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December 21, 1971

COMPACT OF FREE ASSOCIATION BETWEEN THE UNITED STATES AND
MICRONESIA

Preamble

① WHEREAS, the United States has served as the administering authority of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by the Security Council of the United Nations on April 2, 1947, and the Government of the United States on July 18, 1947; and

② WHEREAS the United States recognizes that pursuant to Article 76b of the Charter of the United Nations the administering authority is directed to "promote the development of the inhabitants of the Trust Territory toward self-government or independence as may be appropriate to the particular circumstances and the freely expressed wishes of the peoples concerned"; and

③ WHEREAS the people of Micronesia have indicated in a plebescite conducted with the aid of the administering authority and observed by the United Nations their wish to exercise their right of self-determination by forming a sovereign and independent State, governed by the terms of a written constitution, and have further indicated their wish to enter into a relationship of free association with the United States; and

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④ WHEREAS the Congress of Micronesia, is the duly elected legislative body of the Trust Territory of the Pacific Islands empowered to act in respect of this compact;

⑤ NOW THEREFORE, the Government of the United States and the Congress of Micronesia enter into this compact for the purpose of terminating the Trusteeship of the Trust Territory of the Pacific Islands and establishing a sovereign and independent State of Micronesia, in free association with the United States.

Title I

Free Association

Section 101. The relationship between the United States and Micronesia is to be based on the following principles:

(a) that sovereignty in Micronesia resides in the people of Micronesia and their duly-constituted Government, which has full and ^Bunqualified powers to control the internal affairs of Micronesia;

(b) that the people of Micronesia possess the right of self-determination and may, therefore, at any time 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 form of government and to amend, change or revoke any such constitution or form of government at any time, provided only that the constitution shall remain consistent with the provisions of this pact, and shall continue to guarantee the freedoms designated in Article 7 of the Trusteeship Agreement relating to the Trust Territory of the Pacific Islands;

(d) that the relationship of free association herein established may be terminated unilaterally by either party in accordance with the provisions and procedures provided herein;

(e) that the Government of the United States retains only such rights and responsibilities in relation to the independent State of Micronesia as are set forth in this compact; and

(f) that the Governments of the United States and Micronesia shall accord to one another's Government and citizens the special

treatment or privileged status as provided elsewhere in this compact or hereafter agreed upon.

Title II

Undertakings on the Part of the Government of the United States

Section 201. The Government of the United States undertakes to administer and conduct the external affairs of Micronesia on behalf of the Government of that State, and shall have full responsibility in this regard except in such matters of trade or economic affairs as are the subject of provisions elsewhere in this compact. In exercising this function, moreover, the United States shall solicit the views of and act in close and regular consultation with the Government of Micronesia.

Section 202. The Government of the United States undertakes to assure the security of the sovereign territory of Micronesia against armed aggression or threats thereof by any foreign power.

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:

(a) the United States shall continue to assist and support the economic growth of Micronesia and to aid in providing for the health and welfare of its citizens, for the duration of this compact or until such time as Micronesia becomes self-sufficient in these areas and indicates it no longer desires all or any part of such assistance. The minimum level of such assistance for each of the first ___ years after the effective date of this compact is set forth in Appendix A attached hereto. Aid and support

under this subparagraph shall be in the form of funds or goods and services, as heretofore provided by the United States as administering authority of the Trust Territory of the Pacific Islands, but shall not necessarily be limited thereto. At the end of ____ years the Government of the United States agrees to give sympathetic consideration to the needs of the Government of Micronesia in determining the level of further assistance under this subparagraph.

(b) the Government of the United States shall continue to provide regular postal services to the State of Micronesia, during a period of gradual transition of postal services, facilities and equipment from United States control and ownership to Micronesian control and ownership. It is the intent of the parties hereto that such transition shall be completed, and the requirement for services by the United States under this subparagraph terminated, within ____ years from the effective date of this agreement.

(c) the currency of the United States shall continue to be official legal tender within the territory of the State of Micronesia until such time as the Government of Micronesia shall act to institute its own currency and fiscal system. The parties hereto may subsequently agree upon the terms and conditions of an appropriate transitional period whenever a Micronesian currency shall be adopted.

(d) The Government of the United States shall, by agreement with the State of Micronesia, also provide such other programs and services as may be made applicable to the State of Micronesia in accordance with appropriate United States laws and regulations. Such programs and services may include, but shall not be restricted to, the areas of banking, maritime shipping, Coast Guard patrol, air traffic [and] control,

public health and education. The State of Micronesia shall take all necessary action to provide for compliance with the laws and regulations relevant to the application of such United States programs and services.

(e) The Government of the United States assures the continuation of trade policies with respect to Micronesia that will have the effect of preserving the unrestrained trade relationship mutually existing between the two parties. Goods as to which at least 50% of the value originates in Micronesia will be admitted into the United States free of duty.

(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 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.

(2) Citizens of Micronesia may volunteer to serve in the armed forces of the United States but shall not be subject to involuntary induction into military service, unless they elect to assume permanent residence in the United States.

(g) In accordance with its responsibility to administer and conduct the external affairs of Micronesia, the Government of the United States shall accord its protection and its consular services to citizens of Micronesia traveling in foreign countries on Micronesian passports.

Title III

Undertakings on the Part of Micronesia

Section 301.

(a) The Congress of Micronesia, on behalf of the people of Micronesia and their government, agrees that the United States shall have the right to the exclusive use and occupancy of military facilities in the following areas:

- (1) Kwajalein Atoll
- (2) Eniwetok Atoll
- (3) Bikini Atoll
- (4) Various facilities in the Marianas - particularly on Tinian
- (5) Existing Coast Guard facilities

This right shall continue for the duration of this compact and, except in the event of unilateral termination by the United States, for a term of 25 years thereafter on the same terms and conditions. At the expiration of this 25-year period, the parties will agree to the renewal of any and all of these base rights on mutually acceptable terms.

(b) Micronesia grants to the Government of the United States the option to lease for defense purposes on terms and conditions mutually acceptable to the two governments, the following areas:

- (1) Malakal Harbor - or suitable alternative site - no more than 40 acres for naval supply facility
- (2) Babelthaup Island - storage depot
- (3) Babelthaup Island - expansion for military use of existing civilian airport.

This option shall continue for the duration of this compact and, except in the event of unilateral termination by the United States, for a term of 25 years thereafter.

(c) In addition to the foregoing, if the United States should require for defense purposes other areas within the territory of Micronesia than those specified above, the Government of Micronesia will give sympathetic consideration to any request by the United States in that regard, and will accede to such request on terms and conditions to be negotiated in good faith, unless such request is determined by the Government of Micronesia to be in serious and irreconcilable conflict with overriding interests of the people of Micronesia.

(d) In utilizing the facilities set forth in subparagraphs (a), (b) and (c) above the United States shall act to protect the surrounding environment from permanent or irreparable damage. No new facilities will be constructed unless the parties to this compact agree that such construction will not pose a serious threat of such environmental damage.

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(e) The Government of the United States shall pay to the Government of Micronesia annually the sum as set forth in Appendix A attached hereto for the use of the military facilities and for the options on the areas designated in subparagraphs (a) and (b) above. In the event that the United States exercises its option with respect to any of the areas designated in subparagraph (b) or acquires the use of other areas pursuant to subparagraph (c), the parties agree to determine an appropriate adjustment of the total amount to be paid annually by the United States under this subparagraph.

Section 302

Section 302. The Congress of Micronesia agrees that no country other than the United States shall be permitted to establish military bases within the territory of Micronesia or to conduct military operations of any kind whatsoever therein without the express consent of the Government of the United States. No vessels of other countries serving any military

purpose or possessing any intelligence gathering capability shall be permitted entry into Micronesian waters.

D Section 303. The Government of Micronesia shall possess full power and authority to enter into any pact or agreement with a foreign country other than the United States providing for economic or technical assistance unless it can be shown that such economic or technical assistance has immediate military significance. — *Conflict with US Foreign Economic Policy — this is what Salei said in S.F. in mid March.*

Section 304. Micronesia undertakes that in respect of trade, the goods of the United States shall be permitted entry into and traded within the territory of Micronesia on terms at least as favorable as those accorded to goods from other countries.

Section 305. Micronesia agrees to accord to citizens of the United States the right of entry into the territory of Micronesia for all purposes including immigration on terms no less favorable than those accorded to citizens of other foreign countries.

Title IV

Reservations on the Part of Micronesia

Section 401. The Congress of Micronesia on behalf of the people of Micronesia and their Government expressly reserves the following powers:

- ✓ (a) The power to obtain membership in United Nations agencies or similar international organizations;
- (b) The power to negotiate and conclude trade agreements with other countries in respect of goods;
- (c) The power to regulate the exit from and entry into the territory of Micronesia by the citizens of Micronesia, together with the power to

regulate the entry and exit of aliens to the extent that no interference is caused with the defense activities of the United States;

✓ (d) The power to regulate surface and air transport in and through the territory of Micronesia to the extent that no undue interference is caused to the defense activities of the United States; and

(e) The power to conclude agreements of local concern with other states, territories or possessions in the South Pacific area.

Title V

Effective Date of Compact, Duration and Termination

Section 501. This compact shall become effective immediately upon its approval by the governments of both parties in accordance with their respective constitutional processes.

Section 502. In order to effect the discharge by the United States of its defense obligations expressed herein, the United States Government and the Government of Micronesia shall conclude an agreement respecting the stationing of American military personnel at United States military installations within the territory, which, upon approval by both governments, will remain effective so long as this compact continues in force.

Section 503. Whenever a dispute arises between the parties to this compact regarding its interpretation or the application of any of its provisions, either party may request submission of the dispute to a panel which shall be comprised of one United States representative, one Micronesian representative, and one representative designated by the Secretary-General of the United Nations with the consent of both parties. Both parties agree to abide by the decision of a majority of the panel.

Section 504. This compact may be amended at any time upon mutual agreement of both parties.

Section 505. Except as amended by mutual agreement, the rights and obligations of both parties set forth in this compact shall continue for ___ years after the effective date and thereafter until either party shall formally notify the other of its intention to terminate, unilaterally, effective on a specified date which shall not be less than ___ years from the date on which notice of termination is given.

Section 506. Such unilateral termination of this compact shall not affect the rights and obligations set forth in Sections 301(a), (b) and (d), Section 302 and Section 303 of Title III, which are also to be included in a mutual security agreement between the Government of the United States and the Government of Micronesia, which shall be concluded by agreement of both governments after notice is received of intention to terminate and shall go into effect immediately upon the effective date of such termination.

12-31-71

Hayden -

I may or I may not present this draft to my committee during the Congressional session in Palau. It broadly represents some of my current thoughts, but I have not made any final decision on it. In the event I do present it to the committee, or see Congress, I shall inform you. I shall
Hayden