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Discussions on the Future of the TTPI

Tuesday, October 14, 1969

Again the only session with the Micronesians was an informal one they had with Assistant Secretary Loesch. This was followed by an "in-house" interagency meeting. This latter session was primarily devoted to a review of our latest and presumably final proposal on land (attached). We agreed that Loesch would go through this proposal with the Micronesians in an informal session Wednesday morning, to be followed by a formal session.

Loesch said that based on his conversation Monday night and further informal talks Tuesday morning, he was not at all confident that the Micronesians would buy even our latest proposal. He had the feeling that their minimum position was that they had to maintain control over Micronesian land.

We agreed that if we reached an impasse we would try to go to other issues such as the fiscal provisions, citizenship, the constitutional convention and the limitations thereon, etc. It was generally agreed, however, that land appeared to be key and that the Micronesians might be most reluctant to discuss anything seriously if a solution to that problem fell through.

It also developed that the Micronesians are definitely leaving on Sunday, October 18. They plan to go to New York, where they have requested assistance in making courtesy calls on the Presidents of the Trusteeship Council, the Security Council and the General Assembly. We suggested that it might also be appropriate for them to call on Ambassador Phillips, our Representative to the Trusteeship Council.

In light of this departure schedule, it was agreed that even if they accepted our land proposal we would never reach agreement on any final document -- that the best we might get would be some indication of preliminary agreement on some of the other issues. This would have to be followed up by further meetings, perhaps in Saipan.

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DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY <u>B. H. BAAS</u>	DATE <u>4/10/81</u>
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LANDS

SEC. 1. (a) The title to all property, real and personal, owned by the Government of the Trust Territory of the Pacific Islands, and all interest including rights of use in property held by the Government of the Trust Territory of the Pacific Islands, are hereby transferred to the Government of Micronesia, including all right, title, or interest of the Government of the Trust Territory of the Pacific Islands in tidelands, submerged lands, or filled lands in or adjacent to the islands of Micronesia. The term "tidelands, submerged lands, or filled lands" shall have the meaning ascribed to it in Section 1(a) of Public Law 88-183 (77 Stat. 338), but shall not include any such lands which by local or customary laws or rights are held in private or communal ownership.

(b) During the three year period referred to in subsection (c), nothing herein shall impair the existing agreements between the Trust Territory Government and the United States Government or any agency or instrumentality thereof insofar as they relate to land use and retention, and the Government of Micronesia takes all such land as set forth in Section (a) above subject to such agreements; provided, however, that such retention and use will at all times be consistent with the public purposes of the United States.

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(c) (i) Within three years from the effective date of this Act, the retention and use rights of the United States Government covered by subsection (b) shall terminate, unless, within that time the United States proceeds to acquire, in accordance with subsection (d) or (e) hereof, whatever rights in such lands may be considered necessary for the public purposes of the United States.

(ii) In any such acquisition, the amount to be paid for the land, or interest therein, shall be the <sup>current</sup> present fair market value of the interest acquired, less any amount or amounts previously paid, gratuitously or otherwise, therefor.

(d) The Departments and agencies of the United States Government are hereby authorized to, and may acquire real property or any interest in real property, including any temporary use for public purposes in Micronesia, in accordance with provisions of this subsection and subsection (e).

(i) In no event may the estate in property sought to be acquired by the United States be of a greater quantum than a base or determinable fee. The limiting event which will terminate such a fee will be the cessation for a period of five years, of the use of the land for the public purposes of the Department or Agency for which it was acquired. Upon termination, fee ownership in the land shall revert automatically to the person, persons or entity from whom it was acquired, or their heirs, or successors.

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<sup>At least</sup>  
(ii) ~~Within~~ one month prior to any regular session of the Congress of Micronesia, ~~(commencing with the first regular session after the three year period referred to in subsection (c)(1))~~ the United States <sup>may</sup> shall present to the Governor of Micronesia a <sup>description</sup> ~~detailed~~ list of the lands in which it wishes to acquire an interest together with a complete statement of the nature of the interest sought to be acquired, the full justification, in the public interest, of the need for such interest and a detailed appraisal report of the fair market value of the interest, prepared by ~~three~~ qualified independent appraisers. ~~(One appraiser will be selected by the Congress of Micronesia. One will be selected by the United States. The third shall be selected by those two appraisers. Unless the appraisers agree on a fair market value, the average of their appraised values shall be considered as that of the appraisers as to the fair market value of any property under consideration.~~

(iii) The Governor shall thereupon prepare and immediately submit to the Congress of Micronesia, for consideration in its regular session, a bill which will contain a <sup>description of</sup> ~~detailed list~~ of the lands in which the United States wishes to acquire an interest, the nature of the interest, together with a complete statement of justification of the public need for such interest, and a detailed appraisal of the fair market value of the interest prepared in accordance with paragraph (ii) of this subsection.

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(iv) Upon the request of the United States, the Governor shall call and submit to a special session of the Congress of Micronesia any bill otherwise covered by subsection (iii) hereof. The Governor shall, upon request, also include such a bill with any other business for which a session of the Congress of Micronesia may be specially called.

(v) In the event the Congress of Micronesia agrees with the need for the acquisition by the United States of the interest in any particular piece of land sought to be acquired, and with the appraisal for the value of the interest, it shall pass the bill, or that part of the bill relating to that particular piece of land, and the bill, or the part thereof passed, shall become law, binding as to such interest, on all parties.

(vi) In the event that the Congress of Micronesia agrees with the need for the acquisition by the United States of the interest in any particular piece of land sought to be acquired, but disagrees with the appraised value of the interest, the United States shall be entitled forthwith to possession of the land in question; but the parties shall proceed forthwith to attempt to agree upon the entire question of value. If no agreement can be reached, the matter shall be submitted immediately to the highest court of Micronesia which will then proceed to determine whether the price proposed by the appraisal represents the fair market value. In order to assist in making this determination,

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such court may, in accordance with such rules as it may promulgate, convene a special jury of Micronesian citizens from the district in which the land is located to render an advisory verdict on the question of fair market value. The decision of the court shall be final, subject, however, to review, on appeal, by the United States Court of Appeals for the 9th Circuit, as provided in subsection (vii).

(vii) In the event that the Congress of Micronesia fails to <sup>in the session in which it has been introduced</sup> act on a bill or disagrees with the need for the acquisition by the United States of the interest in any particular piece of land sought to be acquired, or in the event that the United States wishes to appeal from a final decision of the highest court of Micronesia rendered in accordance with subsection (vi), then an appeal may be taken to the United States Court of Appeals for the 9th Circuit, which shall entertain such appeal in accordance with such rules as it may prescribe and shall make a final decision, binding on all parties either as to need or value, or both, as may be appropriate in any particular case.

(e) After the effective date of this Act, no privately or communally owned real property, or use rights in such property in Micronesia may be transferred, sold, alienated or leased for a term in excess of ten years to non-residents or corporations owned or controlled by non-residents of Micronesia unless such transfer, sale, alienation, or lease is first approved in writing by the majority vote of a commission to be especially established for that purpose in accordance with the laws of Micronesia.

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SEC. 2. The Public Land Laws of the United States shall not apply to land, if any, ceded to the United States, but the Congress of the United States shall enact special laws for its management and disposition.

SEC. 3. The territorial sea of the islands of Micronesia shall be delimited in accordance with the laws and treaties of the United States, and shall not exceed the limits maintained by the United States in its international relations. All laws and treaties of the United States of general application regarding navigable waters, the territorial sea, the high seas, including but not limited to the contiguous zone and the continental shelf, and fisheries shall be applicable with respect to Micronesia.

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