



JOINT COMMITTEE ON FUTURE STATUS

CONGRESS OF MICRONESIA
Saipan, Mariana Islands, 96950

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Lazarus Salii, Chairman
Ekpap Silk, Co-chairman

December 2, 1971

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Ambassador Franklin Haydn Williams
The Asia Foundation
550 Kearny Street
San Francisco, California 94108

Dear Haydn:

My thanks for your letter of November 25, 1971. I am sure that the members of the Joint Committee will appreciate your expressions of good will and will understand the need of your Delegation for a delay of the resumption of the status discussions until after the conclusion of the session of the Congress of Micronesia.

I have informed the members of the Joint Committee that your Delegation will be prepared to meet with us in Micronesia immediately after the adjournment of the session.

I would like to comment on the other points in your letter in a separate correspondence to you at a later date. However, I simply wish now to state that it has been the position of the Micronesian negotiating delegation that responsibility for defense and external affairs will be in the hands of the United States when the new status comes into effect. This continues to be the position of the Joint Committee, and was not repeated in Hana only because there were subordinate but related issues which required further clarification.

On the question of termination, we have been unable to reach agreement so far. However, we, like you, believe that this is not an insurmountable problem. We simply have not explored all angles and approaches to solving this issue.

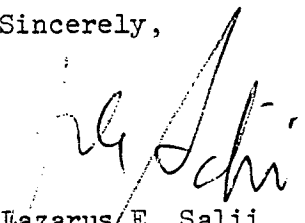
In an attempt to find a workable approach, Dr. Eugene Mihaly is developing a model of a possible formula. In my view, this model represents the kind of approach that merits consideration. I am relaying a copy of it to you on a personal and unofficial basis since the Joint Committee will not have had time to study it.

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Ambassador Franklin Haydn Williams 2 December 2, 1971

I am happy to note your continued optimism that the
Micronesia status issue can be satisfactorily resolved.
I share this optimism.

Sincerely,



Lazarus E. Sali
Chairman

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December 2, 1971

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TO: Senator Lazarus Salii, Representative Ekpap Silk and
members of the Joint Committee on Future Political Status

FROM: Eugene B. Mihaly ✓

SUBJECT: A Formula for Termination

The Problem

The Hana talks, as you are well aware, brought to prominence one issue that could lead to a collapse of the negotiations. That is the issue of termination: whether a U.S.-Micronesia association would be terminable by unilateral action or by mutual consent.

As the issue is now defined, this is a game that one side necessarily loses while the other wins.

The Requirement

The question then is: can the issue be defined differently? Or, to put it more precisely: can a formula be worked out that will satisfy the interests of both sides?

I am convinced that the answer is yes.

The Interests

Before getting to a possible formula, the interests of the two parties should be summarized. As I understand it, those interests or requirements are:

1. The United States
 - a. Assurances that Micronesian territory (lands, harbors, airfields) will not be used for military purposes by any other powers.
 - b. Assurances that its rights to use the military installations specified in the compact or treaty of association can not be restricted or eliminated by an independent Micronesian state.
2. Micronesia
 - a. Assurance that the government and people of Micronesia will have the power to end the association with the United States if they find that that association is a burden, rather than an asset.
 - b. The sense that Micronesia retains at least residual sovereignty; and can therefore deal with the United States on relatively equal terms.

A Possible Reconciliation of Interests

The model below is an example of the kind of formula that might prove workable. It is rough; and details will need to be worked out. The basic elements are these:

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1. The treaty of association would authorize unilateral termination by either party. Procedures would be stipulated that would allow for orderly transition in the event of termination, and would avert ill considered action. A possible set of procedures would be as outlined in the 1970 Status Delegation report.

2. The compact of association would, in effect, incorporate a mutual defense pact (or treaty) that would go into effect at the moment of termination of the association. This agreement would stipulate that

a. An independent Micronesian state would deny any other nation the use of its territory for military purposes.

b. Such purposes would include stationing of forces, services for naval vessels, landing rights for military aircraft, etc.

c. In the event of disagreement on a question of whether a specific activity constituted a military use, Micronesia would refrain from allowing the activity until the matter was resolved by the International Court of Justice, or some other body acceptable to both the United States and Micronesia.

d. At termination of the compact, leases for existing United States military installations in Micronesia would be automatically extended for a period specified in the compact or otherwise mutually agreed. Payments for these leases could be negotiated at the time of termination but would be no lower than the level of payments during the period of association unless otherwise mutually agreed.

e. A status of forces agreement would be an element of the compact. This too could be renegotiated at the time of termination. Until settlement, however, the agreement in force during the association would remain in force. The same would apply to other conditions relating to the operation of the military facilities, except insofar as those conditions are clearly inconsistent with the rights of an independent state.

f. After termination of the treaty of association, the United States Coast Guard would be responsible for patrolling Micronesian waters, with the dual aim of protecting Micronesian commercial interests and ensuring both governments that those waters were not, in fact, entered by naval vessels of other states.

g. The United States would stipulate its willingness to consider retaining or--at a future time--resuming its responsibility for Micronesia's defense, should Micronesia so request. Micronesia would bind itself not to invite another power to assume this responsibility without United States concurrence.

h. All of the above could be amended at any time by mutual agreement.

3. The Mutual Defense Pact would be paralleled by an economic assistance agreement, also to go into effect at the time of termination of the treaty of association. At the time that the treaty of association is ratified, it will obviously be impossible to stipulate a dollar figure for aid at some point in the future. The compact would

simply assert that both parties are committed to rapid progress toward economic self-sufficiency for Micronesia; and that the agreement would embody the U.S. commitment if and when termination should occur. The magnitude of U.S. economic assistance would be negotiated at or before termination.

We are likewise in the process of further governmental review of those issues which were unresolved at Hana or deferred for later negotiation. This involves, as you know, interdepartmental consultations within the Executive Branch and with the Congress of the United States. The talks at Hana surfaced several new questions of both a policy and technical nature which we are in the process of studying. In our judgment the calling of another meeting prior to both sides being fully prepared to respond to all of the remaining issues at hand would not be as productive as a later meeting. It is for this reason that we would like to propose that our next formal meeting be deferred until after your next Congressional Session is over.

At that time we would be ready and pleased to meet with the Joint Status Committee in Micronesia to discuss areas in which further clarification is required in order to reach agreement, to negotiate specific terms of agreements in those areas where substantial understandings in principle have already been reached, and finally to work toward agreement on those questions which remain to be resolved.

We would also be prepared at our next formal working session to begin the important process of translating our preliminary agreements in principle into mutually acceptable language of a draft Compact of Association to be submitted to your Congress, to the U. S. Congress and ultimately to the Micronesian people for their approval. In order to facilitate this task and to prepare for the drafting that will be required we would be pleased in the near future to exchange notes with you as to the form, outline and essential elements to be included in the draft Compact.

Looking back at the Hana talks, we were pleased with your Delegation's recognition of the progress that was made in your closing remarks and in your post-Hana statements. We, too, felt that significant steps had been taken and we remain optimistic that the remaining divergencies can be bridged by further agreement and accommodation.

Our achievements at Hana were summarized in your concluding remarks under "Areas of Agreement." Your list included the following:

1. The people of Micronesia will have the right to choose their own government--

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Old Exec. Office Bldg.
Washington, D.C.

November 25, 1971

Dear Senator Salii, Congressman Silk,
and Members of the Joint Committee
on Future Status:

I am writing this letter to you and to the other Members of the Joint Committee on Future Status as an official response to the kind invitation which was extended to the American Delegation to hold the fourth round of talks in Palau in late December and early January prior to the convening of the next regular session of the Congress of Micronesia.

The U. S. Delegation appreciated this invitation and I wish to assure the Joint Status Committee that we are looking forward to a resumption of our common endeavor and building on the substantial progress that has already been made toward an agreement which will serve the best long-term interests of both parties.

My Government has been giving careful thought to the views your side presented to us at Hana, and I am sure that the Joint Status Committee has also been reviewing and reflecting on the new proposals which we set forth in October for your consideration. With regard to your invitation, we also believe that it is important that we proceed soon to another round of formal negotiations. However, we would like to suggest that the next round be held in Micronesia after the conclusion of your next Congressional Session rather than in December of this year.

Our concern is with the need for adequate time for necessary preparations in order to make the fourth round of talks as fruitful as possible. Given the significant changes in our October-1971 proposals from those of May 1970, it was our thought also that members of your Delegation might wish to discuss them thoroughly with their Districts and with your Congress prior to our next meeting.

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their own future political status--through a sovereign act of self-determination.

2. The people of Micronesia will have the right to write, adopt and amend their own constitution; the U. S. would not have the right of amendment and the Micronesian Constitution would not have to be consistent with the Constitution of the United States.
3. The powers of the United States in Micronesia after termination of the Trusteeship would be limited to those set out in a Compact of Association as agreed upon by mutual consent.
4. With the coming into force of a new Compact of Association, Micronesian lands will be under the control of the people of Micronesia as agreed in the Compact.
5. Under the terms of the Compact of Association the United States would bind itself legally not to exercise eminent domain.
6. Under a new political status, the U. S. would acquire land in Micronesia only with Micronesian consent and only in accordance with Micronesian law.
7. And finally, you stated correctly our mutual understanding, that agreements reached during the discussions at Hana will remain preliminary until both our delegations are fully aware of our respective positions on the full range of issues to be resolved.

The above agreements in principle were based largely on the new proposals put forward by the U. S. in recognition of the known desires of the Congress of Micronesia and in a sincere attempt on our part to accommodate the aspirations of the people of Micronesia.

At the same time the U. S. reemphasized its basic interests in the area, interests which various status reports to the Congress of Micronesia have consistently recognized. While your statements at Hana indicated an acceptance of the

validity of these interests, they were not in fact specifically included in your summary of the seven "areas of agreement." Before proceeding to any final agreement the United States would have to have firm commitments that its basic interests would be met. In turn as we have already stated we would be prepared to enter into commitments that would likewise offer full protection to basic Micronesian interests.

Our October 1971 proposals were designed specifically to take into account the concerns of your Congress and the people of Micronesia for self-government, control over your own lands, and the means for you to protect and preserve your own identity, your cultural values, and your traditional heritage. The changes in the American positions as put forth at Hana from earlier proposals of my Government were described by your Delegation as being of significant importance. We feel that this was true also of our new proposal with respect to the rights of both parties to request a future change in our relationship by amending the Compact of Association or by revocation by mutual consent.

As you know, in May 1970 the U. S. invited the people of Micronesia to consider becoming permanently associated with the U. S. as a part of the American family. The Commonwealth proposal was considered to be unacceptable by the Congress of Micronesia in its present form. Our new position, while hoping and looking forward to an enduring and mutually satisfactory future relationship, acknowledged that the Compact of Association should clearly provide for flexibility with respect to the tenure of the relationship, taking into consideration that future circumstances might indeed warrant a modification or even a termination of the association.

We recognize that termination is one important area in which we have not reached agreement. This failure may stem from the fact that to date there has not been a free and full exchange of views on the subject including discussion of procedures between our two delegations. At Hana we said "the problems that are before us do not center on just one issue-- or is this the case? If in fact termination is the only major difference separating us, we can indeed focus on this problem," and "We are prepared to listen to your further views and discuss this important question with you ... "

As I intended those statements to suggest, and as I would now like to reiterate, if basic U. S. responsibility for the areas of foreign affairs and defense will be

acknowledged in the terms of the Compact, then, in turn, we believe that a mutually satisfactory agreement on the termination can be reached taking into full account your interest in the matter. Speaking for the United States, I remain confident that agreement and arrangements with respect to control of change in status can be satisfied in a manner that will be mutually acceptable along with the other questions which remain to be resolved.

We appreciate your concerns over the need for firm guarantees with respect to your future. As I stated at Hana, my Government seeks a "future bond between your people and mine...not based on dependence--not based on uniformity--and not based on unequal advantage." We seek rather a relationship that will be mutually beneficial taking into consideration the basic interests of both parties.

We believe that it is only prudent for your Delegation to seek the means whereby your desires to maintain your identity, to remain Micronesians, and to have full control over your internal affairs, are fully protected. We are in complete agreement with these objectives and would suggest that the Compact of Association clearly recognize these rights. You can be assured that my Government would live up to whatever responsibilities, including its obligations to materially benefit the people of Micronesia, the United States would assume under the terms of the Compact.

My Government would be pleased to have any further views or questions you might have with respect to the nature of the commitments which we are willing to enter into in this regard. Also, Ambassador Hummel and I would be pleased to meet with you in San Francisco, or with you and Congressman Silk in Micronesia in the near future to discuss in greater detail the next round of talks and the further preparatory work that may be necessary prior to our next meeting.

I close, once again thanking you both and the other Members of the Joint Status Committee for meeting with us in Hawaii. I would also like to reiterate how pleased we were with the progress made at the Hana talks, with the spirit and atmosphere of mutual understanding shown there,

and with the very promising prospects for further progress toward full agreement.

With best wishes, I remain

Sincerely yours,

Franklin Haydn Williams
The President's Personal Representative
for Micronesian Status Negotiations