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BRIEFING PAPER FOR UNDER SECRETARIES' MEETING

TRUST TERRITORY OF THE PACIFIC ISLANDS

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I. Introduction. The purpose of this meeting is to review and take action on the recommendations of the Interagency Group on the Trust Territory of the Pacific Islands relating to the meetings with the Micronesian Status Delegation scheduled to commence May 4 in Saipan. The Interagency Group recommendations deal with both the United States strategy for the meetings and the substance of the U.S. proposal.

In view of the limited communications between Saipan and Washington and the fact that no further meetings with the Micronesians are anticipated for some time, the Under Secretaries will probably wish to provide the U.S. Delegation with instructions which are both as comprehensive as possible and as flexible as practicable.

II. Secretaries' Meeting. The last high level consideration of Micronesian future status was at the December meeting of Secretaries Hickel and Rogers, Dr. Kissinger, and Assistant Secretary Nutter to decide whether the U.S. could forego the right of eminent domain. Their decision on the matter was negative. Another major decision made was that, although an agreement with the Micronesians was desired as soon as possible, the time pressure did not warrant foregoing a possibly more advantageous agreement which might be reached through more extended negotiation with the Micronesians. There was some discussion of the Constitutional Convention draft

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bill; however, it was generally felt that the time had not then come to abandon the Organic Act approach

III. Assistant Secretary Loesch's Trip to Micronesia.

- A. Preparation. The Interagency Group met after the Secretaries' meeting to decide what position Assistant Secretary Harrison Loesch, Chairman of the Group, should take during his scheduled January visit to the Trust Territory. The Interagency Group decided to table with the Micronesians a revised version of the Political Status draft bill (Organic Act) previously approved by the Under Secretaries last August. Assistant Secretary Loesch was authorized basically to: 1) inform the Delegation that the Interior land proposal had been rejected; 2) present the Political Status Bill to the Delegation and request their comments prior to the next round of discussions between the two delegations.
- B. The Trip Itself. Assistant Secretary Loesch went to the Territory in early January and both informed the Micronesian Delegation of the decision on the land question (they received it without surprise, but with no indication that they had changed their position) and gave them copies of our Political Status Bill.

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IV. Delegation Attitudes on Political Status. In addition to meeting with the assembled Delegation, Secretary Loesch and his staff Assistant, Tom Whittington, a former attorney in Micronesia who had worked closely with the Congress of Micronesia, met individually and informally with members of the Delegation. The comments on status made during such conversations are probably the most accurate reflection we have available of their present attitudes. These statements have in some cases been reinforced by subsequent communications from Delegation Chairman Lazarus Salii. These attitudes and subsequent developments are the following.

- A. The Political Status Bill. Response by the Micronesian Delegation to the Political Status Bill was unfavorable. Members of the Delegation met before the session with Secretary Loesch to go over the U.S. draft, but evidently were so disappointed that they did not even review and discuss the entire bill. This did not indicate abandonment of the Status Commission's preference for association with the U.S. In fact, the Delegation did not focus particularly on the bill's substance, but rather on its appearance, especially its failure to provide for a Constitutional Convention.
- B. Constitutional Convention Approach. The Delegation had strongly favored the Constitutional Convention approach from the beginning of discussions, and presented an issue paper in the October talks favoring such an approach. They were especially disappointed then, that the U.S. proposal had not taken this form. In fact,

Chairman Lazarus Salii of the Delegation stated that as a result the Micronesians were drafting their own bill in this form.

Despite the Micronesians' apparent disinterest in our Political Status Act, the Interagency Group felt that it was essential to try to obtain a reaction from the Micronesians to the type of status it described. On January 16, Assistant Secretary Loesch therefore wrote a letter to the Delegation Chairman requesting the Delegation's comments on our proposal, particularly its definition of the basic relationship we envisaged between Micronesia and the U.S.

In late February the Department of the Interior received the Micronesian response: a draft bill which uses a Constitutional Convention framework and is essentially a compilation of the Micronesian issue papers tabled last October; it described a status close to independence with certain treaty ties to the U.S. Finally, in early March, Assistant Secretary Loesch received a letter from Chairman Salii, dated February 27, which stated that "...unless the United States is willing to let the Micronesians draft and adopt their own Constitution, I do not see much chance for successful negotiations between your group and ours. ...Your group must be willing to consider this." (See Tab A for list of October issue papers and February 27 letter.)

This Micronesian compulsion for a constitutional convention appears to result from several factors. First is the dignity of deciding the specifics of one's form of government. Second is the political necessity of involving the public in the determination of their future. The Delegation apparently views achievement of these goals as the first step in fulfilling its mandate.

C. Importance of the May Discussions. The Micronesians have stated that the May meeting is to be the last, at least in this series. Legislative Counsel, Kaleb Udui, during the January trip, stated that the Micronesian Political Status Delegation had concluded that it could not seek an extension of its mandate in its present form. Because of political pressures in the Congress and public interest and concern, the Delegation considers that it must report its findings and recommendations to the Congress at its session in July. (See Tab B, Chairman Sali's letter of March 19, 1970.)

D. Other Recent Developments. The Micronesian Delegation has recently retained Professor J.W. Davidson of the Australian National University to assist it before and, presumably, during the May talks. Though his experience is primarily with freer forms of political association than we desire, Davidson is knowledgeable on political status matters and is reputed to be a realist. He also helped to write the 1969 Report of the Micronesian Future Political Status Commission.

Further, Chairman Sali's March 19 letter requests information on the authority of members of the United States Delegation to speak for their respective departments or agencies, a question which may be indicative of a desire for substantive discussions and perhaps agreements.

- V. Expectation Regarding Delegations Report to the Congress. We assume that the Delegation's recommendations will relate both to the substance of the U.S. position and to further actions to be taken by the Congress of Micronesia on possible association with the United States. The Delegation, if it considers the U.S. position promising or acceptable, may recommend continuation of discussions or other positive action, and possibly even endorsement of that position by the Congress as a whole.

Alternatively the Delegation may simply report back the U.S. position with no recommendations on its substance, either favorable or unfavorable. Such a neutral attitude would leave the U.S. position to stand alone on its merits before the Congress of Micronesia and the public

Finally, if in the view of the Delegation, the U.S. position is not sufficiently promising as to warrant further discussions with the U.S., the Delegation will likely so report. This would put the U.S. in an unresponsive and negative position with the Congress of Micronesia, as well as greatly reduce Micronesian receptiveness to any new U.S. initiatives.

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VI. Attitudes and Political Realities in Micronesia.

A. Political Leadership. The importance of avoiding an unresponsive and negative stance lies in the existing attitudes and political realities in Micronesia as a whole, as well as the views of the Micronesian Delegation and the Congress.

While the views of average Micronesians generally follow those of the local leadership, that leadership comes at all levels: the Congress of Micronesia, district and municipal leaders, and traditional chiefs. The problem of assessing this leadership is substantially complicated by a lack of detailed and quantified political reporting as well as differences between districts and by its changing character as younger leaders replace the traditional chiefs who, seeking to maintain the security of a familiar way of life, tend to be more conservative and hold views more compatible with our interests.

It is clear, however, that all levels of leadership are intensely interested in the matter of Micronesia's future status. Although they see independence as one option, the majority still appears committed to some form of association with the U.S., as recommended by their Status Commission.

This preference is subject to erosion, however, particularly if the U.S. fails to clearly demonstrate its commitment to Micronesia's future and specifically to an association compatible with Micronesian thinking. Our administration in the Territory -- the Interior Department's Action Program -- can partially demonstrate this interest, but we must also address the matter of future status.

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B. Effect of an Impasse. In the absence of such U.S. initiative, Micronesian leadership will not stand still. Moreover, it seems most likely that any movement will be in a direction unfavorable to the United States, toward independence. Not only is such a trend, which could cast the U.S. in the role of the traditional colonial power, a common historical pattern in such situations, but this alternative course has already been foreseen by the Future Political Status Commission of the Congress of Micronesia. In its April 1969 Statement of Intent the Commission states in part:

"For ourselves, we look forward to the success of future negotiations with the United States. But if these negotiations should fail, if it should not be possible to achieve the alternative we recommend, then we have only one remaining course. It is the second alternative mentioned in the Trusteeship Agreement, an alternative which might bring economic hardship and administrative difficulties. That alternative is independence. Independence is not the alternative we now recommend, but if it should prove impossible to renew our partnership with the United States as an associated free state, the Political Status Commission feels that independence would be the only road left open to us." (P. 9, Report of the Future Political Status Commission.)

It could certainly be argued that it is far too early in the process to know if the negotiations have failed. The definition of "failure" is, however, a subjective matter, not one which we alone can decide. For their part, the Micronesians are likely to view a negative and unresponsive U.S. position as a failure, and act accordingly. It is therefore extremely important that we avoid forcing the Micronesians away from their current preference -- association with the U.S. -- and toward independence.

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C. Micronesian Decision-Making. If our position is responsive to the Micronesian desires and is accurately reflected to the Congress, even without comment, this will allow the leadership -- the Delegation, the Congress and the local leaders -- to exercise its influence and to consider our position objectively. Under these conditions, the Micronesian decision-making process could come into play -- a process which generally occurs through coming to a consensus viewpoint. Meetings in Micronesia often appear interminable as people talk around and around the central issue, never seeming to talk to the basic problem. At some point, one gets the feeling that everyone has had his say, that the apparent deadlock may never be resolved. Just as suddenly, one person will make a final comment, perhaps one made many times before, all opposition will drop and the question will be settled to the satisfaction of all.

Logically, this same process should be applicable to the Micronesian Delegation, and it is possible that such a critical point is now being reached by the Delegation in its thinking. In this case, with the proper lead from us and with the members' desire to have something concrete to report to the Congress of Micronesia, they could reach a consensus around our position, or at least elements of it. Subsequently, the same result could evolve in the Congress as a whole.

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VII. Objectives and Method of Approach. Our primary objective at the May meeting is to open a channel of communications first to the Micronesian Delegation, and subsequently to the Congress and the people. We hope by this means to achieve the Micronesian support necessary to terminate the trusteeship and extend U.S. sovereignty to Micronesia. To achieve this objective, it is necessary to consider, from a negotiating standpoint, both the appearance and framework of a new status, as well as the substance of the relationship.

In terms of substance, we must insure that our position is understood; namely, that the Micronesians must realize that they cannot have the benefits without the obligations. We must make clear to them that which is unacceptable in their proposal, not so much by telling them what they cannot have, but by stressing what is required from our point of view. Finally, we must remind them of our strategic interests and that, in fact, no change in the Trusteeship Agreement, including termination, can be made without our consent.

None of these points can be made, however, without regard to the manner in which they are presented -- the framework of the status as a whole. Neither side can realistically consider specific issues out of context, as the three divergent approaches developed thus far (Political Status draft, Constitutional Convention draft, and specific issue papers) have done. Only by mutual acceptance of an approach to the Status question can full discussion of the issues be reasonable expected.

VIII. Alternatives and Recommendations. The Interagency Group has considered three basic approaches which could be used by the U.S. Delegation in its May negotiating session:

1. Attempt again to sell the Political Status bill.
2. A statement of principles including the possibility of a constitutional convention approach.
3. A statement of principles accompanied by the Constitutional Convention bill -- The Interagency Group's Recommended Approach.

A. Attempt again to sell the Political Status bill. The Delegation could again try to sell the Political Status bill. It would be modified and improved by removing both the appointed executive option and the provision for an advisor to the elected executive. The Interagency Group believes it is now clear that the Micronesians prefer an elected executive, and that the advisor is a transparent device, the purposes of which can be otherwise satisfied. (See Tab C for further discussion of this and certain minor changes.)

Pros. This bill describes the substance of our best offer. Although none of its essential elements can be changed, other revisions are possible. If the Micronesian Delegation could be made to appreciate both the meaning of the essential elements and the flexibility contained within this position, they might be more receptive and willing to work with us to mold the bill to fit their desires. This would have substantial advantages; the U.S. would remain in control of the negotiating process, and presumably the resolution of Micronesia's future status could be completed in the optimum time frame.

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Con. It clearly limits the Micronesian role in devising their new status; only the small Micronesian Delegation would participate, and even it would be working from a U.S. proposal. Since the Micronesian Delegation feels public participation is essential -- this feeling is at the heart of their insistence on a constitutional convention -- it is unlikely that they would enter into a dialogue of substance within the framework of this bill.

In view of the Micronesian Delegation's apparent complete rejection of the Political Status bill as presented by Assistant Secretary Loesch, the chance of their even listening to and appreciating our description and explanation of the bill is very remote. Any U.S. concessions of substance within this framework appear immaterial.

As a result, this approach would almost certainly elicit a negative report from the Delegation to the Congress of Micronesia in July, regardless of the merits of the bill itself and the status it envisages.

B. A Statement of Principles Including the Possibility of a Constitutional Convention Approach.

In order to concentrate our approach on the critical issue of the nature of the acceptable status, the U.S. Delegation could present our proposal in terms of a statement of principles (See Tab D) without reference to any particular bill. This would be prefaced with a statement that we viewed the question of

Micronesia's relationship to the U.S. as a critical issue, and that the method of implementation, whether by Organic Act, Constitutional Convention, or other approach, is secondary.

Our principles would stress the same requirements as in the first alternative -- the status would be essentially the same. However, in addition to amendment of the executive provision, the Interagency Group would now label this status a "commonwealth". This has definite attraction to the Micronesians, and we believe that potential problems with the U.S. Congress, associated with the Puerto Rican precedent, can be met. (See Tab C.)

In setting forth the principles of the proposed association we would point out the implications of U.S. sovereignty and federal supremacy, e.g., foreign affairs, defense, and eminent domain. Conversely, we would emphasize the benefits which go with U.S. sovereignty and the other advantages we would be prepared to provide Micronesia. We would also highlight the extent of self-government which Micronesia would have -- and conversely the sort of federal interference which it might expect.

Presuming the Micronesians have not indicated that the principles expressed are unacceptable, the U.S. Delegation would then be prepared to discuss implementation, including the possibility of a constitutional convention and the limits thereof. We would stress that the convention and its constitution could deal with the internal government structure of Micronesia; the

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relationship between Micronesia and the U.S., to be approved by both the U.S. Congress and the Micronesian people, could not be contradicted by the Constitution (see discussion of safeguards, Tab E.) We would stress that the U.S. proposal -- the principles of the status, the benefits, the self-government, and the constitutional convention, -- is a total package, and that the individual parts would have no standing considered alone.

Pros. Under this proposal, by discussing the possibility of Micronesian participation through a constitutional convention, we would hope to avoid the immediate impasse likely under the first alternative. We would moreover concentrate attention on the status itself, hopefully avoiding the distractions of implementation until later. This might enable us to determine if the Micronesians were actually considering the same type of status we have in mind -- and to do so before we had placed a full proposal before them.

Cons. The prime disadvantage of this approach is that we would only be talking in theories; we would not be offering a specific proposal which could be examined and envisaged in actual operation.

At worst, this could lead to suspicions that we were holding something back -- that our actual proposal would not live up to our principles or would contain some unmentioned condition. The Micronesian Delegation would find it very hard to understand why we were holding back at a time when they were preparing their final report. Further, they could resent the fact that the U.S. was not being responsive.

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At best, the absence of a draft bill would leave our proposal incomplete and certainly would stall any decision by the Delegation or the Congress, while giving away the substance of our best position. They might express interest, but would need to await something specific.

C. Statement of Principles Accompanied by the Constitutional Convention Bill -- Interagency Group Recommended Position.

The third alternative, and the one strongly recommended by the Interagency Working Group for the approval of the Under Secretaries' Committee, is to proceed with a presentation of our statement of principles as described above. If the Micronesian Delegation does not reject the basic status, we would then table our constitutional convention bill (See Tab F) for their consideration, and hopefully subsequent acceptance by the Congress of Micronesia. The bill would be modified to provide for two referendums: one (following U.S. Congressional enactment of the bill) to approve the nature of the proposed relationship between the United States and Micronesia, and the other to approve the constitution itself and put the final seal on the new status. (See Tab E for a further discussion of this modification.)

Pros. This proposal, eliminating any suspicions about the real nature of the U.S. offer while at the same time retaining all the advantages of the second alternative, would maximize the chances for an early agreement on the new status. In the first instance we would be responsive to the Micronesian Delegation's

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stated presence and would thus enhance chances of gaining their endorsement and a favorable report. Moreover, our specific offer would be available for consideration prior to the July session of the Congress of Micronesia, maximizing the chances of positive action at that time. In the event action is postponed in July, the Micronesians would at least have a clear and complete offer for their consideration.

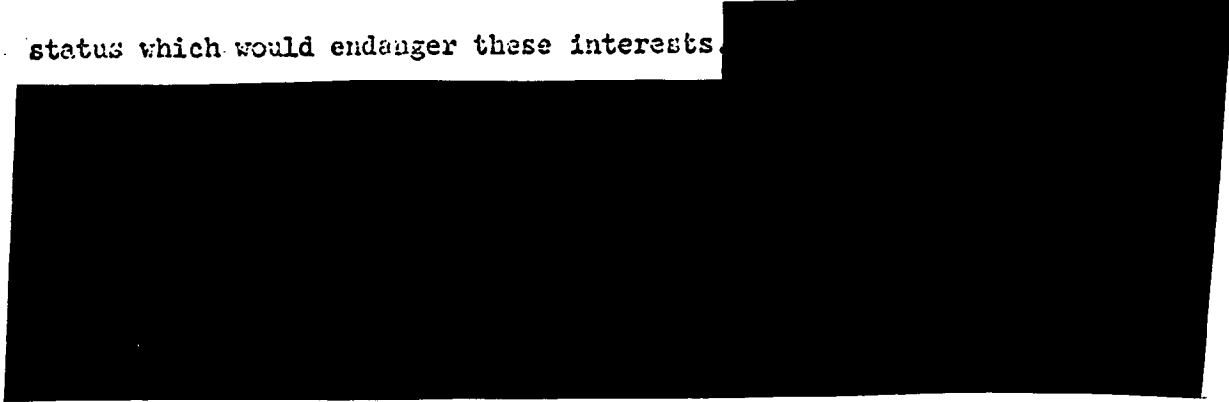
The Interagency Group considers that the chance of the constitutional convention getting out of hand, i.e., pushing for a looser form of association than we could accept is minimized by this alternative. The tabling of the bill itself puts the constitutional convention clearly within the framework of the total U.S. offer. Most importantly, the addition within the bill of the first referendum provides for endorsement by the Micronesian people of the limitations of the constitutional convention even before it meets. The opportunity for honest misunderstanding will be significantly reduced. In approving the constitution prior to the second referendum, the President would be able to cite any unacceptable provisions as being in violation of the expressed position of the Micronesian people, thus greatly lessening the political consequences of his veto. (See Tab F).

IX. Ultimate U.S. Position. In the event the Micronesian Delegation either clearly rejects our position, or non-negotiable elements thereof, or indicates substantial reservations regarding its




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acceptability, the Interagency Group believes that we must make clear the limits of the U.S. position. Specifically, the U.S. Delegation should inform the Micronesians that the Trusteeship Agreement cannot be terminated without our consent, that our strategic interests in the area, as reflected in Micronesia's unique status as a strategic trust, remain just as strong as they were in 1947; and that we are not therefore prepared to consent to any change in status which would endanger these interests.



Obviously the manner in which the U.S. Delegation made the above points -- the severity and the scope of its presentation -- would be keyed to the exact nature of the Micronesian rejection and/or objections. This would have to be left to the judgement of the U.S. Delegation.



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X. Approach to U.S. Congress. It is expected that there will be some U.S. Congressional reluctance to offering Micronesia self-government at this time without the extended trial and growth period of the other territories. This reluctance obtains whether we offer a Political Status Act or a Constitutional Convention Bill.

We continue to believe, however, that the U.S. Congress is mindful of our strategic interest in the area and that it can be brought to appreciate the importance of extending U.S. sovereignty over Micronesia. Since Micronesian support is obviously essential to achieve this goal, we believe the Congress can be persuaded to accept substantive requirements necessary to secure such support so long as essential federal prerogatives are maintained.

The question remains, however, as to when we should make this effort to persuade the Congress, i.e. the key figures in the two Interior and Insular Affairs Committees. There appear to be two basic choices, as follows:

1) Consultation soon after the May discussions in Saipan.

This would continue the policy agreed upon by the Under Secretaries last August on the narrower issue of the elected executive -- to approach the Congress only after getting a better idea of Micronesian thinking on the matter. We still do not have sufficient knowledge of Micronesian attitudes on all the issues relating to status, nor do we believe they fully understand our position. Since the purpose of the May discussions is to discuss mutual positions, it may still be

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premature to discuss the matter with Congress. We still do not have definitive answers to all questions likely to be asked; after the May meetings we hope to be so prepared. Moreover, an approach prior to the Saipan meeting raises the risk that Congressional leaders would attempt to exercise a veto on our chosen position.

The danger of postponing consultations is that key Congressional figures are likely to feel themselves presented with a fait accompli should our proposal be alive after the May talks. They could accurately point out that the executive branch was aware of potential Congressional objections to the types of proposals contemplated. Any resulting resentment -- which in the view of the Interior Department would be substantial -- could close their minds to our presentation of the bills themselves, as well as the reasoning which led to them.

2) Consultations With Congress Prior to the May Discussions.

This would involve a confidential discussion by Assistant Secretary Loesch with the key figures on the respective Interior Committees summarizing the present situation and direction in which we are going. Secretary Loesch, as he did last October, could also invite the two committees to send staff members to Saipan to sit in on the negotiating sessions.

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In the unlikely event that the early reaction in his discussions is favorable and understanding, Secretary Loesch could describe in greater detail the exact course we expect to take at the May discussions. If, as is to be expected, the reaction is less than favorable, Secretary Loesch would attempt to keep the briefing as general as possible. To the extent specific objections were raised on key issues, he would attempt to persuade the committee leaders to our viewpoint.

Should their objections not be dropped, Secretary Loesch would point out that the executive branch's conclusions had not been reached lightly: territorial precedents had been kept fully in mind, but in order to bring the Trust Territory under U. S. sovereignty, Micronesian support was absolutely essential. While in gaining such support we could not sacrifice basic U.S. interests or federal supremacy, Secretary Loesch could point out that we are convinced that our approach will in fact work to secure U.S. interests as well as offer a good possibility of Micronesian support. He would state, therefore, that we felt it necessary to proceed in Saipan along the lines he had outlined. We would, of course, fully inform the committees of the results of the May session and be prepared to discuss the matter further on our return.

This approach avoids presenting Congress with a fait accompli. It could lead to better congressional understanding of our thinking and possibly even to tentative support. Furthermore, if disagreement exists, it must be faced eventually.

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The obvious drawback to this approach is that, if we are unable to overcome existing congressional objections, we would be flouting their clearly expressed views if we nevertheless decided to proceed on our chosen course. There could again be congressional resentment at our actions which could endanger any agreement. The Interior Department believes, however, that resentment under these conditions would be less serious and manageable.

The Interagency Group believes this is an issue which should be considered and decided by the Under Secretaries' Committee.