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Possible Modifications for the Draft Organic Act for Micronesia

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General Comments

Although the draft Organic Act for Micronesia was provided to Congressman Aspinall as a drafting service without any commitment of the Executive Branch, it will appear as our starting point both to Mr. Aspinall and those Micronesians who are given a copy.

The draft Organic Act is essentially a compilation from provisions of the Guam and Virgin Islands Organic Acts and certain Secretarial Orders of the Department of the Interior which now apply to the TTPI. The status proposed for Micronesia is not one of self-government; nor is there any cosmetic treatment to give it the appearance of self-government.

To the extent that the final Organic Act closely resembles this draft, it will serve to increase our difficulties in the United Nations in trying to obtain acceptance of our declaration that we have fully executed our responsibilities under the Trusteeship Agreement (see IO memorandum to the Under Secretary of July 16, 1969). Furthermore, even allowing for the likelihood that the Micronesian Status Commission's proposals represent a maximum position for bargaining purposes, the status set forth in the draft Act would seem certain to cause major difficulties in our negotiations with the Micronesians.

Problems and Possible Revisions

It is the object of this paper, therefore, to examine those aspects of the draft Organic Act -- both substantive and otherwise -- which are likely to provide the greatest problems both in New York and in Micronesia, and to set out a range of alternative formulations on certain key provisions. In considering these alternative proposals, the possibility of striking a balance -- of making concessions in one area so

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as to maintain required provisions in another -- should be kept in mind. While more pertinent to Micronesian acceptance than to our problems in the United Nations, changes in one aspect of the Organic Act may obviate the need for a revision elsewhere.

Terminology: In general the draft must use the terms of self-government and avoid terms such as "territory"; it should avoid the appearance of maintaining the status quo; it should not highlight the role of the Secretary of the Interior.

Executive: In defining the Executive, there must be more appearance and some more substance of self-government:

-- An appointive governor could be tied to and be made more responsive to the Micronesian people.

-- The governor could be elected with limitations placed on his powers. He could be an elected figurehead; he could have limited powers with specific provisions for progressively greater responsibility; or he could be under the less obvious control of an advisor, whose powers would diminish in time.

Legislature: The powers and responsibilities of the legislature should not appear so obviously identical to those currently in existence.

-- The veto power needs to be as clearly defined as possible, emphasizing the extent of powers given the Congress of Micronesia and minimizing the powers reserved to the Federal Government.

-- Further steps could be taken to give the Congress of Micronesia a real voice in fiscal matters, ranging from greater freedom to appropriate existing local funds to provisions for outright grants from the US Congress -- perhaps on an increasing scale -- which the Congress of Micronesia would be free to appropriate.

-- The Micronesians should be given the right to elect a non-voting representative to the US Congress (and the right to vote for President if this becomes constitutionally possible).

Judiciary: The role of the local judicial system should be more clearly defined, putting Micronesia in the same status as Puerto Rico with regard to the roles of local courts and federal district courts.

Eminent Domain: Reference needs to be made in the Act to the problems of eminent domain, pledging the Micronesian the same right to prior notification and to be heard on the actions planned as is now given by law to the fifty states through the advance notice given the US Congress.

Special Problem: The right of review.

-- Although we assume the Micronesians can be talked out of their stated desire for an opting out provision, consideration may have to be given to meeting the essential point, i.e., their desire to have some continuing say in their status -- conceivably through provision in the Act for a periodic review or perhaps through a Presidential statement.

A more detailed discussion of these possible revisions is attached.