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February 23, 1972

MEMORANDUM FOR CAPTAIN GORDON SCHULLER, USN
ISA/EA&PR

SUBJECT: Draft Speech - Ambassador Williams - Second Draft.

The attached draft is my second working draft for the "kick-off" speech by Ambassador Williams. It deals only with the matters of "sovereignty" and "unilateral termination." I call attention to the following:

1. This draft contains less emphasis upon the "territorial element" in the relationship. I propose upon reconsideration that this element be "ignored," and ultimately, hopefully, resolved as in the case of Puerto Rico, avoiding however the use of the term "commonwealth."

2. Secondly, pursuant to our conversation, I strongly recommend that the United States negotiating team proceed - not with the final agreement or understanding - but with the "package" of provisions, negotiating them with a view to preserving the provisions which the United States must have, and with the further view of discarding some provisions put up solely for bargaining or trade-off purposes. I believe you are familiar with these from our previous discussions.

3. This second draft makes no attempt to deal with the "compact" notion, or with other proposals and instead proceeds with the idea that we are discussing a matter acceptable to us both - i.e. a sound relationship. Hence we can await the negotiation of the relationship and then find a name for it.

4. The draft further draws together the otherwise very complex notions of "sovereignty" and "unilateral termination," indicating that these in turn are linked with domestic and

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international sovereignty, but workable in the context of our proposed relationship. On account of the great and significant thrust in any "sovereign" decision relating to termination I have noted that the Micronesians might retain a right to terminate, but this would be by pleibiscite, and then by 3/4 vote of the voting members of the people. Short of this the entire nbtion of sovereignty is meaningless. (i.e. as set forth here).

5. If we can achieve what this draft anticipates, I can frame the defense/foreign affairs/security clauses in a way which should cause neither the United States nor Micronesia serious trouble.

6. The language in the draft is of course subject to further discussion and modification (as needed), but the emphasis I believe is there - and it should provide us with the means of putting the Micronesians "on notice" that we actually have in view what the relationship will be, and that our negotiations will deal only with modifications to that relationship. To proceed to "compact" is in my view a last resort, and once we move in that direction, our chances of salvaging much of what we have in view will diminish.

Apart from the above observations, we will note appropriately the strong swing toward environmental protection which characterizes present policy of the United States. This swing has manifested itself both on the domestic plane - through a major piece of legislation (with international impacts) and on the international plane through initiatives presently proposed by the United States through such fora as the Stockholm (United Nations) conference, the I.M.C.O. conferences, and the proposed Iceland and Paris conferences (relating to ocean dumping, etc.). In addition to these there are bilateral efforts under way between the United States and Mexico and Canada. Properly catalogued this policy thrust should have the desired impact upon the Micronesian negotiations.

The "catalogue" relating to specific "defense" powers is an ISA matter. When the appropriate "list" is available we can discuss it, its implications, and where it might fit in the negotiations. I prefer, as I noted earlier, that this entire matter be somewhat in general terms, providing for a minimum level of consultation (which I suggested in my earlier draft to Ambassador Williams).

SIGNED

Harry H. Almond, Jr.
Office of Assistant General Counsel
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Att.

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Draft/Working Copy #2
H. H. Almond/February 23, 1972

DRAFT SPEECH
(Ambassador Williams)

Before we can come to grips with the establishment of relations that will be acceptable, and beneficial to us both, we must look at two major-fundamental-points. If these points cannot satisfactorily be resolved, between the United States and the people of Micronesia our relations will suffer. One is of course the matter of "sovereignty" - the other, which is closely related, is the matter of how we might terminate any relationship we enter into.

So much has been said about the notion of sovereignty, and so much written, and the term so often used that misunderstandings and confusion over what it means as to a particular relationship are to be expected. In order to avoid any misunderstandings in our relationship, I am proposing that we reach a common view on what it means. We take the position that it means an ultimate power in the people to make the final decisions concerning their communities and their welfare. These are the important decisions and are really what sovereignty is all about. These decisions apply to domestic matters: in particular, they apply to the management of domestic affairs through the appropriate representative organs of government. They affect the exercise of sovereignty in the domestic sense and are treated under domestic or

muncipal law.

Decisions may also be made as to foreign affairs. The questions of entertaining and maintaining relationships with other countries, or entering into the arrangements and means to provide for security and defense, are in reality "separate questions". Such decisions even in an interdependent world arise less frequently than do those applicable to domestic matters. But they also concur matters of "sovereignty,' i.e. sovereignty in the international sense and are part of what we refer to as sovereignty under international law.

From the point of view of the United States and its experience in both the matters of foreign relations and security, the simplest approach would be to maintain its relationship through a very strong link with Micronesia. The legal status associated with such a relationship - which would be set out in a constitutive document acceptable to the Micronesians - would call for the Micronesians to govern themselves fully in the domestic sense the major exercise of sovereignty which I mentioned above. The Micronesian people would have sovereignty or control once all of their domestic affairs - more extensive than that possessed by citizens within the United States.

Like the citizens of the several States of the United States the Micronesians would have all the benefits and advantages of the citizens of those States. But they would have more in the sense that they would be able to govern their affairs more independently and therefore

more closely in connection with their own relatively unique interests. Such a legal status befits communities that must concentrate on domestic affairs. They may need differing tax arrangements than those required by a united group of States as in the United States. Tax and subsidy incentives not available under a centralized taxing system, fiscal measures and programs will call for more attention to growth and to areas of development, differing strongly from those required within the States of the United States. The Virgin Islands and Puerto Rico reflect special interests of this kind, and both enjoy a legal status appropriately associated with such unique interests.

From the point of view of foreign affairs and security, the United States, linked with a Micronesia under a status similar in some respects to Puerto Rico would be able to maintain closer political and legislative connections, and hence be able to provide for the more effective exercise of decisions relating to those two subjects. The United States would then have sovereignty in the "international sense" - mentioned earlier. But that sovereignty only infrequently exercised in any event would not differ from that exercised over other United States territory or over the states of the United States. What would differ in our arrangement is the increased domestic sovereignty reposed in the Micronesians over that to be found in the citizens of the United States.

How would our legal relationship terminate? A number of possibilities are in view: "A right of secession" can be legally prescribed in the

Micronesian Constitutive Act, enabling the Micronesian People by pleibiscite, to drop their ties to the United States and assume the status of a new nation - fully independent and sovereign. Under these circumstances, it is evident that with ultimate sovereignty - the ultimate right to decide in the Micronesian people, the matter of unilateral termination of any status with the United States resolves itself.

Such a right to terminate would be reposed in the Micronesian people because it would entail a major matter of domestic sovereignty. Moreover, to avoid uncertainties in a decision of this kind, certain to arise in many political factions are contending with one another, there should be a 3/4 vote of those Micronesians eligible to vote. Under these circumstances there would be no right in the United States unilaterally to terminate the decision - the sovereignty - would be solely that of the Micronesian people.

There are of course other possible arrangements we might enter into, but then the balance between benefits and disadvantages both to Micronesia and the United States tends to become upset. Neither of us sought to have Micronesia become a "state" within the United States at least at this time or in the foreseeable future. On the other hand, it would not be appropriate to go the other direction - securing for Micronesia at this stage in her development the standing of an independent State - prepared to enter the family of nations.

If our relationship were subjected to a simplified procedure for

unilateral termination then it might in haste, or under a temporary political regime, be easily broken, and would be difficult if not impossible to reinstate. The United States, anticipating substantial burdens on its part, and subjected to these uncertainties would have little assurance that its investment in security interests, necessarily embracing those on the international plane, and its own, as well as those more specifically ascribed to Micronesia, would be secure. And unless secure, the United States would be unable to exercise its part of the "bargain" effectively. The same time it would suffer such uncertainties that would give us pause whether to go ahead with costly security committments.

On the other hand Micronesia has little gain and much to lose by entering into a loose arrangement. The security to be afforded Micronesia by the United States would become less certain, the benefits flowing from other factors characterizing strong relationship would, under a loose legal relationship, be tenuous and the complex interplay of effective friendly relationships between the sovereign peoples of Micronesia and the United States would be in continual and potential jeopardy. A loose compact, to be sure, could cover the same area as what we propose - but the fact that it necessarily envisages a looser, uncertain arrangement, more readily dissolved distinguishes the two.

It is not appropriate at this time to outline the entire "package" that would characterize the relationships which we are seeking with

Micronesia. However, it is evident that these would necessarily entail not only defense and security arrangements made by the United States, but also the numerous commercial and trade features that a close relationship entails. Some "burdens" are placed on Micronesia, but there are few relationships if any that provide the benefits on a one-way street. Among these: The United States can presently identify the land it needs for defense and security committments which it would be undertaking. The areas we are seeking will be provided in these negotiations and I assure you they will be held to the absolute minimum.

Moreover, since security committments necessarily include some deployment of forces and support personnel, these needs can also be outlined based upon careful assessment of security requirements under present conditions in the Pacific. Future assessments of security needs will of course depend upon the extent to which the "security" of the Pacific is upset or improved, a matter dependent upon future and unforeseeable events.

In sum the entire "package" of security preparations will be available in our separate discussions. I am persuaded that you will find that they reflect the dominant United States interest in maintaining the Islands much as they are, respecting the balance in the environment, a limited use of the relatively small amount of land available, and bearing in view the size of the Micronesian population.

Let us now assume that we enter into the relationship which I have briefly outlined. What will be the nature of the relationships between us? How will they be spelled out in terms of government? What are some of the provisions which would reach our objectives? How are the executive, legislative and judical powers to be allocated? Let me put this to you very briefly.....At this time.