UN and the Pacific Islands Forum.<sup>6</sup>

**Federated States of Micronesia:** The FSM is comprised of island chains located between the RMI and Palau. It has a federal constitutional system comprising the states of Pohnpei, Chuuk,

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<sup>2</sup> The Freely Associated States and Issues for Congress.” Congressional Research Service. <https://crsreports.congress.gov/product/pdf/R/R46705>.

<sup>3</sup> “Marshall Islands.” Encyclopedia Britannica. <https://www.britannica.com/place/Marshall-Islands> and “Caroline Islands.” Encyclopedia Britannica. Accessed. <https://www.britannica.com/place/Caroline-Islands>

<sup>4</sup> The Freely Associated States and Issues for Congress.” Congressional Research Service and “Freely Associated States 2023.” World Population Review. <https://worldpopulationreview.com/country-rankings/freely-associated-states>.

<sup>5</sup> For more information on the FAS see “The Freely Associated States and Issues for Congress.” Congressional Research Service. <https://crsreports.congress.gov/product/pdf/R/R46573/2>.

<sup>6</sup> The Pacific Islands Forum. <https://www.forumsec.org/who-we-arepacific-islands-forum/> and “Member States.” United Nations. <https://www.un.org/en/about-us/member-states#gotoF>.

Yap and Kosrae.<sup>7</sup> The capital is located at Pohnpei.<sup>8</sup> It derives revenues from licensed international fishing in its vast territorial waters and hosts a small but thriving tourism sector.<sup>9</sup>

**Republic of the Marshall Islands:** The RMI consists of hundreds of islands in two parallel chains of coral atolls—the Ratak, or Sunrise, island chain to the east and the Ralik, or Sunset, island chain to the west—in the central Pacific Ocean.<sup>10</sup> The chains lie about 125 miles (200 km) apart and extend some 800 miles northwest to southeast. The capital of the RMI is Majuro.<sup>11</sup>

**Republic of Palau:** Palau is the western-most of the FAS, with its capital at Koror.<sup>12</sup> It's internationally renowned “Rock Islands” are a strong tourist draw, driving a thriving tourism industry.<sup>13</sup> Palau is also host to a growing U.S. military presence that includes highly advanced radar and surveillance capabilities vital to U.S. regional strategic interests.<sup>14</sup> Palau also derives revenues from licensed international fishing and subsistence agriculture.<sup>15</sup>

### *Compacts of Free Association*

The FAS are diplomatically, militarily, and economically connected to the U.S. through the COFA, which are mutually beneficial agreements that serve as the primary line of defense against PRC influence operations in the Indo-Pacific region in several ways. First, they serve as a reminder to the FAS that the U.S. is committed and values the special relationship formed under free association. Second, the Compacts enable the U.S. and the FAS to counter the PRC's attempts to undermine democracy through economic coercion.<sup>16</sup> U.S. economic assistance to the FAS provides tools and stability for local governments to prevent democratic erosion.

Under the COFAs, the U.S. secures unprecedented and unmatched security and defense rights based in the FAS nations, in exchange for vital U.S. economic assistance and defense guarantees. These rights allow the U.S. to establish military facilities in the FAS in accordance with the COFA terms and to exercise the right of strategic denial. The right of strategic denial allows the U.S. to deny any foreign military, including the PRC, access to an FAS territory.<sup>17</sup>

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<sup>7</sup> “Micronesia.” Encyclopedia Britannica. <https://www.britannica.com/place/Micronesia-republic-Pacific-Ocean>.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> “Marshall Islands.” Encyclopedia Britannica. <https://www.britannica.com/place/Marshall-Islands>.

<sup>11</sup> *Id.*

<sup>12</sup> “Palau.” Encyclopedia Britannica <https://www.britannica.com/place/Palau>.

<sup>13</sup> “Rock Islands Southern Lagoon.” UNESCO World Heritage Centre. <https://whc.unesco.org/en/list/1386/>.

<sup>14</sup> Wright, Stephen. “US Plans Over-the-Horizon Radar Facility in Palau.” Radio Free Asia.

<https://www.rfa.org/english/news/pacific/palau-radar-01112023015016.html>.

<sup>15</sup> “Department of State: 2014 Investment Climate Statement.” U.S. Department of State. <https://2009-2017.state.gov/documents/organization/228600.pdf>.

<sup>16</sup> Shullman, David, ed. “Chinese Malign Influence and the Corrosion of Democracy.” International Republican Institute. [https://www.iri.org/wp-content/uploads/legacy/iri.org/china\\_malign\\_influence\\_executive\\_summary\\_booklet.pdf](https://www.iri.org/wp-content/uploads/legacy/iri.org/china_malign_influence_executive_summary_booklet.pdf).

<sup>17</sup> Hills, Howard. Free Association for Micronesia and the Marshall Islands: A Transitional Political Status Model. University of Hawaii Law Review, Vol. 27/1. Winter 2004.

Within the RMI, the U.S. has an army garrison located in Kwajelein Atoll, that features the Ronald Reagan Ballistic Missile Defense Test Site (RTS).<sup>18</sup> The RTS is a vital strategic asset as it supports U.S. missile and missile defense testing, space launch, and space surveillance activities.<sup>19</sup> In the FSM, the U.S. Department of Defense (DoD) is seeking to use Micronesia as a location for U.S. Air Force Agile Combat Employment operations.<sup>20</sup> Palau is also host to a growing U.S. military presence that includes highly advanced radar and surveillance capabilities vital to U.S. regional strategic interests.<sup>21</sup>

Additionally, the U.S. Coast Guard (USCG) holds an active presence in the region as its cutters and patrol boats tend to be better suited than U.S. Navy vessels for the waterways surrounding the FAS.<sup>22</sup> The USCG 14<sup>th</sup> District regularly performs maritime safety and security missions, prevention of illegal unlicensed fishing, protection of natural resources, and emergency response in the region.<sup>23</sup>

Barring termination of the COFA by the parties according to the provisions of the agreement, the security and defense provisions of the COFA do not expire and continue indefinitely. However, the economic provisions that also sustain the COFA require periodic renewal.<sup>24</sup> The COFA agreements with the RMI and the FSM came into force in FY 1986 with economic assistance lasting for fifteen years, until FY 2001.<sup>25</sup> While renewal negotiations stalled for two years, grant assistance to the FSM and the RMI continued until the COFA agreements with both countries were renewed in 2003 for twenty years under a single piece of legislation from FY 2004 through FY 2023 (2003 FSM & RMI COFA).<sup>26</sup>

In the case of Palau, the final terms for implementation of the COFA approved by Congress in 1986 were set forth in the Implementation of Compact of Free Association with Palau Act. The Palau COFA was ratified by Palau's National Congress in 1993 and entered into force in 1994 with funding commencing in FY 1995 for 15 years, through FY 2009.<sup>27</sup> The U.S. and Palau agreed to extend the economic assistance from the U.S. through a Compact Review Agreement

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<sup>18</sup> Army Space and Missile Defense Command.

[https://www.smdc.army.mil/Portals/38/Documents/Publications/Fact\\_Sheets/RTS.pdf](https://www.smdc.army.mil/Portals/38/Documents/Publications/Fact_Sheets/RTS.pdf).

<sup>19</sup> "In Focus: The Compacts of Free Association." Congressional Research Service, August 15, 2022.

<https://crsreports.congress.gov/product/pdf/IF/IF12194/1>.

<sup>20</sup> Id.

<sup>21</sup> Wright, Stephen. "US Plans Over-the-Horizon Radar Facility in Palau." Radio Free Asia, March 27, 2023.

<https://www.rfa.org/english/news/pacific/palau-radar-01112023015016.html>.

<sup>22</sup> Maritime challenges and opportunities - Daniel K. Inouye Asia-Pacific ... Accessed June 7, 2023.

<https://dkiapcss.edu/wp-content/uploads/2022/09/Blue-Pacific-Security-11-Long-Turvold-McCann-MaritimeChallenges-1.pdf>.

<sup>23</sup> "United States Coast Guard Pacific Area: Strategic Intent." United States Coast Guard, January 2016.

<https://www.pacificarea.uscg.mil/Portals/8/Documents/PACAREA%20Strategic%20Intent%20-%202016%20-%20final%20for%20release.pdf>.

<sup>24</sup> P.L. 99-239, 48 U.S.C. 1681 note, 59 Stat.1031, Section 211, and H.J. Res. 626, Nov. 14, 1986, P.L. 99-658, 61 Stat. 3301, Section 432.

<sup>25</sup> P.L. 99-239, 48 U.S.C. 1681 note, 59 Stat.1031, Section 211(a).

<sup>26</sup> Public Law 108-188. 117 Stat. 2720, Section 211(a).

<sup>27</sup> The Freely Associated States and Issues for Congress." Congressional Research Service.

<https://crsreports.congress.gov/product/pdf/R/R46705> and H.J. Res. 626, Nov. 14, 1986, P.L. 99-658, 61 Stat. 3301; P.L. 101-219, 103 Stat. 1870, December 12, 1989.

(CRA) for 15 years, from FY 2010 through FY 2024, also known as the “2010 CRA.”<sup>28</sup> However, Congress did not approve the agreement until 2017 and so Palau received discretionary appropriations from FY 2010 through FY 2017 through a CR. The funding levels from the CR were less than what Palau was originally scheduled to receive under the 2010 CRA. The 2010 CRA came into effect when Congress passed an agreement in 2017 to amend the CRA, referred to as the “2010 CRA Amendment.”<sup>29</sup> The 2010 CRA Amendment provided the authorization for Palau to receive the full amount that was originally scheduled under the 2010 Palau CRA from FY 2018 through FY 2024.

At present, the U.S. and the FAS are seeking a renewal of their respective COFA agreements. While the COFA with Palau does not expire until the end of FY 2024, the Palau government requested to be renewed on a parallel track along with the RMI and the FSM.

In the 118<sup>th</sup> Congress, the Committee on Natural Resources has conducted multiple hearings on the COFAs and Chairman Westerman led a historic bipartisan Congressional delegation to all three FAS nations in August 2023.<sup>30</sup> On May 16, 2023, the Subcommittee on Indian and Insular Affairs held an oversight hearing titled “*Preserving U.S. Interests in the Indo-Pacific: Examining How U.S. Engagement Counters Chinese Influence in the Region.*”<sup>31</sup>

The Committee formed a bipartisan Indo-Pacific Task Force to conduct oversight on issues facing the U.S. territories and Freely Associated States (FAS) in the Indo-Pacific region.<sup>32</sup> The task force held oversight hearings on June 14, 2023 titled “*How the Compacts of Free Association Support U.S. Interests and Counter the PRC’s Influence*” and on July 18, 2023 titled “*The Biden’s Administration’s Proposed Compact of Free Association Amendments Act of 2023*”.<sup>33</sup> The Committee held an oversight field hearing on August 24, 2023, titled “*Peace Through Strength: The Strategic Importance of the Pacific Islands to U.S.-led Global Security.*”<sup>34</sup> More information on the hearings, including informational memos prepared by Majority staff and video recordings of the hearings are available on the Committee’s website at <https://naturalresources.house.gov/>.

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<sup>28</sup> Agreement Following the Compact of Free Association Section 432 Review, Signed at Honolulu, September 3, 2010.

<sup>29</sup> P.L. 115-91, 131 Stat. 1687, December 12, 2017.

<sup>30</sup> Westerman Returns from Historic CODEL Demonstrating U.S. Strength in the Indo-Pacific and Countering CCP Influence.” House Committee on Natural Resources, September 5, 2023.

<https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=414776> .

<sup>31</sup> Preserving U.S. Interests in the Indo-Pacific: Examining How U.S. Engagement Counters Chinese Influence in the Region | Indian and Insular Affairs Subcommittee.” House Committee on Natural Resources, May 16, 2023.

<https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=413218>.

<sup>32</sup> “Committee Announces Bipartisan Task Force Combatting Chinese Government’s Influence in the Indo-Pacific.” House Committee on Natural Resources, June 7, 2023.

<https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=413401>.

<sup>33</sup> “How the Compacts of Free Association Support U.S. Interests and Counter the PRC’s Influence | Indo-Pacific Task Force.” House Committee on Natural Resources, June 14, 2023.

<https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=413428>, and “The Biden’s Administration’s Proposed Compact of Free Association Amendments Act of 2023 | Indo-Pacific Task Force.” House Committee on Natural Resources, July 18, 2023. <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=414550>.

<sup>34</sup> “Peace Through Strength: The Strategic Importance of the Pacific Islands to U.S.-Led Global Security | Full Committee Hearing.” House Committee on Natural Resources, August 24, 2023.

<https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=414736>.



In August of 2023, HNRC Chairman Bruce Westerman (R-Ark.) led a bipartisan CODEL to Palau, the RMI, and the FSM to visit and meet with leaders from the three FAS nations and discuss U.S. commitments and partnerships with the FAS.<sup>35</sup>

#### IV. MAJOR PROVISIONS

##### Discussion Draft of H.J. Res. \_\_\_\_\_ (Rep. Westerman), the Compact of Free Association Amendments Act of 2023.

Discussion Draft H.J. Res. \_\_\_\_\_ (Rep. Westerman), the Compact of Free Association Amendments Act of 2023 would approve and incorporate by reference agreements signed between the U.S. and the Freely Associated States for the new Compact period, from FY 2024 through FY 2043. These agreements are as follows:

- **2023 Agreement to Amend the U.S.-FSM Compact:** An agreement between the U.S. and the FSM governments to amend the 2003 U.S.-FSM COFA by renewing economic provisions. The agreement sets a new funding schedule from FY 2024 through FY 2043 for the various funding categories, including the FSM’s trust fund, as agreed upon between the FSM and U.S. governments. The agreement also sets biennial reporting requirements on the FSM government to send reports every two years to the U.S. president on the use of U.S. economic assistance and the FSM governments’ progress in meeting program and economic goals.
- **2023 U.S.-FSM Fiscal Procedures Agreement:** An agreement on the procedures for the implementation of economic assistance provided to the FSM government by the U.S. government. This agreement sets guidelines, requirements, and conditions for the U.S. government and the FSM government when implementing the U.S.-FSM COFA economic provisions. The agreement sets parameters for the various categories of sector grants, which are funds dedicated for use for projects within sectors that the U.S. and the FSM have designated as priorities such as education, health, and private sector development. The agreement also enumerates the composition and responsibilities of the Joint Economic Management Committee (JEMCO), which is responsible for reviewing the audits and reports required under the U.S.-FSM COFA. The JEMCO is also responsible for evaluation the FSM’s progress in meeting economic and financial objectives and provides recommendations for increasing effectiveness of U.S. Compact assistance. The JEMCO consist of members from both the U.S. and the FSM governments.
- **2023 U.S.-FSM Trust Fund Agreement:** An agreement on the rules and conditions of the trust fund established by the U.S. for the FSM.<sup>36</sup> The FSM’s trust fund would receive

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<sup>35</sup> “Westerman Returns from Historic CODEL Demonstrating U.S. Strength in the Indo-Pacific and Countering CCP Influence.” House Committee on Natural Resources, September 5, 2023.

<https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=414776>.

<sup>36</sup> Official Site of The Trust Fund for The People of The Federated States of Micronesia. <https://fsmcfatf.com/>.

a total of \$500 million for the period from FY 2024 through FY 2043 under the U.S.-FSM COFA. This agreement sets legal status, account structure, funding levels and conditions for distribution, audit and reporting requirements, and withdrawal conditions for the FSM's trust fund. The agreement also sets the composition and responsibilities of the Joint Trust Fund Committee, which serves as a trustee of the FSM's trust fund and ensures that the fund is maintained in accordance with the U.S.-FSM COFA.

- **2023 U.S.-FSM FPSA:** An agreement on what U.S. Federal programs and services would be provided to the FSM and the conditions for those services. It is anticipated that these Federal programs and services will include the National Oceanic and Atmospheric Administration's National Weather Service, the Federal Aviation Administration's civil aviation services, the Federal Emergency Management Agency (FEMA), the U.S. Postal Service, and the Federal Deposit Insurance Corporation (FDIC). The agreement also sets the authority and responsibilities of the U.S. government with regards to the operation of U.S. telecommunications and fiber optics services in the FSM.
- **2023 Agreement to Amend the U.S.-RMI Compact:** An agreement between the U.S. and the RMI governments to amend the current U.S.-RMI COFA by renewing economic provisions. It is anticipated that this agreement would set a new funding schedule from FY 2024 through FY 2043 for U.S. economic assistance to the RMI including the RMI's trust fund, agreed upon between the two governments. It is also anticipated that the agreement would set reporting requirements on the RMI government to send reports to the U.S. president on the use of U.S. economic assistance and RMI government's progress in meeting program and economic goals.
- **2023 U.S.-RMI Fiscal Procedures Agreement:** An agreement on the procedures for the implementation of economic assistance provided to the RMI government by the U.S. government. It is anticipated that this agreement will set guidelines, requirements, and conditions for the U.S. government and the RMI government when implementing the U.S.-RMI COFA economic provisions. It is also anticipated that this agreement would set parameters for the various categories of sector grants and enumerates the composition and responsibilities of the Joint Economic Management and Financial Accountability Committee (JEMFAC), which is responsible for reviewing the audits and reports required under the Compact. The JEMFAC is also responsible for evaluation the RMI's progress in meeting economic and financial objectives and provides recommendations for increasing effectiveness of U.S. Compact assistance under the U.S.-RMI COFA. The JEMFAC consist of members from both the U.S. and the RMI governments.
- **2023 U.S.-RMI Trust Fund Agreement:** An agreement on the rules and conditions of the trust fund established by the U.S. for the RMI.<sup>37</sup> It is anticipated that a total of \$700 million for the period of FY 2024 through FY 2043 under the U.S.-RMI COFA will be for the trust fund. It is anticipated that this agreement would set the legal status, account structure, funding levels and conditions for distribution, audit and reporting requirements, and withdrawal conditions for the RMI's trust fund. It is anticipated that the agreement

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<sup>37</sup> Official Site of The Trust Fund for The People of The Republic of The Marshall Islands. <https://rmicfatf.com/>.

would also set the composition and responsibilities of the Joint Trust Fund Committee, which serves as a trustee of the RMI’s trust fund and ensures that the fund is maintained in accordance with the U.S.-RMI COFA.

- **2023 U.S.-Palau Compact Review Agreement:** An agreement between the U.S. and Palau governments resulting from Section 432 of the U.S.-Palau compact. Section 432 provides that “Upon the fifteenth and thirtieth and fortieth anniversaries of the effective date of this Compact, the Government of the United States and the Government of Palau shall formally review the terms of this Compact and its related agreements...”<sup>38</sup> The 2023 agreement was the result of the thirtieth anniversary review of the Compact. The agreement sets a new funding schedule from FY 2024 through FY 2043 for the various funding categories, including Palau’s trust fund, agreed upon between the Palau and U.S. governments. The agreement also sets the fiscal procedures for the implementation of economic assistance provisions, including setting annual reporting requirements for Palau. This agreement also enumerates the composition and responsibilities of the Economic Advisory Group (EAG), whose purpose is to contribute to the economic growth and sustainability of Palau by recommending economic, financial, and fiscal management measures.

### ***COFA Funding***

The COFAA 2023 would fulfill U.S. economic assistance obligations to the FAS agreed upon under the newly signed agreements between the U.S. government and each FAS government. More broadly, this economic assistance would strengthen the special relationship between the U.S. and the three FAS countries, and bolster U.S. efforts to counter Chinese influence in the region.

The COFAA 2023 would provide economic assistance for each FAS in the following amounts over the next twenty years, from FY 2024 through FY 2043:

- FSM: \$3.3 billion (approx. \$1.2 billion increase from the 2003 FSM & RMI COFA)
- Palau: \$889 million (approx. \$599 million increase from the 2010 CRA)
- RMI: \$2.3 billion (approx. \$1.3 billion increase from the 2003 FSM & RMI COFA)
- U.S. Postal Services (USPS) to the FAS: \$634 million (a \$634 million increase from the 2003 FSM & RMI COFA and 2010 CRA)

**Total: \$7.1 billion**

In addition to \$6.5 billion in economic assistance to the FAS, COFAA 2023 includes \$634 million for the USPS over the course of twenty years for services to the FAS. The USPS has provided the FAS with postal service under the previous COFA, but never received adequate reimbursement for those services. COFAA 2023 includes funding for USPS to continue service for the next twenty years. This brings the cost of the COFA proposal to a total of \$7.1 billion in mandatory spending over 20 years.

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<sup>38</sup> Agreement Following the Compact of Free Association Section 432 Review, Signed at Honolulu, September 3, 2010.



The COFAA 2023 would have the funds be appropriated to the Compact of Free Association account of the Department of the Interior, out of any fund in the Treasury not otherwise appropriated, for the FY 2024 through FY 2043 period. These funds would remain available until expended. This is a change from the Administration's COFA proposal which included a Department of State pass-through funding arrangement. Maintaining COFA funding within the Department of the Interior reduces bureaucracy, provides greater certainty to the FAS and provides greater transparency for Congressional oversight into the use of funds.

### ***Oversight and Accountability***

The COFAA 2023 would strengthen oversight and accountability measures for U.S. implementation and management of the COFA economic provisions. The COFAA 2023 would build upon existing measures within Public Law 108-188 and the 2010 Palau CRA, but also creates additional requirements for the Administration to report to Congress on COFA activities.

The COFAA 2023 would require the U.S. members of the JEMFAC, JEMCO, U.S.-FSM Joint Trust Fund Committee, and U.S.-RMI Joint Trust Fund Committee to have strong experience in finance and accounting and sets 5-year term limits for the members. Furthermore, the COFAA 2023 would require the Secretary of the Interior to submit reports by these committees to Congress detailing the actions of the committees and their recommendations. The COFAA 2023 would also require the members of the EAG appointed by the Secretary of the Interior to have qualifications in private sector business development, economic development, or national development.

The COFAA 2023 also carries forward the authorities of the Comptroller General to carry out its oversight responsibilities under the COFAs. The COFAA 2023 would also place reporting requirements on the Comptroller General to submit to Congress a report on the economic performance of the FAS, the impact of U.S. economic assistance to the FAS, and the effectiveness of U.S. administrative oversight over the COFAs. This would expand the requirements set by Public Law 108-188 by including reporting on Palau. The COFAA 2023 also carries forward the authorities of the Secretary of the Interior and the Postmaster General to carry out their oversight responsibilities.

The COFAA 2023 would also require the Secretary of the Interior to submit to Congress a compilation of the COFA agreements with the FSM, the RMI, and Palau. This would improve readability of the COFA agreements.

### ***Interagency Group on Freely Associated States***

The COFAA 2023 would require the U.S. president to establish an Interagency Group on Freely Associated States that would serve as a coordination mechanism for the U.S. government's implementation of the COFAs with the three FAS countries. The Interagency Group would consist of the secretaries of State, the Interior, and Defense, and heads of relevant federal agencies, departments, and instrumentalities carrying out COFA obligations. The Secretary of State and Secretary of the Interior would both serve as co-chairs and would be responsible for

facilitating and coordinating the work of the Interagency Group. The Interagency Group would enhance U.S. government coordination on COFA implementation and increase engagement from the Department of State on issues relating to the COFAs.

The duties of the Interagency Group include providing advice on the establishment and implementation of policies relating to the FAS to the U.S. president through a written report at least once a year, and facilitating coordination of relevant policies, programs, initiatives, and activities of the FAS to avoid duplication between activities. Section 7(d)(6) sets reporting requirements for the U.S. president to submit to the majority leader and minority leader of the Senate, the Speaker and minority leader of the House of Representatives, and the appropriate committees of Congress a report that describes the activities and recommendations of the Interagency Group during the applicable year.

### *Unit for the Freely Associated States*

The COFAA 2023 would also require the establishment of a Unit for the Freely Associated States in the Bureau of East Asian and Pacific Affairs of the Department of State. The Unit would be responsible for managing bilateral and regional relations with the FAS, supporting the Secretary of State in leading negotiations relating to the COFAs, and coordinating, in consultation with the Department of the Interior and the Department of Defense, on implementation of the COFAs.

The establishment of the Unit and increasing Department of State personnel in the region would help address the issue of low U.S. diplomatic engagement with and presence in the Pacific Islands. It is critical for the U.S. to increase its diplomatic presence in the region to counter the PRC's growing influence. The PRC has focused efforts in recent years on increasing PRC diplomatic engagement with, and presence in the Pacific Islands.<sup>39</sup>

The COFAA 2023 would require the Secretary of State to assign to the Office of Australia, New Zealand, and Pacific Island Affairs of the Bureau of East Asian and Pacific Affairs, including to the unit, not less than 4 additional full-time equivalent (FTE) staff. These staff would not be dual-hatted and would be selected by considering the use of existing flexible hiring authorities—including Domestic Employees Teleworking Overseas (DETOs)—and the realignment of existing personnel—including from the United States Mission in Australia. Furthermore, it requires the Secretary of State to reduce the number of vacant foreign service positions in the Pacific Island region by establishing an incentive program within the Foreign Service for overseas positions related to the Pacific Island region, and report annually to Congress on the progress of meeting these objectives over the course of the next five years. The intent of these requirements is not to increase the number of FTE's but require a realignment of staff within the Department of State.

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<sup>39</sup> Lee, M. (2023, July 13). US Eyes Massive Ramp-Up in Diplomatic Personnel and Spending at New Pacific Island Embassies. ABC News. <https://abcnews.go.com/US/wireStory/us-eyes-massive-ramp-diplomatic-personnel-spending-new-101226050>

## ***Compact Impact Fairness***

The COFAA 2023 also seeks to restore eligibility for FAS citizens lawfully living in the U.S., and U.S. territories to receive the Federal benefits available to other legal permanent residents. COFAA 2023 contains substantially similar language as the standalone House bill, H.R. 3570, the *Compact Impact Fairness Act of 2023*.<sup>40</sup>

Under the first COFAs, FAS citizens who legally work and reside in the U.S. were eligible for Federal benefits available to legal permanent residents, but lost eligibility for most of these benefits following the enactment of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).<sup>41</sup> In 2020, Congress restored Medicaid eligibility for legal permanent residents from the FAS<sup>42</sup> However, U.S. states and territories have had to shoulder the financial costs of hosting legal permanent residents from the FAS and meeting the cost-sharing requirements of Medicaid. To address this, the current COFAs, under Public Law 108-188, provide Compact Impact Grants to Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

Instead of the Compact Impact Grants, the COFAA 2023 would return Federal benefits eligibility for FAS migrants to pre-PRWORA levels and expand coverage to all U.S. states and territories.

## **V. SECTION-BY-SECTION**

Title: To approve the 2023 Agreement to Amend the U.S.-FSM Compact, and related agreements, between the Government of the United States of America and the Government of the Federated States of Micronesia, the 2023 Agreement to Amend the U.S.-RMI Compact, and certain related agreements between the Government of the United States of America and the Government of the Republic of the Marshall Islands, and the 2023 U.S.-Palau Compact Review Agreement between the Government of the United States of America and the Government of the Republic of Palau and certain related agreements, to appropriate funds to carry out the agreements, and for other purposes.

### **SEC. 2. DEFINITIONS.**

### **SEC. 3. APPROVAL OF 2023 AGREEMENT TO AMEND THE U.S.-FSM COMPACT, 2023 AGREEMENT TO AMEND THE U.S.-RMI COMPACT, 2023 U.S.-PALAU COMPACT REVIEW AGREEMENT, AND SUBSIDIARY AGREEMENTS.**

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<sup>40</sup> Text - H.R.3570 - 117th Congress (2021-2022): Compact Impact Fairness Act of 2021. (2021, July 7). <https://www.congress.gov/bill/117th-congress/house-bill/3570/text>

<sup>41</sup> Paule, A. & Weiker, A (2023, June 26). What the Compact Impact Fairness Act Means for Compact Host Governments and Migrants. East-West Center. <https://www.eastwestcenter.org/publications/what-compact-impact-fairness-act-means-compact-host-governments-and-migrants>

<sup>42</sup> Diamond, D. (2020, December 20). ‘A Shining Moment’: Congress Agrees to Restore Medicaid for Pacific Islanders. Politico. <https://www.eastwestcenter.org/publications/what-compact-impact-fairness-act-means-compact-host-governments-and-migrants>; 8 U.S.C. § 1612 2023

Section 3(a) Federated States of Micronesia. Approves the 2023 Agreement to amend the U.S.-FSM Compact, U.S.-FSM Trust Fund Agreement, the 2023 U.S.-FSM Fiscal Procedures Agreement, and the U.S.-FSM FPSA, as provided to Congress. Further, the subsection authorizes the President to bring into force and implement these agreements.

Section 3(b) Republic of the Marshall Islands. Approves the 2023 Agreement to amend the U.S.-RMI Compact, U.S.-RMI Trust Fund Agreement, the 2023 U.S.-RMI Fiscal Procedures Agreement, and the 2023 U.S.-RMI FPSA as provided to Congress. Further, the subsection authorizes the President to bring into force and implement these agreements.

Section 3(c) Republic of Palau. Approves the 2023 U.S.-Palau Compact Review Agreement as provided to Congress. Further, the subsection authorizes the President to bring into force and implement this agreement.

Section 3(d) Amendments, Changes, or Termination to Compacts and Certain Agreements. Requires that Congress must approve, by legislation, any amendments, or changes to the Compacts with FSM, RMI and Palau. It also requires that Congress approve, by legislation, any amendments or changes to certain subsidiary agreements.

Section 3(e) Entry Into Force of Future Agreements to Subsidiary Agreements. States no changes to any subsidiary agreements accompanying the respective Compacts, except those that requires congressional action prior to modification identified in section 3(d), may be made without prior notification and explanation to both the Senate and the House of Representatives. Further, this section specifies that the relevant subsidiary agreement will enter into force 90 days after the President has transmitted the subsidiary agreement to the President of the Senate and the Speaker of the House of Representatives.

#### SEC. 4. AGREEMENTS WITH FEDERATED STATES OF MICRONESIA.

Section 4(a) Law Enforcement Assistance. Reaffirms that the U.S. may continue to provide non-reimbursable U.S. law enforcement technical training assistance to the FSM, including training for postal inspection for illicit drugs and other contraband (as provided in section 102(a) of Public Law 108-188).

Section 4(b) United States Appointees to Joint Economic Management Committee. Requires that the three U.S. appointees to the Joint Economic Management Committee, as established under section 213 of the 2003 Amended U.S.-FSM Compact, shall be U.S. government officers or employees with qualifications in accounting, auditing, budget analysis, compliance, grant administration or program management. Further, this section states that the three U.S. members on the Committee shall be appointed for a term of 5 years by 1) the Secretary of State, in consultation with the Secretary of Treasury, 2) the Secretary of the Interior, in consultation with the Secretary of Treasury, and 3) the Interagency Group on Freely Associated States. This subsection requires the Secretary of the Interior to submit any reports required by the 2023 Amended U.S.-FSM Compact or relevant subsidiary agreement to Congress, including if the report is complete and accurate. It also requires the Secretary of the Interior to notify Congress if the report is not submitted by the applicable deadline.

Section 4(c) United States Appointees to Joint Trust Fund Committee. Requires that the three U.S. appointees to the Joint Trust Fund Committee, as established under section 462(b)(5) of the 2003 Amended U.S.-FSM Compact (Public Law 108-188), shall be U.S. government officers or employees with qualifications in accounting, auditing, budget analysis, compliance, financial investment, grant administration or program management. Further, this section states that the three U.S. members on the Committee shall be appointed for a term of 5 years by 1) the Secretary of State, 2) the Secretary of the Interior, and 3) the Secretary of Treasury. This subsection requires the Secretary of the Interior to submit any reports required by the 2023 Amended U.S.-FSM Compact or relevant subsidiary agreement to Congress, including if the report is complete and accurate. It also requires the Secretary of the Interior to notify Congress if the report is not submitted by the applicable deadline.

## SEC. 5. AGREEMENTS WITH AND OTHER PROVISIONS RELATED TO THE REPUBLIC OF THE MARSHALL ISLANDS.

Section 5(a) Law Enforcement Assistance. Reaffirms that the U.S. may continue to provide non-reimbursable U.S. law enforcement technical training assistance to the RMI, including training for postal inspection of illicit drugs and other contraband (as provided in section 103(a) of Public Law 108-188).

Section 5(b) Espousal Provisions. Reaffirms Congress' intent that Section 177 of the Compact of Free Association with the RMI (Public Law 99-239) and the separate Section 177 Agreement constitute a full and final settlement of all nuclear compensation claims described under Articles X and XI of the Section 177 Agreement.

Section 5(c) United States Appointees to Joint Economic Management and Financial Accountability Committee. Requires that the three U.S. appointees to the Joint Economic Management and Financial Accountability Committee, as established under section 214 of the 2003 Amended U.S.-RMI Compact (Public Law 108-188), shall be U.S. government officers or employees with qualifications in accounting, auditing, budget analysis, compliance, grant administration or program management.

Further, this section states that the three U.S. members on the Committee shall be appointed for a term of 5 years by 1) the Secretary of State, in consultation with the Secretary of Treasury, 2) the Secretary of the Interior, in consultation with the Secretary of Treasury, and 3) the Interagency Group on Freely Associated States. This subsection requires the Secretary of the Interior to submit any reports required by the 2023 Amended U.S.-RMI Compact or relevant subsidiary agreement to Congress, including if the report is complete and accurate. It also requires the Secretary of the Interior to notify Congress if the report is not submitted by the applicable deadline.

Section 5(d) United States Appointees to Joint Trust Fund Committee. Requires that the three U.S. appointees to the Joint Trust Fund Committee, as established under section 462(b)(5) of the 2003 Amended U.S.-RMI Compact, shall be U.S. government officers or employees with qualifications in accounting, auditing, budget analysis, compliance, financial investment, grant administration or program management. Further, this section states that the three U.S. members on the Committee shall be appointed for a term of 5 years by 1) the Secretary of State, 2) the

Secretary of the Interior, and 3) the Secretary of Treasury. This subsection requires the Secretary of the Interior to submit any reports required by the 2023 Amended U.S.-FSM Compact or relevant subsidiary agreement to Congress, including if the report is complete and accurate. It also requires the Secretary of the Interior to notify Congress if the report is not submitted by the applicable deadline.

Section 5(e) Four Atoll Health Care Program. Repeats the language from Public Law 99-239 and Public Law 108-188 regarding the Four Atoll Health Care Program and the administration of certain health care funds for the people of Bikini, Enewetak, Rongelap, and Utrik and their descendants.

Section 5(f) DOE Radiological Health Care Program; Agricultural and Food Programs. Repeats the language from Public Law 99-239 and Public Law 108-188 regarding health care and agricultural programs for certain populations in the Republic of the Marshall Islands affected by U.S. nuclear tests. This section also continues the Secretary of the Interior's authority to carry out the Enewetak planting and agricultural maintenance program.

## SEC. 6. AGREEMENTS WITH AND OTHER PROVISIONS RELATED TO THE REPUBLIC OF PALAU.

Section 6(a) Bilateral Economic Consultations. Requires annual economic consultations to be by U.S. government officers or employees, as referred to in Article 8 of the 2023 U.S.-Palau Compact Review Agreement.

Section 6(b) Economic Advisory Group. Requires that the members of the Economic Advisory Group, referred to in Article 7 of the 2023 U.S.-Palau Compact Review Agreement, who are appointed by the Secretary of the Interior shall have qualifications in private sector business development, economic development, or national development. The subsection also authorizes the Secretary of the Interior to use available funds for certain activities of the Economic Advisory Group.

## SEC. 7. OVERSIGHT PROVISIONS.

Section 7(a) Authorities of the Comptroller General of the United States. Authorizes the Comptroller General carry out their oversight and audit responsibilities under the 2023 Amended U.S.-FSM Compact and the U.S.-FSM subsidiary agreements, the 2023 Amended U.S.-RMI Compact and the U.S.-RMI subsidiary agreements, and the 2023 U.S.-Palau Compact Review Agreement and subsidiary agreements. This section also requires the Comptroller General to Congress reports within 3 years of the Act's enactment and every 5 years thereafter on the overall economic performance of the FAS, impact of U.S. economic assistance to the FAS, and the effectiveness of U.S. administrative oversight.

Section 7(b) Secretary of the Interior Oversight Authority. Provides the Secretary of the Interior with the necessary authorities to fulfill their oversight responsibilities under the Act.

Section 7(c) Postmaster General Oversight Authority. Provides the Postmaster General the necessary authorities to fulfill their oversight responsibilities under the Act.



Section 7(d) Interagency Group on Freely Associated States. Requires that the President establish an Interagency Group on Freely Associated States to meet annually and to provide policy guidance and recommendations to the U.S. Government on implementation of the Compacts of Free Association with the FSM, RMI and Palau. The subsection requires the Interagency Group to submit an annual report to Congress on the activities and recommendations of the Interagency Group during the applicable year.

Section 7(e) Federal Agency Coordination. Requires all federal agencies providing programs and services within the Freely Associated States to coordinate with the Secretary of the Interior and Secretary of State.

Section 7(f) Foreign Loans or Debt. Reaffirms that the United States Government is not responsible for foreign loans or debt contracted by the FSM, RMI or Palau.

Section 7(g) Compact Compilation. Requires the Secretary of the Interior to compile the Compacts of Free Association with the Federated State of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau and submit the Compact compilation to Congress.

Section 7(h) Publication; Revision by the Office of the Law Revision Counsel. Directs the Office of the Law Revision Counsel to revise the United States Code to incorporate amendments to the Compacts of Free Association with the Federated State of Micronesia, and the Republic of the Marshall Islands.

## SEC. 8. UNITED STATES POLICY REGARDING THE FREELY ASSOCIATED STATES.

Section 8(a) Authorization for Veterans' Services. Authorizes the Department of Veterans Affairs to provide health and medical services to veterans living in the FAS. This subsection also authorizes the Secretary of Veterans Affairs to ship medications to veterans living in the FAS and make payments to veterans for travel in connection with receiving military service-connected care.

Section 8(b) Authorization of Education Programs. Extends the programs and services of the Department of Education available to RMI, FSM and Palau. This includes eligibility under the Individuals with Disabilities Education Act, the Elementary and Secondary Education Act of 1965, the Carl D. Perkins Career and Technical Education Act of 2006, and the Adult Education and Family Literacy Act. This section makes technical amendments to these Acts to implement the relevant 2023 Compact agreements.

This subsection continues to make available to eligible higher education institutions in the FAS and to students who are FAS citizens enrolled in institutions in the United States and territories grants under the Higher Education Act of 1965, specifically Pell Grants, Federal Supplemental Educational Opportunity Grants, and Federal-Work Study Programs. This subsection continues to make available eligible institutions of higher education, secondary schools, and non-profit organizations in the FAS competitive grants under the Higher Education Act of 1965.

Section 8(c) Authorization of Department of Defense Programs. Reaffirms the Secretary of Defense's authority regarding use of the Department of Defense medical facilities by patients referred from the FSM, RMI and Palau and the affected areas on a space available and reimbursable basis. Further, the subsection continues to authorize the Department of Defense to extend the Armed Services Vocational Aptitude Battery (ASVAB) Student Testing Program and the ASVAB Career Exploration Program to certain secondary schools in the, FSM, RMI and Palau.

Section 8(d) Authorization of Judicial Training. Extends the authorization to the Secretary of the Interior to provide financial assistance to train judges and officials of the judiciary in the FSM, RMI and Palau, in cooperation with the Pacific Islands Committee of the Ninth Circuit Judicial Council.

Section 8(e) Eligibility for the Republic of Palau. Extends eligibility to the Republic of Palau for certain federal programs and services where FSM and RMI are already eligible pursuant to Public Law 108-188. This includes the National Health Services Corps, Legal Services Corporation, Public Health Services, the Rural Housing Service, the Small Business Administration, Economic Development Administration, Rural Utilities Services, Department of Labor's Workforce Investment Act, and the Department of Commerce's tourism and marine resource programs.

Section 8(f) Compact Impact Fairness. Restores eligibility for FAS citizens lawfully living in the United States to receive Federal benefits available to other legal permanent residents.

Section 8(g) Consultation with International Financial Institutions. The Secretary of the Treasury, in coordination with the Secretary of State and the Secretary of the Interior, shall consult with appropriate officials of the Asian Development Bank, relevant international financial institutions with respect to overall economic conditions in the FSM, RMI, and Palau.

Section 8(h) Chief of Mission Authority. Amends section 105(b)(5) of Public Law 108-188 to specify that all U.S. Government employees in FSM, RMI and Palau are subject to the authority of the United States Chief of Mission in that country, unless exceptions are identified in U.S. law or Presidential directive.

Section 8(i) Establishment of a Unit for the Freely Associated States in the Bureau of East Asian and Pacific Affairs of the Department of State. Establishes a unit for the Freely Associated States in the Bureau of East Asian and Pacific Affairs of the Department of State and assigns additional full-time equivalent personnel to the Office of Australia, New Zealand, and Pacific Island Affairs of the Bureau of East Asian and Pacific Affairs of the Department of State.

Section 8(j) Technical Assistance. Extends the authorization for certain Federal agencies pursuant to section 224 of the Compacts to provide non-reimbursable technical assistance at the request of the FSM and RMI and amends section 105(j) of Public Law 108-188 to extend eligibility of this technical assistance to Palau.

Section 8(k) Continuing Trust Territory Authorization. Extends authorizations from the Trust Territory period.

Section 8(l) Technical Amendments. Makes technical amendments to Section 2(f) of the Public Health Service Act (42 U.S.C. 201(f)) and section 104(e) of Public Law 108-188.

## SEC. 9. ADDITIONAL AUTHORITIES.

Section 9(a) Departments, Agencies, and Instrumentalities Authorizations for FPSA. Provides authorization for Federal agencies and departments to carry out international obligations under the 2023 Compact agreements and requires that appropriations to carry out these international obligations shall be made directly to the Federal agencies, departments, and instrumentalities.

Section 9(b) Additional Assistance. Any additional assistance provided pursuant to sections 4(a), 5(a), 6(b) and 8 of this Act shall be in addition to the amounts paid to the FAS under the Compacts and shall not be charged against them.

Section 9(c) Remaining Balances. Provides authority to program remaining balances of funds appropriated to carry out the 2003 amended Compacts with FSM and Palau (Public Law 108-188) and the 2010 Compact Review Agreement with Palau (Public Law 115-141) pursuant to the 2023 Compact agreements.

Section 9(d) Grants. Clarifies that funding provided under the 2023 Compact agreements may be provided as grants for purposes of implementation and clarifies authority to place federal funds in interest bearing accounts.

Section 9(e) Rule of Construction (savings clause on amendments). Clarifies that the provisions of the prior Compact of Free Association Acts (Public Law 99-239; Public Law 108-188; Public Law 115-91; and Public Law 115-141) are not amended by this Act unless otherwise stated.

## SEC. 10. COMPACT APPROPRIATIONS.

Section 10(a) Funding for Activities of the Secretary of the Interior. There is to be appropriated to the Department of the Interior's Compact of Free Association account for FY 2024 to FY 2043 to carry out the 2023 Amended U.S.-FSM Compact, the 2023 Amended U.S.-RMI Compact and the 2023 U.S.-Palau Compact Review Agreement (\$6.5 billion total over 20 years).

Section 10(b) Funding for Activities of the United States Postal Service. There is to be appropriated to the United States Postal Service for FY 2024 to FY 2043 to carry out their obligations under the 2023 Amended U.S.-FSM Compact, the 2023 Amended U.S.-RMI Compact and the 2023 U.S.-Palau Compact Review Agreement (\$634 million total over 20 years).

Section 10(c) Funding for Judicial Training. There is to be appropriated to the Secretary of the Interior to carry out Section 8(d) \$550,000 for each of fiscal years 2024 through 2043 (\$11 million total over 20 years)..

## VI. CBO COST ESTIMATE

Unknown.

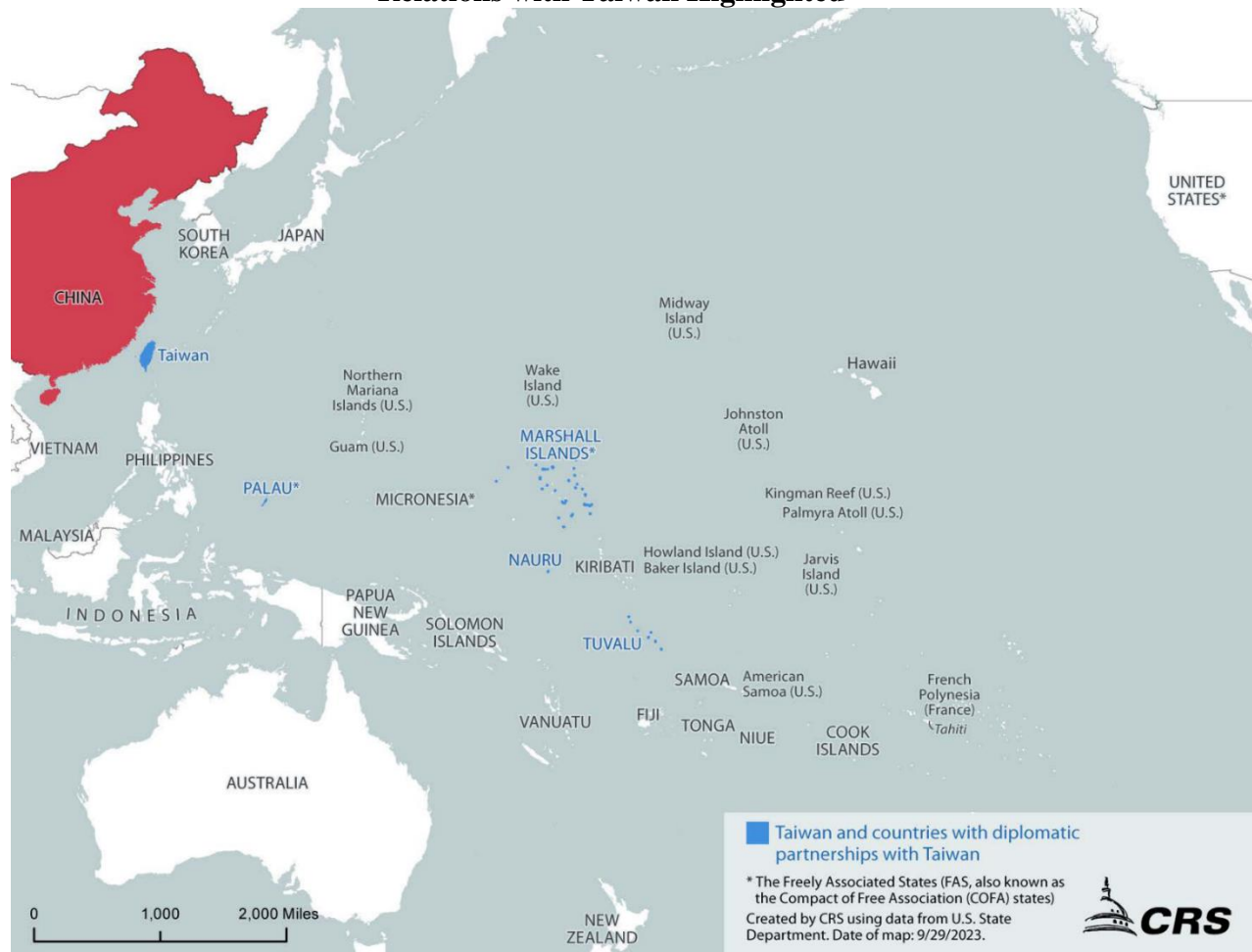
## VII. ADMINISTRATIVE POSITION

Unknown.

## VIII. EFFECT ON CURRENT LAW (RAMSEYER)

[Discussion Draft of H.J. Res. \\_\\_\\_\\_\\_ \(Rep. Westerman\), “Compact of Free Association Amendments Act of 2023”](#)

**Figure A: Map of Pacific Region with China, Taiwan, and Countries with Diplomatic Relations with Taiwan Highlighted<sup>43</sup>**



<sup>43</sup> Map provided by the Congressional Research Service at the request of the House Committee on Natural Resources.