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SECOND Round

MAY 4-8, 1970

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OPENING STATEMENT FROM
THE MICRONESIAN DELEGATION

1. It may assist the discussions if, at this opening meeting, a general statement is made of the position of the Micronesian Delegation.
2. First of all, I would like to refer briefly to Senate Joint Resolution No. 63, which defined the functions of the Political Status Delegation. That Resolution directed the Delegation "to identify the major political, legal and administrative questions which will have to be decided in the event that Micronesia chooses to enter into free association with the United States, and likewise those which will have to be decided if Micronesia chooses to become an independent state." Those are our functions, and those are their limits: to examine questions relating to free association and to independence; and to report back to Congress.
3. We hope that the United States Delegation will be able to make a parallel statement in regard to its own position.
4. In the course of our deliberations, we have reached certain conclusions as to how the functions of the Delegation can be most effectively performed during the current series of meetings. We do not think that it would be profitable to center discussion upon an examination of any of the draft bills that have been prepared for possible introduction in the United States Congress. We propose, instead, that there should be a broad survey of the issues to be resolved - in relation both to free association and to independence - and of the procedures that could best be followed in order to resolve them.
5. At this point, I should perhaps make one comment on a matter of procedure. We recognize that on some issues the position of one delegation may present

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difficulties to the other. We suggest that, after examination of any such difficulties, the meeting should proceed to the next item on its agenda.

In other words, we suggest that all the items that may be placed on our agenda should be discussed before we finally return to any unresolved problems.

6. In line with this approach, the Political Status Delegation has decided that I should state the basic conditions that it believes must govern its work and underlie its report to Congress. A proposal for free association between Micronesia and the United States must recognize and be in accordance with the following principles and legal rights:

- (a) That sovereignty in Micronesia resides in the people of Micronesia and its duly constituted government;
- (b) That the people of Micronesia possess the right of self-determination and may therefore choose independence or self-government in free association with any nation or organization of nations;
- (c) That the people of Micronesia have the right to adopt their own constitution and to amend, change or revoke any constitution or governmental plan at any time; and
- (d) That free association should be in the form of a revocable compact, terminable unilaterally by either party.

7. In stating these fundamental principles and claiming these legal rights, we are not unmindful of practical considerations. We recognize that the form in which expression might be given to them will be affected by political, economic, financial and other factors. But recognition of the rights and principles themselves is an essential - a non-negotiable - component of any acceptable scheme for free association between Micronesia and the United States. If the United States should be unable, or unwilling, to recognize each and

all of them, the Delegation would be compelled, in accordance with its terms of reference, to examine the question of independence.

8. There would seem to be two alternative routes by which Micronesia could advance to self-government in free association with the United States. The first is direct and, from the Micronesian point of view, presents few pitfalls; the second is tortuous and beset by difficulties.

First Alternative

9. Micronesia would become independent when the Trusteeship Agreement ceased to be in force and then immediately enter into a free association with the United States, the detailed provisions of which would have been agreed upon by both parties in advance.

10. Under this procedure, the Constitution of Micronesia could gain its legal force from an act of the Micronesian people themselves, through their representatives in the Constitutional Convention. The Convention would adopt the Constitution and declare it to be the Supreme Law of Micronesia from the date at which the Trusteeship Agreement ceased to be in force. The Constitution could be amended only in accordance with the procedure that was prescribed by its own provisions; and United States law would be in force in Micronesia only to the extent that was provided by the Constitution or by laws made under it.

11. The adoption of this procedure would seem desirable on many counts from the Micronesian point of view. It would also have substantial advantages for the United States. In recent years opinion in the United Nations has hardened on the issues of "independence" and "self-government". When the United Nations is asked to accept any alternative to independence, it requires to be convinced

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that the status proposed will be entered into freely by the people directly concerned. If it were proposed that Micronesia should proceed from trusteeship to independence and then, as a sovereign power, sign a compact for free association with the United States, doubts in the United Nations would be greatly reduced. In other words, the adoption of the procedure here being suggested would, in our opinion, greatly facilitate the procedure for the termination of the Trusteeship Agreement.

12. We are certain, moreover, that the just interests both of Micronesia and of the United States could be fully safeguarded within this procedural framework, provided we continue to work together in a spirit of friendship and co-operation. We know that this will remain the spirit displayed by the Congress of Micronesia, and we are confident that it will also be the spirit in which the United States Government acts towards Micronesia.

Second Alternative

13. Free association between Micronesia and the United States could become effective at the moment the Trusteeship Agreement ceased to be in force.

14. A decision in favour of this method would be compatible with the framing of a Constitution by a Micronesian Constitutional Convention. It would seem, however, that the Constitution so framed could gain legal force only through an act of, or under the authority of, the United States Congress. We are aware that undertakings might be given, and procedures be adopted, to minimize or perhaps remove - the danger that the Constitution adopted in Micronesia might be changed in the United States. We are aware, too, that the procedure for subsequent amendment of the Constitution might require the express consent of Micronesia to any proposed amendment, given in accordance with due

constitutional process. Yet we remain uneasy as to the manner in which such procedures would work. We would not favour the adoption of this procedure for the enactment of a Constitution, therefore, unless a firm assurance can be given on three points:

- (a) That the Constitution, as adopted by the Convention, would not be amended by the United States;
- (b) That the Constitution should not be required to be consistent with the Constitution of the United States; and
- (c) That the power of amendment of the Constitution should not be limited by a requirement of consistency with the Constitution of the United States.

15. There are, however, other matters associated with the adoption of this method of transition from trusteeship to free association that cause the Delegation considerable disquiet. It would appear that the United States Congress might retain legislative power in respect of Micronesia, including the power to amend the Constitution. The scope and effect of such powers would therefore require careful examination.

16. Now, I should like to turn to some other aspects of the problem we are considering - that of transition from United Nations Trusteeship to free association with the United States.

17. First, I should like to consider the legislation that it will be necessary for the United States Congress to pass. You will realize that we are not thinking in terms of an Organic Act and that we are not authorized to consider a draft bill of that character. We are of opinion that United States legislation will be required for three main purposes:

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- (a) The creation of authority for the various steps that must be taken before the Trusteeship Agreement ceases to be in force;
- (b) The termination of existing United States powers in Micronesia when Trusteeship ends; and
- (c) The creation of the powers necessary for United States participation in the agreed form of free association.

These subjects, I realize, have been stated rather baldly; but they will gain substance from the remainder of my remarks.

18. Let me now consider some of the subjects on which action - either executive or legislative - will be required during the transition period. I shall list them rather briefly, adding comment only where it seems essential at this stage in our discussions:

- (a) The establishment of a Constitutional Convention;
- (b) The making of provision for a plebiscite under United Nations supervision. It is our understanding that the administration of such a plebiscite would be a responsibility of the United States, as Administering Authority under the Trusteeship Agreement. As you will understand, however, the plebiscite will be an act of the very greatest importance to the Micronesian people, since in it they will, individually as voters, be making a decision as to their country's future. We, therefore, ask that the United States Government should give consideration to appointing a nominee of the Congress of Micronesia as its Plebiscite Administrator or, alternatively, to appointing such a nominee and an American as joint Plebiscite Administrators.
- (c) Establishment of a time schedule for the transfer of governance;

(d) Transitional changes in the structure of the Executive Branch.

In particular, if free association should be agreed on and should be reached by the procedure envisaged in our first alternative, it would be necessary to provide for an Executive to assume office immediately the Trusteeship Agreement ceases to be in force and for that Executive to consist of a person, or persons, associated with the framing of the compact for free association. In other words, authority must exist in Micronesia at the moment of independence to enable the compact between the United States and Micronesia to be brought smoothly into operation.

(e) The establishment of authority for the settlement of all claims between the Micronesian people and the United States as Trustee (and possibly as successor to Japan as Mandator).

19. Next, I should like to refer to a matter on which the Micronesian Delegation will be seeking information, rather than, at this stage, expressing an opinion - the role and function of the United Nations during the period leading up to the termination of the Trusteeship Agreement. We have, I think, a fair idea of the character of the United Nations' association with the plebiscite. But, there remain a number of intricate questions relating, for example, to the United States' approach to the United Nations on the various aspects of the transition, to the role of the various organs of the United Nations in the procedure for termination, and so on.

20. Finally, I think I should refer to a subject that might already be in your own minds. What form of Constitution are the Micronesian people likely to adopt? The Micronesian Delegation realizes, of course, that the United States would be reluctant to enter into a free association with a country

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possessing a form of government that was not democratic and that did not protect the rights and freedoms of the individual. The United States Delegation will equally realize that our belief that the Micronesian people should make their own Constitution prevents us from forecasting, in any detail, what they may decide. However, it is possible, I think, to say enough to satisfy any doubts you may have. Our Constitution will contain a Bill of Rights; it will be republican and democratic in form. And, of course, American advice will be welcome when we are drafting it and discussing it. Our traditions, though they differ between one part of Micronesia and another, nowhere incline us towards autocracy; and our association with the United States for more than twenty years has firmly committed us to the values of the free world.

21. There is one subject of great importance which I have not mentioned - and on which I do not intend to speak at this stage: the actual contents of a compact of free association between Micronesia and the United States. This is a subject to which, as you know, the Political Status Delegation has already given some consideration. But it is a subject of great complexity, which I could not usefully discuss except at length. It has seemed best to the Micronesian Delegation, therefore, that we should first ascertain that free association, as we understand it, is acceptable to the United States. For, if it is not, its details will become irrelevant; and our talks will, therefore, take a different direction - an examination of the gains, of the losses, of the perplexities that independence might entail.

22. But, gentlemen, I cannot permit myself to end on this negative note. The form of free association that we are seeking is no more than that which has been freely granted to countries similar to Micronesia in other parts of the Pacific, and of the world. It is no more than free association as the term is

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understood by the United Nations - the authority which entrusted the Micronesian people to the care of the United States till they were ready for "independence or self-government". The fact that we are seeking the latter of these alternatives - unlike most former Trust Territories - is an indication of our regard for the United States. It would, indeed, be surprising if agreement were not reached on the basis of the submission that I have made this morning on behalf of the Political Status Delegation of the Congress of Micronesia.

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INFORMAL REMARKS

(Afternoon Session - 1:30 P.M., Monday, May 4, 1970)

LOESCH: Mr. Chairman and gentlemen of the Micronesian Status Commission, I would like, if I may, to speak somewhat extemporaneously from notes for a few minutes. Our Delegation, all of it, wants me to tell you that we welcome with great pleasure your statement this morning, which to be candid, gives us for the first time a clear indication and understanding of the things that you consider most important in this discussion. In conformity with paragraph 3 of your statement, we have prepared and, in spite of my joking, had prepared a statement in parallel. Our statement is constructed along remarkably similar lines to yours except that it is not as concerned with the procedures as yours is.

In constructing that statement, we had worked from your October submissions to us, including your eleven points and the other things; your February bill and the interplay of correspondence and personal "feel" that we had gained from you both during and after the October discussions, and I must say we seem at last, to be thinking along roughly similar lines and in roughly similar terms. It does appear to us that your position has changed somewhat from what it was in October which -- in a way maybe -- makes us not fully prepared for your present position. In addition to the principles involved in this matter, we have considered the practical aspects in greater depth and perhaps address ourselves more directly to the practical considerations than your statement does. To give you sort of an informal idea to begin with, I want to tell you that the United States is proposing a

(1) commonwealth of Micronesia which we really believe, genuinely believe, is in the best interest of Micronesia and of the United States. It consists of a sort of a total package of more or less -- rather more than less -- interlocking parts. These parts are a relationship with the United States as a commonwealth under a constitution formulated by the people of Micronesia. It calls for internal self-government with Micronesian control of all branches of government and with the setting and carrying out of locally determined priorities. It will permit the protection of Micronesian cultures and Micronesian identity, combined with flexibility for the development of Micronesia at any pace determined by the Micronesian people. It provides for financial and technical support by the United States as needed, and as available, but under overall Micronesian direction. It provides protection and international representation for Micronesia and it permits protection of Micronesian land ownership.

On the specifics, we recognize that you want a constitutional convention, and this concept gives us no problem at all if we can reach an agreement on the basic nature of the relationship -- a relationship which will have been decided upon through a plebiscite of the Micronesian people. What we are presenting is the United States Executive Branch position. It has been determined upon by the State Department, the Defense Department, Interior Department and the White House. Congress, that is to say, the United States Congress, has neither considered nor participated in the development of this position. It may have difficulty in accepting it, but the Executive is

committed to strong support of it, and if you agree and if you add your support, we are confident that we can make it a success, that the plan will fly. Our judgement is that the essential elements must be maintained if we are to have any hope of moving forward to a new Micronesian status with our own Congress, but modifications or differences in specifics are fully open to discussion.

The essentials of our proposals are: that the Commonwealth of Micronesia will be entirely internally self-governing under its own constitution; the Micronesian government should be republican in form, but its structure or manner of organization and so on will be determined by your constitutional convention. The United States will be happy to help with technical assistance if we are requested to do so. The proposal does not spell out any of the details of your governmental organization, which of course, will be entirely up to you. Now, with that, with your permission, I would like to read to you our statement of principles developed for this meeting.

(See attached for statement of principles)

Mr. Chairman and Members of the Micronesian Status Delegation, that concludes the formal statement of principles by the United States Delegation, but again, as I did in preface to it, I have a few more informal remarks concerning it, and concerning this statement. It is striking, first of all, the areas of agreement that there are between your statement and ours. To name some, sovereignty in Micronesia resides in the people of Micronesia.

This is explicit in both statements; that the people of Micronesia possess the right of self-determination; that the people of Micronesia have the right to adopt their own constitution through a constitutional convention; that the constitution as adopted by the convention will not be amended by the United States; that a plebiscite in the presence of the United Nations would be held to adopt the constitution.

Now, as you can see, we are more concerned with substance than with procedures. We have in essence, in our statement, addressed your second alternative for termination, which we believe is practical both in United Nations and in the United States Congress. As you know, the Trust Territory of the Pacific Islands is the only strategic trust established under the United Nations Trusteeship system. There is no precedence to serve as a guide for termination of this type of trust. The United States has not looked into the question of termination of the agreement in any detail to determine just what procedure should be followed. I am sure that if agreement has been reached on a future political status between the Congress of Micronesia and the United States Government, and this status has been accepted in a plebiscite by the Micronesian people, there will be no problem in achieving termination of the Trusteeship Agreement. As with your second alternative, we have also considered steps in the United States Congress both in the statement I have just read and in the bill which follows those principles. I should like to emphasize that the bill that we desired to present to you with our statement is not an Organic Act, but a definition of steps in the transition

and a defining of the relationship itself. With that, I conclude, Mr. Chairman, and I am sorry it took so long.

SALII: Thank you very much, Mr. Secretary. I would like to thank you and your delegation for the presentation and for making a copy of the bill available to our delegation at this point, and perhaps respond to you at this time tomorrow. I would like to say that while there may be areas which need to be resolved, the two delegations should devote the balance of the week for those areas where there is still a lack of agreement between the two delegations. It does seem remarkable that in this short time between the first meetings in Washington and this, that we seem to be talking on the same wave length...

LOESCH: We have come a long way, Lazarus.

SALII: At this time, I do not have any question to ask the Secretary and members of the Delegation. Do any of the delegation members wish to raise any questions at this point?

LOESCH: I don't think so. I think it will be useful for both of us to review each issue before we go further.

SALII: Thank you very much, then we will recess our meeting until tomorrow morning.

RECESS: 2:07 P.M. (Copies of LOESCH's Statement of Principles were distributed to the members of the MPSD).

May 6, 1970

STATEMENT FROM THE MICRONESIAN
DELEGATION

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In the Opening Statement from the Micronesian Delegation which was presented on Monday, our delegation proposed that the deliberations and discussions during the current series of meetings not be centered upon an examination of any draft bill which has been prepared for possible introduction in the United States Congress, but instead recommended that the two delegations make a broad survey of the issues to be resolved before the Trusteeship Agreement and Trusteeship Status can be terminated, and of the procedures that could best be followed in order to resolve them. We have since received a Statement of Principles and a proposed bill from your delegation. Your submission of these documents does not change our original recommendation concerning the procedure to be followed in these discussions, and we now propose that we resume our discussions today by returning to the issues raised and procedures outlined in our Opening Statement. Before doing so, however, our delegation believes that it is imperative to make some general comments and observations concerning your submission. We believe that some of our comments and observations will point out the need for further discussion between our delegations on the basic issues to be resolved and procedures to be followed in terminating the Trusteeship Agreement and establishing a new relationship between the United States and Micronesia, before we center our discussions on the detailed provisions of a new relationship.

FREE ASSOCIATION

The concept of "free association", as it was used in the terms of reference of the Political Status Delegation, is not, we think a difficult or ambiguous one. When the Delegation was appointed, the Congress of

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Micronesia had before it the Report of the Future Political Status Commission, in which the United Nations definition of the term was quoted. Congress was also acquainted with the usage of the term to describe actual relationships between certain West Indian and Pacific countries and their former administering authorities. The propositions regarding free association that were set out in the Micronesian Delegation's opening statement were all derived from this commonly accepted interpretation of the term,

These propositions were intended as guidelines for the establishment of a relationship of free association between the United States and Micronesia. They stated the minimum conditions that would need to be satisfied in the creation of such a relationship. Certain of them are satisfied - or, at least, not contradicted - in the proposals contained in the United States Delegation's Statement of principles and attached draft Constitutional Convention Bill. Others, however, are not satisfied.

We should like, first, to look at the United States proposals in relation to the series of "principles and legal rights" set out in Paragraph 6 of our statement. This included the principle:

"(a) That sovereignty in Micronesia resides in the people of Micronesia and its duly constituted government."

We do not believe that the United States proposals are consistent, in any meaningful sense, with this principle. It is stated that "Micronesia would become a part of the United States..." Moreover, the new status proposed for Micronesia would have its basis in a United States Act; and the United States would retain important legislative and executive powers in respect of Micronesia. In particular, it would possess the power of eminent domain.

You will be aware that in Micronesia - as throughout the Pacific Islands - control of the land lies at the very heart of social organization; it has been, indeed, a necessary condition for the survival of life itself. Recognition of Micronesian "sovereignty" - if the term itself can properly be used - without the power of eminent domain would seem a hollow mockery to the people of Micronesia.

Our Statement also required:

"(d) That free association should be in the form of a revocable compact terminable unilaterally by either party."

The United States proposals are in explicit contradiction of this principle.

Our second principle reads as follows:

"(e) That the people of Micronesia possess the right of self-determination and may therefore choose independence or self-government in free association with any nation or organization of nations."

The position of the United States proposals in regard to this principle is less simple. You do not, it seems, deny the right of the people of Micronesia "to choose independence or self-government in free association with any nation or organization of nations"; but you are not prepared to agree to free association with the United States.

Since free association is not envisaged by your proposals, it is perhaps not strictly necessary for me to discuss the conditions laid down in Paragraph 14 of our statement regarding the adoption of a Constitution. It was stated, however, on behalf of the United States Delegation that the procedure suggested in your proposals was generally in line with that embodied

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in Paragraphs 13-15 of our statement (Second Alternative). It may therefore be useful if we make some comments. We stated that, if the procedure we have outlined in our Second Alternative should be followed, certain assurances must be given. The first of these was that:

"(a) The Constitution, as adopted by the Convention, would not be amended by the United States"

Your proposals, first, impose limitations on the freedom of the Convention to decide on the type of Constitution it thinks appropriate to Micronesia and, secondly, provide that the President of the United States shall refer back the Constitution agreed to by the Constitutional Convention if he finds it contains provisions "contrary to the provisions of this Act or the Constitution of the United States". Your proposals do not therefore accord, in effect or in spirit, with our condition (a). The assurances required under subparagraphs (b) and (c) - relating to the omission of any requirement of consistency with the Constitution of the United States - are similarly not met, on grounds to which I have already referred.

There are many other matters on which the United States Delegation's proposals fail to satisfy the criteria laid down in the Micronesian Delegation's opening statement. I think it is unnecessary, however, for the Micronesian Delegation to refer to them. We have already shown that the statement of principles and draft bill which you have presented to us do not provide for a form of free association between the United States and Micronesia. They do not therefore provide a political status which we are empowered to discuss.

TERMINATION OF TRUSTEESHIP AGREEMENT

A basic question raised by the proposed bill and Commonwealth Status is whether it is intended to terminate the Trusteeship Agreement and Trusteeship

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Status. The proposed bill seems to attempt to establish a Commonwealth Status for Micronesia through the enactment of certain legislation in the United States Congress. The Authority of the United States to enact such legislation is derived from the Trusteeship Agreement. The wording of Section 311(a) of the proposed bill refers to "the islands formerly administered by the United States of America pursuant to a Trusteeship Agreement with the Security Council of the United Nations", which seems to assume that, through the terms of the bill or otherwise, the Trusteeship Agreement has somehow ceased to be in effect. In addition, the preamble of the bill states that the status established under the bill is "in the process of developing self-government", which seems to assume that a further evolution toward self-government or independence is contemplated, and not that a final self-governing status is established within the meaning of Article 6 of the Trusteeship Agreement. Thus, there seems to be some conflict or confusion as to whether the proposed bill properly creates the authority for the various steps which must be taken before the Trusteeship Agreement ceases to be in force, or even whether it is intended to terminate the Trusteeship Agreement. We believe that this confusion might be resolved through a discussion of the issues and procedures to be followed in terminating the Trusteeship Agreement, and in establishing an association between the United States and Micronesia.

ROLE OF THE UNITED NATIONS

In addition, your Statement of Principles and proposed bill make no statement regarding the role and involvement of the United Nations in the termination of the Trusteeship Agreement and in the steps leading up to the termination. Since the Trusteeship Agreement cannot be terminated without the approval of the Security Council of the United Nations, our delegation believes that it is essential that the role and involvement of the United

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Nations in terminating the Trusteeship Agreement and in establishing a new status be discussed in our deliberations before the specific terms of any association are taken up.

In addition, the Micronesian Delegation believes it must point out the fact that your bill failed to include any provision that established the authority for the settlement of all claims between the Micronesian people and the United States as trustee and as successor to Japan as Mandator. We believe that this is an essential element in any proposed legislation, and we therefore insist that we discuss this general subject with the United States Delegation before we turn our deliberations to the terms of the relationship contemplated between the United States and Micronesia.

PROPOSALS FOR ACT OF SELF-DETERMINATION

We think we should also refer to the different approaches adopted towards the holding of plebiscite (or referendum). The Micronesian Statement referred to the holding of a plebiscite under United Nations supervision. It was envisaged that this would be concerned with ascertaining the opinion of the people of Micronesia on two issues:

- (1) The Constitution of Micronesia and form of free association between Micronesia and the United States;
- (2) The termination of the Trusteeship Agreement.

It was further envisaged that the appropriate time for the holding of such a plebiscite would be after the Constitution had been adopted by the Constitutional Convention and after the proposed form of free association had been worked out in detail and agreed to by both parties. The people of Micronesia would thus vote in full knowledge of their political future.

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The United States proposals provide for two referenda. The first of these would seek the opinion of the people of Micronesia on the Constitution Convention Bill. They would thus be voting at a time at which, though they would know the form of the proposed link between the United States and Micronesia, they would be in doubt as to the form of the future Constitution. If they supported the bill (which they would have to do in order to gain the right to participate in the making of the Constitution), they would, however, have committed themselves irrevocably to the United States proposal for association between our two countries.

The second referendum would be for the purpose of adopting the Constitution. A majority vote against the Constitution would not affect the powers of the United States in Micronesia; yet it would leave the people without a democratic system of government.

For these reasons, we are of the opinion that the proposal for two referenda fails to fulfill the purpose envisaged in our proposal for a single plebiscite under United Nations supervision.

CONCLUSION

The United States proposals fail, in all essential components, to conform with the "principles and legal rights" which our delegation insist must serve as "an essential - a non-negotiable - component" in any scheme of free association between the United States and Micronesia. We, therefore, interpret your proposal to be a rejection of our offer to enter into discussions of the issues to be resolved in the event Micronesia chooses to enter into free association with the United States. In fact, your proposed association is in most essential respects no different from the proposals which you submitted

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previously for a status as an "incorporated territory" for Micronesia.

We, therefore, request that you officially inform us whether or not this is your final offer regarding our request for a free associated status, or whether the United States will be willing to reconsider entering into negotiations for a free association with Micronesia.

If you are unable to consider entering into a free association with Micronesia, our delegation shall report your submission to the Congress of Micronesia with an indication that it fails to provide for status of free association. In the meantime we shall, in accordance with our terms of reference, undertake an examination of the problems to be resolved in the event that Micronesia chooses to become an independent state.

Should your delegation be able to continue an examination of free association, rather than Commonwealth or unincorporated territory status, we believe that our discussions should return to examination of the principles and rights which we insist are essential to a free association, to the practical implications of those rights and principles, and to the procedural matters discussed in our opening statement.

Our delegation is confident that, with your cooperation, our discussions can continue to isolate the issues to be resolved in changing our present status, and to clear up any differences or misunderstandings we may have at the present time.

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May 6, 1970

STATEMENT BY THE U. S. DELEGATION

THE UNITED STATES PROPOSAL

In its presentation on May 4, the United States Delegation made an offer for a possible future status of Micronesia as a self-governing commonwealth associated with the United States.

Under this offer, self determination would be achieved in the following manner:

1. the proposed terms of the association with the United States as approved by the Congress of Micronesia and the Congress of the United States would be the subject of an initial plebiscite;
2. the people of Micronesia would write their own constitution through a constitutional convention;
3. the constitution, after the convention has completed its work in accordance with the terms of association approved by the Micronesian people, would also be submitted to a plebiscite;
4. as and when the Micronesian people have approved the proposed terms of the association with the United States and the proposed constitution in the two plebiscites, the Trusteeship Agreement would then be terminated and the proposed constitution and association with the United States would go into effect simultaneously with such termination.

Through this four-step process, the Micronesian people, by an act of their own free choice, could give themselves a new political status and

provide a duly elected Micronesian government responsible to the people.

The United States would have no voice in the drafting, nor would it have the right to amend the constitution of the Commonwealth. The terms of the association with the United States would, of course, be subject to future amendment or even termination by mutual agreement. Naturally, the United Nations will be requested to observe the two plebiscites, which will be conducted under arrangements to be agreed between the Congress of Micronesia and the United States.

In essence, therefore, the United States is inviting the people of Micronesia freely to associate themselves as a self-governing commonwealth with the United States under a relationship roughly similar to that between Puerto Rico and the United States.

We believe this proposal is worthy of consideration by the people of Micronesia and therefore request that the Micronesian Status Delegation submit this offer to the Congress and people of Micronesia.

While all parts of this proposal are interrelated and form a whole, as I previously indicated, the terms of this offer are subject to fuller discussion and refinement to ensure that they meet as fully as possible the needs and legitimate interests both of Micronesia and of the United States. Because we consider our offer one that is eminently fair and reasonable, your statement of May 6 has caused this Delegation grave concern.

UN OBLIGATIONS

Several points raised in your statement attempt to deal with certain

aspects of the United Nations Charter and the Trusteeship Agreement.

We believe that the United States proposal fully meets the requirements of these two documents. Two articles of the Trusteeship Agreement are relevant. Article 6 paragraph 1 states that the administering authority "shall promote the development of the inhabitants of the Trust Territory toward self-government or independence, as may be appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned." Article 15 provides that "The terms of the present agreement shall not be altered, amended or terminated without the consent of the administering authority."

It is the United States view that a status of either "self-government or independence," if offered by the United States and approved by the people of Micronesia, would meet the requirements of the Agreement. Our proposal is consistent with "self-government" and, if this status is agreed to by the Congress of the United States and the Congress of Micronesia, and elected and decided upon by the Micronesian people, it would in our judgment, meet our obligations under the Trusteeship Agreement.

As for the specifics of our offer -- self-government in association with the United States -- it was, of course, formulated in an attempt to be responsive to Micronesian desires as we understood them. You have stated that, in attempting to do so, we have failed to meet the United Nations definition of free association, but the fact of the matter is that there is no "United Nations definition" of free association. The definition quoted in

the report of the Micronesian Political Status Commission is from a resolution of the 15th session of the UN General Assembly -- Resolution 1541 -- and, as you may know, Resolutions of the General Assembly are not binding on any of the members. They are only recommendations of the majority voting at that time. Since a number of the member nations present at that session were unable to support this particular resolution (including the United States, which abstained), we cannot accept its definition of free association as either a "United Nations definition" or even, necessarily, as the "commonly accepted interpretation" of the term of "free association."

Furthermore, there is, of course, no obligation on the United States to offer Micronesia a status of "free association," no matter how defined. These words are not included either in the Trusteeship Agreement or the relevant provisions of the United Nations Charter.

In point of fact, however, we believe that our offer is one of association to be freely entered into by the people of Micronesia -- an association which would always be subject to change in the future through mutual agreement. As stated, it is a status which would provide Micronesia with self-government and which, if elected by the people of Micronesia, would fully satisfy both the obligations and the spirit of the trusteeship system and would provide a basis on which the United States would be able to agree to termination of the Trusteeship Agreement.

I should briefly mention your statement that termination procedures at the United Nations are not treated in our proposal. This, of course, is true. As I explained Monday, we are less concerned with matters of procedure than you appear to be. Moreover, we do not consider UN termination procedures to be a matter for United States Congressional action; the implementation of such procedures will be the responsibility, within the United States Government, of the Executive Branch.

As a general comment, I should state again that there is no precedent for terminating a strategic trust and that the only reference thereto in the Trusteeship Agreement is that contained in Article 15. Thus, the only point which is crystal clear is that U. S. approval is required.

AUTHORITY OF THIS DELEGATION

This Delegation has no authority to agree to ... a form of association between Micronesia and the United States that would be unilaterally revocable or terminable by either party. This is not to say that a relationship as negotiated and approved by the people of Micronesia would be forever. Evolution, change, is a universal fact. Our offer does not preclude the possibility of amendment and even termination by mutual agreement. But the United States does not believe it practicable that the relationship could be terminable unilaterally and still achieve its various purposes, both for Micronesia and the United States.

For illustration, let me cite only two considerations:

1. From an economic standpoint, it would not be in Micronesia's

own best interests if the United States were able to unilaterally discontinue arrangements on which Micronesia had come to depend. As for the private sector, we cannot conceive that a climate of political and economic uncertainty is likely to promote the healthy growth and development of these islands. In the public sector, for the United States to continue and expand the economic support which Micronesia desires for its development -- for example, participation in Federal programs, elimination of U. S. tariff barriers against Micronesian goods, subsidization of the Micronesian budget -- Micronesia requires a close and stable relationship with the United States. Furthermore, as a practical political matter, regardless of the views of the U. S. Executive branch, the United States Congress, confronted with urgent and competing U. S. domestic needs, might find it difficult to justify continuing substantial economic benefits unless there were the clear obligation to do so implicit in a close relationship.

2. From a security standpoint, similarly, a unilaterally terminable agreement would not meet either Micronesian or U. S. needs and interests. Micronesia would have no guarantee of protection and could be left totally defenseless in a time of danger. From the United States viewpoint, the security situation in the Pacific region, which was recognized in 1947 in the strategic trust arrangement, remains essentially unchanged. Elements of the Micronesian position such as the right by Micronesia unilaterally to abrogate the defense relationship would ignore these security concerns.

COMMENTS ON MICRONESIAN STATEMENTS

Subparagraph 6(a)

We would like to discuss in some depth Paragraph 6(a) of your opening statement regarding sovereignty, also discussed in your second statement dated May 6, 1970. The term "sovereignty" is necessarily confusing when used in a theoretical sense, and should be examined in its practical applications. We are proposing association between Micronesia and the United States and not, as I said in my opening statement, only treaty relationships between two independent entities. Micronesia, if it were to be associated with the United States, would indeed, for all practical purposes, "become a part of the United States." It would not be "incorporated", as in the case of a state of the Union; neither would the United States Constitution be directly applicable to Micronesia. Yet Micronesia would join the political family and political area which makes up the Union: States, Territories, Commonwealths, the District of Columbia, embassies abroad, and ships carrying the American flag.

The new status of Micronesia would be the result of the freely expressed wishes of the Micronesian people. You have recognized, in both procedural alternatives presented in your opening statement, the need for legislation by the United States Congress enabling the association. You clearly do not consider such legislation inconsistent with your Paragraph 6(a); neither do we.

Next is the question of retention by the United States of certain legislative and executive powers. In theory, this could be considered,

perhaps, an infringement upon Micronesian sovereignty. In practice, however, U. S. legislation for Micronesia has been almost entirely for the benefit of the people of Micronesia: appropriations, authorizations, and making the Trust Territory eligible for Federal assistance in education, health, and other program areas. This will continue. In addition, the proposed Micronesian delegate in the U. S. House of Representatives should provide protection against undesirable legislation.

As for the power of eminent domain in Micronesia for Federal purposes, as we explained in our Statement of Principles, the procedures and safeguards proposed would be unique to the Commonwealth, and would provide protection of Micronesian control of land to the maximum degree possible and consistent with the interests of the American political family, including the Commonwealth of Micronesia.

In addition, however, there will be a drastic change in the policy regarding public lands.

First, the lands now held by the Trust Territory will be turned over to the Commonwealth to be used or disposed of in the manner determined by its duly elected government.

Second, in addition to the other stringent safeguards on the exercise of eminent domain, Federal acquisition of lands would be circumscribed by the provision that such lands revert to their owner if not used for public purposes within five years.

In summary, "sovereignty" is a practical matter in our view, and

should be considered in the light of what will best serve the efficiency and effectiveness of a relationship between Micronesia and the United States.

Subparagraph 6(d)

The United States proposal does expressly disagree with Paragraph 6(d) of your Opening Statement. As we have indicated, our opposition to a provision for unilateral termination is consistent with prevailing U. S. Executive and Congressional attitudes. More important, however, the people of Micronesia, like people throughout the world, are deserving of a secure place in the world community. We therefore believe that any change of status should be a matter of mutual agreement by the peoples concerned, not subject to day-to-day uncertainties by both parties. On the other hand, the United States has always been open to changes in status of those areas under its protection which have not attained statehood. If the Commonwealth of Micronesia should wish to evolve into some other political status, changes undoubtedly could be agreed upon by the parties. In the meantime, the security of way of life of the people of Micronesia would be assured.

Paragraph 14

As has already been stated, the Constitution of the United States would not directly apply to the Commonwealth of Micronesia. While this is true, it does not follow that the United States Constitution is of no import in an association. The United States Government will simply not permit itself to enter into a political association of this nature with Micronesia or

anyone else in which the Constitution of the associated government is contrary to the United States Constitution. Your opening statement considered this fact.

And this position does not necessarily conflict with the Micronesian position, for we consider "consistent with" and "contrary to" as having quite different meanings in this context. The U. S. Constitution need not be followed as a model, the same range of individual rights need not be protected by the Constitution of Micronesia. What we do consider essential is that the Commonwealth Constitution not violate the U. S. Constitution. To this end, we consider it reasonable that the certification that the Constitution of Micronesia is not violative be done by the Chief Executive of the United States.

Settlement of Claims

You have correctly pointed out that our draft bill fails to provide for the establishment of authority for the settlement of claims. This is so because the settlement of claims is a matter clearly requiring separate legislation in the U. S. Congress. It will require first authorization and then necessary appropriations. As a matter of sound and practical legislative procedures, these matters cannot be and should not be included in the draft legislation dealing with association.

On the more general question of claims' settlement, we certainly have no problem in discussing the matter. We are indeed in favor of legislation providing for the final resolution of these problems. In fact,

as you know, legislation is already before the Congress aimed at settling the claims resulting from war damages. We also expect to submit legislation to the Congress within the near future to provide settlement of the post-secure claims. We are certainly willing to discuss either of these proposals or any other points which you would like to raise in this regard.

Proposals for Act of Self-Determination

We fear that the plebescite procedure in the U. S. Proposal has not been clearly understood by the Micronesian Delegation. We therefore wish to clarify this misunderstanding by stressing the importance of the effective dates of the four titles of the bill. Titles I and II would come into effect upon signing of the bill into law by the President. Titles III and IV, however, are not operative until the date specified in the proclamation of the President of the United States, as described in Sec. 104(b), which we envisage would take place simultaneously with termination of the Trusteeship Agreement. The new relationship between the United States and Micronesia would therefore not even come into effect until the Constitution of Micronesia had been drafted and approved by the voters of Micronesia; hence, the people of Micronesia would not have committed themselves irrevocably to the United States proposal in the initial referendum.

Conversely, the powers of the United States would remain those provided in the Trusteeship Agreement until the new status came into effect.

CONCLUDING REMARKS

Although I have intended to make clear the extent and limits of the

United States offer, let me hasten to add that we stand ready to continue discussions concerning free association of the United States and Micronesia. Our definition of this term differs from yours, but this does not mean that we can never reach agreement. We agree to your suggestion that we should continue an examination of free association. We also accede to your suggestion that such an examination begin with specific discussion of your stated principles and the rights which you insist are essential to a free association. The U. S. Delegation stands ready to discuss those principles and rights on a point-by-point basis at your pleasure and indeed has commenced this process this afternoon.

In closing, I would like to make two final points. The first is that the offer the U. S. Delegation has made is the best that can be made in light of the very practical considerations with which we both are confronted. If this were merely a theoretical exercise, many other possibilities might be conceivable; however, we all live in a world where theoretically ideal solutions must be tempered and molded to meet the requirements of specific situations. We urge you to look at the U. S. proposal in its totality from a practical, objective viewpoint to see if Micronesia's interests would not be served best by the United States proposal.

The advantages of our proposal, in terms of social, economic, political, financial, and security benefits, are substantial.

My final request is to ask again that the Micronesian delegation place the United States offer before the Congress of Micronesia. I look forward to continuing the discussions, centered on your formulation of rights and principles at the call of the Chairman of the Micronesian delegation.

May 7, 1970

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STATEMENT FROM THE MICRONESIAN
DELEGATION

The statement by the United States Delegation dated June 6, gave added clarity to a number of the matters dealt with in your initial submission. For this we are grateful. We should like to continue this process of clarification by ourselves commenting on a number of points in that statement.

First, we should apologize for our too hasty reading of the draft Constitution Bill. We agree that it provides that Titles III and IV would not become operative until the date specified in the proclamation of the President of the United States.

On a number of other matters, we are unable, however, to agree either with your line of argument or with the substantive points made in your statement.

We believe that it was reasonable to describe the definition of free association contained in Resolution 1541 as a "United Nations definition", even though it has gained that status through usage and not from the formal character of its acceptance by the General Assembly. The associations between Britain and a number of her former West Indian dependencies and between New Zealand and the Cook Islands were made unilaterally terminable because both Britain and New Zealand took the view that the inclusion of such a provision was a pre-requisite to United Nations agreement that the dependencies were no longer "non-self-governing territories". We pointed out in a statement issued earlier today that the objectives of Trusteeship in Micronesia, as evidenced by the Trusteeship Agreement, were identical.

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with those in other Trust Territories. As you will agree, a Trusteeship Agreement is terminable only if the territory is to acquire a status that excludes it from the category of "non-self-governing territories"; and we see no reason to believe that the United Nations would be happy to accept different definitions of "self-governing" and "non-self-governing" from those which it has applied during recent years in other cases.

In regard to the character of a "unilaterally terminable compact", we think that the position of the Micronesian Delegation has been misunderstood. None of the existing compacts which we had in mind are of a kind that permit of "day-to-day uncertainties by both parties". They were entered into in the expectation that the association they created would be enduring, and the procedures provided for termination were devised with this end in view. The Micronesian Delegation was guided by these precedents. If the United States Delegation would like to discuss possible procedures for the termination of a unilaterally terminable compact, we should be happy to explain our views in detail.

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to
hear.*

In your own statement you make several references to the possibility that a Commonwealth of Micronesia "might evolve into some other political status" or that the association between the United States and Micronesia might be terminated "by mutual agreement". We agree that it would be consistent with the course of American history for Micronesia to be offered the opportunity of becoming more fully integrated into the American system. We are doubtful, however, whether history lends equal credence to the proposition that Micronesia would be permitted to establish a looser association or attain complete independence.

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In the interests of a full mutual understanding, we think we should offer some comment on the references to defence in your Statement of Principles and your subsequent statement dated May 6. The Micronesian Delegation recognizes the significance of the Micronesian area in relation to global strategy. It understands the desire of the United States to have access to parts of it for military purposes and its determination that other Powers, whose interests are, or may become, divergent from those of the United States, shall not possess such access. It understands, too, that the interests of the Micronesian people are broadly linked, in the long run, with the fortunes of those countries with which the people of Micronesia share a common ideology.

On the other hand, it is deeply disturbed by the lack of realism shown in certain of your statements on defence:

"Micronesian security would be assured... Moreover, the costs of such security which would be immense for an area the size of Micronesia..."

"Micronesia would have no guarantee of protection (under a unilaterally terminable association with the United States) and could be left totally defenceless in a time of danger."

In truth, the people of Micronesia cannot be defended in "times of danger" of the kind that have existed in the present century and that we all fear may occur again. People living on small islands are exposed to the danger of extermination once a decision is taken to defend them. We have experienced the consequences of the defence of Micronesia; and we think you will agree with us that the Micronesian people would have fared far better in World War II had the Japanese peaceably withdrawn in the face of

the United States advance. Should war occur again, the long-term interests of the people of Micronesia will depend upon its outcome; their short-term interests will be safeguarded only if a decision is taken that they shall not be defended from within their own shores.

Our discussions regarding defence should be based on an acceptance of the fact that we are concerning ourselves with United States interests - to which we are not unsympathetic - and not with Micronesian interests.

The question of defence is closely related to that of eminent domain. You state that Commonwealth Status "would provide protection of Micronesian control of land to the maximum degree possible and consistent with the interests of the American political family, including the Commonwealth of Micronesia". We think it is significant that Micronesia is considered, in this context, only as a part - if not as an appendage - of "the American political family". Because of our circumstances, as well as of our traditions, we insist that Micronesian control of the land must be unqualified. This does not mean that a Government of Micronesia would not be ready to enter into negotiations with the United States for the lease of certain areas. Moreover, in making this statement, we are fully conscious that the United States would be the more powerful partner to such negotiations. But, on the issue of legal control, we are unable to agree to any compromise. This, indeed, has been one of the primary motives for insistence upon a relationship of free association.

Of similar importance to eminent domain is effective control over the sale, alienation, lease or other transfer of land to non-Micronesians. Our delegation believes that your proposal, which establishes "legal residency"

as the means of controlling non-Micronesian ownership of land, does not provide adequate safeguards to protect the interests of Micronesians.

Another matter to which we must refer is that of the settlement of Micronesian claims. We agree that this is unrelated to the subject matter of a Constitutional Convention Bill. It is, however, an essential part of the discussion relating to Micronesian association with the United States. Like the land question, its settlement is, in our opinion, a pre-requisite to Micronesian entry into a scheme of free association.

The United States Delegation's statement on May 6, like the initial statement, refers to the economic and financial advantages that Micronesia would derive from Commonwealth status. We do not deny that this would be so. We recognize that under free association, or as an independent state, we might be treated less generously than would be the case if Micronesia became a Commonwealth. To some extent, however, this would be counteracted by the greater freedom we would possess to seek assistance elsewhere. But, fundamentally, our position is that the legal rights we consider essential to the effective protection of a Micronesian identity cannot be bartered for financial and economic advantages.

Finally, we are satisfied that it was the intention of the United Nations, as it is of the Congress of Micronesia (and therefore of our delegation), that the future Status of Micronesia should derive from the thought, the discussion, and the will of the people of Micronesia and not from a plan prepared on behalf of the United States Government. The United States Delegation came to Micronesia in full knowledge that the Political Status Delegation had been directed to examine free association between our

two countries, of a kind that had been carefully defined and also
Micronesian's possible future as an independent state. In the light of
these facts, we are surprised that the United States Delegation should
state that the United States offer "was, of course, formulated in an
attempt to be responsive to Micronesian desires as we understood them".
In our opinion, the offer is not in accordance with either of the alter-
natives that we have been directed to examine and report on.

By way of conclusion, we would say, as we have previously done, that
we are sincerely convinced that the interests of the United States in
Micronesia can be satisfied within the framework of free association or
within that of independence, and without Micronesia becoming a permanent
part of the American political family.

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May 7, 1970

STATEMENT BY THE U. S. DELEGATION

The United States would certainly agree that the Trusteeship Agreement envisages a possible ultimate political status of either self-government or independence. As you have correctly observed, the choice of either of these possibilities is qualified by the requirement that the status be appropriate, first, "to the particular circumstances of the trust territory and its peoples" and, second, "the freely expressed wishes of the peoples concerned." Also in Article 6 of the Trusteeship Agreement, there are a number of practical objectives relevant to the ultimate political status.

Yesterday I dealt with some of the practical considerations in favor of self-government in association with the United States. Today, let me point out some of the considerations that do not favor independence. Essentially they center around the responsibility the United States has -- both morally, and under the terms of the Trusteeship Agreement and the United Nations Charter -- to ensure that Micronesia is prepared for whatever status its people might select. Furthermore, paragraphs 2, 3, and 4 of the same Article 6 of the Trusteeship Agreement discuss the United States responsibility to "promote the economic advancement and self-sufficiency;" to "promote social advancement" including health; and to "promote educational advancement." The United States has tried, admittedly not always with uniform success, to carry out all of these obligations. But with the best of

will and foreseeable expenditures, it is hard to forecast when Micronesia might achieve the situation in which its particular circumstances would be appropriate for independence. Micronesia has limited natural resources, tremendous logistical problems, and even a wide diversity of cultures and languages presenting unique problems of government.

In summary, disregarding security considerations, the United States does not believe that independence will be a realistically appropriate status, considering the particular circumstances of the Trust Territory, for some time to come; and the United States would be remiss in its responsibilities to say otherwise.

Your second question is really threefold -- first whether the United States would be willing to redirect its programs and assistance towards the goal of independence; second, whether the United States would be willing to establish a timetable towards independence; and third, whether the United States is willing to begin discussions with Micronesian leaders on the future relationship which would exist between the two countries after independence.

To answer the first question, the United States effort is, of course, already directed toward developing Micronesia -- in all its facets -- toward self-determination. However, the United States does not see how it could agree to redirect its programs so that they were specifically aimed at one particular future status. The United States would, in fact, be derelict in its obligations under the Trusteeship Agreement if it were to prejudge the outcome of that act of self-determination by the people of Micronesia as a

a whole. The United States will, of course, continue its policy of consulting fully with the Congress of Micronesia and district leaders on the various programs contemplated and, indeed, plans to continue shifting responsibility for these programs to the Micronesians themselves.

As for a timetable for transition to independence, obviously in view of the practical problems which I have cited in terms of the circumstances of the Trust Territory, as well as the inappropriateness of our aiming for only one particular goal, this becomes a moot question. Rather, we must concentrate our efforts on the development of the Trust Territory, particularly in the fields cited in the Trusteeship Agreement. Clearly these efforts have been accelerating in recent years, and we would hope that the resulting progress will continue. But the specific date for self-determination will depend on the wishes of the Micronesian people and the ability of the United States, in good conscience and in accordance with its obligations under the Trusteeship Agreement, to agree that Micronesia is prepared for the choice in question.

On the third question, not only are the problems which I have already cited germane to possible discussions on the future relationship between an independent Micronesia and the United States, but it is impossible for this delegation or even this administration to discuss such issues in anything more than the most speculative terms. These would be matters of treaty and other types of international agreements between two independent countries to be entered into by the Executive Branch, probably in most cases with the approval of the United States Congress. Clearly we do not know what United

States Administration might be in office or what its policies might be. Nor do we know how either the United States Congress, or more broadly the American people, might view such relationships in the context of conditions at the time in question.

May 7, 1970

STATEMENT FROM THE MICRONESIAN
DELEGATION

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The designation of Micronesia as a "strategic area" in Article I of the Trusteeship Agreement affects the procedure to be followed in relation to the "approval of the terms of (the Agreement) ... and of their alteration or amendment", and the agreement also includes a special provision regarding termination. It does not, however, affect the obligations of the Administering Authority towards the people of Micronesia. Like other Trusteeship Agreements, that for Micronesia contains in Article 6 the following words:

"In discharging its obligations under Article 76 (b) of the Charter,
the Administering Authority shall:

... promote the development of the inhabitants of the Trust Territory
towards self-government or independence as may be appropriate to the
particular circumstances of the Trust Territory and its peoples and
the freely expressed wishes of the peoples concerned..."

The United States thus accepted the same obligations in respect of the political development of Micronesia as did other Powers that were constituted Administering Authorities under the International Trusteeship System. And, consequentially, the people of Micronesia received the same rights to political advancement "towards self-government or independence" as did those of other Trust Territories.

Recognizing these facts, the Congress of Micronesia directed the Political Status Delegation to examine, and report on, the questions that would need to be decided if Micronesia should choose either self-government in free association with the United States or independence. Out of all the

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possible alternatives theoretically open to Micronesia, these were the ones which commanded themselves to the representatives of the people of Micronesia. In other words, they were the forms of "self-government or independence" considered most "appropriate to the particular circumstances of the Trust Territory and its peoples" and those embodying "the freely expressed wishes of the people", as reflected in the opinion of their elected representatives.

It should perhaps be noted that the criteria set out in Article 6 of the Trusteeship Agreement as determining the ultimate political status of the Trust Territory were those which have already been mentioned; the circumstances of the Territory; and the freely expressed wishes of its people. Neither the circumstances nor the wishes of the Administering Authority were here deemed to be relevant.

Since the Political Status Delegation has been directed to examine questions relating to independence, as well those relating to free association, it wishes to discuss these questions with the United States Delegation. It is conscious, too, that, in relation both to existing administrative responsibilities and formal obligations accepted in the Trusteeship Agreement, the United States would wish to be consulted on these questions.

The Political Status Delegation therefore requests that, before our discussions are resumed on the status of free association with the United States, the United States Delegation provide us with the official position of the Executive Branch of the United States Government on the following questions or issues relating to independence, so that we may include discussions of them in our report to the Congress of Micronesia.

First, in view of the strategic interests of the United States in the

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Trust Territory, what is the attitude or the position of the United States Government toward the Trusteeship Agreement being terminated by Micronesia becoming an independent state?

Second, even if Micronesia were to become an independent state, we assume that a close relationship could exist between Micronesia and the United States which could be accomodating to the interests of both parties. It would require a transitional period, however, of a continuation of the Trusteeship Status, further preparation for independence, and discussions concerning the association or relationship that would exist between the two countries after independence. Our delegation therefore would like to know whether the United States Government is willing to begin to establish a timetable for a transition to independence, to redirect its assistance and action programs in Micronesia toward this end, and to begin discussions with Micronesian leaders on the future relationship which would exist between the two countries after Micronesia became independent?

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May 8, 1970

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STATEMENT BY THE U. S. DELEGATION

This statement is in response to the second statement of the Micronesian Delegation on 7 May 1970.

The United States Delegation does not wish to quibble over the definition of free association. We certainly understand and appreciate the Micronesian Delegation's definition of that term. Since your delegation has, however, challenged the United States proposal, at least in part, for its failure to meet a so-called "UN definition" of free association, we believe that some further comments are desirable regarding the points made on this subject.

First you state that both Great Britain and New Zealand made their agreements with the West Indies Associated States and the Cook Islands, respectively, unilaterally terminable because they believed such a provision was a pre-requisite to UN agreement that those territories were no longer "non-self-governing". Without getting into the question of the motives of Great Britain and New Zealand, it is pertinent to note that despite the inclusion of this provision, the UN has not accepted the British contention that the West Indies Associated States are no longer non-self-governing. Moreover, the UN has accepted the United States contention that the Commonwealth of Puerto Rico is now self-governing, despite the fact that the Federal Relations Act for Puerto Rico does not provide for unilateral termination. Thus the UN record does not substantiate the view that unilateral terminability is either a

necessary or sufficient condition for the transition from non-self-government to free association, and consequently we would again argue that there is no agreed "UN definition" of free association. We are therefore faced with two different definitions formulated by our respective delegations, rather than any failure to meet a fixed standard or generally agreed common usage.

I would now like to turn to your contention that United States history has shown a distinct trend toward closer integration, but does not lend equal credence to the proposition that Micronesia would be permitted to establish a looser association or to attain complete independence. We feel this is a distinctly inaccurate reading of United States history. Puerto Rico, a United States territory which we had acknowledged to be non-self-governing, has certainly moved to a status of much looser association in its current position as a Commonwealth. As for the possibility of independence, we need only look to the case of the Philippines, for over forty years a United States territory and now an independent state. Thus not only is our history contrary to your description, but the trend in recent years has been toward greater flexibility on this question of evolution.

We believe that the statements on defense contained in our paper of 6 May are realistic and need not be restated. We recognize that the experiences of World War II have left an indelible impression in Micronesia. However, under the United States proposal the foundation of Micronesian security and defense would rest on the commitment and the obligation of the United States to defend Micronesia and not primarily on United States forces

within the islands. Such a United States commitment and obligation has been a highly effective deterrent to would-be aggressors in many parts of the world, including Micronesia for the last quarter century. It is clear that the duty to defend Micronesia contained in the United States proposal would effectively deter aggressions of the kind experienced by Micronesia in World War II. It should always be remembered that an all-out shooting war is only one kind of aggression, usually the end result of a course of action involving many lesser forms, such as outside commercial invasion by exploitation of an area's resources. Even the effective defense of Micronesian territorial waters and fishing rights might prove to be more than Micronesia could afford. It is for these reasons that it is the sincere belief of the United States Delegation that in defense matters, our proposal is in the best interests of both Micronesia and the United States.

In your statement, you take the position that legal residency does not provide adequate safeguards for the protection of Micronesian land use or land transfer. We would be happy to entertain alternative proposals which you feel would provide the proper safeguards. Similarly, if the provision concerning the establishment of commissions to oversee and pass upon proposed land transfers is not satisfactory, or you think the powers too limited, we will be pleased to hear alternatives.

On the more general question of control of land, we wish to point out that while the United States offer does not provide everything which you have requested, it goes far in that direction. Under our proposal, Micronesian

land owners have much greater control and protection than at present. The United States in recent years has not added materially to its land holdings, has returned substantial land holdings, and under our proposal would be far less free to make new acquisitions. Under the United States proposal, the practice of retaining but not using land for public purposes would cease. Further, the United States is reducing its overseas defense posture and expenditures, rendering the acquisition of additional lands less likely. As a final point on this issue, we wish to assure you that the United States seeks, worldwide, to build its bases in places where we are welcomed by the local population. It tries to avoid base construction in places where we are not welcome.

In conclusion, I would like to restate our sincere belief that our proposal was formulated in an attempt to be as responsive as possible, within the limits imposed by practicality, to Micronesian desires as we understood them. As I stated on May 4, we believe that these discussions have provided the first clear expression of views by both delegations. We remain convinced that free association, as defined in the United States proposal will serve the interests of both parties.

May 8, 1970

STATEMENT FROM THE MICRONESIAN DELEGATION

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During our discussions over the past several days, our delegations have failed to reach agreement on several of the principles which we believe must serve as a basis to any future relationship of free association between the United States and Micronesia. As we have repeatedly stated, however, it is our sincere belief that the interests of the United States in Micronesia can be accommodated within the framework of free association as our delegation understands it, and without Micronesia becoming a permanent part of the United States. Our delegation therefore respectfully requests that you transmit our delegation's position statements to the President of the United States and to the interagency committee concerned with the future political status of Micronesia.

In addition, we fully support the position which is expressed in your proposal and your position statements, that the terms of any association between the United States and Micronesia be approved by the Congress of Micronesia before any legislation is introduced in the United States Congress.

If, after review and discussion of our position statements in Washington, you are able to provide us with any further information or comments regarding the position of the United States, other than what we have received to date, we would be more than happy to receive them, and to consider them in our report to the Congress of Micronesia.

We thank you, Mr. Secretary, and the members of your delegation, for the cooperation and understanding you have displayed in these discussions, and we are certain that these meetings have contributed greatly to our understanding of each other's positions, and in providing the information necessary for our delegation's report to the Congress of Micronesia.

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May 8, 1970
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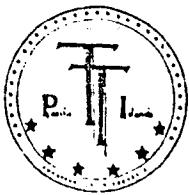
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CLOSING REMARKS BY THE U. S. DELEGATION

In closing, I would like to make two general observations. First, history has shown that political arrangements between peoples of different cultures and areas have been successful only when there has been an effort to understand and seek accommodation by both sides. We believe the United States has come a long way, Mr. Chairman, since our first meetings last October, in understanding and seeking to accommodate Micronesian concerns. Our proposal is certainly not an ideal one from a purely United States viewpoint. Similarly, from a purely Micronesian viewpoint, it no doubt is not ideal. But it is a balanced proposal for a relationship in which both Micronesia and the United States would each give and each receive. Mr. Chairman, I would be lacking in candor if I did not state that we had hoped for a more forthcoming approach by the Micronesian delegation in recognizing and seeking to relate your position to the very real United States concerns and practical limitations, of which we have previously spoken, in seeking to arrive at a mutual accommodation. However, we do realize the limitations, as you have stated them, imposed upon you by your delegation's terms of reference.

My second general observation is with respect to the diversity of social and cultural groups and the varying interests of these groups within Micronesia. The United States proposal takes this into account and seeks to provide the framework of a stable relationship with the United States within

which the legitimate interests of the various groups can be protected. Mutual accommodation between these groups will be necessary, in any event, regardless of the form of future political structure, and may not always be easily achieved. The cohesion of Micronesia, currently desired both by its people and by the United States, would be fostered by our proposal, with the interests of all of the people of Micronesia protected.



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Phone 2161
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May 22, 1970

Mr. Tom Whittington
Office of the Assistant Secretary
for Land Management
Department of the Interior
Washington, D. C.

Dear Tom:

Please pardon our delay. Enclosed please find a copy of our transcript of the minutes for May 8 along with a copy of the tape recording made of the meeting.

Best regards,

John
John Leekley

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MINUTES OF MEETING

U. S. DELEGATION/MICRONESIAN DELEGATION

May 8, 1970 - 3 p.m.

SALII: To start off, Mr. Secretary, we might discuss a little bit on the question you transmitted to us - what procedures for terminating unilaterally terminable relationship.

LOESCH: Yes, Mr. Chairman. We would like to hear discussion. We notice in your statement on page 2 of the May 7 statement and we would be interested in hearing about that.

SALII: Some of the things we had in mind go along these lines. In this we have to take from the British experience with some of our former territories. From the former territory's side from the date of introduction of bill to the legislature for considering termination. Something like 90 days has to elapse before the second hearing is held on any measure calling for termination. Then a two-third vote of the legislature is required, then finally a plebiscite. This is a matter of great significance so the procedure for terminating - it has to be prolonged in some respects to give adequate considerations both by the former territory itself and the former Administering Authority. And then in the plebiscite, a two-third majority might be considered also as in the case in the legislature. Now, from the other side, the British have their own choice! I think they said that they will give 6 months advance notice. Then perhaps a conference between the two areas to discuss differences to the idea of considering termination would take place. Then we don't know what the procedures will be in the case of the United States but as far as what we think might be an appropriate procedure, we might devise something else along this line. Something like a majority vote in the legislature as well as the

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plebiscite itself, adequate notice to the other side of intention to consider termination. Perhaps giving the reasons why termination is being considered.

LOESCH: I understand that, Mr. Chairman, that it is some process of the nature used by the British in connection with its former West Indies areas that you would contemplate in this connection.

SALII: Something along these lines will be used. We don't know too much about the case in Puerto Rico but we understand there might be some provision there, although we do not know. From time to time they call a plebiscite which include statehood and independence. We don't know whether we can do unilaterally or whether they will require concurrence by the United States Congress.

LOESCH: We mentioned that I think in the paper we are going to take place in the record today. The Federal Relations Act is cited on this. Do any of my delegation have any further question on this subject? (No answer). Thank you, Mr. Chairman.

SALII: Now, I think we are coming close to the end of this talk, so there might be things we want to discuss. First is, if we can get agreement between the two delegations on a joint press release.

LOESCH: Before we discuss that, if I might request, I think we perhaps should conclude the substantive portions of our talks and complete the record. Consequently, at this point I would like to place in the record a statement by the U. S. delegation in response to the second statement of Micronesian delegation, dated May 7, which we spoke to extemporaneously yesterday but we now prepared a short written statement which I think I would prefer rather than reading, to just place in the record and of course similarly if the Micronesian delegation have any further papers for the record, I think it would be well to get the record completed. In other words, before we go to our.....

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SALII: We do have a one-page final formal statement to give.

LOESCH: So do I - a very short one besides the one in response to yesterday's. We have a very few closing remarks of which, if you don't mind, Mr. Chairman, at some point we have this little final statement to read.

Another housekeeping item in effect, we have prepared a record transcript as far as we have received the transcript, which we would like to have substituted for the initial draft that was typed up. There were a number of typographical errors.

SALII: Is this still your plan to have Mr. Ruser go over the transcript with Senator Palacios?

LOESCH: We didn't in this instance. I really thought that there might have been a possible misunderstanding between the question of correction of the minutes or the record and the joint question of a joint minute which I had raised this morning in which we decided not to do. Now, I have no objection, however, to have Senator Palacios or anyone else check over the corrected version in close accord with the tape. My diction is not excellent I am sure because then in certain case I myself slurred my words a little and they didn't come out quite right in the transcript. But aside from that, it's just the same. So, do you want me to proceed?

Secretary Loesch read the "Closing Remarks by the U. S. Delegation".

(Copies were distributed to each member of the Micronesian delegation)

That concludes our final statement.

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SALII: With your permission, Mr. Secretary, if there are no objections from your group, I like to read a statement.

Chairman Salii read the "Statement from the Micronesian Delegation" dated May 8, 1970. (Copies were distributed to the U. S. delegation).

LOESCH: I do think that we want to comment on one item in this statement and with your permission I like to ask Mr. Ruser to make that comment.

RUSER: Mr. Chairman, I believe the second paragraph of your statement refers to the four-point procedure which is part of the U. S. proposals and in clarifying this, I would like to really point out the following: this four-point procedure which is contained in our statement, of course, is a procedure which is part of the whole proposal. We do not want to leave here on the record that these four steps would necessarily be part of any further U. S. proposals, if the people of Micronesia should find that we do not wish to entertain proposals made by the United States for a self-governing commonwealth in association with the United States. In this sense, I believe your second paragraph is perhaps somewhat less qualified than it should be in order to avoid future misunderstandings on this. We just want to point this out for the record. Four steps are specific to the present United States proposals and if it should be necessary to modify these proposals substantially, of course, the four steps would have been examined in the light of all the facts and considerations at the time. Thank you, Mr. Chairman.

SALII: Any question to the statement made by Mr. Ruser? (No answer)

LOESCH: If there are none, Mr. Chairman, so far as the record of these proceedings is concerned, I have only to add that we have been very grateful for the hospitality that we have had in your hands, to the visit to your beautiful island. We appreciate the talks and like you, we feel that our understanding has been greatly enlarged by the talks and papers that we have had this week; by the visits and conversations that we have with your members. Thank you very much.