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Washington, D.C. 20520

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February 15 1972

MEMORANDUM

To: Dr. F. Haydn Williams, The President's
Personal Representative for
Micronesian Status Negotiation

From: State, S/PC - Lindsey Grant

Subject: Micronesian Negotiations, Check List
of the Issues

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY P.H. BAAS DATE 4/23/87

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TS AUTH. _____

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We have prepared State's comments on your proposed memorandum to the President, and are clearing them through Mr. Irwin, in view of his interest. The memorandum should be on your desk when you come back to Washington.

I also plan to put down some personal thoughts as to our negotiating strategy for the Palau meeting.

Meanwhile, herewith a check list of the issues I see as important. I assume that those closer to the day-to-day work will expand it and make it more precise. For convenience, I will divide the issues between "Conceptual Issues" and "Practical Problems for April."

CONCEPTUAL ISSUES

1. At what point does the Micronesian view of "free association" simply become independence, with base and denial agreements? How much further can we go on substance and still find it worthwhile to be tied to them through a Compact? Is the survivability of base and denial arrangements the key difference between free association and independence? What would be the difference in practical terms (costs, Micronesian

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attitudes, etc.) between the two? Should we plan to stop here, assuming that a looser "free association" is not worth the obligations, or are there still specifics on which we can accommodate the Micronesians?

2. From examination of the questions above, do we conclude that there is no more "give" in our position concerning Micronesian desires to call Micronesia a sovereign country? What about international or independent arbitration of differences? Do we make a non-negotiable claim to the right to determine unilaterally what constitute foreign affairs and defense?

3. We made a strong case at Hana that we have met Micronesian objections to going "alternative route two", procedurally. Do we stonewall on this, or is there any flexibility to agree to go "route one" if the Micronesians continue to press it? What are the Congressional issues in the US? The legal problems for us?

4. If we stay at the second alternative, how do we create a Constitutional Convention in Micronesia? Would this require a separate act of Congress, or could the Compact spell out two stages, each of them certified by the President: first, a Constitutional Convention and popular ratification; second, a plebiscite. Presumably, completion of the second step would be certified by the President, which would then cause the Trusteeship to end and the Compact and the Constitution to take effect.

5. What do we need -- under the decisions taken above -- in the way of SOFA protection?

6. What are the advantages and disadvantages of trying to hold Micronesia (excluding the Marianas) together if we cannot arrive at a satisfactory compromise with the Status Delegation? (This will largely influence our choice of tactics.) Do we place highest value upon the ability to obtain land for bases, and therefore attempt to maximize our bargaining leverage in that respect?

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Or do we put Micronesian concurrence in the denial principal at such a priority as to lead us to try to keep the districts together, if only to make it possible to negotiate denial with a single authority rather than with five of them? Would political stability be more or less likely if the central government survived? How much administrative flexibility do we have to negotiate separate arrangements with different districts? (Your instructions say that you should endeavor to negotiate with the five districts as a unit. This suggests that questions such as those which Kabua raised with Dorrance should be handled as Dorrance handled them. If we should seem to be approaching a negotiating impasse, we shall need to be certain that we do in fact want to maintain the same course. There are some strong arguments on the other side.)

Final answers to these questions are not needed for the next round of negotiation, but the feelings we hold on these issues will influence our strategy at the April sessions. As you will later see, the strategy I will recommend involves some private conclusions on several of these points, but that strategy is of course hardly final.

PRACTICAL POINTS FOR APRIL

(These are itemized simply to give you a convenient checklist of the types of issues which you will need to be prepared on in April, or which you may wish to use in the April talks.)

✓ 1. Financial game plan. You will need to have some pretty specific talking points, with price ranges, to which you have secured at least the acquiescence of the Departments concerned. At Palau, you will probably encounter a conflict between Micronesian desires to get explicit assurances in the Compact as to the level of financing, and Constitutional problems which make it impossible for you to give such assurances. This will

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tend to push you and the Micronesians both in the direction of contractual relationships (presumably for military land use), which in turn will cause serious problems for DOD.

2. Base Negotiations. How and when do we negotiate in detail? With whom? Are we confident that the Congress representatives can "deliver" the Districts? Do we want to keep our options open to deal directly with the Marshalls and Palau (or to keep our Kwajalein base on the current contracts?) Would negotiating now with the Congress reps raise the price for our present and projected base deals, because of the tendency described above to "load" our base agreements, since they are contractual and relatively firm?

3. Meeting with Deputy Secretary Rush. You will need DOD concurrences which can come only from the top. Suggest you try to establish a meeting of minds with Mr. Packard's replacement as soon as you have in mind a clear picture of where you want to take the next round of negotiations.

4. Separatist sentiment. How do we handle approaches at Palau such as the one which Kabua made to Dorrance recently?

5. Micronesian laws. Can we accept the Micronesian proposal to draft their own laws, modelled on ours, to protect our continuing Governmental operations there?

6. Nationality. How do we answer renewed Micronesian questions as to whether they must be considered US nationals? Do we have any legal flexibility short of a loose Position IV relationship? What are our interests?

7. Foreign Affairs. Assuming that we plan to retain final and complete authority in foreign affairs, how forthcoming do we wish to be at this stage concerning our willingness to delegate certain areas of operations to the Micronesians? (Note State's draft paper of December.) Do we avoid specifics at this time, to

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underline that we don't plan to give on this point? This could precipitate a confrontation or strengthen those in the Micronesian delegation who want to scuttle the talks. Or do we outline what we will delegate in some detail, and risk pressures to put such a statement of delegated powers into the Compact?

8. Transitional Steps. Herewith an incomplete list of the transitional steps sought by the Micronesians, some of which might fit into your negotiating strategy. (Dorrance can supply a much more complete listing.) (a) foreign investment (b) advise and consent rights lodged in the Congress of Micronesia (c) UN agency operations (d) Eniwetok rehabilitation (e) cessation of military land purchases (f) Micronesian executive (Heine suggestion) (g) "advisory Constitutional Convention" (1970 Status Delegation report.)

9. The "Hana Issues". On October 11, you commented in detail on the Micronesian requests made at Hana. (Some of these points overlap with those above.) On some of the requests, you promised answers. This speech should be reviewed and the issues requiring cleared answers should be identified and answers developed. I doubt, however, that you will wish to answer them in detail until and if we get down to a nuts-and-bolts exchange of views and drafts for a Compact.

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