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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR  
WASHINGTON, D.C. 20240

January 14, 1974

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Memorandum

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To : Captain William J. Crowe, Jr.  
Office of Micronesian Status Negotiations

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From : Acting Assistant Solicitor  
Branch of Territories

Subject: U. S. National Status and Micronesian Citizenship Question.

This submission is directed toward that section of Mr. Salii's proposed Compact of December 31, 1971, which provides in pertinent part that:

Section 203. The Government of the United States undertakes to accord the State of Micronesia and its people special consideration, irrespective of its practices with regard to governments or citizens of other foreign states in the following respects:

\* \* \*

(f) In order to accommodate the wish of the people of Micronesia to have the privilege of unrestrained entry into and exit from the United States, the Government of the United States makes the following declarations:

(1) Citizens of the State of Micronesia shall be treated, for the purposes of immigration [sic] laws of the United States, and for those purposes only, as nationals but not citizens of the United States, provided that the privileges of United States nationals shall not be accorded to those Micronesians who are citizens or nationals of any other foreign country or who have taken affirmative steps to preserve or acquire a foreign nationality.

\* \* \*

It is plain that the status of "national of the United States," as such is defined in the Immigration and Nationality Act (66 Stat. 166, as amended, 8 U.S.C. 1101, et seq. (1970 Ed.)) would not be applicable to a Micronesian as a result of the acceptance of a provision such as that quoted. For purposes of that Act

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The term "national of the United States" means (A) a citizen of the United States, or (B) a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

8 U.S.C. 1101(a)(22) (1970 Ed.)

The word "permanent," used above, is defined in the Act as meaning

a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.

8 U.S.C. 1101(a)(31) (1970 Ed.)

The word "allegiance" is not defined in the Act. However, a Federal court has indicated that the "allegiance" contemplated by the Nationality Act is not to blood, race, or creed, but is the obligation of fidelity and obedience to the government in consideration for protection that government gives. United States v. Kuhn, D.C.N.Y., 49 F. Supp. 407, 414. Also, that it is the tie or duty of obedience of a subject to the sovereign, under whose protection he is. United States v. Wong Kim Ark, 169 U.S. 649. The American Samoans are nationals of the United States. The Instruments of Cession of 1900 and 1904 between certain Samoan chiefs and the United States are clear in placing the Samoans under the sovereignty of the United States. The 1900 document states that "We . . . will obey and owe allegiance to the Government of the United States of America."

If the Micronesians are in fact to become "nationals of the United States" then the Compact could contain a clear statement to this effect. The following is submitted for consideration:

All inhabitants of Micronesia who are currently citizens of the Trust Territory of the Pacific Islands shall be declared to be non-citizen nationals of the United States.

If more preciseness is desired then we would be guided by section 321 of Title III of the previously submitted Constitutional Convention Bill providing for commonwealth status.

As you will note, there is a wide gap between being treated as a national for entry into and exit from the United States, as suggested by Mr. Salii, and the status of a non-citizen "national of the United States." The latter contains a connotation of sovereignty in the United States which may not be palatable to the Micronesians.

*William D. Holeman*  
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