

**Agreement Regarding the  
Military Use and Operating Rights  
of the Government of the United States in  
the Republic of the Marshall Islands  
Concluded Pursuant to Sections 321 and 323 of the  
Compact of Free Association, as Amended**

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Concluded Pursuant to Sections 321 and 323 of the  
Compact of Free Association, as Amended**

This agreement sets forth the military use and operating rights of the Government of the United States in the Republic of the Marshall Islands, and is concluded pursuant to Sections 321 and 323, Title Three of the Compact of Free Association (the Compact), as amended.

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Article I

Definitions

The Definition of Terms set forth in Article VI of Title Four of the Compact, as amended, and the Definitions set forth in paragraph 2 of Article I of the Status of Forces Agreement Concluded Pursuant to Section 323 of the Compact (the Status of Forces Agreement), as amended, are incorporated in this Agreement.

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Article II

Applicability of Status of Forces Agreement

The provisions of the Status of Forces Agreement, as amended, shall apply.

Article III

Provision of Defense Sites

1. The Government of the Republic of the Marshall Islands shall provide to the Government of the United States the defense sites identified in Annex A to this Agreement. Specific arrangements for the establishment and use by the Government of the United States of defense sites in addition to those set forth in Annex A shall be in accordance with Section 321 of the Compact, as amended.

2. Pursuant to section 321(b) of the Compact of Free Association, as amended, the Government of the Republic of the Marshall Islands shall give favorable consideration to the request of the Government of the United States for additional defense sites. These defense sites shall be mutually agreed between the two Governments and incorporated by *Annexes which shall become integral parts of this Agreement. In connection with the provision of the additional defense sites, any compensation, other use charges or other consideration due to persons with interests in land in the Republic of the Marshall Islands, and all legal arrangements related thereto, shall be provided by, and are the responsibility of, the Government of the Republic of the Marshall Islands.*

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Article IV

General Military Use and Operating Rights

1. Consistent with Section 352 of the Compact, as amended, the Government of the United States has free access to and unrestricted control of the defense sites, including the right to control entry to and exit from any or all defense sites and the right to take necessary measures for their establishment, use and operation. The Government of the United States may take, within the defense sites and within the sea beds, water areas and air space adjacent to or in the vicinity of the defense sites, such measures as are necessary for the use, security and defense of the defense sites. These measures include the right:

(a) To maintain the defense sites and to construct structures and improvements thereon;

(b) To improve and deepen the harbors, channels, entrances, and anchorages, to dredge and fill and generally to fit the premises to their intended use;

(c) To control anchorages and moorings adjacent to or within the vicinity of the defense sites, and movements of ships and waterborne craft, to, from and within the defense sites;

(d) Subject to the provisions of paragraph 2 of Article V of this Agreement, to control aircraft operations to, from and within the defense sites and to control aircraft movement in the air space adjacent to or in the vicinity of the defense sites;

(e) To regulate and control all official communications of the Government of the United States and its contractors to, from and within the defense sites subject to the separate agreement between the Government of the United States and the Government of the Republic of the Marshall Islands on communications referred to in Article III of Title One of the Compact, as amended;

(f) To prevent interference from any source whatsoever with all official communications of the Government of the United States and its contractors;

(g) To install, maintain, use and operate defense-related oceanographic, aeronautical, space communications, and other military or scientific systems and equipment; and

(h) To advise and assist, by means of visual and radio vectoring, safe passage of ships and aircraft through areas made hazardous by periodic missile and other test operations after, or concurrent with, notification to the Government of the Republic of the Marshall Islands.

2. In conducting its activities in the defense sites, the Government of the United States shall use its best efforts to:

(a) Avoid interference with commercial activities including the exploitation of living and non-living resources of the sea;

(b) Avoid interference with navigation, aviation, communication and land or water travel in the Republic of the Marshall Islands;

(c) Minimize damage to the terrain and to reef areas;

(d) Minimize unnecessary adverse effects to the environment, including water areas;

(e) Avoid activities which would adversely affect the well-being of the residents of the Republic of the Marshall Islands; and

(f) Notify the Government of the Republic of the Marshall Islands of non-routine activities so that the Government of the Republic of the Marshall Islands may take steps to assist the Government of the United States in executing its responsibilities to minimize any adverse impact of such activities.

3. Except for Meck, Illeginni, Gagan and Legan, the islands and the area of the Mid-Atoll Corridor defined in Annex A shall be open to visitation unless closed temporarily on orders of the United States Army Kwajalein Atoll Commander in order to avoid interference with operations of the defense sites or to avoid posing safety hazards to individuals in the area. Notice of these periods of closure shall be given to the Government of the Republic of the Marshall Islands in a timely manner. In no event will there be less access to the Mid-Atoll Corridor than 126 days each calendar year. Unless mutually agreed, no new construction will be permitted on the Mid-Atoll Corridor Islands. The Commander, United States Army Kwajalein Atoll, shall designate the periods of temporary closure, and shall establish the basis for visitation to Omelek, Gellinam and Eniwetak Islands. This basis shall include temporary habitation by up to 19 persons on Omelek, who can fish from Gellinam and Eniwetak. Consistent with United States activities, on Eniwetak, the Commander, United States Army Kwajalein Atoll, shall allow temporary habitation on that island as well. The Governments of the United States and the Republic of the Marshall Islands may, from time to time, consult regarding such modifications to visitation arrangements as may be mutually agreed.

4. The Government of the United States may invite members of the armed forces of other countries to use defense sites pursuant to this Agreement, in conjunction with and under the control of the United States Armed Forces. Use by units of the armed forces of other countries of such defense sites, other than for transit and over flight purposes, shall

be subject to consultation with and, in the case of major units, approval by the Government of the Republic of the Marshall Islands.

5. The provisions of Section 173 of the Compact, as amended are incorporated by reference into, and become a part of, this Agreement. The Signatory Governments may, from time to time, consult regarding the implementation of this paragraph.

Article V

Shipping and Aviation

1. The Government of the United States may place or establish in the defense sites and the water areas adjacent thereto or in the vicinity thereof, lights and other fixed and floating aids to navigation of vessels and aircraft necessary for operations pursuant to this Agreement. The Government of the United States shall consult with the Government of the Republic of the Marshall Islands on the position or characteristics of and any alterations to such aids to navigation.

2. Aircraft owned or operated by the Government of the Republic of the Marshall Islands and aircraft of Air Marshall Islands or its successor shall have access to and use of the airfield and related facilities located on the Kwajalein Island defense site, subject to *United States military requirements and security interests*. The Government of the United States shall give sympathetic consideration to requests by the Government of the Republic of the Marshall Islands for access to and use of this airfield and related facilities by other aircraft. This access and use shall be subject to agreement between the Government of the United States and the Government of the Republic of the Marshall Islands. Aircraft may also land at other defense sites with the prior consent of the Government of the United States.

Article VI

Law Enforcement and Security

1. Regularly constituted military units of the Armed Forces of the United States and civilian security guards of the Armed Forces of the United States or security personnel under contract to or employed by the Government of the United States shall have the right to police the defense sites, and may take all appropriate measures to ensure the maintenance of law and order on the defense sites. United States military police or civilian security guards shall not be used outside the defense sites for law enforcement purposes, except as may be agreed with the Government of the Republic of the Marshall Islands.

2. The Government of the Republic of the Marshall Islands shall take all reasonable *measures within its power to ensure the safety and security of United States military and civilian personnel and property in the Republic of the Marshall Islands, as well as the protection of such property from seizure by or conversion to the use of any entity or Party other than the Government of the United States, without the prior consent of the* Government of the United States. The Armed Forces of the United States are authorized to provide internal security of those facilities and areas assigned to their exclusive use. External security for the defense sites will be conducted by the Government of the Republic of the Marshall Islands in close coordination with U.S. forces. If the Government of the Marshall Islands cannot provide adequate external defense of the defense sites, United States forces will be permitted to exercise their inherent right of self-defense.

3. The Government of the United States and the Government of the Republic of the Marshall Islands shall cooperate on the suspension of innocent passage during missile testing operations and on the enforcement of such suspensions in accordance with Annex C. References in Annex C to the Lomor would include successor vessels.

Article VII

Community Relations Council

The Government of the Republic of the Marshall Islands and the Government of the United States shall each designate representatives to a Community Relations Council, the purpose of which will be to identify and consider all matters, with the exception of those pertaining primarily to issues of labor relations addressed by the Joint Labor Relations Board under Article VIII of this Agreement, affecting relations between the defense sites and local Marshallese communities and to recommend actions as appropriate.

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Article VIII

Joint Labor Relations Board and Employment of Labor

1. The Government of the Republic of the Marshall Islands and the Government of the United States shall each designate representatives to a Joint Labor Relations Board, the purpose of which will be to identify and consider issues of labor relations arising out of the operations of the defense sites, and to recommend actions as appropriate. The Board shall:

(a) meet no less than annually to review, evaluate, and make recommendations concerning wages and other terms and conditions of employment for local hire personnel who are in the employment of United States contractors;

(b) provide an annual report to the Government of the United States (the U.S. Kwajalein Military Commander responsible for the defense sites and the United States Ambassador to the Republic of the Marshall Islands) and the Government of the Republic of the Marshall Islands on the status of the local hire personnel work force and local contractors;

(c) consider other matters as may be mutually agreed.

2. In the employment of local hire personnel, the Armed Forces of the United States and United States contractors shall comply with laws of general applicability in the Republic of the Marshall Islands regarding minimum wages, provided that such minimum wages do not exceed the minimum wage prevailing in the United States.

3. In the employment of local hire personnel, the Armed Forces of the United States and United States contractors shall provide equal pay for equal work. In carrying out this provision, due consideration shall be given to relevant recommendations of the Joint Labor Relations Board.

4. The wages of local hire personnel who were in the employment of the Armed Forces of the United States or United States contractors on October 21, 1986, shall not be reduced by reason of the cessation of the applicability of the United States law in the Republic of the Marshall Islands as of October 21, 1986.

5. The Government of the United States and the Government of the Republic of the Marshall Islands shall consult with regard to the creation of training projects designed to provide for greater utilization of local hire personnel and to improve their job skills.

Article IX

Miscellaneous

1. Section 351 of the Compact, as amended, between the Government of the United States and the Government of the Republic of the Marshall Islands is incorporated by reference into, and becomes a part of this Agreement. Unless otherwise provided, all issues or disputes that may arise under this Agreement which cannot be resolved locally shall be referred to the Joint Committee established by section 351 and resolved in accordance with that section.

2. Except as otherwise provided, all minerals, including oil, antiquities and treasure trove in a defense site and all rights relating thereto are reserved to the Government of the Republic of the Marshall Islands, but any exploitation thereof shall require the prior concurrence of the Government of the United States. Sunken warships and military aircraft in a defense site, (except for warships captured before they sank, title to which belongs to the capturing state), remain the property of the flag State until affirmatively abandoned or transferred in accordance with the law of the flag State.

3. The Government of the United States, pursuant to section 234 of the Compact, transferred title to the Prinz Eugen, the former German warship now located in the Kwajalein Atoll area, to the Government of the Republic of the Marshall Islands. It is understood that unexpended ordnance and oil remains within the hull of the Prinz Eugen, and that salvage or any other use of the ship could be hazardous. The Government of the Republic of the Marshall Islands shall hold the Government of the United States harmless for any loss, damage or liability associated with the Prinz Eugen, including any loss, damage or liability that may result from any salvage operation or any other activity that the Government of the Republic of the Marshall Islands takes or causes to be taken concerning the Prinz Eugen. Any such operation or activity undertaken by or on behalf of the Government of the Republic of the Marshall Islands shall be conducted at a time and in a manner to be agreed to between the Government of the United States and the Government of the Republic of the Marshall Islands so as not to interfere with the operation of the defense sites.

4. Consistent with the laws and regulations of the United States, and to the extent that emergency medical services can be made available, the Government of the United States at its Kwajalein Island defense site contractor-operated medical facility shall undertake to provide such emergency services to citizens and nationals of the Republic of the Marshall Islands on a reimbursable basis under terms and conditions agreed upon between the Signatory Governments.