



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

**To:** House Committee on Natural Resources Republican Members  
**From:** House Committee on Natural Resources Indo-Pacific Task Force Republican Staff: Ken Degenfelder ([Ken.Degenfelder@mail.house.gov](mailto:Ken.Degenfelder@mail.house.gov)), Justin Rhee ([Justin.Rhee@mail.house.gov](mailto:Justin.Rhee@mail.house.gov)), and Howard Hills ([Howard.Hills@mail.house.gov](mailto:Howard.Hills@mail.house.gov)); x6-9725  
**Date:** Tuesday, July 18, 2023  
**Subject:** Indo-Pacific Task Force Oversight hearing: “*The Biden’s Administration’s Proposed Compact of Free Association Amendments Act of 2023*”

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The House Committee on Natural Resources will hold an Indo-Pacific Task Force oversight hearing on “*The Biden’s Administration’s Proposed Compact of Free Association Amendments Act of 2023*” on **Tuesday, July 18, 2023, at 10:15 a.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 Monday, July 17, 2023, if their member intends to participate in the hearing.

## **I. KEY MESSAGES**

- The U.S. has international agreements known as Compacts of Free Association (COFA) with three Pacific Island countries, the Republic of Palau (Palau), the Republic of the Marshall Islands (RMI), and the Federated States of Micronesia (FSM), referred to as the Freely Associated States (FAS). The COFA for the RMI and the FSM expire at the end of fiscal year (FY) 2023 and the end of FY 2024 for Palau.
- In order to deter the People’s Republic of China (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 respond to malign PRC coercive activity. The COFA are critical to U.S. relationships with the FAS and for U.S. strategy in the Indo-Pacific.
- The Biden administration’s legislative proposal to Congress would approve the relevant COFA with the FSM, Palau, and the RMI (with placeholder text for the RMI since negotiations are ongoing). The proposal includes \$7.1 billion in mandatory spending over a period of 20 years for FAS economic assistance and U.S. Postal Service (USPS).
- The Biden administration’s legislative proposal with respect to all three FAS is incomplete and not ready for introduction as negotiations with the RMI are ongoing and seemingly have stalled over nuclear testing compensation issues. Failure to complete negotiations with the RMI before September 30, 2023, could have implications for

U.S.-RMI relations, the legislative prospects of all three COFA agreements and, ultimately, U.S. interests in the Indo-Pacific region.

- The Biden administration is also still in the process of finalizing a Federal Programs and Services Agreement (FPSA) with the FSM and Palau and the proposal contains sections of bracketed text that are meant to serve as temporary placeholders until an agreement is reached with the RMI and the FPSA agreements are finalized.

## II. WITNESSES

### Panel 1:

- **The Honorable Joseph Y. Yun**, Special Presidential Envoy for Compact Negotiations, United States of America, Washington, D.C.
- **Mr. Keone Nakoa**, Deputy Assistant Secretary, Insular and International Affairs, U.S. Department of the Interior, Washington, D.C.
- **Dr. Siddharth Mohandas**, Deputy Assistant Secretary of Defense for East Asia, U.S. Department of Defense, Washington, D.C.

### Panel 2:

- **His Excellency Surangel S. Whipps, Jr.**, President, Republic of Palau
- **The Hon. Kenneth Kedi**, Speaker, The Parliament of the Republic of the Marshall Islands, Republic of the Marshall Islands
- **Mr. Leo A. Falcam, Jr.**, Chief Compact Negotiator, Federated States of Micronesia

## 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>1</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>2</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>3</sup> The FAS economies face structural challenges similar to many other Pacific Island counties, including a lack of economies of scale,

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<sup>1</sup> The Freely Associated States and Issues for Congress.” Congressional Research Service, October 7, 2020. <https://crsreports.congress.gov/product/pdf/R/R46705>

<sup>2</sup> “Marshall Islands.” Encyclopedia Britannica, July 7, 2023. <https://www.britannica.com/place/Marshall-Islands> and “Caroline Islands.” Encyclopedia Britannica. Accessed July 7, 2023. <https://www.britannica.com/place/Caroline-Islands>

<sup>3</sup> The Freely Associated States and Issues for Congress.” Congressional Research Service and “Freely Associated States 2023.” World Population Review. Accessed June 7, 2023. <https://worldpopulationreview.com/country-rankings/freely-associated-states>.

small land areas, limited natural and human resources, remote locations, and poor infrastructure.<sup>4</sup> Each FAS is an independent nation with full membership in the UN and the Pacific Islands Forum.<sup>5</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, Yap and Kosrae.<sup>6</sup> The capital is located at Pohnpei.<sup>7</sup> It derives revenues from licensed international fishing in its vast territorial waters and hosts a small but thriving tourism sector.<sup>8</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>9</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>10</sup>

**Republic of Palau:** Palau is the western-most of the FAS, with its capital at Koror.<sup>11</sup> It's internationally renowned “Rock Islands” are a strong tourist draw, driving a thriving tourism industry.<sup>12</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>13</sup> Palau also derives revenues from licensed international fishing and subsistence agriculture.<sup>14</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>15</sup> U.S. economic assistance to the

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<sup>4</sup> For more information on the FAS see “The Freely Associated States and Issues for Congress.” Congressional Research Service, October 7, 2020. <https://crsreports.congress.gov/product/pdf/R/R46573/2>.

<sup>5</sup> The Pacific Islands Forum. Accessed June 7, 2023. <https://www.forumsec.org/who-we-are-pacific-islands-forum/> and “Member States.” United Nations. Accessed June 7, 2023. <https://www.un.org/en/about-us/member-states#gotoF>.

<sup>6</sup> “Micronesia.” Encyclopedia Britannica. Accessed May 12, 2023. <https://www.britannica.com/place/Micronesia-republic-Pacific-Ocean>.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> “Marshall Islands.” Encyclopedia Britannica, April 28, 2023. <https://www.britannica.com/place/Marshall-Islands>.

<sup>10</sup> Id.

<sup>11</sup> “Palau.” Encyclopedia Britannica, May 9, 2023. <https://www.britannica.com/place/Palau>.

<sup>12</sup> “Rock Islands Southern Lagoon.” UNESCO World Heritage Centre. Accessed June 7, 2023. <https://whc.unesco.org/en/list/1386/>.

<sup>13</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>14</sup> “Department of State: 2014 Investment Climate Statement.” U.S. Department of State. Accessed June 7, 2023. <https://2009-2017.state.gov/documents/organization/228600.pdf>.

<sup>15</sup> Shullman, David, ed. “Chinese Malign Influence and the Corrosion of Democracy.” International Republican Institute. Accessed May 10, 2023. [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).

FAS provides tools and stability for local governments to prevent democratic erosion.

Barring termination of the COFA by the parties according to 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>16</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>17</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>18</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 entered into force in 1994 with funding commencing in FY 1995 for 15 years, through FY 2009.<sup>19</sup> The U.S. and Palau agreed to extend the economic assistance through a Compact Review Agreement (CRA) for 15 years, from FY 2010 through FY 2024, also known as the “2010 CRA.”<sup>20</sup> However, Congress did not approve the agreement but instead authorized full funding until 2018. The authorization came through an agreement to amend the CRA, referred to as the “2010 CRA Amendment.”<sup>21</sup>

At present, the U.S. and the FAS are seeking a renewal of their respective COFA agreements before they expire at the end of FY 2023. While the COFA with Palau does not expire until the end of FY 2024, the Palau government requested to be renewed at the same time as the RMI and the FSM.

### ***Biden Administration’s Proposed Compact of Free Association Amendments Act of 2023***

Following several years of stalled negotiations across two administrations, the Biden administration submitted a legislative proposal to Congress on June 16, 2023. The legislative proposal is intended to allow for the approval of the Memorandum of Understanding (MOU) agreements, which were entered into with the FAS and authorize mandatory spending to implement the economic assistance agreements.

The Administration’s total proposed economic assistance, in the form of mandatory spending, for each FAS is as follows:

- 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)

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<sup>16</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>17</sup> P.L. 99-239, 48 U.S.C. 1681 note, 59 Stat.1031, Section 211(a).

<sup>18</sup> Public Law 108-188. 117 Stat. 2720, Section 211(a).

<sup>19</sup> H.J. Res. 626, Nov. 14, 1986, P.L. 99-658, 61 Stat. 3301; P.L. 101-219, 103 Stat. 1870, December 12, 1989.

<sup>20</sup> Agreement Following the Compact of Free Association Section 432 Review, Signed at Honolulu, September 3, 2010.

<sup>21</sup> P.L. 115-91, 131 Stat. 1687, December 12, 2017.

- RMI: \$2.3 billion (approx. \$1.3 billion increase from the 2003 FSM & RMI COFA) *[pending negotiations]*
- 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**

Online please find a detailed [Cost Breakdown of the Compact of Free Association Amendment Act of 2023](#).

The legislative proposal authorizes appropriations for COFA funding to the State Department, to be transferred to, and managed by, the Department of the Interior (DOI). This is a significant change from the previous COFA and was not a request by the FAS governments. Under the current COFA, federal funding is sent directly to DOI. The rationale for this approach provided by the Administration is that it will signal to the FAS that the U.S. takes the relationship seriously, as the State Department plays a leading role in U.S. national security and diplomatic relations.

In addition to the \$6.5 billion in economic assistance to the FAS, the proposal includes \$634 million total mandatory appropriations to 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. As such, this legislative proposal 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.

The proposal also provides authority for federal agencies and departments to carry out obligations under the 2023 Compact agreements and clarifies eligibility for FAS citizens for certain federal programs and services outside of the FPSA. It provides the Comptroller General, Secretary of the Interior, Secretary of State and the Postmaster General the necessary authorities to fulfill their oversight responsibilities.

The FPSA agreements allow for FAS eligibility for programs and services administered by U.S. agencies. The Administration is in the process of concluding FPSA negotiations with the FSM and Palau for them to continue to be eligible for federal programs and services that they had under their existing COFA and to become eligible for other U.S. federal programs and services that they were not eligible for previously. These are U.S. domestic programs and services, and programs listed in the agreements that would continue or extend eligibility to the FAS partner nations. While these agreements are still being finalized with each FAS government, it is anticipated that services such as grants from U.S. National Weather Service, Federal Emergency Management Agency (FEMA), USPS, and the Department of Education will be included.

### ***Concerns***

As it stands, the Biden administration's legislative proposal is incomplete and not ready for introduction on the House floor. Additionally, the Administration has submitted this legislative proposal before fully concluding COFA negotiations. The Administration has yet to finalize

FPSA with the FSM and Palau. Furthermore, negotiations with the RMI have completely stalled over nuclear testing legacy funding and ongoing political dynamics within the RMI.

Administration officials have stated that funding for current and any increased eligibility will be reflected in the annual budget request of the agency that provides federal grant funding pursuant to the FPSA. The Administration has not provided Congress an estimate of the costs of continuing and beginning FAS eligibility for U.S. federal programs and services. This cost could raise COFA total costs to far beyond \$7.1 billion.

It is unclear how the COFA proposal substantively addresses the PRC's growing influence in the region beyond sending a large sum of money to the FAS. Instead of focusing economic assistance on strategic sectors and industries particularly vulnerable to PRC influence, the proposal distributes economic assistance into broad categories to give the FAS governments the discretion to use the funds as they see fit. The lack of specific funding allocations and fiscal control mechanisms mean that the FAS have no incentive to refuse aid from the PRC and stand up against the PRC's political warfare strategy.

The authorization language for certain U.S. services to the FAS has been changed from previous agreements from "shall" to "may." While seemingly minor, this change provides significant discretion to government officials charged with carrying out the U.S.' commitments. This could create a situation where U.S. agencies would elect to not provide those services, furthering opportunities for PRC influence in the FAS.

The proposal to authorize appropriations for COFA funding to the State Department, to be transferred to, and managed by, the DOI is concerning because it unnecessarily creates additional bureaucracy within the funding process as DOI has historically received direct appropriations and carried out the U.S. responsibilities for the economic assistance provisions under the COFA. Creating additional bureaucratic layers will open the opportunity for federal confusion, misdirection, and mismanagement of funds.

Rather than ensuring proper oversight over funds, the legislative proposal seemingly weakens U.S. government oversight over how the funds are managed and administered. Although the U.S. retains control sufficient to disapprove or prohibit some uses of funding, unless the U.S. does not concur with FAS spending plans, the proposal transfers administration, management, and control over trust fund spending to the FAS governments. The proposal allows the FAS governments to spend funds as they see fit within broad plans in which the U.S. is only required to concur. Furthermore, the legislative proposal lacks specific guidelines or procedures by which sector grant funds can and cannot be used, all of which is a departure from current COFA reducing oversight and accountability of the funds. With recent troubling news that local leaders in the RMI depleted a \$59 million resettlement trust fund that was meant to support the residents of Bikini Atoll affected by U.S. nuclear testing, there is concern that without proper oversight, funds could be mismanaged and misused.<sup>22</sup>

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<sup>22</sup> "Statement on the Kili Bikini Ejit Resettlement Trust Fund." U.S. Department of the Interior, May 5, 2023. <https://www.doi.gov/oia/press/Statement-on-the-Kili-Bikini-Ejit-Resettlement-Trust-Fund>.

The proposal reduces, without explanation, the authorities of the Comptroller General that were previously authorized in the 2003 FSM & RMI COFA to carry out auditing responsibilities, such as audits on the use and effectiveness of U.S. financial programs and technical assistance in the RMI and the FSM, that only Congress has the authority to make.

#### **IV. SECTION-BY-SECTION ANALYSIS**

##### ***Compact of Free Association Amendments of 2023***

Title I—Approval Of 2023 U.S.-FSM Compact Amendments, 2023 [U.S.-RMI Compact Amendments,] and 2023 U.S.-Palau Compact Review Agreement

*Section 101. Approval of 2023 Amendments to the U.S.-FSM Compact of Free Association; [2023 Amendments to the U.S.-RMI Compact of Free Association,] and the 2023 U.S.-Palau Compact Review Agreement; References to Subsidiary Agreements.*

Section 101 states Congress' approval to agreements between the U.S. and the Federated States of Micronesia, the U.S. and the Republic of Palau, and the U.S. and the Republic of the Marshall Islands (if finalized) to amend the Compacts and incorporates by reference for Congressional consent the trust fund agreements, fiscal procedures agreements and federal programs and services agreements between the U.S. and each of those nations. Congress can approve these agreements as proposed or make its approval conditional and entry of contingent upon agreement of the parties to revisions prescribed by Congress in the act. The President is authorized to bring into force and implement each of the agreements, thus giving agencies the authority to carry out these agreements. This section changes the time period before which future subsidiary agreements may take effect from 90 days to 30 days. This section clarifies which existing agreements and Compacts are being referenced when certain shortened descriptions of those agreements are used throughout the bill.

*Section 102. Agreements with Federated States of Micronesia.*

Section 102 authorizes the United States to provide non-reimbursable law enforcement training assistance to the FSM and allows U.S. state and local agencies to be reimbursed for providing law enforcement assistance. It authorizes the Comptroller General to carry out their oversight responsibilities. This section also states that the U.S. appointees to the Joint Economic Management Committee continue as U.S. government officers or employees.

*Section 103. Agreements With and Other Provisions Related to the Republic of the Marshall Islands.*

Section 103 authorizes the United States to provide non-reimbursable law enforcement training assistance to the RMI and allows the U.S. state and local agencies to be reimbursed for providing law enforcement assistance. This section restates the intent that Section 177 of the Compact with the RMI constitutes a full and final settlement of all nuclear compensation claims, as a result of the United States nuclear weapons testing program in the RMI. This section authorizes the Comptroller General to carry out their

oversight responsibilities. This section also states that the U.S. appointees to the Joint Economic Management Committee continue as U.S. government officers or employees.

*Section 104. Agreements With and Other Provisions Related to the Republic of Palau.*

Section 104 authorizes the Comptroller General to carry out their responsibilities. This section requires that U.S. participation in annual bilateral economic consultations to be carried out by U.S. government officers or employees. This section also authorizes the Department of the Interior to use available funds to support the purposes of administering the Economic Advisory Group.

*Section 105. United States Policy Regarding the Freely Associated States.*

Section 105 provides additional authorities for federal agencies and departments to provide programs and services in the FAS to carry out their obligations under the Compacts, including the Department of the Interior, Department of State, Department of Veterans Affairs, Department of Education, Department of Health and Human Services, Department of Agriculture, and Department of Defense. This section also provides funding for judicial training in the FAS in cooperation with the Ninth Circuit Judicial Council. This section includes the entire language of the Compact Impact Fairness Act (H.R. 1671 and S.792 in the 118<sup>th</sup> Congress) bill, sponsored by Representatives Ed Case (D-HI) and Steve Womack (R-AR) and Senators Mazie Hirono (D-HI) and John Boozman (R-AR), that would expand eligibility of COFA citizens lawfully residing in the U.S. for certain federal public benefits such as the Supplemental Nutrition Assistance Program (SNAP) and Supplemental Security Income (SSI).

*Section 106. Additional Authorities.*

Section 106 authorizes the Secretary of the Interior to monitor and manage the mandatory funds appropriated to implement the 2023 Compact agreements with the FSM, the RMI and Palau. It provides the Postmaster General the necessary authorities to fulfill their oversight responsibilities. This section provides authorization for Federal agencies and departments to carry out international obligations under the 2023 Compact Agreements and requires these Federal agencies to coordinate with the Secretaries of the Interior and State regarding programs and services provided in the FAS. This section provides continuity of FPS until the 2023 Compact agreements take effect and provides authority to reprogram remaining balances from the previous Compacts. This section also provides for establishment of an interagency group on FAS Affairs to provide policy guidance and recommendations on implementation of the 2023 Compact agreements.

*Section 107. Authorization and Continuing Appropriation.*

This section provides \$7.1 billion in mandatory funding from FY 2024 through FY 2043 for the Compacts with the RMI, the FSM and Palau, which includes \$6.5 billion in economic assistance to the FAS and \$634 million for continued United States Postal Service in the FAS to the “Compact Assistance Fund”. It authorizes transfer of those funds from the Compact Assistance Fund administered by the Secretary of State to the Department of the Interior, and clarifies that DOI has the fiduciary, fiscal, and audit responsibility for managing those funds.

## **V. CBO COST ESTIMATE**

Unknown.

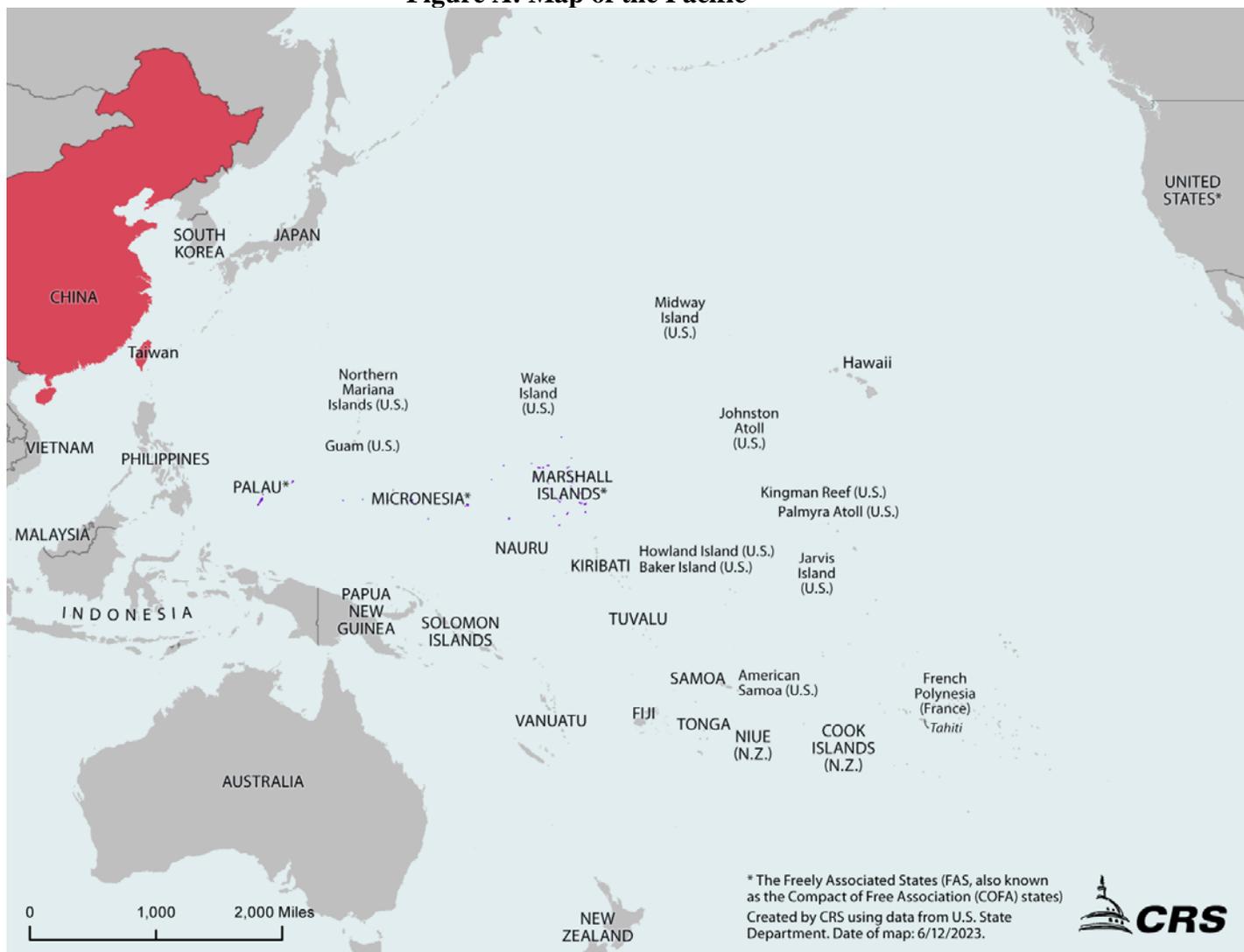
## **VI. ADMINISTRATIVE POSITION**

The Administration has expressed their support for the Compact of Free Association Amendments Act of 2023 through a transmittal letter addressed to House and Senate leadership that was delivered along with the legislative proposal. The letter, signed by Secretary of the Interior Deb Haaland and Secretary of State Antony Blinken, encouraged Congress to pass the proposal. The Administration has further expressed their support of the proposal in subsequent engagements with Congress.

## **VII. EFFECT ON CURRENT LAW (RAMSEYER)**

[Compact of Free Association Amendments Act of 2023](#)

Figure A: Map of the Pacific<sup>23</sup>



<sup>23</sup> Map was provided by the Congressional Research Service at the request of the House Committee on Natural Resources.