

# Congress of Micronesia

CAPITAL HILL

SAIPAN

MARIANA ISLANDS

96950

July 22, 1970

## SENATE

Amata Kabua  
President

Yap District  
Petrus Tun  
Rafel Moonfell

Truk District  
Tosiwo Nakayama  
Andon Amaraich

Ponape District  
Bailey Olter  
Ambilos Iehsi

Palau District  
David Ramarui  
Lazarus Salii

Marshalls District  
Amata Kabua  
Isaac K. Lanwi

Marianas District  
Olympio T. Borja  
Vice President  
Francisco T. Palacios

## HOUSE OF REPRESENTATIVES

Bethwel Henry  
Speaker

Marianas District  
Benjamin Manglona  
Nicholas Palacios  
Felix Rabauliman

Marshalls District  
Henry Samuel  
Vice Speaker  
Ekapap Silk  
Ataji Balos  
Charles Domnick

Palau District  
Polycarp Basilius  
Roman Tmetuchl  
Tarkong Pedro

Ponape District  
Bethwel Henry  
Joab Sigrah  
Olter Paul  
Heinrich Iriarte

Truk District  
Raymond Setik  
Endy Dois  
Masao Nakayama  
Sasauo Haruo  
Hans Wiliander

Yap District  
John Rugulimar  
John Mangefel

Honorable Amata Kabua  
President, Senate  
Third Regular Session, 1970  
Third Congress of Micronesia

and

Honorable Bethwel Henry  
Speaker, House of Representatives  
Third Regular Session, 1970  
Third Congress of Micronesia

Gentlemen:

The Future Political Status Delegation of the Congress of Micronesia has the honor of submitting herewith its final report. The Delegation was created by Public Law 3C-15.

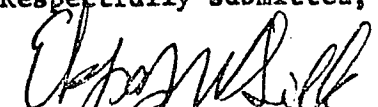
In addition to its current members, the Delegation previously included former Congressman Minoru Ueki, who resigned from the Congress and this Delegation to return to medical practice in Palau. He was replaced by Representative Roman Tmetuchl.

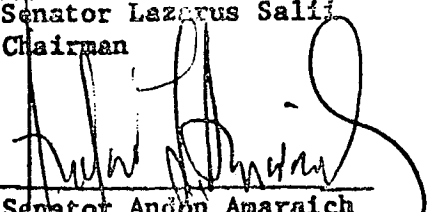
The Delegation's consultants were Dr. J. W. Davidson of Australian National University and Dr. Harrop A. Freeman of Cornell University Law School. Its staff included Kaleb Udui and Robert Beckman, legal counsels, P. F. Kluge, writer, and Amy Sablan, typist.


The Delegation hopes that this report will assist Congress in its deliberations on Micronesia's future political status.


Respectfully submitted,

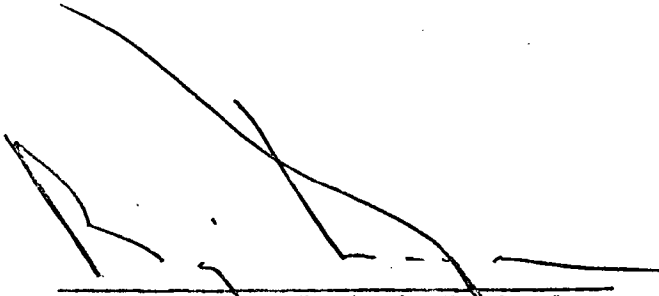
  
\_\_\_\_\_  
Senator Lazarus Salii  
Chairman


  
\_\_\_\_\_  
Representative Ekapap Silk  
Co-Chairman

  
\_\_\_\_\_  
Senator Andon Amaraich  
Member


  
\_\_\_\_\_  
Representative John Mangefel  
Member

  
\_\_\_\_\_  
Senator Tosiwo Nakayama  
Member

  
\_\_\_\_\_  
Representative Benjamin T. Manglona  
Member

  
\_\_\_\_\_  
Senator Bailey Oter  
Member

  
\_\_\_\_\_  
Representative Oter Paul  
Member

  
\_\_\_\_\_  
Senator Francisco Palacios  
Member

  
\_\_\_\_\_  
Representative Roman Tmetuchl  
Member

#  
19

57

**REPORT**

of the  
Political Status Delegation  
of the  
CONGRESS OF MICRONESIA

July 1970

Third Congress  
Third Regular Session  
July, 1970

01-02071

**REPORT**  
of the  
**Political Status Delegation**  
of the  
**CONGRESS OF MICRONESIA**

**Third Congress**  
**Third Regular Session**  
**July, 1970**

02072

## TABLE OF CONTENTS

	<u>Page</u>
Letter of Transmittal	i
Table of Contents	iii
CHAPTER I. INTRODUCTION	1
CHAPTER II. FREE ASSOCIATION WITH THE UNITED STATES	9
CHAPTER III. INDEPENDENCE	21
CHAPTER IV. UNITED STATES PROPOSAL for COMMONWEALTH STATUS	31
CHAPTER V. CONCLUSION	44
Appendix A: Procedures for Termination	A-1
Appendix B: Opening Statement from the Micronesian Delegation	B-1
Appendix C: Statement of Principles of the United States Delegation	C-1
Appendix D: Draft United States Bill	D-1

## CHAPTER I. INTRODUCTION

The report of the Micronesian Political Status Delegation is a further chapter in the continuing investigation of the eventual status of the current Trust Territory of the Pacific Islands. It is not the Congress of Micronesia's first consideration of this subject and it is not - as the contents of this report will make clear - the last. The following report attempts to define how far we have come in our current investigations, where we are now, and what future prospects are.

The Micronesian Political Status Delegation was created under Public Law No. 3C-15, approved August 29, 1969. The Congress of Micronesia authorized the Delegation to

"actively seek, support, and press for an early resolution and determination of the future political status of Micronesia"

and to

"take part in preliminary discussions regarding the relations which shall in the future prevail between Micronesia and the United States and the specific provisions of law and other measures which shall serve to formalize these relations."

In carrying out these tasks, the Delegation was directed to adhere "to the desires and policies of the Congress of Micronesia, as expressed by resolutions or otherwise."

In Senate Joint Resolution No. 63, the Delegation's mission was further defined. It was directed "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, together with information which will facilitate decisions on all these questions." Free Association and Independence were the two alternatives recommended to the Congress by its Future Political Status Commission in July, 1969.

#### Preliminary Talks in Washington

The Delegation's first step in its effort to fulfill the Congress' mandate was its acceptance of an invitation from Secretary of the Interior Walter J. Hickel to meet with members of his staff and other officials in Washington and discuss the Trust Territory's political future. To provide a reasonable basis for discussions, the Delegation prepared a list of eleven topics for presentation to the United States in Washington.

These were:

- 1) That the people of Micronesia will draft and adopt their own constitution;
- 2) That the Micronesians will be assured that there will be no confiscation of their land and no military bases will be established in the islands without full consultation and consent of the Government of Micronesia and fair compensation; that land currently held, controlled or possessed by the United States under lease or other arrangements will be renegotiated;
- 3) That the United States, subject to certain exemptions, limitations, and conditions, will conduct Micronesia's external affairs and provide protection from outside aggression and consult with Micronesia before entering into international obligations with respect to Micronesia;
- 4) That Micronesia will agree not to allow any other country to enter into Micronesia for military purposes;
- 5) That the United States will agree to an early settlement of Micronesia's postwar damage claims;
- 6) That the United States will remove all barriers to the free movement of Micronesians into the United States;

- 7) That the United States will also agree to remove all barriers to the free movement of goods from Micronesia into the United States;
- 8) That the United States will seek full consultation with the Government of Micronesia in matters of shipping, civil aviation and communication;
- 9) That Micronesians will have access to the United States Ninth Circuit Court and the United States Supreme Court;
- 10) That Micronesia will continue to have access to banking facilities in the United States, to the use of United States currency and postal services; and
- 11) That the United States will guarantee financial aid to Micronesia.

Your Delegation arrived in Washington at the end of September and, for approximately three weeks, conducted preliminary talks on these eleven topics with a United States Delegation composed of representatives from the Departments of the Interior, State and Defense, and observers from the Senate and House Committees on Interior and Insular Affairs. The Honorable Harrison Loesch, Assistant Secretary of the Department of the Interior, served as Chairman of the United States Delegation during the Washington talks (and later during the Saipan talks).

No conclusions were reached during these preliminary discussions in Washington. On the eleven topics presented, the United States Delegation generally agreed in principle with your Delegation's basic position, with the outstanding exception of the question of land control in Micronesia. Your Delegation insisted that the people of Micronesia should have unqualified control of land in Micronesia and that any United States use of land for military purposes should be subject to negotiation between the Governments of Micronesia and the United States, while the



United States Delegation presented a formula for the acquisition of land which gave the President of the United States the ultimate power to acquire land in Micronesia. The two Delegations also failed to reach agreement on another important point - whether any association between Micronesia and the United States will be permanent or in the form of a revocable compact.

#### Executive Meetings

The next exchange between United States representatives and your Delegation occurred in January 1970, during the special session of the Congress of Micronesia on Saipan. At that time, your Delegation was informally presented a draft bill by Assistant Secretary of the Interior, Harrison Loesch. The draft bill, which would have made Micronesia an unincorporated territory of the United States, like Guam or the Virgin Islands, was found to be almost totally objectionable. Your Delegation maintains that such a bill is in manifest conflict with the intent of the Trusteeship Agreement, with the direction pointed by the Congress of Micronesia in its mandate to your Delegation, and with the basic premises upon which the Delegation had opened discussions in Washington. Your Delegation indicated its total opposition to any United States act which would provide for the internal government of Micronesia. Your Delegation maintained that the internal government of Micronesia - its design, its administration, and its control - should be reserved solely to the people of Micronesia.

Consultation with the 1970 United Nations Visiting Mission

On March 18, your Delegation met with the 1970 United Nations Visiting Mission on Saipan. Mission members inquired about the Washington talks of the previous October. Your Delegation reviewed the areas that had been discussed but, because of the very preliminary nature of the sessions, did not attempt to assess areas of agreement or disagreement. The role of the United Nations in terminating the Trusteeship Agreement and the processes and procedures involved in such a termination were also discussed.

Discussions on Saipan

At the invitation of your Delegation, discussions with United States representatives were resumed on Saipan from May 4 to May 8, 1970. In these discussions, the United States was represented by an official delegation of the Executive Branch of the United States Government. Its members were Assistant Secretary Harrison Loesch, Chairman, and Mr. Thomas Whittington, from the Department of the Interior; Messrs. Claus Ruser, Sam Peale and U.S. Ambassador to the Trusteeship Council S. Harry Wright, from the State Department; and Commander Al Kuhn and Lieutenant Colonel Thomas Stockton from the Defense Department. In these sessions, the United States Delegation was not accompanied by any representatives from the United States Congress or its committees, as had been the case during the Washington talks.

The May talks on Saipan were surely as thorough and detailed an exchange of viewpoints as has ever occurred between authorized Micronesian

and United States representatives.

The balance of this report, which is derived mainly from the May talks, describes the Micronesian presentation of, and the United States response to, the specific political alternatives the Congress requested its Delegation to investigate: Free Association and Independence. These are described in Chapters Two and Three respectively. Then, in Chapter Four, the United States proposal for a Commonwealth-type political status is presented along with your Delegation's analysis of the United States proposal. Chapter Five offers some further conclusions about the negotiations and presents some specific matters for consideration by the Congress of Micronesia.

The Appendix to this report contains a discussion of procedural matters relating to termination of the Trusteeship Agreement, the opening statements of both delegations, and the draft United States proposal.

#### Summary of the Current Situation

Your Delegation's discussions with the United States representatives are presented at some length in the body of this report, but the outcome can be briefly summarized as follows:

on Free Association: (Micronesian proposal) - the United States Delegation was unwilling or unable to support a proposal in line with your Delegation's concept of Free Association.

on Independence: (Micronesian proposal) - the United States Delegation was unwilling or unable to sponsor termination of the Trusteeship Agreement on the basis of Independence for

Micronesia at this time, stating that the United States does not believe that Independence will be a realistically appropriate status for some time to come.

on Commonwealth: (United States proposal) - Your Delegation maintained that the United States offer of what it called Commonwealth status fell well below the minimum standards of self-government acceptable to the Congress of Micronesia, the people of Micronesia, and the United Nations.

From the above summary, and from the introductory account of negotiations, it should be clear that the difference between current United States and Micronesian positions is profound. From the beginning, it has been clear that the United States and Micronesian Delegations have very different notions of what would constitute true self-government in Micronesia and what would be a sound future partnership between Micronesia and the United States.

The United States position, which is reflected in its rejection of Free Association and Independence and in its counterproposal of what it calls Commonwealth status, is that association between Micronesia and the United States must be permanent, and that any Micronesian government must yield in certain crucial final respects to the United States. Your Delegation's position is that any Micronesian government which permanently ceded to the United States ultimate power over its lands and its laws, could not be considered an authentic self-government; and any association that foreclosed future changes in status would not be free.

Because of the basic disagreement over what constitutes true self-government in Micronesia, and because of the United States' insistence that any new relationship be permanent and irrevocable, your Delegation must report that it was unable to obtain a "resolution or determination of the future political status of Micronesia."

Your Delegation believes that, despite the differences described in this report, there is some advantage in continuing negotiations with the United States. In addition to further dialogue with representatives of the executive branch of the United States Government, there is the possibility of discussions with members of the United States Congress who, although not represented in the May talks, must eventually endorse any change in Micronesia's political status. In any case, your Delegation believes that the Congress of Micronesia ought to consider each of the political alternatives on its merits, decide which to endorse, and take steps, or authorize a delegation of members to take steps, leading to its achievement. In short, there are now three alternative arrangements before the Congress and, in order to proceed any further towards a resolution of the status question, the Congress must indicate what its future intentions are.

Your Delegation feels that both the United States and Micronesia have been probed and tested during the recent negotiations and that the difference between their positions could not have pleased either side. The following pages document the positions of both sides, as they have not been previously documented. They show the gap between the two positions, and they indicate what distance is left to be traveled before Micronesia's political status is resolved.

CHAPTER II. FREE ASSOCIATION WITH THE UNITED STATES

Since Free Association with the United States is a relationship involving two parties, it is crucial that both United States representatives and Micronesian representatives understand and agree upon the meaning of this concept. Discussions with United States representatives so far have revealed a substantial disagreement about what Free Association is, as well as whether the relationship is desirable or from the point of view of the United States, acceptable.

Your Delegation's concept of Free Association derives from the following definition, which is taken from Resolution 1541 of the 15th General Assembly of the United Nations:

- "(a) Free association should be the result of a free and voluntary choice by the peoples of the territory concerned expressed by informed and democratic processes. It should be one which respects the individuality and the cultural characteristics of the territory and its peoples, and retains for the peoples of the territory, which is associated with an Independent State, the freedom to modify its status through the expression of their will by democratic means through constitutional processes.
- "(b) The associated territory should have the right to determine its internal constitution without outside interference, in accordance with due constitutional processes and the freely expressed wishes of the people. This does not preclude consultations as appropriate or necessary under the terms of the free association agreed upon."

The concept of Free Association, as defined by the United Nations resolution, as mentioned in the Status Commission's Statement of Intent and subsequent Report last year, and as understood and endorsed by the present Delegation, has several essential features. The first is that the relationship is free and voluntary. It is freely and voluntarily

entered into by the peoples of the territory, and either side is free to terminate it at any time. Another essential feature is that the people of the free associated state have full and unqualified powers in their internal affairs, including the right to amend their constitution, without even a theoretical power of intervention on the part of the former administering authority. Another is that the former administering authority retains only its powers and responsibilities in relation to the free associated state which are spelled out in the agreement, or compact, between the two parties. Finally, the free associated state relationship is arrived at through negotiation and is in the form of a compact between the two parties, with the rights and obligations of each party clearly defined in the compact.

The primary purpose of Free Association is to enable the people of the free associated state to advance from a colonial status to a new and free status which satisfies their basic aspirations to rule themselves and protects their individuality and cultural characteristics, while recognizing the practical considerations which must apply to a territory of small population and limited resources. The greatest advantage in this arrangement is that it in no way hinders a further move either to closer association with the former administering authority, to association or federation with neighboring states or territories, or to sovereign independence.

Since your Delegation recognized that it was of the utmost importance that both sides understand what was meant by Free Association, it

prepared a statement which presented the essential nature of Free Association in terms of four basic principles and legal rights. These four propositions, which were incorporated in an opening statement at the May talks, are:

- "(a) That sovereignty in Micronesia resides in the people of Micronesia and their 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."

Your Delegation recognizes that any agreement between the United States and Micronesia would reflect more than principles and legal rights; it would be affected by numerous social, political and economic factors. But your Delegation insisted that, whatever accommodations and compromises might be necessary on other points, recognition of these four propositions is an essential and nonnegotiable component of any Free Association between the United States and Micronesia.

Of the four principles and legal rights, the fourth, which would recognize either party's right to end the relationship, caused the United States Delegation the greatest disquiet. Your Delegation insists on this clause because it sustains the free and voluntary nature of the relationship; it permits continuing review of that relationship; and it would enable future generations to evaluate their situation, and, in accordance



with basic constitutional processes, to change it. At the same time, your Delegation emphasized that the fact that the relationship is unilaterally terminable does not mean that it would be ended for insignificant or temporary reasons. On the contrary, it is intended that the relationship would be stable and enduring, would be entered into after negotiations in good faith, and could be ended only after substantial and judicious consideration. Moreover, the specific compact provisions relating to termination would be so framed as to safeguard against abrupt or hasty termination by either party. It might be noted that the free association relationships between the United Kingdom and certain of her former territories generally provide that a former territory can terminate the relationship only if a ninety-day period has elapsed between the introduction and passage of legislation to terminate the relationship, and only if such legislation is passed by a two-thirds majority of the legislature. In addition, the approval of two-thirds of the electorate in a referendum is required. Comparably strict provisions apply to any action by the United Kingdom.

Your Delegation recognizes that the unilaterally terminable nature of the relationship between the United States and Micronesia may raise some fears of an unwarranted or ill-considered dissolution on the part of one partner or another. But your Delegation maintains that the actual effect of such a clause would be beneficial: it would encourage a continuing review of the relationship between the two partners; it would preserve the free and voluntary nature of the compact; it would provide what would otherwise be a remote and insignificant fraction of the "United States

political family" with ultimate control of its destiny; and, not least, it would insure that whatever problems might arise would be given the urgent attention they deserved.

Steps Towards Free Association

The exact procedure to be followed in terminating the Trusteeship Agreement and the present status, and in establishing a new relationship between Micronesia and the United States, would have to be agreed upon by Micronesia, the United States, and the United Nations. Until there is agreement on the principles of Free Association, the specific steps to be followed in the establishment of the relationship will be of secondary importance. Still, from discussions with United States and United Nations representatives, your Delegation considers that the following elements would be involved in a transition from Trusteeship to Free Association.

(a) Act of Self-Determination: Plebiscite (or Referendum).

It is generally recognized by both the United States and the United Nations that a plebiscite (or referendum) must be held in Micronesia to obtain "the freely expressed wishes of the people." If it is proposed that Micronesia should enter into Free Association with the United States, the United Nations is almost certain to insist upon an act of self-determination, in the form of a plebiscite, in order to ensure that the proposed status reflects the wishes of the people. Moreover, the United States has already indicated that it favors such an act of self-determination. Also, it is expected that if a status of Free Association is chosen, the plebiscite should include the

approval not only of the Constitution of Micronesia, but also of the Compact of Free Association between the United States and Micronesia.

(b) United States Legislation. Your Delegation assumes that United States legislation would be required for three main purposes:

1. to create authority for the various steps that must be taken before the Trusteeship Agreement ceases to be in force;
2. to terminate existing United States powers in Micronesia when Trusteeship ends; and
3. to create the powers necessary for United States participation in the agreed form of Free Association.

(c) A Constitutional Convention. The concept of Free Association requires that the people of Micronesia have the right to design, adopt and amend their Constitution without outside interference. Your Delegation assumes that the development of a Micronesian Constitution would be vested in a Constitutional Convention and that subsequent action by the people of Micronesia would not be subject to external constraints. Moreover, United States powers over Micronesian affairs would be as set forth in the Compact of Free Association, and would not in any way affect the Constitution.

In view of its position that a Micronesian Constitutional Convention should draft the Constitution, your Delegation felt they could not forecast the specifics of that draft. However, your Delegation did indicate that the form of government resulting from that Constitution would contain a bill of rights, would provide for democratic and republic government and would not, in any important

sense, be incompatible with the United States tradition of democratic, representative government. Your Delegation further indicated that American advice would be solicited during the development of the Constitution.

(d) Negotiation and Approval of the Terms of the Compact of Free Association. Since an essential feature of Free Association is that it is in the form of a compact between two parties, it would be imperative that prior to the termination of the Trusteeship Agreement, negotiations take place between representatives of the United States and Micronesia to define the terms of the Free Association. Your Delegation maintains that such negotiations should take place between representatives of the Congress of Micronesia and representatives of the United States Government. The final terms of the Compact, however, should be subject to approval by the Congress of Micronesia and the people of Micronesia on one side, and the United States Congress and the President of the United States on the other side. To date, although the United States representatives have agreed that the proposed association would require the approval of the people of Micronesia, they have not agreed that its terms should be approved by the Congress of Micronesia before the compact as a whole would be submitted to the people of Micronesia in a plebiscite.

Your Delegation emphatically opposes, and recommends that the Congress likewise oppose, any effort on the part of the United States to bypass the Congress on matters related to political status.

The Congress of Micronesia has dealt with authorized United States representatives through recognized channels and thus expects that its adherence to these legitimate methods will be respected and reciprocated.

(e) Transition Period. It will also be necessary that a time schedule be developed for all procedural steps and transitional changes toward self-government, so that the new Government of Micronesia can smoothly assume immediate control when the Trusteeship Agreement ceases to be in effect.

(f) Compact of Free Association. In its conversations with the United States representatives, your Delegation maintained that the principles of Free Association should be discussed before the contractual details of the Compact were negotiated. Your Delegation's first effort was to determine whether Free Association, as defined by the Delegation, was acceptable to the United States. It was understood, however, that following an agreement on principles, the United States and Micronesia would prepare a Compact detailing the rights and obligations of both parties. The Compact would contain provisions relating to such matters as external affairs and defense; United States legislation applicable in Micronesia; public service; economic, financial and technical aid; citizenship and nationality; immigration and trade, and judicial review.

The Compact would provide that, in areas other than external affairs and defense, no United States legislation would apply in

Micronesia without the express consent of the Government of Micronesia. The responsibility for external affairs and defense would be handled by the United States, and it would therefore be necessary for the United States to retain sufficient powers in those areas to enable it to fulfill its responsibilities. The Compact should provide, however, that in discharging its responsibilities in external affairs and defense, the United States would act in close consultation with the Government of Micronesia on all matters which affect Micronesia. It should also provide that the Government of Micronesia, subject to any exceptions, limitations, or conditions that may be appropriate, has authority to deal on behalf of Micronesia in certain specified matters in the field of external relations.

The area of external affairs would be an important part of the Compact. To more fully understand how the relationship might be defined in that area it is helpful to examine how it has been handled between the United Kingdom and its free associated states in the Caribbean Sea. The island territories of Antigua, Dominica, Grenada, Saint Christopher-Nevis-Anguilla, Saint Lucia, and Saint Vincent became states in free association with the United Kingdom at the beginning of 1967 by virtue of the West Indies Act of 1967. The Agreements on external affairs are very similar in all of these six cases. In general, they provide that the United Kingdom is responsible and has power in external affairs, but that its powers in this area will be exercised only in consultation with the governments of the free associated states. Also, the free associated states have

certain powers in external affairs, and the United Kingdom agreed to give sympathetic consideration to any request by a government of a free associated state for authority to take action on individual questions of external relations not covered by the express delegations of authority to the free associated state. Express delegations of powers to the free associated states include the following:

1. Authority to apply for full or associate membership in United Nations Specialized Agencies or similar international organizations.
2. Authority to arrange or permit visits by representatives of such organizations of which it has membership.
3. Authority to negotiate and conclude trade agreements with other countries which relate to the treatment of goods.
4. Authority to arrange or permit visits by commercial representatives of the free associated state to any other country, or vice versa.
5. Authority to conclude agreements of local concern with any members of the Commonwealth or any remaining United Kingdom territory in the Caribbean.
6. Authority to conclude agreements on aid, cultural, or scientific subjects with any member of the Commonwealth or with the United States, or with any international organization to which the United Kingdom belongs.
7. Authority to conclude emigration agreements with other countries.

#### United States Position

The United States Delegation brought to the negotiations its own proposal for a political status it calls Commonwealth. This proposal should be examined not only for its own sake but for its implied rejection of the Micronesian concept of Free Association. The United

States proposal appears in Chapter V of this report.

In its direct comments on Free Association the United States Delegation indicated that it did not accept the definition of Free Association which was used in the report of the Future Political Status Commission and in the Delegation's opening position paper. Although the definition your Delegation presented has gained considerable status through general acceptance and use in recent years, the United States Delegation maintained that such a definition ought not be considered either a United Nations definition or a commonly accepted interpretation of the term. The United States Delegation stated that the definition cited by your Delegation was merely a recommendation of the United Nations General Assembly and was not binding on any of its members. It further maintained that there was no obligation to offer Micronesia a status of Free Association, however it be defined, because these words are not included in either the Trusteeship Agreement or the relevant provisions of the United Nations Charter. The United States position is that its Commonwealth proposal, if accepted, would fully satisfy both the obligations and the spirit of the Trusteeship System. (Since the United States Delegation pointed out that the Trusteeship Agreement makes no mention of Free Association, your Delegation might likewise observe that the Trusteeship Agreement also makes no mention of Commonwealth status).

From the United States reaction to the principles of Free Association, from their debate as to the very nature of the term, and from their



disclosure that their Commonwealth proposal is the best they can offer, your Delegation concludes that the Executive Branch of the United States Government is unwilling or unable, under current policy, to support a relationship of Free Association, as that concept is endorsed by your Delegation.

## CHAPTER III. INDEPENDENCE

### General Comments on Independence

When it entered into the Trusteeship Agreement with the Security Council of the United Nations, the United States accepted the same obligations with respect to the political development of Micronesia as did other powers acting as administering authorities under the International Trusteeship System. Like other Trusteeship Agreements, the Agreement 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..."

It was thus recognized that the people of Micronesia possessed the same rights of political advancement "towards self-government or independence" as did the people of other trust territories. The criteria set out in Article 6 to determine the ultimate political status of the Trust Territory are "the particular circumstances of the trust territory and its peoples" and "the freely expressed wishes of the peoples concerned."

Your Delegation maintains that, according to the terms of the Trusteeship Agreement, Independence is a real alternative which Micronesians have the right to choose and should consider. Your Delegation further maintains that this right to Independence is not derived from the Trusteeship Agreement or bequeathed by it, but rather that the Trusteeship Agreement acknowledges a prior, basic and continuing right of the

Micronesian people.

The people of Micronesia have as much right to choose Independence as did the people of the other trust territories - none of whom, so far, have chosen any status other than Independence. The fact that other powers have, or have had, or expect to have, an "interest", strategic or otherwise, in this area cannot be permitted to compromise or dilute Micronesia's basic right to determine its own destiny.

Your Delegation does recognize, of course, that according to the terms of the Trusteeship Agreement, there can be no change in the status of the Trust Territory without the consent of the United States. But your Delegation believes that the threat of a United States veto should not be allowed to muffle consideration of Independence, or of any other political status. Your Delegation maintains that the primary goals of the Trusteeship Agreement are clear; that the endorsement of "self-government or independence" is likewise clear, and that the right of Micronesian people to Independence antedates and underlies the Trusteeship Agreement and that, therefore, the strategic aspect of the trusteeship and the corollary United States possession of a veto power represent the application of self-interested devices to a moral issue and are at best subordinate to, and at worst in direct conflict with, the basic goals of the Trusteeship System.

Should Micronesia choose Independence, its leadership must strive to see that the decision is respected by the United Nations and the United States. Should Micronesia decline Independence in favor of another political status, it should be for sound reasons related to the quality

of Micronesian life, and not out of deference to another nation's global posture.

Independence, therefore, is a political status which should be considered in terms of its effect on Micronesia, and not in terms of an anticipated reaction elsewhere.

Moreover, it should be pointed out that Independence need not imply isolation; that various treaty and nontreaty relationships with other nations or groups of nations would assure Micronesia's responsible membership in the world community. Surely, there are mutually beneficial relationships that an independent Micronesia would choose to initiate or sustain. These might relate to trade, economic development, external affairs, and defense. Your Delegation maintains that if, indeed, there is a valid "strategic interest" in Micronesia, it can as readily be accommodated in terms of an honorable treaty between Micronesia and the United States, as by a clause in a Trusteeship Agreement in which Micronesians did not participate.

#### Advantages and Disadvantages of Independence

The principal advantages and disadvantages of Micronesian independence were treated by the Future Political Status Commission in its report to the Congress last year, and your Delegation is in general agreement with the observations made by the Commission at that time.

Independence, your Delegation believes, is the political status most in accord with the intent of the Trusteeship Agreement. It is also the choice made by all of the nine Trust Territories which have so far

changed their status. It is very likely that, in the eyes of the United Nations, an independent Micronesia would be an honorable and acceptable climax to the Trusteeship Agreement. It is not certain that other proposals which have been advanced would be so highly regarded.

Moreover, as an independent state, Micronesia would possess full legal control of its own affairs. Any relationship with another nation or group of nations would require Micronesian consent. No foreign presence or interest in Micronesia would be permitted unless it was fully consistent with the best interests of Micronesia. Although the realities of political and economic life would likely oblige the Micronesian Government to yield certain rights in exchange for certain benefits, such decisions would be made by Micronesians and not by others acting on their behalf.

The disadvantages of Independence are substantial. Most arise, not from political considerations, but from economic factors. The lack of certain natural resources, the small population, geographical dispersion, cultural diversity, communications and transportation difficulties would gravely challenge any administration and would particularly test a newly-independent government. Moreover, there is the added difficulty that, over the past twenty-five years, the standards and practices, omissions and commissions, of the Administering Authority have, for better or for worse, been widely accepted. The development of a governmental system more appropriate to an independent Micronesia might prove difficult to some individual Micronesians as well as to the new administration as a whole. The legacy of twenty-five years of American administration is

considerable, and the transition to Independence would likely create numerous problems of adjustment. In addition, whether by accident or design, or both, many of the economic policies and programs of the Administering Authority, such as the application of the most-favored nation clause of the Trusteeship Agreement, have retarded Micronesia's economic development and pointed towards dependence, rather than independence.

The most serious disadvantage of Independence is that, even to maintain the present standard of living, Micronesia would need considerable assistance. And, to carry out any further program of economic development, even greater aid would be required. It is questionable whether an independent Micronesia could succeed in obtaining the initial financing necessary to develop a self-sufficient economy. Whereas a Compact of Free Association would provide specific terms of aid, an independent Micronesia would rely on negotiated treaties for aid. It is likely that the United States might react much less responsively in this respect to an independent Micronesia, than to a state with which it had established a relationship of Free Association.

#### Steps Towards Independence

The procedure for terminating the Trusteeship Agreement on the basis of Independence would, assuming the United States was willing to consent to such termination, be very similar to that discussed for Free Association. Discussions would be necessary between the United States and the Congress of Micronesia to establish a timetable for transition

to Independence, and to define the relationship which would exist between the United States and Micronesia after Independence is achieved. In the interim, the present Trusteeship Status would be continued while the people of Micronesia are prepared further for independent status.

The procedure for drafting and adopting a Constitution would be similar to the procedure outlined for transition to Free Association. A plebiscite would undoubtedly be held for the purpose of obtaining the consent of the people of Micronesia to the Micronesian Constitution and to the termination of the Trusteeship Agreement on the basis of Independence. The United Nations might not require that a plebiscite be held if the Trusteeship Agreement is terminated on the basis of Independence, but your Delegation believes that one would be desirable.

Similarly, United States Congress legislation would presumably be required to create the authority for some of the steps that must be taken before the Trusteeship Agreement ceases to be in force, and for the termination of existing United States powers in Micronesia when the Trusteeship ends.

Should the Congress determine that Independence should be Micronesia's eventual political status, your Delegation recommends that Congress soon adopt a resolution declaring that Independence is Micronesia's goal. Thus, no matter how long the transition period might be, and no matter what obstacles arose, the Congress would have made its decision and would be in a position to evaluate all interim programs in terms of their effectiveness in advancing Micronesia towards its acknowledged goal of Independence.

All of the above procedures assume that the United States would consent to Micronesian independence. With that consent, the procedures leading to Independence would follow in channels and stages agreed upon between the United States, the United Nations, and the Congress of Micronesia.

It should be noted, however, that there are precedents in history, not least of all in the history of the United States, in which a people, reacting to an intolerable situation have declared Independence unilaterally and outright. If such an unfortunate situation were to arise in Micronesia, it is unlikely that the Micronesian people would heed the restraints of a Trusteeship Agreement in which they had no part, and which compromised their position to accommodate the national interests of the Administering Authority.

Surely, any outright declaration of Independence would make more difficult an already taxing change of status. But your Delegation believes that such a declaration is not impossible. There are precedents and justifications for action outside of the Trusteeship System and your Delegation believes it should record its awareness of them.

#### United States Position on Independence

Since your Delegation was directed to examine questions relating to Independence, as well as those relating to free association, your Delegation wished to discuss such questions with the United States Delegation. Your Delegation was 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.

Your Delegation therefore requested that the United States Delegation provide it with the official position of the Executive Branch of the United States Government on the following questions or issues relating to Independence:

"First, in view of the strategic interest of the United States in the 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 accommodating 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?"

It was the hope of your Delegation that these questions would generate some meaningful discussions between the two delegations on the subject Independence. However, the formal response of the United States Delegation was such that your Delegation felt that any additional comments by it during the present discussions would be useless. Since no further comments or statements were made expanding the arguments presented, we shall simply quote the entire response of the United States Delegation

to these questions, rather than summarizing the position statement made.

The response was:

"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 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."

## CHAPTER IV. UNITED STATES PROPOSAL OF COMMONWEALTH

### United States Proposal for Commonwealth Status

At the opening meeting of the May discussions, the United States Delegation presented, on behalf of the Executive Branch of the United States Government, an offer for a new political status for Micronesia. The United States Delegation later requested that their proposal be submitted to the Congress of Micronesia. Under the proposal, Micronesia would become a Commonwealth in permanent association with the United States. This proposal was presented in a Statement of Principles which set forth the essential elements of the offer, and was accompanied by a draft bill. Both documents are appended to this report.

#### 1) Relationship Between United States Government and the Commonwealth of Micronesia

Under the terms of the Commonwealth status offered by the United States, Micronesia would become a part of the United States and would, as a result, assume certain obligations and receive certain rights and benefits. The relationship would involve much closer ties than either of the Micronesian proposals contemplates. The relationship would not be as close as that of a state of the union nor would it be one which implies any further change as is the case of an unincorporated territory. As a Commonwealth, Micronesia would permanently join the political family and political area which make up the Union under the United States Constitutional system.

The easiest way to clearly understand the nature of the proposal for Commonwealth status is to examine the relationship which would

exist between the Commonwealth of Micronesia and the United States Government. Under the United States proposal, certain powers will be reserved primarily to the Micronesian Government; others will be shared with the United States Government, and others will be reserved primarily to the United States Government. A summary of the relationship which would exist in major areas follows.

(a) Citizenship of Micronesians; Access to United States

By joining the United States system, Micronesians would be offered a choice between two statuses. Current Trust Territory citizens would become United States nationals, but they could, by simple application to the Federal Court, become United States citizens.

Since Micronesians would be either United States citizens or United States nationals, they would have the right to free access to the United States for any reason, including business, study and travel. In addition, Micronesian goods would be allowed free access into the United States.

Since Micronesia would become a part of the total United States system, Americans would have similar rights to free access to Micronesia, and United States goods would be allowed free access into Micronesia.

(b) Restrictions on Constitution of Micronesia

Within certain restrictions and limitations, the people of Micronesia would be free to determine their own internal governmental structure through a Constitutional

Convention. First, the Constitution of Micronesia would have to provide a republican form of government, include a bill of rights, and not be contrary to the Constitution of the United States or the United States Act establishing the Commonwealth relationship. Secondly, subsections (a) through (m) of Section 201 in Title II of the proposed U.S. Act place other restrictions on the Constitution of Micronesia and the Government of Micronesia. Finally, Title III of the proposed U.S. Act contains further restrictions, mostly on the executive and judicial powers of the Government of Micronesia.

(c) Legislative Power

The Congress of Micronesia would have full legislative authority in Micronesia, except that no legislation enacted by the Congress of Micronesia could be inconsistent with the Constitution of the United States, laws of the United States, or treaties entered into by the United States. In addition, no law could be passed imposing any tax upon the property of the United States Government, or imposing import levies on goods imported into Micronesia from the United States or any of its territories.

(d) United States Laws in Micronesia; Micronesian Delegate in United States House of Representatives

Both the United States Congress and the Congress of Micronesia would have the authority to legislate for the Commonwealth of Micronesia. To ensure that Micronesia would have a

voice in any proposed United States legislation affecting Micronesia, it would have a nonvoting delegate in the United States House of Representatives. With regard to Federal Statutes now in effect, Micronesia would join in a commission to be appointed by the President which would survey all United States Statutes, and recommend to the United States Congress those which should be made applicable in Micronesia.

(e) Land and Property Control

All of the property held or controlled by the Trust Territory Government, including the so-called public lands, would be turned over to the Government of Micronesia. All land currently held by the United States Government under agreement with the Trust Territory Government, including all military or government retention areas, would be reviewed by the United States Government. The United States Government would then enter into new agreements for those lands considered by it to be necessary for its public purposes. The United States Government would have the power to acquire land owned or controlled by either private citizens or the Government of Micronesia for public purposes of the United States. Special provisions designed to help safeguard Micronesian interests would be included, including review by the Congress of Micronesia, but the ultimate power to take land would still be retained by the United States Government.

In the area of private ownership, United States citizens and businesses would be allowed to lease, purchase and own land in Micronesia, but the Micronesian Government could establish some controls over the sale or long-term lease of land to persons not residents of Micronesia.

(f) Judiciary

Micronesia would have its own local courts which would enforce and interpret local laws. In addition, the United States Federal Court system would be expanded to include Micronesia, and the United States Circuit Court of Appeals and the United States Supreme Court would be available for appeals.

(g) Taxation and Public Finance

Under the terms of the United States offer, United States Federal income tax laws would apply in Micronesia. All such taxes collected in Micronesia would be retained for disbursement by the Congress of Micronesia. In addition, the total of revenues raised in Micronesia would be matched by an equal sum from the United States and credited to the Treasury of Micronesia for appropriation by the Congress of Micronesia. In addition, the United States Congress would be authorized to appropriate additional funds for specific purposes as needed.

(h) Foreign Affairs and Defense

The foreign affairs and defense of Micronesia would be handled by the United States Government under the direction



of the President of the United States. The Commonwealth of Micronesia would be able to contact other governments on matters such as trade, tourism and culture, unless such contacts would be inconsistent with United States national policy.

(i) Postal, Currency and Banking Services

The United States Government would reserve the right to issue currency and to run the postal system, and Federal banking laws would apply to Micronesia and would tie it into the United States commercial banking system.

2) Procedure for Entering into Commonwealth Status

Under the terms of the United States proposal, Commonwealth status 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. After the Convention has completed its work in accordance with the terms of association approved by the Micronesian people, the Constitution would also be submitted to a plebiscite; and

4. If 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.

The two plebiscites would be conducted under arrangements to be agreed upon between the Congress of Micronesia and the United States, and the United Nations would be requested to observe the two plebiscites.

In presenting this proposal to the Micronesian Delegation, the United States Delegation stated that the essential elements of the proposal must be maintained since all parts of the proposal are interrelated and form a whole, but that the specific terms of the offer are subject to fuller discussion and comment to ensure that they meet as fully as possible the needs and legitimate interests both of Micronesia and of the United States. The United States Delegation also maintained that the proposal made by them is the best that can be made in light of the very practical considerations with which both parties are confronted.

#### Micronesian Response to United States Proposal

Your Delegation finds the United States proposal unacceptable. Although it is not without some attractive features, the United States proposal sacrifices Micronesian interests on several basic issues: control of land, control of laws, and control of any further consideration or change of political status. Your Delegation maintains that such

controls cannot be granted to any non-Micronesian power, however friendly. The right to control the use of Micronesian land, to control laws applicable in Micronesia, and to unilaterally change political status cannot be compromised or shared. These rights, your Delegation maintains, are nonnegotiable.

Your Delegation does, however, recognize that the United States proposal offers several substantial advantages which might not be obtained under a status of Free Association or Independence. By becoming a permanent part of the United States, Micronesia would be eligible for assistance under numerous United States Federal programs. United States citizenship for Micronesians would also bring several financial advantages such as guaranteed minimum wages and educational opportunities. The United States Congress would also be more likely to continue long-term financial and technical aid and development programs under such a relationship. While acknowledging the substantial benefits of the United States proposal, your Delegation declared:

"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."

In our concluding section, following this chapter, your Delegation will seek to assess the underlying disagreement between the United States and Micronesian positions. In this chapter, we will confine our analysis

to the United States proposal, without commenting on what it suggests about the nature and rationale of American interest in Micronesia.

(1) Control of Land

a. United States governmental power over public and private lands in Micronesia

Under the terms of the United States proposal, the United States Government would have the right to retain the land it now holds as military or government retention areas. In addition, the United States Government would retain the power to take privately-owned Micronesian land and land controlled by the Government of Micronesia for public purposes of the United States. In commenting on these retained powers, the United States Delegation contended their proposal "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."

Your Delegation replied as follows:

"...Because of our circumstances, as well as of our traditions, we insist that Micronesian control of 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 relation of free association."

b. Non-Micronesian ownership of land

Under the terms of the United States proposal, Micronesians would become United States nationals or United States citizens. Therefore, unless special restrictions were established, non-Micronesian American citizens would enjoy full rights to purchase Micronesian land. Realizing that Micronesians desired some means to control the sale of land in Micronesia to non-Micronesian citizens and businesses, the United States proposal established "legal residency" as a means of controlling non-Micronesian ownership of land. While your Delegation recognized and appreciated the United States attempt to provide some safeguards of Micronesian land ownership, it doubts that such safeguards can be established within the context of the current United States proposal.

(2) Control of Law

The basic document of Government in Micronesia, the Constitution, would be limited or restricted by the fact that it could not contain provisions contrary to the United States Act establishing the Commonwealth relationship or the Constitution of the United States. As to subsequent legislation in Micronesia, the United States Congress, as well as the Congress of Micronesia, would have the authority to legislate for Micronesia. Micronesia would have no more than an advisory role in determining which United States laws would be applicable in Micronesia. No law enacted by the Congress of Micronesia could be inconsistent with the Constitution of the

United States, laws of the United States, or treaties entered into by the United States. Thus, the people of Micronesia's right to draft and adopt their own Constitution and the Government of Micronesia's right to legislate and govern in the best interests of its people would be severely limited by the substantial powers retained by the United States Government and subject to its multiplicity of policies and interests, both within and outside Micronesia.

(3) Control of Future Status

The single most objectionable feature of the United States proposal is that Commonwealth status would be permanent and irrevocable. In the Future Political Status Commission's Statement of Intent and later report, as well as this Delegation's position statements, Micronesian representatives have consistently pressed for a status which is unilaterally terminable. Your Delegation has emphasized that any relationship with the United States would be negotiated in good faith, would be solemnly undertaken, and would be intended as an open-ended, long-term partnership. But your Delegation also insists that Micronesia's relationship with the United States must, in the final analysis, be free--freely entered into and freely continued.

The United States proposal, however well-intentioned, would make Micronesians an insignificant, remote minority at the mercy of whatever changes in policy, politics, and administration occur in the United

States. Of course, Micronesians would hope that the association between Micronesia and the United States would prosper, and that it would survive any and all shifts in United States policy. Still, times and nations change and if, as a result of such changes, the quality of the relationship between the United States and Micronesia were to deteriorate, Micronesia must have the power to alter or, after due process, to end that relationship. While your Delegation can look forward to, and work towards, an enduring relationship with the United States, it cannot support an arrangement which would make that relationship permanent from the very beginning.

Because the United States proposal crucially compromises Micronesian powers in the areas cited above, your Delegation found that the proposal was unacceptable. Another measure of the proposal's unacceptability can be found in its substantial failure to respond to any of the four principles and legal rights which your Delegation offered as a non-negotiable component of any future association with the United States.

(1) While your Delegation stated that "sovereignty in Micronesia resides in the people of Micronesia and their duly constituted government," the effect of the United States proposal would be to make Micronesia a part of the United States, with large undefined residual powers retained by the United States Government.

(2) Your Delegation proposed "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". By its rejection of the Micronesian concepts of Free Association and Independence, the United States Delegation, whatever its theoretical stand on Micronesian self-determination, raises some doubts as to whether its actual practice conforms to the above proposition.

(3) Your Delegation proposed "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." While the United States proposal does allow for the drafting and adopting of a Micronesian Constitution, it does not acknowledge or recognize that such action is the right of the people of Micronesia. Instead of acknowledging this right, it "authorizes" the people of Micronesia to adopt their own Constitution, within certain restrictions and limitations.

(4) Your Delegation proposed "that free association should be in the form of a revocable compact, terminable unilaterally by either party." The United States insistence on a permanent relationship which has its basis in a United States Act is in direct conflict with this proposition.



## CHAPTER V. CONCLUSION

As the previous chapters will have made clear, discussions between the United States and Micronesian Delegations did not lead to any major agreement about Micronesia's future political status. The United States Delegation did not accept Micronesian concepts of Free Association and Independence, and the Micronesian Delegation found the United States proposal for Commonwealth status unacceptable.

It seems clear, then, that the two Delegations arrived at something of an impasse concerning Micronesia's future. It remains for us to ask: Why are the two sides at such a distance in their thinking about the future of these islands? What are the origins of this conflict?

In its closing statement in the May talks, the United States Delegation stated 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."

Perhaps this alleged lack of a "forthcoming approach" on the part of your Delegation may be a reason that no agreement was reached. However, in view of the above statement by the United States Delegation, your Delegation wishes to suggest some other factors which might have also contributed to the failure to reach agreement:

- (1) First and foremost, United States security interests in Micronesia seem to be the overriding consideration in their offer and in the position of the United States

Delegation on Free Association and Independence, especially on the issues of unilateral termination and control of land. The United States undiminished and inflexible strategic interest in Micronesia was underscored by the United States Delegation's official statement that "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."

- (2) Second, the position of the United States seems to be based upon its past experiences with its territories and possessions, and the precedents and types of relationships which have been established in conjunction with its territories and possessions. Thus, the United States seems reluctant to seriously consider a unique relationship for Micronesia. In the past it has offered Micronesia the status of an unincorporated territory similar to Guam or American Samoa. It now seeks to fit Micronesia into the Commonwealth slot, based upon a status similar to that of Puerto Rico.
- (3) Third, the two Delegations approached the May discussions in different manners. Your Delegation hoped to center discussions on the major issues and questions to be resolved, and to reach agreement on general propositions defining a new relationship of free association. The United States Delegation entered the May discussions with a firm proposal, and hoped to center discussions upon it. The result was that since the United States had a firm offer from which it was not authorized to deviate in substance, it was faced with the prospect of defending or selling its previously determined position, rather than freely discussing the principles or issues raised by your Delegation.

Moreover, the United States Delegation showed slight inclination to discuss such a topic as Micronesian claims which, although not directly related to the question of status, should be resolved before any change in status is made.

- (4) Lastly, there is the matter of the attitude of the United States Delegation and its apparent misunderstanding or misinterpretation of the wishes and desires of the people of Micronesia. There seems to be implicit in the United States offer and position, the attitude or belief that most of the people of Micronesia desire to become Americans and for their islands to become part of the United States, and that this is naturally so. There also seems to be an attitude on the part of the United States Delegation that

it can best determine what is the best status for Micronesia, offer this status to the people of Micronesia, and have their decision approved. In other words, they believe the future status of Micronesia should be determined by what they decide to offer, rather than what the people and their leaders choose.

Since there appears to be an unresolved conflict in the attitudes of the two parties, your Delegation reaffirms its position that the Micronesian people must attain full self-government.

Your Delegation believes that if the people of Micronesia are to preserve their identity and individuality and obtain full self-confidence and human dignity, the means must be established whereby the values, traditions, and cultures of Micronesia are preserved. Your Delegation maintains that only a Government of Micronesia, internally self-governing with full Micronesian control of all its branches, can adequately preserve the Micronesian heritage, and enhance the identity, individuality, and dignity of the people of Micronesia.

Under our present quasi-colonial status, the identity, individuality, and dignity of the people of Micronesia are being suppressed. American power and influence are currently so dominant in Micronesia that Micronesia and its people are being "Americanized" at an ever-increasing rate. This is having a tremendous effect upon all aspects of Micronesian life and society, and it will be impossible to control this influence until the people of Micronesia can establish their own government.

Your Delegation believes for the above reasons, that self-government is essential for Micronesia, and that it is extremely important that it be achieved as soon as possible. So long as the present system is

maintained, and the United States influence on Micronesian life and society is allowed to grow unchecked, our ability to preserve the dignity and identity of the people of Micronesia will be severely hindered.

Your Delegation is confident that the views here expressed conform, in the most part, to the views and desires of the Congress of Micronesia, and the people of Micronesia. This matter was discussed in the Report of the Future Political Status Commission. This concern is also shared by the 1970 United Nations Visiting Mission, which made the following statement in its report to the Trusteeship Council:

"The people of Micronesia are far from alone in wishing to preserve the unique qualities of their own way of life, while achieving the benefits of the modern world. But the very size and power of the United States inevitably has under the existing constitutional relationship a large and rapidly increasing impact on, with consequential changes to, many aspects of Micronesian society. Such an impact may well take place in spite of the intentions of the Administering Authority itself; and for that matter it must be said that by no means all Micronesians are opposed to the changes it brings. Nevertheless, the people of Micronesia would clearly be in a better position to decide themselves on any limitations to external influences on their way of life if the Government of Micronesia were in their hands. This would, moreover, be fully in accordance with the letter and the spirit of the Charter and the Trusteeship Agreement. It is for these reasons that, in spite of the reluctance of many of the Micronesians whom the Mission met to contemplate any early change in the status of the Trust Territory, the Visiting Mission feels that it would be desirable for the people of Micronesia to determine their future status sooner rather than later."

Matters for Consideration by the Congress of Micronesia

It is difficult to say when, or how, the dispute over Micronesia's future political status will be resolved. Whether that resolution will come "sooner rather than later" is likewise beyond the control of your Delegation. But the fact that negotiations so far have not resulted in an agreement, does not mean that the Congress of Micronesia's activity in this area should be suspended or postponed. On the contrary, for as long as the current impasse continues, the Congress must take steps to see that the day-to-day operations and the year-to-year budgets and the long-term planning of the Administering Authority are not pointing Micronesians towards a political and economic dependence which will foreclose their right to "self-government or independence."

There are steps which should be taken now to increase the degree of self-government in Micronesia and to protect future generation's freedom and power of choice.

Whatever their disagreements - and they are considerable - about Micronesia's future political status, the Administering Authority, Micronesian representatives, and the United Nations have all agreed that Micronesia must eventually be self-governing. No matter what the name or the nature of Micronesia's future political status, it will surely provide for more self-government than presently exists in Micronesia.

Because any likely change in status will require further self-government, and because more Micronesian control is already necessary to check the American influence on Micronesia's life and social system, it is necessary that certain interim steps be undertaken now to increase

self-government, to point this trusteeship in the direction of self-government. We must begin our transition to self-government now, even though the final nature of this government - Free Association, Independence, Commonwealth - has not yet been decided.

Some of the transitional changes which your Delegation believes should be considered are alien to the American system of government, especially to the doctrine of separation of powers. They are designed to increase the policy making influence of the elected representatives of the people of Micronesia. It is these representatives who should have an ever-increasing role in the affairs of the Government of Micronesia, in the executive branch as well as in the legislative, and at both the territorial and district levels.

Your Delegation believes that the doctrine of separation of powers has long been applied in an exaggerated form in Micronesia, and has at times been used as a rationalization for limiting the powers of the Congress of Micronesia and the District Legislatures. That doctrine is designed for a system of government in which the executive and legislative branches are approximately equal in power, and where both are responsible to the people. This is simply not the case in Micronesia. The 1970 United Nations Visiting Mission made a similar observation on this matter in its report to the Trusteeship Council. It stated:

"...It seems to the Visiting Mission, as indeed it did to its predecessors, that there is a good case for considering whether the rigid application of the theory of the separation of powers, formulated more than two hundred years ago in radically different circumstances, is the best possible basic constitutional theory to apply to a scattered island

community...Micronesians would be well advised to give more thought to simplification as well as decentralization of their system of government. It is obvious to any observer that one of Micronesia's greatest problems is to try to weld together the scattered and diverse populations which constitute the Trust Territory. One must ask whether any system of government dedicated to a separation of governmental power, itself predicated on the existence in a society of important groups contending for power, is really the best framework in which such a society as Micronesia's should be obliged to make its major political and economic decisions."

The transitional changes which the Congress of Micronesia should consider, and upon which it might want to take action immediately, fall into two general categories: those relating to the central or territorial level, and those relating to the district level.

#### Territorial Level

1. Executive Council. At the territorial level, the most important change the Congress should consider is the creation of an Executive Council. The Executive Council would consist of the High Commissioner (as Chairman or President), members of the Congress of Micronesia, and senior officers of the Administration. Preferably, the representatives of the Congress of Micronesia would compose at least fifty percent of the voting membership. The function of the Executive Council would be to exercise final decision-making power in the executive branch of the Trust Territory Government.

Insofar as the Council became a forum for the initial formulation of policy, it would enable Micronesian representatives to fill a constructive role in the work of the executive branch. The functions

envisioned for the Executive Council could not be fulfilled by a body wholly composed of civil servants. Even if some of these were Micronesians, their obligations as civil servants would present them from adequately representing the people of Micronesia.

2. Approval of Appointments. Another transitional change which might be considered at the territorial level is to give the Congress of Micronesia the power of advice and consent in the appointment of the next High Commissioner, and over appointments to all other key positions in the Trust Territory Administration. The latter was recommended by the Committee on Government Organization of the Congress of Micronesia in its report last July, but to date no action has been taken in this regard.

3. Legislative Control of Budget. Another transitional change might be for the United States Congress to immediately match the amount of locally-generated revenues collected by the Congress of Micronesia, and to allow appropriation of such amount by the Congress of Micronesia. This is included in the United States offer of Commonwealth status, but the Congress of Micronesia might consider recommending its implementation at this time, since the present involvement of the Congress of Micronesia in the apportionment of United States Grant Funds is purely advisory. In addition, the United States should immediately enter into discussions with the Congress of Micronesia to develop a plan for turning control for the entire Trust Territory budget over to the Congress of Micronesia as soon as possible.



### District Level

While the Congress of Micronesia should assume increasing control of the Trust Territory's policies, appointments, and budgets, self-government might likewise be accelerated on the district level. While district administrations now function as extensions of the executive branch, your Delegation proposes they assume more of the responsibilities and powers of bona fide district governments. In brief, your Delegation proposes that what are now district administrations become more like district governments. By making district administrations more like district governments and by making the district governments answerable to the people, Micronesia's valued heterogeneity could be safeguarded. Just as the Congress of Micronesia's involvement in the central government will safeguard the over-all Micronesian identity, reorganized district governments could safeguard the interests, identities, and traditions of the individual districts.

### Further Steps on Status

There are certain measures directly related to status which your Delegation requests the Congress of Micronesia to consider:

(a) Convening of a Micronesian Constitutional Convention.

Under all three alternative statuses which have thus far been discussed, the internal structure of the Government of Micronesia would be determined in the most part by the people of Micronesia through a Constitutional Convention. The Congress of Micronesia might consider the possibility of

convening a Micronesian Constitutional Convention in the near future, before the final political status is chosen. Such a Convention, consisting of members of the Congress of Micronesia and additional members specially elected to it, would not make final decisions regarding the internal structure of government or the future political status; but it would discuss, in detail, the various alternatives open to Micronesia and probably make formal recommendations. The major advantage to calling such a Convention before the final status question is decided is that it would involve a much larger number of Micronesians in determining their future political status.

Because the deliberations of the convention would be public, it would provide an excellent forum for discussion and for increasing the understanding and awareness of the general public of the status question. When the Convention was over, and its members had returned to their homes, the level of discussion in the districts would be much higher, and many more people would be aware of the alternative forms of government available to Micronesia, before they were requested to make a final decision on their future. In fact, this would seem to be the best means of political education available to Micronesia at the present time.

Congress might consider appointing a Constitutional Drafting Committee to prepare basic constitutional draft

proposals for consideration by the Convention.

(b) Survey on the Economic Implications of Free Association and Independence

Whatever its political status, the Government of Micronesia will be expected to account for a much larger share of the cost of operating a government and providing government services than it does at present. The State of Micronesia's economy - its current underdevelopment and its ultimate potential - have a crucial bearing on the Trust Territory's political future. The state of the economy will also influence the amount of financial assistance required from outside sources for some time in the future. This indeed is a "practical consideration" which must be dealt with by the Congress of Micronesia.

The economic policies of the United States in Micronesia have lacked any real long term goals and objectives, despite the fact that the United States is obligated under the Trusteeship Agreement to "promote the economic advancement and self-sufficiency of the inhabitants." Your Delegation recommends that the Congress of Micronesia consider establishing a special committee to conduct an economic survey determining a viable economic plan which is directed toward Micronesian self-sufficiency. This study should include possible investment by and trade agreements with countries other than the United States. It should also have as one of its major goals the determination of the amount of outside financial assistance

which will be necessary to support the Government of Micronesia during the time before Micronesia becomes self-sufficient.

(c) Expert Legal Assistance.

Your Delegation believes that the discussions between representatives of the United States Government and the Congress of Micronesia have now reached the stage where, no matter what form of political status is finally decided upon, the Congress of Micronesia should consider obtaining outside expert legal assistance. The major task in any future discussions or negotiations will be to convince the United States Government of the validity and rightness of the Micronesian position, a task that will require spending a great amount of time in Washington talking to members of the United States Congress and the Executive departments. It therefore might be useful to retain a law firm to assist in this work.

(d) United Nations Participation.

Although discussions so far have involved representatives of the United States and Micronesia, your Delegation remains aware of the need for, and desirability of, United Nations involvement in activities relating to Micronesia's future political status. The current deadlock in our negotiations - the conflict between American and Micronesian positions - particularly calls for a heightened United Nations attention to the problems of this Trusteeship. Your Delegation recommends that the Congress call the attention of the United Nations to

the circumstances described in this report and solicits United Nations' study of and counsel in this dispute. Your Delegation further acknowledges the Special Committee on Decolonization's interest in conditions in the Trust Territory and its desire to examine circumstances here at first hand. For its part, your Delegation urges such scrutiny by the Special Committee.

Apart from the role it takes in the settlement of the underlying debate about status, the United Nations can be of assistance in other ways: through its explanation of the issues and questions involved in the termination of the Trusteeship and through its involvement in a program of political education and information for the people of the Trust Territory.

(e) Further Deliberation and Action on Status.

Your Delegation believes that, despite the differences described in this report, there is some advantage in continuing negotiations with the United States. In addition to further dialogue with representatives of the executive branch of the United States Government, there is the possibility of discussions with members of the United States Congress who, although not represented in the May talks, must eventually endorse any change in Micronesia's political status. In any case your Delegation believes that the Congress of Micronesia ought to consider each of the political alternatives on its merits, decide which to endorse, and take steps, or authorize

a delegation of members to take steps, leading to its achievement. In short, there are now three alternative arrangements before the Congress and, in order to proceed any further towards a resolution of the status question, the Congress must indicate what its future intentions are.

Summary

Your Delegation must end, as it began, by noting that this was not the first report on Micronesia's future political status, nor will it be the last. The negotiations reported upon were not intended to be final, although the range of disagreement was probably much wider than either Delegation had expected to encounter.

There is a disagreement about Micronesia's future and this means that the Micronesian leaders must continue their efforts to see that the right of the people of Micronesia to determine their own political future will be protected and respected. Because of this disagreement, we must continue to think of our eventual political status, not only as a negotiated future goal, but as a freedom that must be provided for, planned for, and defended, every day.

## APPENDIX A: PROCEDURES FOR TERMINATION

### Legal Requirements: Past Precedents

The Charter of the United Nations and the Trusteeship Agreement are silent on the procedures to be followed for the termination of the Trusteeship Agreement and for the establishment of a new status after the Agreement ceases to be in effect. However, one point which is quite clear is that the approval of both the Security Council of the United Nations and of the United States must be obtained before the Trusteeship Agreement can be terminated. These are the parties that brought the Agreement into being, and it is they who must approve its termination.

Beyond this, there is no legally binding procedure which must be followed. It might be argued that, since the present Trusteeship differs from all others in being a "strategic trust", there is also no precedent to be followed in regard to the manner of its termination. Such an argument, however, would seem to have little basis. The obligations assumed by the Administering Authority under Article 6, Paragraph 1, of the Trusteeship Agreement are the same as those assumed by other administering authorities under other trusteeships. It therefore seems likely that the United Nations will insist that precedents established in the termination of other trusteeships shall generally be followed. The only major distinction between the strategic trust and other trusts relates to the organ of the United Nations which assumed the functions of the United Nations relating to that trust. The Security Council, rather than the General Assembly, has responsibility for the strategic trust.

## Role of the United Nations

A number of general observations can be made on the role of the United Nations in the termination of the Trusteeship Agreement:

1. It is generally agreed that the Security Council must pass a resolution to formally declare the Trusteeship Agreement terminated, that such a resolution requires an affirmative vote of nine of the fifteen members of the Council, and that there must not be a negative vote from any of the five permanent members.

2. In approving the final termination of the agreement, if the choice of the people of Micronesia is something less than full Independence, such as Free Association with the United States, the United Nations is likely to take a greater interest in the details of the constitutional provisions and the form of the government to make sure that it is what the people truly want. The issue is likely to arise as to whether, under the terms of the Free Association, Micronesia is truly self-governing. There is reason to believe that the United Nations would not approve the termination if Micronesia were to become a non-self-governing territory, such as Guam. It is also likely that the United Nations will apply the same definitions of "self-governing" and "non-self-governing" with respect to Micronesia as it has applied during recent years in similar cases.

3. In final termination, if the choice is something less than complete independence, such as a form of association with the United States, the United Nations is not likely to approve of the termination unless the form of association has strong approval of the Congress



of Micronesia and endorsement of the people of Micronesia through a plebiscite.

4. As to the possible role of the United Nations prior to the conducting of a plebiscite, there has been precedence for an information program being formed jointly by the administering authority and the United Nations. Thus, if the Congress of Micronesia and the United States requested that the United Nations become involved at some stage in the clarification of options before a plebiscite is held, such a request might be considered by the United Nations in a sympathetic way.

Another issue which should be mentioned is whether, after termination of the Trusteeship Agreement, Micronesia could obtain assistance from the United Nations as a free associated state. As a free associated state, Micronesia would be eligible to receive limited assistance in the area of economic development, particularly in fellowships and services of experts. As to the status of Micronesia within the United Nations, it would depend upon the United States, but it may be possible for Micronesia to send its own delegation to technical conferences. Also, it may be possible for the United States to agree to have a representative of Micronesia participate as a member of the United States Delegation; but as a member of that Delegation, he would be restricted from expressing an independent Micronesian point of view.

#### Conduct of Plebiscite

The necessity of conducting a plebiscite to obtain the approval of

the people of Micronesia to both their internal Constitution and to the Compact of Free Association between the United States and Micronesia was discussed in Chapter II of this report.

As a matter of precedent, the United States, as administering authority, has the obligation to administer the plebiscite. It is generally agreed by all concerned that any plebiscite conducted would be monitored or observed by the Trusteeship Council of the United Nations. The Trusteeship Council's major role is to see that the issues are understood and that the plebiscite is held fairly and justly. In other words, they want to ensure that the right of the people to participate is protected, that they know what they are doing, and they do it without restraint.

Your Delegation recognizes that the plebiscite will be of the utmost importance to the people of Micronesia, since through it they will be making a decision on their future. Your Delegation therefore believes that it is essential to the success of the act of self-determination that the Micronesian people have complete trust and confidence in the administration of the plebiscite. Therefore, your Delegation recommended in its position statements during the discussions that the United States Government should give consideration to appointing a nominee of the Congress of Micronesia as Plebiscite Administrator, or alternatively, to appointing such a nominee and an American as a joint Plebiscite Administrators.

Other details relating to the plebiscite, including the drafting of the questions, should be worked out by the United States Government and the Congress of Micronesia before they are submitted to the United Nations.

One specific issue which must be resolved is whether to include Independence as a choice on the ballot even if the United States Government and the Congress of Micronesia agree to a status of Free Association. It has been argued that it would be extremely difficult for the United Nations to recognize an act of self-determination by the people of Micronesia which did not offer the people of Micronesia at least the option of Independence.

#### Alternative Procedural Routes

In recognition of the requirements which must be met in establishing a procedure for the termination of the Trusteeship Agreement and Trusteeship Status, and the numerous possibilities which might arise, your Delegation presented two general alternative routes during the May talks by which Micronesia could advance to self-government in free association with the United States.

(a) First Alternative. Under the first alternative, 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. Under this procedure, the Constitution of Micronesia would 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,

subject, of course, to its prior approval by the people of Micronesia. 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.

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 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 this procedure would, in your Delegation's opinion, greatly facilitate the procedure for the termination of the Trusteeship Agreement.

Despite the "moment of independence" envisioned in this procedure, your Delegation is certain that the just interests of both Micronesia and the United States could be fully safeguarded within this procedural framework, if both sides continue to work together in a spirit of friendship and cooperation.

(b) Second Alternative. Under the second alternative, Free Association between Micronesia and the United States would become effective at the moment the Trusteeship Agreement ceased to be in force. This alternative seems to be beset with many potential difficulties because complex legal questions might arise.

Under this procedure, the Constitution of Micronesia could be framed 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 authority of, the United States Congress. Your Delegation is aware that undertakings might be given, and procedures be adopted, to minimize or perhaps even remove, the danger that the Constitution adopted in Micronesia might be changed in the United States. It is 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 your Delegation remains uneasy as to the manner in which such procedures might work, because it appears that under this method the United States Congress might retain certain legislative power in respect of Micronesia, including the power to amend the Constitution.

Your Delegation therefore stated in its discussions that it would not accept the second alternative procedure outlined above for the enactment of a Constitution, unless a firm assurance could be obtained on three points:

(1) That the Constitution, as adopted by the Convention, would not be amended by the United States;

(2) That the Constitution should not be required to be consistent with the Constitution of the United States; and

(3) That the power of amendment of the Constitution should not be limited by a requirement of consistency with the Constitution of the United States.

APPENDIX B: 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 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 their 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 nonnegotiable -



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 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 cooperation. 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 the opinion that United States legislation will be required for three main purposes:

- (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 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 understood by the United Nations - the authority which entrusted the Micronesian people to the care of the United States until 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.

APPENDIX C: STATEMENT OF PRINCIPLES OF THE UNITED STATES DELEGATION

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

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



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

#### Commonwealth of Micronesia

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

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

Under Commonwealth status, certain powers will be reserved primarily

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

### Internal Self-Government

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

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

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

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

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

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

#### Relationship with the Federal Government

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

1. Shared Responsibilities

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Areas Reserved for the Federal Government

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

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



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

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

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

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

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

APPENDIX D: DRAFT UNITED STATES BILL

CONSTITUTIONAL CONVENTION BILL

A BILL

TITLE I	CONSTITUTIONAL CONVENTION	D-3
TITLE II	CHARACTER OF THE CONSTITUTION OF MICRONESIA	D-6
TITLE III	POLITICAL STATUS OF MICRONESIA	D-9
TITLE IV	PROVISIONS OF A TRANSITIONAL NATURE	D-26

A B I L L

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

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

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

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

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

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

United States may direct or authorize; and

Whereas by Executive Order numbered 11021, the President of the United States vested responsibility in the Secretary of the Interior for the civil administration of all the Trust Territory; and

Whereas the Congress of Micronesia, the popularly elected legislative body of the Trust Territory of the Pacific Islands, has requested the President and the Congress of the United States to give consideration to the future political status of the Trust Territory; and

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

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

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

#### TITLE I - - CONSTITUTIONAL CONVENTION

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

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

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

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

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

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

by the President of the United States.

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

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

## TITLE II

### CHARACTER OF THE CONSTITUTION OF MICRONESIA

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

(a) The inhabitants of Micronesia are nationals of the



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

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

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

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

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

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

Micronesia or by act of the Congress of Micronesia.

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

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

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

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

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

(l) The territorial sea of the islands of Micronesia shall be delimited in accordance with the laws and treaties of the United States, and shall not exceed the limits maintained by the United States in its international relations. All laws and treaties of the United States of general application regarding navigable waters, the

territorial sea, the high seas, including but not limited to the contiguous zone and the continental shelf, and fisheries shall be applicable with respect to Micronesia.

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

### TITLE III

#### POLITICAL STATUS OF MICRONESIA

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

#### Chapter 1.

##### GOVERNMENT OF MICRONESIA

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

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

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

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

## Chapter 2.

### NATIONALITY AND CITIZENSHIP

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

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

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

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

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

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

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

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

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

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

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

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

### Chapter 3.

#### NON-VOTING DELEGATE IN CONGRESS OF THE UNITED STATES

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

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

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

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

#### Chapter 4.

#### THE EXECUTIVE POWER

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

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

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



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

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

#### Chapter 5.

#### POWER OF FEDERAL COURTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chapter 6.

FISCAL PROVISIONS

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

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

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

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

taxes shall be paid into the treasury of Micronesia.

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

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

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

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

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

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

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

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

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

#### Chapter 7.

#### GOVERNMENT PROPERTY

SEC. 381. (a) The title to all property, real and personal, owned by the Government of the Trust Territory of the Pacific Islands, and all interests in such property including rights of use and including all right, title, or interest of the Government of the Trust Territory of the Pacific Islands in tidelands, submerged lands, or filled lands in or adjacent to the islands of Micronesia, held by the Government of the Trust Territory

of the Pacific Islands, are hereby transferred to the Government of Micronesia. The term "tidelands, submerged lands, or filled lands" shall have the meaning ascribed to it in Section 1(a) of Public Law 88-183 (77 Stat. 338). This subsection shall not apply to any interest in lands, which interest by local or customary laws or rights is held in private or communal ownership.

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

(c) (1) Within three years from the effective date of this Title, the retention and use rights of the United States Government covered by subsection (b) shall terminate, unless, within that time the United States proceeds to acquire, in accordance with subsection (d) or (f) hereof, whatever rights in such lands may be considered necessary for the public purposes of the United States.

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### TITLE IV

##### PROVISIONS OF A TRANSITIONAL NATURE

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

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

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

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

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

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

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