

DEPARTMENT OF STATE

Memorandum of Conversation

Amb. Williams
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DATE: December 20, 1971

SUBJECT: Micronesian Status Negotiations

Senator Lazarus Salii, Chairman, Micronesian Status Delegation
Mr. Paul Warnke, Legal Counsel to the Micronesian Status Del.

PARTICIPANTS: Mr. Eugene Mihaly, Adviser to the Micronesian Status Del.
Ambassador Hummel, OSN, Dept. of Interior
Mr. John Armitage, IO/UNP
Mr. Ronald Stowe, L/UNA
Mr. Harvey Feldman, IO/UNP

COPIES TO: S/PC - Mr. Grant
OSD/ISA - Capt. Schuller ✓ OSN, Dept. of Interior- 2
JCS - Col. Smith
Interior/DASTA - Mr. Whittington
NSC - Mr. Froebe
TTPI - Mr. Dorrance

After welcoming Senator Salii, Mr. Armitage asked whether the Senator foresaw any particular difficulty in developing agreements between the several districts and the central government regarding US use of land and methods of handling payment for that use.

Senator Salii appeared to understand the question as being limited to district approval of use of land by the US and answered that he thought there would be no problem in gaining approval for the desired options in Palau or for continued use of the base areas in the Marshalls.

Mr. Armitage restated the question somewhat more directly and asked whether Senator Salii thought there might be a problem in getting district approval on the use of base rental funds; he also asked whether the Negotiating Team had given any thought to the type of administrative arrangements that might be required for rental fund use.

Senator Salii thought there would be no difficulty in getting the districts to agree on use of funds and Mr. Mihaly added that whatever special administrative arrangements were necessary could

be worked out at the time when the new government of Micronesia is created and its structure drawn up. Ambassador Hummel pointed out that there might well be a need to arrive at administrative arrangements before that time; for example, in connection with negotiating the Palau options. Mr. Armitage again asked whether it would not be necessary to get specific approval of how base rental funds were to be used from the people of the districts in which the base were located, and whether this would be something of a problem. Senator Salii thought there might be something of a problem, but not a serious one.

Turning to a new topic, Mr. Warnke asked about possible UN involvement in the status negotiations: was it necessary to keep the UN abreast of the progress of the negotiations? Mr. Armitage replied that we were under no obligation to do so, but were required only to file the usual annual report. Since a visiting mission had toured the Trust Territory in early 1970, there would not be another visiting mission for about another year. Mr. Armitage noted that the Soviet Union or the PRC might well veto any proposal in the Security Council for a change in Micronesia's status. As long as the new status clearly was supported by the Micronesian people, however, the political situation in the UN would be quite manageable. For example, if the people of the Marianas should freely choose to have a closer association with the US than the rest of the Trust Territory, the Russians and the Chinese would attack us for splitting Micronesia but the attack could be contained if we demonstrated that this was the wish of the Marianas people.

Senator Salii expressed agreement with the above ideas. In particular, he thought it had been made uncontestedly clear that the US was not attempting to split up Micronesia and that the idea of closer association came from the Marianas people themselves and not from the US side. Senator Salii noted it was his understanding that termination of the trusteeship status required the agreement of both the US and Micronesia and asked if this was so. Mr. Armitage and Mr. Stowe replied this was our view of the legal situation. Ambassador Hummel asked whether it would be necessary to terminate trusteeship status at one and the same time for the whole territory. Mr. Armitage remarked that this was so effectively since it would be necessary to rewrite

the trusteeship agreement (and thus get Security Council approval) if one or more districts were to be given a new status. Mr. Warnke thought that a legal argument could be made to the effect that the power to terminate the agreement as a whole necessarily implies the power to do less than terminate it wholly, and that the agreement could be revised but not terminated by the mutual consent of the US and the Micronesian people. Mr. Armitage noted this was a very interesting legal point but thought that politically such a course of action would present many problems.

Turning to the question of the future US-Micronesian relationship in foreign affairs under a compact of association, Mr. Armitage recalled that at Hana, Senator Salii had said that Micronesian assent to any international agreements affecting Micronesia should be required. Mr. Armitage noted that when questions such as the applicability of treaties arose, there would have to be only one decision binding both the US and Micronesia. For example, if the US signed a treaty on law of the sea it would have to bind both the US and Micronesia since there couldn't be one set of rules for the US and another set for Micronesia.

Senator Salii pointed out that the US had said that in the conduct of foreign affairs there would be close consultation with the Micronesian Government. Presumably this consultation could have taken place before the US signed the treaty in question.

Ambassador Hummel said the point was that while the US would certainly consult with Micronesia, the US (as noted at Hana) could not concede a veto power to the Micronesian Government; the US Congress would never agree to such a veto power. Mr. Armitage added that there were areas within the field of foreign affairs in which there could be considerable flexibility, foreign trade and investment for example.

Senator Salii said he thought the US position had been made very clear at Hana. Using the "three mile limit" as an example, Senator Salii said he understood the US position to be that if the US opted for the three mile limit to territorial waters, Micronesia could not claim beyond that. Mr. Armitage noted this was the case, except that we are currently talking about a twelve mile limit in the law of the sea negotiations. Senator Salii then said the difficulty lay in the fact that as far as the

Micronesians were concerned, they were prepared to give the US authority to carry out Micronesian foreign policy, but what the US wanted was authority to make foreign policy for Micronesia; this was something beyond what the Micronesians were prepared to concede. Mr. Armitage thought that whether this difference became a serious problem or not depended upon the specific question involved and Senator Salii agreed to this. Once again, Mr. Armitage noted that there could be considerable flexibility in the two areas which we understood were particularly of interest to the Micronesians: trade and investment, but that in other areas, especially those with defense or international legal obligations, the ultimate power to decide would have to rest with the United States. In a corridor aside to Ambassador Hummel after the meeting, Senator Salii said he believed the problems in this area could be worked out.

At the conclusion of the meeting, Mr. Armitage mentioned that Ambassador Bennett, the U.S. representative on the Trusteeship Council, hoped to visit Micronesia in March following his participation in a visiting mission to New Guinea. Senator Salii said he was sure that Ambassador Bennett would be given a most hospitable welcome. He suggested that a letter be written to the President of the Congress of Micronesia informing him of the visit.