



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
(Ken.Degenfelder@mail.house.gov) and Justin Rhee
(Justin.Rhee@mail.house.gov), x6-9725
Date: Tuesday, September 10, 2024
Subject: Oversight Hearing: *“Examining the Implementation of the Compact of Free Association Amendments Act of 2024”*

The Subcommittee on Indian and Insular Affairs will hold an oversight hearing titled *“Examining the Implementation of the Compact of Free Association Amendments Act of 2024”* on **Tuesday, September 10, 2024, at 10:15 a.m. in Room 1324 Longworth House Office Building.**

Member offices are requested to notify Haig Kadian (Haig.Kadian@mail.house.gov) by 4:30 p.m. on Monday, September 9, 2024, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- In March of this year, Congress successfully passed the Compact of Free Association Amendments Act of 2024 (COFA Amendments Act) and now the Committee on Natural Resources must carry out its oversight responsibilities with great diligence to ensure proper implementation and execution of the renewed Compact of Free Association (COFA) agreements.
- It is alarming that the Department of State has not finalized negotiations with Palau and the RMI on their respective Federal Program and Services Agreements (FPSA). The delay in finalizing Palau’s new FPSA is particularly concerning as Palau’s existing FPSA will expire on October 1, 2024.
- The Biden-Harris administration has failed to implement several key elements of the COFA Amendments Act in a timely manner, particularly veterans’ services in the Freely Associated States (FAS). In addition, the administration has yet to formally convene the Interagency Working Group specifically designed by Congress to improve interagency coordination and communication on COFA implementation.
- Proper implementation of the COFA Amendments Act and continuing federal programs and services to the FAS reaffirms the United States’ commitment to its allies and reliability as a partner.

II. WITNESSES

Panel 1:

- **Mr. Taylor Ruggles**, Senior Advisor for COFA Implementation, U.S. Department of State, Washington, D.C.
- **Mr. John Brewer**, Director, Office of Insular and International Affairs, U.S. Department of the Interior, Washington, D.C.
- **Mr. Anka Lee**, Deputy Assistant Secretary of Defense for East Asia, U.S. Department of Defense, Washington, D.C.
- **Dr. Miguel LaPuz**, Special Assistant to the Deputy Under Secretary for Health, U.S. Department of Veterans Affairs, Washington, D.C.

Panel 2:

- **His Excellency Hersey Kyota**, Ambassador to the United States, Republic of Palau, Washington, D.C.
- **His Excellency Jackson Soram**, Ambassador to the United States, Federated States of Micronesia, Washington, D.C.
- **His Excellency Charles Paul**, Ambassador to the United States, Republic of the Marshall Islands, 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, which had been established after World War II.¹ 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.² The FAS covers a maritime area comparable in size to the continental United States, governs over 1,000 islands, and has a combined population of approximately 100,000 people.³ The FAS economies face structural challenges similar to many other Pacific Island counties. These include a lack of economies of scale, small land areas, limited natural and human resources, remote locations, and poor infrastructure.⁴ Each Freely Associated State is an independent nation with full UN and Pacific Islands Forum membership.⁵

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

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

³ 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>.

⁴ 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>.

⁵ 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>.

Federated States of Micronesia: The FSM consists of island chains between the RMI and Palau. Its federal constitutional system comprises the states of Pohnpei, Chuuk, Yap, and Kosrae.⁶ The capital is located at Pohnpei.⁷ It derives revenues from licensed international fishing in its vast territorial waters and hosts a small but thriving tourism sector.⁸

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.⁹ The chains lie about 125 miles (200 km) apart and extend some 800 miles from northwest to southeast. The capital of the RMI is Majuro.¹⁰

Republic of Palau: Palau is the westernmost part of the FAS, with its capital at Koror.¹¹ Its internationally renowned “Rock Islands” are a strong tourist draw, driving a thriving tourism industry.¹² Palau is also home to a growing U.S. military presence, which includes highly advanced radar and surveillance capabilities vital to U.S. regional strategic interests.¹³ Palau also derives revenues from licensed international fishing and subsistence agriculture.¹⁴

Compact of Free Association

The FAS is diplomatically, militarily, and economically connected to the U.S. through the COFA agreements. These mutually beneficial agreements serve as the primary line of defense against the People’s Republic of China (PRC) influence operations in the Indo-Pacific region in several ways. First, they remind 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.¹⁵ U.S. economic assistance to the FAS provides tools and stability for local governments to prevent democratic erosion.

Under the COFA, 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 a FAS territory.¹⁶

⁶ “Micronesia.” Encyclopedia Britannica. <https://www.britannica.com/place/Micronesia-republic-Pacific-Ocean>.

⁷ *Id.*

⁸ *Id.*

⁹ “Marshall Islands.” Encyclopedia Britannica. <https://www.britannica.com/place/Marshall-Islands>.

¹⁰ *Id.*

¹¹ “Palau.” Encyclopedia Britannica <https://www.britannica.com/place/Palau>.

¹² “Rock Islands Southern Lagoon.” UNESCO World Heritage Centre. <https://whc.unesco.org/en/list/1386/>.

¹³ 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>.

¹⁴ “Department of State: 2014 Investment Climate Statement.” U.S. Department of State. <https://2009-2017.state.gov/documents/organization/228600.pdf>.

¹⁵ 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.

¹⁶ 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 Kwajalein Atoll, which features the Ronald Reagan Ballistic Missile Defense Test Site (RTS).¹⁷ The RTS is a vital strategic asset supporting U.S. missile and missile defense testing, space launch, and space surveillance activities.¹⁸ The U.S. Department of Defense (DoD) seeks to use Micronesia as a location for U.S. Air Force Agile Combat Employment operations.¹⁹ Palau is also home to a growing U.S. military presence, which includes highly advanced radar and surveillance capabilities vital to U.S. regional strategic interests.²⁰

Additionally, the U.S. Coast Guard (USCG) is active 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.²¹ The USCG 14th District regularly performs maritime safety and security missions, prevents illegal unlicensed fishing, protects natural resources, and responds to emergencies in the region.²²

Barring termination of the COFA by the parties according to the agreement's provisions, 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.^{23, 24}

Compact of Free Association Amendments Act of 2024

In the 118th Congress, the Committee on Natural Resources conducted multiple hearings on the COFA agreements and formed a bipartisan Indo-Pacific Task Force to oversee issues facing the U.S. territories and the FAS in the Indo-Pacific.²⁵ The goal was to address the expiring 2003 COFA agreements with the FSM and the RMI and the 2010 Compact Review Agreement (CRA)

¹⁷ Army Space and Missile Defense Command.

https://www.smdc.army.mil/Portals/38/Documents/Publications/Fact_Sheets/RTS.pdf.

¹⁸ “In Focus: The Compacts of Free Association.” Congressional Research Service, August 15, 2022.

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

¹⁹ Id.

²⁰ 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>.

²¹ 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>.

²² “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-%20202016%20-%20final%20for%20release.pdf>.

²³ 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.

²⁴ For further information on the legislative history of COFA renewal, refer to Subcommittee on Indian and Insular Affairs Legislative Hearing on October 19, 2023, titled “Discussion Draft on H.J. Res. ____ (Rep. Westerman), “Compact of Free Association Amendments Act of 2023.”

²⁵ Subcommittee oversight hearing on May 16, 2023, titled “Preserving U.S. Interests in the Indo-Pacific: Examining How U.S. Engagement Counters Chinese Influence in the Region.”

<https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=413428>. Indo-Pacific Task Force oversight hearings on June 14, 2023, titled “How the Compacts of Free Association Support U.S. Interests and Counter the PRC’s Influence”

<https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=413428> and on July 18, 2023, titled “The Biden’s Administration’s Proposed Compact of Free Association Amendments Act of 2023”

<https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=414550>. Full Committee oversight field hearing on August 24, 2023, titled “Peace Through Strength: The Strategic Importance of the Pacific Islands to U.S.-led Global Security” <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=414736>.

with Palau, as the FSM and the RMI agreements were due to expire at the end of Fiscal Year (FY) 2023 and the Palau agreement is expiring in FY 2024.²⁶

These hearings raised the importance of the COFA and the U.S. relationship with its FAS partners while investigating the ways that the PRC is attempting to undermine U.S. efforts in the region.

Furthermore, House Natural Resources Committee Chairman Bruce Westerman (R-Ark.) led a historic bipartisan CODEL to Palau, the RMI, and the FSM in August 2023 to visit and meet with leaders from the three FAS nations and discuss U.S. commitments and partnerships with the FAS.²⁷

In June 2023, the Biden-Harris administration transmitted to Congress a draft proposal for COFA renewal legislation to approve and enter into force the COFA renewal agreements with all three FAS partners.

On October 19, 2023, the Subcommittee held a legislative hearing on the Discussion Draft on H.J. Res.96 (Rep. Westerman), the *Compact of Free Association Amendments Act of 2023*.²⁸ The legislation was marked up and favorably reported by the Committee on Natural Resources by unanimous consent on November 8, 2023.²⁹

These efforts laid the groundwork for ensuring the renewal of the COFA agreements on March 9, 2024, when the *Consolidated Appropriations Act, 2024* (H.R. 4366) was signed into law.³⁰ H.R. 4366 included provisions for the *Compact of Free Association Amendments Act of 2024*, a version of H.J. Res 96.³¹ This renewal received bipartisan and bicameral support.

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/issues/issue/?IssueID=5066>.

Key Provisions of the Compact of Free Association Amendments Act of 2024

The COFA Amendments Act 2024 approved and incorporated by reference agreements signed between the U.S. and the FAS for the new COFA 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

²⁶ The economic provisions of Palau's COFA agreement requires renewal through a CRA whereas the FSM and the RMI require a new COFA agreement.

²⁷ "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>.

²⁸ "*Discussion Draft on H.J. Res. _____ (Rep. Westerman), 'Compact of Free Association Amendments Act of 2023'*" on October 19, 2023

²⁹ House Committee on Natural Resources [Full Committee Markup](#) on November 08, 2023

³⁰ [P.L. 118-42](#)

³¹ [H.R. 4366 \(Rep Carter\)](#), "*Consolidated Appropriations Act, 2024*", Division G, Title II

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 for the FSM government to send reports on the use of U.S. economic assistance and the FSM government's progress in meeting program and economic goals.

- **2023 U.S.-FSM Fiscal Procedures Agreement:** An agreement on the procedures for implementing 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. This would ensure evaluation of the FSM's progress in meeting economic and financial objectives and provides recommendations for increasing effectiveness of U.S. Compact assistance.
- **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. The FSM's trust fund would receive 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.
- **2023 U.S.-FSM Federal Programs and Services Agreement:** An agreement on what U.S. Federal programs and services would be provided to the FSM and the conditions for those services. These Federal programs and services will include the National Oceanic and Atmospheric Administration's (NOAA) National Weather Service, the Federal Aviation Administration's (FAA) civil aviation services, the Federal Emergency Management Agency (FEMA), the U.S. Postal Service (USPS), and the Federal Deposit Insurance Corporation (FDIC).
- **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. 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, which was agreed upon between the two governments. The agreement would also set reporting requirements for the RMI government to send reports on the 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. This agreement sets guidelines, requirements, and conditions for the U.S. government and the RMI government when implementing the U.S.-RMI COFA economic provisions. This agreement also sets parameters for the various categories of sector grants to ensure review of the audits and reports required under the Compact.
- **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. \$700 million for the period of FY 2024 through FY 2043 under the U.S.-RMI COFA will be available for the RMI trust fund. 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.

- **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. 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 implementing economic assistance provisions, including setting annual reporting requirements for Palau.

Oversight and Accountability

The COFA Amendments Act strengthens oversight and accountability measures for the U.S. implementation and management of the COFA economic provisions. It builds 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 every four years.

The COFA Amendments Act requires the U.S. members of the Economic Management and Accountability Committees, the U.S.-FSM Joint Trust Fund Committee, and the U.S.-RMI Joint Trust Fund Committee to have strong experience in finance and accounting and set term limits for the committee members. Furthermore, the COFA Amendments Act requires the Secretary of the Interior to submit reports by these committees to Congress detailing the committees' actions and their recommendations. The COFA Amendments Act also requires the members of the Economic Advisory Group appointed by the Secretary of the Interior to have qualifications in private sector business development, economic development, or national development.

The COFA Amendments Act also carries forward the authorities of the Comptroller General to carry out its oversight responsibilities under the COFA. The COFA Amendments Act places 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 COFA. This expands the requirements set by Public Law 108-188 by including reporting on Palau. The COFA Amendments Act also carries forward the authorities of the Secretary of the Interior and the Postmaster General to carry out oversight responsibilities.

The COFA Amendments Act requires the Secretary of the Interior to submit to Congress a compilation of the COFA agreements with the FSM, the RMI, and Palau to improve the readability of the COFA agreements.

Interagency Group on Freely Associated States

The COFA Amendments Act requires 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 consists of the secretaries of State, the Interior, and Defense, as well as 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 advising the U.S. president on establishing and implementing policies relating to the FAS 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.

Compact Impact Fairness

The COFA Amendments Act also restores 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. The COFA Amendments Act contains substantially similar language to the standalone House bill, H.R. 3570, and *Compact Impact Fairness Act of 2023* (CIFA).³²

Under the first COFA, 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).³³ In 2020, Congress restored Medicaid eligibility for legal permanent residents from the FAS.³⁴ 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 previous 2003 COFA, under Public Law 108-188, provided Compact Impact Grants to Hawaii, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

Instead of the Compact Impact Grants, the COFA Amendments Act returns Federal benefits eligibility for FAS migrants to pre-PRWORA levels and expand coverage to all U.S. states and territories.

Implementation Status of the COFA Amendments Act of 2024

The Committee on Natural Resources has identified issues and concerns with the implementation and execution of the COFA Amendments Act by the Biden-Harris administration.

³² 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>.

³³ 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>.

³⁴ 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.

The CIFA provisions of the COFA Amendments Act allowed for FAS citizens residing in the U.S. to become eligible for certain programs such as the Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Supplemental Security Income (SSI). As such, the agencies carrying out those programs would need to issue guidance adhering to the law. While it appears that nearly every agency impacted by CIFA have issued guidance, Social Security Administration has not issued guidance for the SSI program.³⁵

The COFA Amendments Act law includes the authority for the Department of Veterans Affairs (VA) to carry programs and services in the FAS. However, the VA has yet to carry out these services as they have yet to begin negotiations with the FAS governments as required under the COFA Amendments Act. The Secretary of Veterans Affairs is required to negotiate with the FAS governments on terms and conditions of VA services in the FAS. The delay in the negotiation process appears to have resulted from a concern by the VA that the COFA Amendments Act did not provide adequate funding for the department to carry out its services. This concern has yet to be validated as the Congressional Budget Office's cost estimate of the COFA legislation included the cost of carrying out VA services.³⁶ It is not confirmed if the VA still has concerns regarding funding for these services, but it has been confirmed by FAS officials that the department has not yet initiated negotiations.

Several of these issues could be resolved through the Interagency Group that Congress mandated under the COFA Amendments Act. However, it appears that the Interagency Group has only held a preliminary meeting³⁷ and has not yet formally convened.³⁸ Upon discussion with Committee staff, the Department of State stated that they do not currently anticipate any interim report submission.³⁹ Rather, they will “certainly work with the White House to ensure they meet the legislated deadline.”⁴⁰ Currently, the Department of the Interior's website on the Interagency Group does not have any documents, calendars, or links.⁴¹ Furthermore, concerns have been raised regarding a lack of staffing for the Interagency Group.⁴²

The Department of State has also not yet stood up the Unit for the Freely Associated States mandated under the COFA Amendments Act.⁴³ This law mandates that this unit be established within the Department of State's Bureau of East Asian and Pacific Affairs.

Outstanding Subsidiary Agreement Negotiations

Although the COFA agreements have successfully been renewed, several subsidiary agreements remain in negotiation. The outstanding subsidiary agreements are the FPSAs with Palau and the RMI.

³⁵ Information provided by the Congressional Research Service and FAS officials upon request by House Natural Resources Republican Staff.

³⁶ At a Glance: H.J. Res 96, Compact of Free Association Amendments Act of 2023, Congressional Budget Office. <https://www.cbo.gov/system/files/2023-12/hjres96.pdf>

³⁷ Correspondence with The Department of State

³⁸ U.S. Department of the Interior website section on [“Interagency Group for the Freely Associated States \(FAS\)”](#)

³⁹ Correspondence with CRS

⁴⁰ Correspondence with CRS

⁴¹ U.S. Department of the Interior website section on [“Interagency Group for the Freely Associated States \(FAS\)”](#)

⁴² Correspondence with The Department of State

⁴³ Information provided by the Department of State to Committee staff.

When submitting their COFA legislative proposal, the Biden-Harris administration informed Congress they were still negotiating the FPSA agreements with Palau and the RMI. However, it was determined that Congress could move forward with COFA renewal legislation without the final FPSA agreements. At that time, the administration determined the existing law only required a 90-day Congressional review period before the President has the authority to enter into force the FPSA agreements. This was stated again when Committee staff contacted the Department of State and the Department of the Interior for a technical review of the COFA Amendments Act.

However, the Department of State recently informed Congress, in July 2024, that the U.S.-Palau FPSA would require an Act of Congress to enter into force. According to the Department of State, the original U.S.-Palau COFA agreement in 1986 states that any FPSA agreement between the U.S. and Palau requires an Act of Congress before it can be entered into force. The Department of State has assessed that this statute is still in effect and that the COFA Amendments Act does not adequately allow for a new FPSA to enter into force.

Furthermore, the administration has raised concerns that it will not be able to finalize negotiations on the U.S.-Palau FPSA before the existing FPSA expires on October 1, 2024. The reason for this delay appears to stem from the fact that negotiations did not start until June 2024 and because of concerns surrounding disaster assistance and postal services. The Department of State has expressed to Committee staff that even if the disagreements were resolved, without Congressional action to extend it, the current Palau FPSA would lapse due to the 90-day Congressional review period and the requirement for Congress to proactively approve the agreement.

While the FPSA agreement with the RMI is also undergoing negotiations, the RMI does not face a potential lapse in services. In the October 2023 Continuing Resolution (CR), Congress authorized an extension for the current RMI FPSA until a new FPSA agreement is entered into force.⁴⁴ As such, the RMI is currently receiving U.S. federal programs and services that it has received under the 2003 COFA until a new FPSA is in effect. However, it is still alarming that the agreement has yet to be finalized, as it has been nearly a year since the current RMI FPSA was extended.

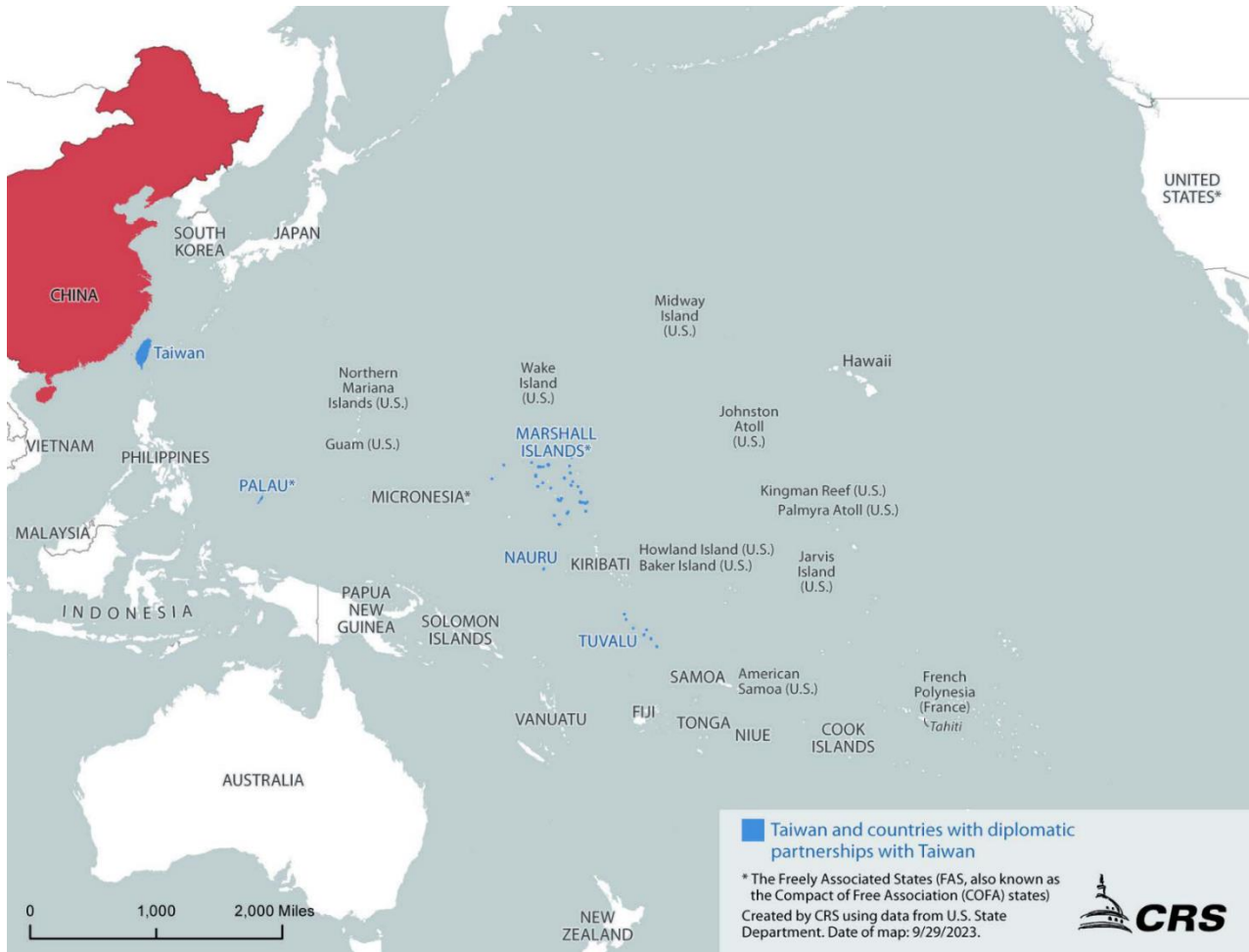
Critical Importance to U.S. National Security

The COFA agreements are essential to U.S. interests in and relationships with the FAS, and ultimately the Indo-Pacific region. Fully implementing the COFA Amendments Act and finalizing federal programs and services agreements with the FAS reaffirms the United States' commitment to its allies and reliability as a partner. This commitment through the COFA agreements is essential to counter the PRC's malign influence and to maintain the United States' capacity to secure its interests.

⁴⁴ P.L. 118-22.

The U.S. must carry out its commitments to our FAS allies by ensuring proper implementation of COFA. Proper implementation will require clear and swift action by the Biden-Harris administration and consistent communication between Congress, U.S. agencies, and the FAS governments.

Figure A: Map of Pacific Region with China, Taiwan, and Countries with Diplomatic Relations with Taiwan Highlighted⁴⁵



⁴⁵ Map provided by the Congressional Research Service at the request of the House Committee on Natural Resources.