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TO: The Under Secretary

JUL 19 1969

THROUGH: S/S

FROM: EA - Marshall Green

SUBJECT: Trust Territory: Review of Interior's Draft Organic Act

REF: Your Memorandum, July 11, 1969

1. General: As requested in your memorandum I have reviewed the Department of the Interior's draft Organic Act for the Trust Territory. I have considered not only how the draft meets Micronesian expectations, but how it will be received by other nations and peoples in the area and in the United Nations.

2. Micronesian Expectations:

A. Self-Government is the clear desire of the Micronesians. The Chairman of the Micronesian Status Commission said recently, "The Trust Territory should become a . . . state that would be internally self-governing with Micronesian control over all the branches of Government, including the executive."

I do not think the Micronesians believe they are prepared at this point in time to assume all of the executive and administrative positions of Government, and in fact they are not. Some effort, however, should be made to indicate our awareness of and sympathy with their goal (which historically has been ours for other territories) and our intention to take steps to help them achieve progressively higher degrees of self-government. Tab A lists areas where I believe the Interior draft could be improved in this regard.

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DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY	B.H. Burtis
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B. Free Association is the other key Micronesian expectation. The Chairman of the Micronesian Status Commission has specifically cited the Cook Islands and Puerto Rico as appealing models for a "free associated state". The U.S. is not prepared to offer to TTPI statehood, nor Puerto Rican Commonwealth status, nor an option to end the association once accepted (as the Cook Islands may do with their association with New Zealand). If, in fact, the Micronesians use the term "free association" to imply that they could later withdraw from the relationship if they so chose, there is here a potential point of serious disagreement between their concept and ours.

However, a recent statement by the Chairman of the Status Commission that ". . . in recommending free association with the United States we seek not an end but a re-definition, renewal and improvement. . .," gives reason to suppose that the Micronesians may not be thinking in terms of reserving the right to withdraw, or, at least, may not have thought out clearly what they mean by "free association." Since to us the term can mean only that the permanent Micronesian relationship with the U. S. would be one that they had freely accepted, we should seek to guide them to place this same interpretation on it. They are fully entitled to "free association" in this sense and we have committed ourselves to it. Hopefully we can reach agreement on this point by conducting our negotiations with them with patience and understanding and by offering attractive terms of association, especially a high degree of self government.

C. Land Tenure is the single most emotional issue among the Micronesians because of the place land holds in their cultures. Land use is also a critical element in planning for military base facilities in the TTPI. Sec. 141 of the draft appears to take cognizance of this problem, and Interior's forward-looking program to develop a modern land tenure system by June 1970 is apparently off to a good start. The progress of this

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program, however, should be monitored closely, and we should be both tactful and flexible in dealing with the land question.

3. International Obligations:

A. United Nations. I think it has been agreed that the program for the TTPI which was approved by the President and which is now being implemented will permit us to meet our obligations to the United Nations under the Trusteeship Agreement. There will be those nations, of course, which will say our actions do not meet the letter of the obligation. While there may be some difficult diplomacy and politicking in the UN, I believe we will be able to show that we have met the obligation in spirit.

B. Other Nations. It is important not only that we meet our UN obligations but that our handling of Micronesia also earns the general approbation of the metropolitan powers in the Pacific and of the other Pacific island states and territories.

It seems unlikely that any friendly nation in East Asia or the Pacific will dispute a Micronesian choice freely to assume a permanent relationship with the U.S., whatever the terms of that relationship might be. This underlines the fact that we must make strong efforts to show that we have been as fair as possible with the Micronesians and that they have, indeed, made a free choice.

To this end, I believe we should brief selected countries on a continuing basis with regard to our plans

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and the progress being made toward our goals. France, Great Britain, Australia and New Zealand should be among this group because of their Pacific territories and interest in the area, and Japan should also be included.

Some of the Pacific peoples, such as the Nauruans or Western Samoans, both of whom are independent, or the Fijians or Tongans, both of whom are internally self-governing, might criticize us for not formally offering Micronesians an independence option. Again, if we consult tactfully and generously with the Micronesians and if the Organic Act provides the greatest feasible degree of self-government, the Micronesians themselves should be satisfied and thus able to refute any such criticism. I am sure the Micronesian delegate to the South Pacific Conference in October will be drawn into discussion of the matter by his fellow Pacific islanders.

EA/ANZ:RWMoore/RRBlackburn:nmm

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TAB A

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REVIEW OF INTERIOR'S DRAFT ORGANIC ACT

The following are possible changes in the draft Organic Act that might go further towards meeting Micronesian expectations.

A. Sec 101 (c) states that the relations of the Government of Micronesia "shall be under the general administrative supervision of the Secretary of the Interior." The language of the Guam Organic Act of 1950 as amended (which is the basis for much of the draft on the TTPI) states that "relations with the Federal Government shall be under the general administrative supervision of the head of such civilian department or agency of the Government of the United States as the President may direct." The practical result will be the same whichever phrasing is used, but the latter probably would be more acceptable to the Micronesians.

B. Sec 104 (a) provides for appointment of a Governor by the President, with the advice and consent of the Senate, who shall hold office at the pleasure of the President and who shall be under the supervision of the Secretary of the Interior. The Guam Organic Act is less specific with regard to who will supervise whom, and I believe the language is more felicitous.

This section also states that qualifications for the governorship would be: U.S. citizenship (which the Organic Act would extend to the Micronesians), 35 years of age, and residence in Micronesia for at least three years prior to the date of his appointment. Presumably the residency requirement is a laudable effort to provide for the possibility of the appointment of Micronesian at some stage. It would be useful, however, if we could add language which would foreshadow an elective Governor.

C. Sec 104 (b) states the powers of the Governor. It does not, however, include the language which is in Sec 6 (c) of the Guam Organic Act which states that, "The Governor shall coordinate and have general cognizance over all activities of a civil nature of the Departments, bureaus, and offices of the Government of the United States in Guam." There may be some reason for the omission, but this omission will likely be seen by the Micronesians as a deliberate limitation of local control -- a reaction we should seek to avoid if possible.

D. Nowhere in the draft is there language similar to the Guam Organic Act which provides that the Governor appoint, by and with the advice and consent of the legislature, all heads of executive agencies and instrumentalities. At this time it may not be possible to provide for universal appointment by the Governor in the TTPI, but it would

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seem desirable at least to permit senior appointments to be confirmed by the Congress of Micronesia.

Implicit in the statement by the Chairman of the Micronesian Status Commission that the U. S. would provide "human, material, and financial support" is the acceptance of non-Micronesians in the government. Therefore, giving the Congress of Micronesia such a voice in appointments would seem to permit us to offer a concession important to the Micronesians which should not cause us significant difficulties.

E. The Guam Organic Act also states, "In making appointments and promotions, preference shall be given to qualified persons of Guamanian ancestry. With a view to insuring the fullest participation by Guamanians in the government of Guam, opportunities for higher education and in-service training facilities shall be provided to qualified persons of Guamanian ancestry." Would it not be possible to include a similar caveat in the TTPI Organic Act?

F. It is true that the draft provides that U. S. income tax laws would be extended to Micronesia and that the proceeds should be paid into the treasury of Micronesia. Further, customs duties, quarantine, passport, immigration and naturalization fees are to be covered into the treasury of Micronesia. However, these latter funds apparently could not be expended by the Congress of Micronesia without the approval of the Secretary of the Interior. Is there some legal requirement which does not permit us to grant to the Congress of Micronesia the authority to expend such funds without USG approval?

G. Sec 121-125 of the draft Organic Act are taken from the Department of the Interior Secretarial Order 2918 which delimits the extent and nature of the authority of the government of the TTPI. (Certain other sections of the draft are also drawn from this source.) It appears that these are instructions as to the organization of the legislature. Details as to quorums, per diems, travel allowances, and means of travel -- "by the most expeditious and direct means." -- are included. The Guam Organic Act, on the other hand, states, "The legislature in all respects shall be organized and shall sit according to the laws of Guam in force on the date of the enactment of this act and as amended or modified after such date." This would be a preferable formulation for the TTPI.also.

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