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MICRONESIAN STATUS NEGOTIATIONS

ROUND II

MAY 4-8, 1970

AT

SAIPAN, MARIANA ISLANDS

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SUMMARY OF
MICRONESIAN POLITICAL STATUS NEGOTIATIONS
MAY 4-8, 1970

The meetings between the Micronesian and U.S. Delegations were opened in Saipan on May 4 with a Micronesian statement setting forth four "non-negotiable principles and legal rights" necessary for free association with the United States:

1. Sovereignty resides in the people of Micronesia and their government;
2. The right of self-determination includes the choice of independence or association with anyone;
3. Micronesia has the right to adopt its own constitution, and amend or revoke it at anytime; and
4. Association would come about through a compact, unilaterally revocable by either side.

After this opening statement, the U.S. Delegation proceeded to present its position and proposal--the principles we consider to be essential elements of a political association with Micronesia, and the draft constitutional convention bill incorporating those principles. The U.S. Delegation noted the areas of agreement between the Micronesian principles and our own, as well as our lesser concern with procedural matters, in particular termination of the Trusteeship Agreement, which we considered to be quite manageable assuming strong Micronesian support for the new form of association.

On May 5, the Micronesian Delegation presented a rebuttal statement to the U.S. position, including the following points:

1. That the U.S. proposal did not grant sovereignty to the Micronesians, since Micronesia would be part of the U.S., and the United States Government would retain important legislative and executive powers, in particular the power of eminent domain.
2. That by rejecting their unilateral termination principle, the U.S. was not prepared to grant "Free Association", as they defined the term.
3. In reference to Presidential approval of the Micronesian Constitution, that the U.S. proposal violated the spirit of the Micronesian demand that the U.S. not be able to amend their constitution.

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4. That the U.S. proposal did not meet the Micronesian requirement that their constitution would not have to be consistent with the U.S. Constitution.

5. In summary, that the U.S. proposal failed to meet their required principles, and, in most essential elements was no different from earlier U.S. officers; they asked to be informed officially whether this was our final offer--if so, it would be reported to the Congress of Micronesia, but the Delegation would wish to examine the problems of independence.

The United States Delegation rebutted in a written statement which made the following points:

1. That sovereignty is a practical, not a theoretical, matter, and that most Federal powers in Micronesia would be of benefit to the Commonwealth rather than an infringement upon Micronesian sovereignty.

2. That we, the U.S. Delegation, had no authority to agree to unilateral termination, and that in the promotion of the economic and political security of Micronesia, it would not be in their interest; neither would it, of course, be in our interest, for reasons of national security.

3. That, regarding applicability of the U.S. Constitution, the United States could not permit association with Micronesia if the local constitution were contrary to the United States Constitution. We pointed out, however, that "consistent with" and "contrary to" had somewhat different meanings, and that the Micronesian Constitution would not have to follow the U.S. model.

4. In conclusion, we again stated our willingness to continue discussion of free association. We stated that, in its essentials, our proposal was the best we could make in view of our very practical concerns.

On May 7, the Micronesian Delegation presented a brief written statement raising two fundamental questions about the possible status of independence:

1. In view of U.S. strategic interests, what was the United States position on termination of the Trusteeship Agreement through independence for Micronesia?

2. Since a transition period would be needed prior to independence, would the United States be willing to establish a timetable and redirect programs toward this goal, and also be willing to begin discussions with Micronesian leaders on a future relationship between the United States and an independent Micronesia?

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The United States Delegation answered these inquiries in a brief statement. First, as to willingness to terminate the Trusteeship Agreement, we acknowledged that it envisaged a possible ultimate status of either self-government or independence, as appropriate "to the particular circumstances of the trust territory". The United States, however, has a moral and legal requirement to ensure that Micronesia is prepared for whatever status its people might select. We stated that, in view of this obligation, it was "hard to forecast" when circumstances in Micronesia would be appropriate for independence in view of the many practical considerations involved. Thus, we would be remiss in our responsibilities if we did not say that, in our view, independence would not be realistically appropriate for some time to come.

On the second point, redirecting programs towards independence, we said that it was not appropriate for the United States to prejudge the outcome of the status question by taking such an action.

Finally, as to the possible relationship between the United States and an independent Micronesia, neither the U.S. Delegation nor the present U.S. Administration could commit unknown future administrations or the U.S. Congress or the American people in this regard.

Additional statements were presented by both Delegations, centered particularly on the two vital issues of unilateral termination and the U.S. power of eminent domain in Micronesia, on both of which there was clearly an important disagreement.

In summary, the May discussions were useful to both sides in presenting clearly for the first time the areas of agreement or near-agreement, as well as the areas of major disagreement, particularly, as has been said, unilateral termination, eminent domain, and, in general, the degree to which Micronesia would be subject to Federal control.

The Micronesian views were presented more clearly and more firmly than in the past, and the substance obviously reflected the majority view of the Micronesian Delegation. At the same time, we would see differences within the Delegation between those advocating quasi-independence, as their Delegation proposed, and those preferring a closer association with the United States.

We believe that our frank and firm presentations of our position, as well as our responsiveness to their positions, were most helpful, and assured the Micronesians of our interest in the matter and desire to continue discussions.

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APPENDIX C: STATEMENT OF PRINCIPLES OF THE UNITED STATES DELEGATION

The U.S. Delegation wishes to set forth for the Micronesian Delegation, the Congress of Micronesia and the Micronesian people the essential elements -- the principles -- of an offer for a new political status for Micronesia. This offer is made in response to the initial statement of intent of the Micronesian Political Status Commission last April expressing a preference for a status of self-government in free association with the U.S. and seeks to take into account subsequent developments including the discussions and exchanges which have taken place between the Micronesian and U.S. Political Status Delegations. It is therefore an expression of U.S. views on the total package of rights, obligations and privileges -- for both parties -- which would be involved in a political association between the U.S. and Micronesia. Obviously, some elements of this status would be subject to revision, particularly in translating these principles into formal proposals. They do, however, provide a basis on which the United States believes a future status -- beneficial for both Micronesia and the U.S. -- can be built.

It is the intent of the U.S. offer to provide for Micronesia those rights which the United States has always considered at the heart of its political system -- the rights to life, liberty and the pursuit of happiness. The provision for self-government in the U.S. offer -- the basic control by Micronesians of all branches of government -- provides the people with the opportunity to shape their own identity -- to protect,

preserve and develop a Micronesian culture and way of life. The support to be provided by the United States for Micronesian development, with priorities set by the Micronesian Government, will give meaning to that identity; it will give Micronesia the tools with which to build. Finally the protection provided for Micronesia in the U.S. offer will insure permanence, security, and stability to the people of Micronesia. Micronesia -- whose history has demonstrated its strategic importance to many nations -- will know, as will the world, that it is assured of U.S. defense whenever needed and at no cost to itself.

Commonwealth of Micronesia

The U.S. offer contemplates Micronesia becoming a Commonwealth of the United States. Such an association does not mean a series of treaty relationships between two independent political entities; rather it involves much closer ties. In essence, Micronesia would become a part of the United States and would as a result assume certain obligations and receive certain rights and benefits.

This offer would provide Micronesia with internal self-government -- Micronesian control in all three branches of government. It would also define Micronesia's relationship with the United States in a manner which we believe is consistent with current Micronesian thinking: neither a relationship so close as that of a "state" nor one implying future evolution as is the case with an "unincorporated territory". Micronesia would be a Commonwealth in permanent association with the United States.

Under Commonwealth status, certain powers will be reserved primarily

to Micronesia, others will be shared with the U.S. Government, and a few will be reserved primarily to the Federal Government.

Internal Self-Government

1. Structure of the Government -- The U.S. Constitutional system is based on a republican form of government, with three separate branches and a bill of rights for the protection of the people. These three requirements would have to be met by Micronesia, as they have been by the other political sub-divisions of the United States. Aside from these limits, and minor ones (such as the need for one paramount court for the Commonwealth), the Micronesian people would be able to establish a governmental structure of their own choosing.

The method by which these choices would be made by the Micronesian people should be decided by mutual agreement provided there is prior agreement on the basic principles of Micronesia's new status as described herein. For example, the Micronesian people could hold a constitutional convention to define an internal government structure consistent with the terms of relationship between the Commonwealth and the Federal government. This is only one possibility, and others could be considered if the Congress of Micronesia so wishes. These are, however, merely questions of implementation and not of basic principle.

2. Powers of the Commonwealth -- In general, control of Commonwealth affairs would rest with the Government of Micronesia. It would decide what roads needed to be built, what hospitals or utilities provided, what harbor facilities constructed. It could take steps to protect and further

Micronesian culture. The Micronesian Government could create and operate an educational system of its own choosing -- a curriculum fitted to the needs and traditions of Micronesia -- so long as free and equal education was provided to all.

The Government of Micronesia would control economic development. It would be able to provide incentives to agriculture, fishing and industry -- e.g. through loans, tax credits, or subsidies. It would be able to establish zoning laws, environmental control regulations and other requirements, both to restrict the areas where economic enterprises may function and the conditions under which they may do so. Since Micronesians would be able to exercise absolute control over the sale or long-term lease of land to non-Micronesian residents, they would, therefore, be able to maintain effective control over the activity of non-Micronesian investment in the Commonwealth.

Thus, in terms of local matters and within the limits of Micronesia's dependence on financial support from the Federal government, the powers of the Commonwealth government would be extensive.

Relationship with the Federal Government

In an association such as that proposed by the U.S., there would, of course, also be many areas where the jurisdiction and responsibility of the Federal and Micronesian Governments would be shared and others where the Federal government would clearly have the predominant if not the exclusive role.

1. Shared Responsibilities

A. Legislative Power -- In the absence of U.S. or Micronesian Constitutional limitations or applicable U.S. law, the Congress of Micronesia would have full legislative authority. It is the intent of the Federal system to place as much authority and power in the political subdivision as possible. While both the U.S. Congress and the Congress of Micronesia would have authority to legislate for the Commonwealth, in practice federal legislation applicable to Micronesia would probably more often result from the Commonwealth seeking benefits of the Federal government than from any effort to apply federal regulations or authority.

Moreover, to ensure that Micronesia has a voice in any proposed federal legislation affecting the Commonwealth, Micronesia would have a non-voting delegate in the House of Representatives. Such a delegate would represent Micronesia on committees and on the House floor, and, depending on his abilities, would also be able to exercise considerable influence. The delegate from Puerto Rico, for example, has been accorded virtually all the rights and privileges of a Member of Congress except the right to vote.

With regard to the federal statutes now in effect, Micronesia would join in a commission to be appointed by the President which would survey all such statutes and recommend to the Congress of the United States those which should be made applicable to the Commonwealth of Micronesia. The Commission would also recommend as to which federal statutes should be made applicable.

B. Judiciary -- Micronesia would have local courts of its own choosing which would enforce and interpret local laws. In addition, the U.S. Federal Court system would be expanded to include Micronesia. This would establish a Federal District Court for Micronesia with jurisdiction over violations in the Commonwealth of the U.S. Constitution, federal laws or treaties and certain other cases. The Circuit Court of Appeals and the Supreme Court of the U.S. would also be available for appeals both from decisions of the paramount Commonwealth Court and of the Federal District Court.

C. Taxation and Budgetary Support -- The U.S. offer would make U.S. federal income taxes applicable to Micronesia, with the additional proviso that all such taxes collected in Micronesia would be retained for disbursement by the Commonwealth. Alternatively, federal income taxes could be made inapplicable in Micronesia, but since this would result in a substantial reduction in potential revenues, the requirement for local taxes would increase.

Regardless of the sum of these taxes, the total of local revenues would be matched by an equal sum from the U.S. Treasury which would be credited to the Treasury of Micronesia and would be available for local appropriation. To the extent that local revenues plus the matching funds might be insufficient to provide for the budgetary needs of the Commonwealth, the U.S. Congress would be authorized to appropriate additional funds for specific purposes, as needed. Obviously, the larger the local revenues, the

larger the matching fund. Clearly, as the Commonwealth's direct dependence on the U.S. Congress for monetary support lessens, there will be fewer limitations for the establishment of economic priorities by Micronesians. It is for this reason that local collection of U.S. federal income taxes appears to be in the interest of the Commonwealth.

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D. Land and Property Control -- All property, real and personal including all of the so-called public lands now held or controlled by the Trust Territory would be turned over to the Government of Micronesia. Provision would be made for the U.S. Government to review the need for that land now held under agreement with the Trust Territory Government and to enter into new agreements for those lands considered necessary for the public purposes.

The Government of Micronesia would be free either to retain such public property for the public good or to make it available for private ownership. The Government of Micronesia would also be free, of course, to establish Commonwealth eminent domain procedures.

In the event the Federal government should have need for an interest in land in Micronesia for public purposes, it would first seek to acquire such interest through negotiations with the owner thereof. Any long-term use or acquisition would require prior approval by a Micronesian commission. If unable to obtain required interest in land in this manner, the Federal government would have the right to inform the chief executive of the Commonwealth of its needs and the terms of compensation considered equitable. This

proposal would be forwarded to the Congress of Micronesia for review both as to need and adequacy of compensation. Disputes between the Federal government and the Congress of Micronesia concerning compensation would be referred to the paramount Commonwealth Court. Further review could be had in the Federal District Court, and thence, as appropriate, to the Court of Appeals for the Ninth Circuit. Appeal procedures would also be available for the individual whose property is involved. Any property acquired by the Federal government through such procedures would only be for public purposes and would revert to the original owner or his heirs five years after it ceased to be so used. These procedures would be unique to the Commonwealth, with no other political subdivision of the U.S. being accorded the same extent of review and consultation, in particular, the right of review by the legislature.

E. Other Areas of Shared Jurisdiction -- A number of Federal agencies might become involved in various aspects of Commonwealth affairs. In many cases such involvement would be in the form of programs of assistance, such as in health and education, which the Commonwealth would be free to seek or not as it saw fit; naturally, if such assistance were sought the accompanying conditions would also have to be met. In other areas, such as those covered by the Federal regulatory agencies, Micronesia would be subject to and benefit from certain rules and standards and regulations in the interests of safety, health, and the welfare of its people. Micronesian interests would thus be coordinated not only in the total U.S.

picture, but internationally as well. Micronesia's voice would be heard prior to decisions on such matters. As noted above, Micronesians will also participate in a commission to examine existing U.S. statutes and to make recommendations as to their applicability to Micronesia.

2. Areas Reserved for the Federal Government

A. Foreign Affairs -- The President is responsible for the formulation and implementation of foreign policy for all of the United States -- the states, the territories and Puerto Rico. This would be true of Micronesia as well. The President, using the power and prestige of the United States as a whole, seeks to follow a policy or policies which will bring benefits to the people as a whole.

Although this power is reserved to the Federal government, this does not mean that Micronesia would be cut off from the outside world or forbidden direct contacts with foreign individuals and officials: quite the contrary. So long as Commonwealth interests in such contacts are consistent with U.S. national policy, the Federal government would assist and encourage the Commonwealth government. This would be particularly true with regard to Micronesian efforts to increase commercial contact, whether in terms of trade or tourism, and would also extend to cultural contacts and other matters. Where policy is directly involved, Micronesian views would be welcomed and would receive sympathetic attention. There is an office in the State Department specifically responsible

for assisting states, territories and commonwealths in making legitimate contacts and in insuring their views are heard.

B. Defense -- Micronesian security would be assured in a climate that would for the first time guarantee genuine self-government. Moreover, the costs of such security which would be immense for an area the size of Micronesia, will be borne by the U.S. and will not be a drain on Micronesian internal development. Moreover, being part of the United States is not likely to make Micronesia more of a target; in view of modern strategic weaponry, any attack against the United States would almost certainly concentrate on major population and industrial centers, thus bypassing Micronesia.

C. Status of Micronesians -- Micronesians would in effect be offered a choice between two statuses. The U.S. proposal would provide the current citizens of the Trust Territory with the status of U.S. nationals, but they could, by simple application to the Federal Court, become U.S. citizens. These are the only two types of status existing in the U.S. system (aside from resident aliens). This would not preclude the Commonwealth from establishing criteria for legal residency in Micronesia.

D. Freedom of Trade and Travel and Equality for All within the U.S. -- The U.S. Constitution provides for freedom of trade and travel between all parts of the United States; these provisions would also extend to Micronesia. This would allow free access into the U.S. for Micronesian goods, and Micronesian travel for any reason, including business, studies or pleasure.

E. Postal, Currency and Banking Regulations -- The Federal Government reserves the right to issue currency and to run the postal system, and would include Micronesia in that system. Federal banking laws would also apply to the Commonwealth and would tie it into the U.S. commercial banking system.

APPENDIX D: DRAFT UNITED STATES BILL

CONSTITUTIONAL CONVENTION BILL

A BILL

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A B I L L

To provide for the creation of a constitutional government by the people of Micronesia, the future political status of the Trust Territory of the Pacific Islands and for other purposes.

Whereas the Trust Territory of the Pacific Islands was placed under the Trusteeship system, established in the Charter of the United Nations, by means of the Trusteeship Agreement approved by the Security Council of the United Nations on April 2, 1947, and the United States Government on July 18, 1947, after due constitutional process; and

Whereas the United States of America was designated under the terms of the Trusteeship Agreement as the administering authority of the Trust Territory of the Pacific Islands; and

Whereas the United States has heretofore assumed obligations for the civil administration of the Trust Territory in accordance with the terms of the Trusteeship Agreement; and

Whereas under said Agreement the United States has the authority to extend its laws to the Trust Territory; and

Whereas the Congress of the United States of America by the Act of June 30, 1954 provided that until Congress shall further provide for the government of the Trust Territory of the Pacific Islands, the executive, legislative and judicial authority necessary for the civil administration of the Trust Territory shall continue to reside in such person or persons and shall be exercised in such manner and through such agency or agencies as the President of the

United States may direct or authorize; and
Whereas by Executive Order numbered 11021, the President of the United States vested responsibility in the Secretary of the Interior for the civil administration of all the Trust Territory; and
Whereas the Congress of Micronesia, the popularly elected legislative body of the Trust Territory of the Pacific Islands, has requested the President and the Congress of the United States to give consideration to the future political status of the Trust Territory; and

Whereas a Constitutional Convention is a basic method of ascertaining the wishes of the people and seeing such wishes reflected in a structure of government; and

Whereas the Congress deems it appropriate that in the process of developing self-government, the people of the islands of Micronesia should enjoy certain rights and responsibilities inherent in the representative form of government;

Be it enacted by the Senata and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Micronesian Constitutional Convention and Enabling Act".

TITLE I - - CONSTITUTIONAL CONVENTION

SEC. 101. In recognition of the principles of government by consent of the governed and right of self-determination, the people of the islands of Micronesia are authorized to form a government for the islands of Micronesia pursuant to a constitution of their own adoption as provided by this Act.

SEC. 102. This Act shall be submitted by the High Commissioner of the Trust Territory of the Pacific Islands, within six months from the date of its enactment, to the qualified voters of the Trust Territory of the Pacific Islands for acceptance or rejection through Territory-wide referendum to be held in accordance with the laws of the Trust Territory. Upon approval of this Act by a majority of the qualified voters participating in such referendum the Congress of Micronesia is authorized to call a constitutional convention to convene within six months from the date of the referendum to formulate and draft a constitution for the islands of Micronesia which constitution shall not be contrary to the provisions of this Act. The procedure for the drafting, and adoption of the constitution of Micronesia shall be in accordance with the rules and regulations established by the Congress of Micronesia. The delegation from each district to the Congress of Micronesia shall select from among its members one representative to the constitutional convention. Additional delegates shall be elected from among the qualified voters of each district to be apportioned as the Congress of Micronesia shall direct, provided that each district shall receive at least one additional delegate.

SEC. 103. The constitutional convention shall prepare a proposed constitution for the islands of Micronesia which shall be submitted not later than one year after the convening of the constitutional convention to the High Commissioner for transmission to the President of the United States. If the President of the United States finds that the proposed constitution provides a republican form of government, includes a bill of rights, and is not contrary to the provisions of this Act and the

Constitution of the United States of America, he shall so certify to the High Commissioner of the Trust Territory, who shall so advise the Congress of Micronesia which shall dissolve the constitutional convention. If the President finds that the proposed constitution does not provide for a republican form of government, or for a bill of rights, or is contrary to the provisions of this Act or the Constitution of the United States, he shall so advise the High Commissioner of the Trust Territory of the Pacific Islands, stating wherein in his judgment the constitution does not so provide or is contrary to the provisions of this Act. The High Commissioner shall in turn submit such message to the constitutional convention for further action. The revised document shall be returned to the President of the United States and the same procedure repeated until the constitution is certified by the President. The authority of the constitutional convention under this Act shall, in any event, expire, and the constitutional convention be dissolved not later than two years after its initial convening.

SEC. 104. (a) Upon certification by the President of the United States to the High Commissioner of the Trust Territory of the Pacific Islands in accordance with section 103 of this Title, the High Commissioner shall, within thirty days after receipt of such certification, issue a proclamation for a referendum to be held not more than ninety days after the date of the proclamation to vote "yes" or "no" on the following proposition:

The peoples of the Trust Territory of the Pacific Islands hereby adopt the Constitution of Micronesia as certified

by the President of the United States.

(b) The High Commissioner of the Trust Territory of the Pacific Islands shall, within thirty days following the referendum, certify the results to the President of the United States. If the President finds that a majority of the qualified votes cast at the referendum are in favor of adopting the proposition, he shall issue a proclamation so stating, and the Constitution of Micronesia, and Titles III and IV of this Act shall become effective upon the date specified in the proclamation. In the event the foregoing proposition is not adopted at the referendum by a majority of the qualified votes cast, neither the Constitution of Micronesia nor the provisions of Titles III and IV of this Act shall become effective.

SEC. 105. Amendments to the Constitution of Micronesia which are not contrary to the provisions of this Act may be made from time to time as provided in such Constitution, subject to approval by the President of the United States and ratification by a majority of the qualified voters of Micronesia.

TITLE II

CHARACTER OF THE CONSTITUTION OF MICRONESIA

SEC. 201. The Constitution of Micronesia shall be republican in form, shall provide for three separate branches, legislative, executive, and judicial, and shall contain provisions either as a part thereof, or as an ordinance appended thereto to the effect that --

(a) The inhabitants of Micronesia are nationals of the

United States to the extent provided for in Title III, Chapter 2 of this Act.

(b) No legislation enacted by the Congress of Micronesia may be inconsistent with the Constitution of the United States, the laws which shall be made, under the authority of the United States.

(c) No law shall be passed by the Congress of Micronesia imposing any tax upon property of the Government of the United States or property of the Government of Micronesia. No import or export levies shall be imposed on goods imported into Micronesia from the United States or any of its territories or transported within Micronesia, or any political subdivision thereof. No taxes or export levies shall be imposed upon the exportation of goods from Micronesia to the United States, its territories or possessions.

(d) Every member of the Congress of Micronesia shall be popularly elected and they and all officers of the Government of Micronesia shall take an oath or affirmation to support the Constitutions of Micronesia and the United States and all laws applicable to Micronesia.

(e) The Executive shall be elected, and the power, authority and functions of the Executive Branch of the Government of Micronesia, provided for in Title III, shall be recognized.

(f) The judicial authority of the Government of Micronesia shall be vested in one paramount court, and such inferior courts as may be provided for in the Constitution of Micronesia or by act of the Congress of Micronesia. The selection and tenure of the judges of the courts shall be provided for in the Constitution of

Micronesia or by act of the Congress of Micronesia.

(g) The paramount court of Micronesia shall have jurisdiction to review on appeal all decisions of the inferior courts in accordance with rules prescribed by the Congress of Micronesia. It may from time to time prescribe rules for the conduct of its business and that of the inferior courts.

(h) The decisions of the paramount Court of Micronesia shall be subject to review by the United States Court of Appeals for the Ninth Circuit as provided for in Title III, Chapter 5 of this Act.

(i) The jurisdiction and powers of the District Court for Micronesia and of its judges and officers provided for in Title III, Chapter 5, shall be recognized.

(j) No public indebtedness shall be authorized or allowed in excess of 10 per centum of the aggregate tax valuation of the real property in Micronesia. Bonds or other obligations of the Government of Micronesia payable solely from revenues derived from any public improvement or undertaking shall not be considered public indebtedness of Micronesia within the meaning of this section.

(k) The rights of the United States to acquire property as set forth in Title III, Chapter 7 of this Act shall be recognized.

(l) 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.

(m) The rights, privileges, and immunities of citizens of the United States shall be respected in Micronesia as though Micronesia were a State of the Union and subject to the provisions of clause 1, section 2 of article IV of the Constitution of the United States.

TITLE III

POLITICAL STATUS OF MICRONESIA

- Chapter 1. Government of Micronesia.
- Chapter 2. Citizenship.
- Chapter 3. Non-Voting Delegate in Congress of the United States.
- Chapter 4. Executive Power.
- Chapter 5. Power of Federal Courts.
- Chapter 6. Fiscal Provisions.
- Chapter 7. Government Property.

Chapter 1.

GOVERNMENT OF MICRONESIA

SEC. 311. (a) The Trust Territory of the Pacific Islands, consisting of the islands formerly administered by the United States of America pursuant to a Trusteeship Agreement with the Security Council of the United Nations, will hereafter be associated with the United States as self-governing, commonwealth to be known as "Micronesia".

(b) The Government of Micronesia shall have the powers set forth in this Act, shall have power to sue by such name, and with the consent of the Congress of Micronesia, may be sued upon any contract

entered into with respect to, or any tort committed incident to, the exercise by the Government of Micronesia of any of its lawful powers.

(c) The relations of the Government of Micronesia with the Government of the United States shall be subject to the provisions of Article 4, section 3, clause 2 of the Constitution of the United States and shall be conducted through such agency of the United States as the President may designate.

Chapter 2.

NATIONALITY AND CITIZENSHIP

SEC. 321. (a) The following persons, and their children born after July 18, 1947, are hereby declared to be nationals but not citizens of the United States as of the effective date of this Title, if, on such date, they were residents of an island of the Trust Territory of the Pacific Islands or other territory over which the United States exercises rights of sovereignty:

(1) All inhabitants of or persons born in the islands of the Trust Territory of the Pacific Islands who resided in the islands of the Trust Territory of the Pacific Islands on July 18, 1947, including those temporarily absent from the islands of the Trust Territory of the Pacific Islands on that date, who were residents of the Trust Territory of the Pacific Islands, who after that date continued to reside on the islands of the Trust Territory of the Pacific Islands or other territory over which the United States exercises sovereignty, and who have taken no affirmative steps to preserve or acquire a foreign nationality; and

(2) All persons who by birth or naturalization have become citizens of the Trust Territory of the Pacific Islands between July 18, 1947, and the effective date of this Title, who are subject to the jurisdiction of the United States, and have taken no affirmative steps to preserve or acquire a foreign nationality.

(b) Commencing with the effective date of this Title, the provisions of section 308 of the Immigration and Nationality Act (66 Stat. 238, 48 U.S.C. 1408) shall be applicable to persons who have acquired the status of nationals but not citizens of the United States under subsection 321(a); provided, however, that for the purposes of sections 301 and 308 of the Immigration and Nationality Act (66 Stat. 235, 283, 8 U.S.C. 1401, 1408) a person born in Micronesia after the effective date of this Act shall be considered as born in an outlying possession of the United States.

(c) Any person hereinbefore described who is a citizen or a national of a country other than the United States, and who desires to retain his present political status, shall make a declaration under oath of such desire within two years after the effective date of this Act, or within six months after attaining the age of 21 years, whichever comes later, said declaration to be in the form and executed in the manner prescribed by regulations. From and after the making of such a declaration any such person shall be held not to be a national of the United States.

SEC. 322. Section 325 of the Immigration and Nationality Act (66 Stat. 248, 8 U.S.C. 1436) is hereby amended by inserting, following the

language "United States" at the end of the section, the language "or within any of the islands of the Trust Territory of the Pacific Islands."

SEC. 323. Section 310.(a) of the Immigration and Nationality Act (66 Stat. 239, as amended, 8 U.S.C. 1421 (a)) is hereby amended by inserting, following the language "the District Court of the Virgin Islands of the United States," the language "the District Court of Micronesia,".

Chapter 3.

NON-VOTING DELEGATE IN CONGRESS OF THE UNITED STATES

SEC. 331. (a) There shall be a non-voting Delegate in the United States House of Representatives for Micronesia. The non-voting Delegate shall be elected by the people qualified to vote for members of the Congress of Micronesia at the next general election after the effective date of this Act and thereafter at such general election every second year thereafter. The term of office shall commence on the 3d day of January following the date of election.

(b) (1) No person shall be eligible for election as a non-voting Delegate who (a) is not a national or citizen of the United States and a resident of Micronesia and (b) is not at least twenty-five years of age. In case of a vacancy in the office of non-voting Delegate by death, resignation, or otherwise, the vacancy shall be filled in such manner as may be prescribed by the Congress of Micronesia.

(2) The non-voting Delegate shall have such privileges in the House of Representatives of the United States as may

be afforded him under the Rules of that House. The non-voting Delegate shall receive the same compensation, allowances, and benefits as a Member of the House of Representatives of the United States.

Chapter 4.

THE EXECUTIVE POWER

SEC. 341. The powers and functions of the Executive Branch of the Government of Micronesia shall be established and organized as provided in the Constitution of Micronesia.

SEC. 342. (a) The Executive Branch of the Government of Micronesia shall have the following powers and duties in addition to those conferred upon it by the Constitution and laws of Micronesia. It shall be responsible for the faithful execution of the laws of Micronesia and the laws of the United States applicable to Micronesia. It may with the approval of the President of the United States restore in Micronesia such civil rights as may have been lost as the result of convictions in Federal or State courts of the United States. Whenever it becomes necessary, in case of disaster, invasion, insurrection, or rebellion, or imminent danger thereof, or to prevent or suppress lawless violence, it may request assistance of the military or naval commanders of the Armed Forces of the United States, which assistance may be given at the discretion of such commanders if not disruptive of, or inconsistent with, their Federal responsibilities.

(b) If any bill presented to the Executive Branch of the Government of Micronesia contains several items of appropriation of money,

it may object to one or more of such items, or any part or parts, portion or portions thereof, while approving the other items, parts or portions of the bill. In such a case it shall append to the bill, at the time of signing it, a statement of the items, or parts, or portions thereof, to which he objects, and the items, or parts, or portions thereof, so objected to shall not take effect. This provision shall be in effect so long as funds have to be appropriated by the Congress of the United States pursuant to section 365(b).

SEC. 343. The President of the United States is authorized to appoint a Comptroller for Micronesia. He shall have the same duties and authorities in Micronesia as those prescribed by Public Law 90-496, 48 U.S.C. 1599 (Supp. IV, 1965-1968), for the government comptroller for the Virgin Islands.

Chapter 5.

POWER OF FEDERAL COURTS

SEC. 351. (a) There is created a court of record to be designated the "District Court of Micronesia". Said district court shall have the powers of a United States District Court, and, except as otherwise herein provided, shall have original jurisdiction of all cases or controversies arising under the Constitution, treaties, and laws of the United States, regardless of the sum or value in controversy, and where any of the parties on either side of the controversy are citizens or subjects of a foreign State or States, or citizens of a State, territory, or District of the United States not domiciled in Micronesia, wherein the matter in

dispute exceeds, exclusive of interest or cost, the sum or value of \$3,000.

(b) The rules heretofore or hereafter promulgated and made effective by the Supreme Court of the United States pursuant to section 2072 of Title 28, United States Code, in civil cases including admiralty and maritime cases; section 2075 of Title 28, United States Code, in bankruptcy cases; and sections 3771 and 3772 of Title 18, United States Code, in criminal cases; shall apply to the District Court of Micronesia and to appeals therefrom; except that no provisions of any such rules or other statute which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Micronesia unless and until made so applicable by laws enacted by the Congress of Micronesia. The District Court of Micronesia may prescribe and publish rules of practice and procedure not inconsistent with the aforementioned Federal rules.

(c) Section 1294(4) of Title 28, United States Code, is amended by inserting after the words "the District Court of Guam" the words "the District Court of Micronesia".

SEC. 352. (a) Any party may appeal to the Supreme Court of the United States from an interlocutory or final judgment, or order of the District Court of Micronesia, holding an Act of the United States Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies or any officer or employee thereof, as such officer or employee, is a party. A party who has

received notice of appeal under this section shall take any subsequent appeal or cross appeal to the Supreme Court. All appeals or cross appeals taken to other courts prior to such notice shall be treated as taken directly to the Supreme Court.

(b) Section 1252 of Title 28, United States Code, is amended by inserting after the words "the District Court of Guam" the words "the District Court of Micronesia".

SEC. 353. (a) The President of the United States shall, by and with the advice and consent of the Senate of the United States, appoint a judge for the District Court of Micronesia who shall hold office for the term of eight years and until his successor is chosen and qualified unless sooner removed by the President for cause. The judge shall receive a salary payable by the United States which shall be at the rate prescribed for judges of the United States District Courts. The Chief Judge for the Court of Appeals of the Ninth Circuit of the United States may assign a justice of the paramount Court of Micronesia, or a circuit or district judge of the Ninth Circuit, or the Chief Justice of the United States Supreme Court may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge in the District Court of Micronesia whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the court.

(b) The President of the United States shall appoint, by and with the advice and consent of the Senate of the United States, a

United States attorney and United States Marshal for Micronesia to whose offices the provisions of chapters 35 and 37 of Title 28, United States Code respectively, shall apply.

(c) The provisions of chapters 21, 41, 43, 49, and 57 of Title 28, United States Code, shall apply to the District Court of Micronesia.

SEC. 354. (a) All final judgments or decrees of the paramount Court of Micronesia may be reviewed by the United States Court of Appeals for the Ninth Circuit by writ of certiorari in accordance with such rules as that Court may prescribe.

(b) In determining whether a writ of certiorari will be granted by the United States Court of Appeals for the Ninth Circuit, the following, among other reasons, shall be considered: whether the case presents a federal question of substance, and, whether the paramount Court of Micronesia has decided a question arising under the local law of Micronesia in a manner which is inescapably wrong or patently erroneous.

SEC. 355. The laws of the United States relating to removal of causes, appeals and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings between the courts of the United States and the courts of Micronesia.

Chapter 6.

FISCAL PROVISIONS

SEC. 361. The levy of duties on goods imported into Micronesia is hereby reserved to the Government of Micronesia.

SEC. 362. All bonds issued by the Government of Micronesia or by its authority shall be exempt, as to principal and interest, from taxation by the Government of the United States or by the Government of any State, Territory, or possession, or any political subdivision thereof, or by the District of Columbia.

SEC. 363. Effective on the first day of July following the effective date of this Title, all customs duties and Federal income taxes of the United States derived from Micronesia, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in Micronesia and transported to the United States, its territories, or possessions, or consumed in Micronesia, and the proceeds of any other taxes which may be levied by the Congress of Micronesia on the inhabitants of Micronesia and all quarantine, passport, immigration, and naturalization fees collected in Micronesia shall be covered into the treasury of Micronesia and held in account for the Government of Micronesia, and shall be expended for the benefit of the Government of Micronesia, as the Congress of Micronesia may by law prescribe.

SEC. 364. Effective on the first day of January following the effective date of this Title, the income tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in Micronesia, except that the proceeds of such

taxes shall be paid into the treasury of Micronesia.

SEC. 365. (a) As soon as possible following the termination of each fiscal year, the Executive Authority of Micronesia shall certify to the Secretary of the Treasury the net amount of revenue, exclusive of United States Federal matching and grant funds, received by the Government of Micronesia during the preceding fiscal year. There shall thereafter each year be transferred and paid over to the Government of Micronesia, from funds in the United States Treasury not otherwise appropriated, a sum equal to the net amount of revenue received by the Government of Micronesia, as certified by the Executive Authority.

(b) Until such time as funds available to the Government of Micronesia pursuant to this section and sections 363 and 364 are sufficient to meet the obligations of the Government of Micronesia, there is authorized to be appropriated by the Congress of the United States such additional sums as may be needed to pay such obligations.

SEC. 366. (a) The following sections of the Tariff Act of 1930, as amended, are hereby amended by inserting "Micronesia", immediately after "Johnston Island", each place it appears therein:

- (1) Section 401(k) (19 U.S.C., sec. 1401(k)).
- (2) Section 557(a) (19 U.S.C., sec. 1557(a)).
- (3) Section 562 (19 U.S.C., sec. 1562).

(b) Section 401(a) of the Anti-Smuggling Act, as amended (19 U.S.C. sec. 1709(a)), is hereby amended by inserting "Micronesia", immediately after "Johnston Island".

(c) Sections 542, 544, and 545 of Title 18 of the United States Code are hereby amended by inserting "Micronesia", immediately after "Johnston Island", each place it appears therein.

(d) For the purposes of the Tariff Schedules of the United States, Micronesia shall be entitled to the same privileges as the insular possessions of the United States which are outside the custom territories of the United States.

(e) This section shall apply with respect to articles entered or withdrawn from warehouse, for consumption after the effective date of this Title.

SEC. 367. The Executive Authority of the Government of Micronesia shall make to the President of the United States or his delegate an annual report of the transactions of the Government of Micronesia for transmission to the Congress of the United States and such other reports at such other times as may be required by the Congress or under applicable Federal law.

Chapter 7.

GOVERNMENT PROPERTY

SEC. 381. (a) The title to all property, real and personal, owned by the Government of the Trust Territory of the Pacific Islands, and all interests in such property including rights of use and 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, held by the Government of the Trust Territory

of the Pacific Islands, are hereby transferred to the Government 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). This subsection shall not apply to any interest in lands, which interest by local or customary laws or rights is 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 subsection (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.

(c) (1) Within three years from the effective date of this Title, 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 (f) hereof, whatever rights in such lands may be considered necessary for the public purposes of the United States.

(2) In any such acquisition, the amount to be paid for the property, or interest therein, shall be the current fair market value of the interest acquired, exclusive of any improvements made by the United States or assigns, and less any amount or amounts previously paid, gratuitously or otherwise, therefor.

(d) The United States Government its departments and agencies, are hereby authorized to, and may acquire for public purposes in Micronesia property or any interest in property, including any temporary use, in accordance with this subsection and subsection (f). Such property, including that owned or controlled by private parties or the Government of Micronesia, may be acquired under this subsection by purchase, lease, exchange, gift, or otherwise under such terms and conditions as may be negotiated by the parties, subject to the limitations in subsection (g).

(e) In no event may the estate in property sought to be acquired by the United States be of a greater quantum than a fee on a conditional limitation. The limiting event which will terminate such a fee shall be the absence for a period of five years of the use of the land for public purposes of the United States Government. 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.

(f) In the event the United States is unable to acquire property or an interest in property by negotiation in accordance with subsection (d), then it may acquire property or an interest therein in accordance with the following procedure:

(1) At least one month prior to any regular session of the Congress of Micronesia, the United States may present to the Executive of Micronesia a statement describing the property in which it wishes to acquire an interest including therein the nature of the interest

sought to be acquired, the public purposes for such interest, and a detailed appraisal report of the fair market value of the interest prepared by qualified independent appraisers. The Executive shall thereupon prepare and immediately submit to the Congress of Micronesia, for consideration in its regular session, a bill incorporating the statement and requiring the conveyance of the property or interest or both therein to the United States.

(2) Upon the request of the United States, the Executive shall immediately call and submit to a special session or submit to a regular or special session already convened of the Congress of Micronesia any bill otherwise covered by subsection (1) hereof.

(3) In the event the Congress of Micronesia agrees with the need for the acquisition by the United States of the property or any interest in property sought to be acquired, and further agrees with the appraisal for the value of the property or 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.

(4) In the event that the Congress of Micronesia agrees with the need for the acquisition by the United States of the property or interest sought to be acquired, but disagrees with the appraised value thereof, the United States shall be entitled to immediate possession of said property or right to exercise its interest; but both parties shall proceed forthwith to attempt to agree upon the question of value. If agreement is reached, the bill shall be amended to reflect the agreed upon value, and when passed shall become law. If no agreement can

be reached, the question of value shall be promptly submitted to the paramount court of Micronesia which will proceed to determine whether the price proposed by the appraisal represents the fair market value. To assist in making this determination, such court may, in accordance with such procedures as it may by rules adopt, convene a special jury of Micronesia citizens from the geographical area in which the property 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 further proceedings and review as provided in subsection (5) and (6).

(5) In the event an interest in private or communally owned property is acquired pursuant to subsection (f)(1), (2), (3) and (4) and the owner or owners disagree with the fair market value and wish a further review, the United States shall proceed immediately in accordance with established Federal law and procedures to have the fair market value determined with the right of appeal under said Federal law and procedures to the United States Court of Appeals for the Ninth Circuit.

(6) In the event that the Executive does not introduce a bill as required by this subsection, or the Congress of Micronesia fails to act promptly on a bill in the session at which it has been introduced, or it does not pass the bill, or it disagrees with the need for the acquisition by the United States of property or interest in property sought to be acquired, or in the event that the United States wishes to appeal from a final decision of the paramount court of Micronesia rendered in accordance with subsection (4), then the United States

shall have the right to proceed in accordance with established Federal law and procedures with respect to the acquisition of property or interest in property with the right of appeal under said Federal law and procedures to the United States Court of Appeals for the Ninth Circuit.

(7) Final decisions of the United States Court of Appeals for the Ninth Circuit rendered in accordance with subsections (5) and (6) may be reviewed by the United States Supreme Court on petition for a writ of certiorari in accordance with 28 U.S.C. 2101.

(g) After the effective date of this Title, no privately or communally owned real property, use rights, or interests in such property in Micronesia may be transferred, sold, alienated or leased for a term in excess of ten years to non-residents, corporations owned or controlled by non-residents of Micronesia, or the United States Government under the provisions of subsection (d), except by descent or devise, unless such transfer, sale, alienation, gift, or lease is first approved in writing by the majority vote of a commission to be especially established from residents in the geographic area where the real property is located for that purpose in accordance with the laws of Micronesia.

TITLE IV

PROVISIONS OF A TRANSITIONAL NATURE

SEC. 401. After the effective date of this Title, no employees of the Government of Micronesia shall be appointed as Federal employees as long as they are employed by the Government of Micronesia; except that Federal employees in the Government of Micronesia on the effective date

of this Title shall not be terminated as Federal employees until the expiration of their current transportation agreements.

SEC. 402. (a) The High Court of the Trust Territory of the Pacific Islands is abolished as of the effective date of this Title and all causes decided by or pending before said Court on the effective date of this Title are transferred to the District Court of Micronesia or to the courts of Micronesia as may be appropriate for disposition.

(b) The District and Community Courts for each of the Districts of the Trust Territory of the Pacific Islands are abolished on the effective date of this Title and all causes decided by or pending before the respective Courts of said Districts on the effective date of this Title are transferred to the courts of Micronesia as may be appropriate for disposition.

SEC. 403. All appropriations made to or by the Government of the Trust Territory of the Pacific Islands prior to the effective date of this Title shall be available to the Government of Micronesia.

SEC. 404. The President of the United States shall appoint a commission of seven persons, at least three of whom shall be residents of Micronesia, to survey the field of Federal statutes and to make recommendations to the Congress of the United States within twelve months after the effective date of this Title as to which statutes of the United States not applicable to Micronesia on such date, shall be made applicable to Micronesia on such date and which statutes shall be made inapplicable.

SEC. 405. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.