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2 MAR 1972

In reply refer to:  
I-21111/72

Honorable Franklin Bayn Williams  
Office of Micronesian Status Negotiations  
Department of The Interior  
Washington, D.C.

Dear Ambassador Williams:

Reference is made to Ambassador Hummel's memorandum of 8 February 1972, with your attached proposed draft memorandum for the President, requesting Department of Defense concurrence with your proposed request for revised negotiating instructions.

The Office of the Secretary of Defense has received the views of the Joint Chiefs of Staff with regard to your proposal. The Department of Defense concurs, in substance, with your proposed request for revised instructions, subject to the provisions outlined below:

1. Modifying the negotiating position, in a manner similar to that proposed by you, is essentially a matter of form that may be necessary to provide adequate flexibility to achieve a viable agreement in the Micronesian Status Negotiations. Further, we agree with your assessment that U.S. objectives would be satisfied, provided that such an agreement clearly guarantees: (a) U.S. authority over foreign affairs and defense, (b) access to Micronesian lands to meet minimum U.S. military requirements, (c) denial of the area to third countries for military and other purposes contrary to U.S. interests, and (d) termination procedures that would protect U.S. interests and insure that defense interests and military basing rights would survive any future change in the relationship. These guarantees must be maintained as essential elements of any status agreement concluded with the Micronesians.

2. It is understood that the substitution of the term "free association" for "modified commonwealth" is a change more of form than substance and that you will continue to press for the closest association of the Micronesians with the U.S. that can be achieved, in addition to obtaining the above guarantees. In this regard, it would appear a prudent negotiating tactic for the U.S. side to hear what the Micronesians may have to offer as a result of their deliberations since the Hana talks before presenting the U.S. position.

3. Position II, as it would be modified, is virtually the same as Position IV, except for the matter of termination. However, the unilateral termination aspect of the current Position II was in the context of a

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meaningfully closer association than Position IV and possibly closer than that which may devolve from the modified Position II. For this reason, it is recommended that the United States adopt a two-phase modified Position II which would propose termination only with the mutual consent of the United States and Micronesia, falling back, if necessary, to unilateral termination. In addition, provisions/agreements for separate negotiations should be made prior to falling back to your proposed new Position II modified (Micronesian sovereignty plus unilateral termination).

4. Regarding the negotiating track, it would appear that significant elements of Position IV have been presented to the Micronesians during the discussion of issues at Hana. Nevertheless, in the actual negotiations leading to a status agreement, you state that you intend to lead off for the U.S. side by pressing for Position I. We concur and recommend the following sequential negotiating track: (a) present Position I, (b) if necessary, move to the current Position II, (c) if necessary, move to Position II as modified per your request but with bilateral termination, (d) if necessary, move to unilateral termination under the modified Position II.

5. It is essential that any arrangements involving unilateral termination be carefully circumscribed to protect U.S. basing agreements and to prevent precipitous action by some future Micronesian government. Similarly, while it may prove necessary to acknowledge the principle that sovereignty resides in the people of Micronesia, those essential elements of sovereignty involving foreign affairs, defense, access, and denial must be firmly retained by the United States, as well as sufficient control over the internal affairs of Micronesia to insure that the United States can effectively exercise these elements of sovereignty. It is realized that, in the long term, it will be the tenor of the interrelationship and the shared sense of mutual interests that will bind the Micronesians to the United States; however, the vicissitudes of the shorter term must be guarded against by adequate binding guarantees and U.S. control over essential Micronesian affairs.

Sincerely,

(Signed) G. Warren Nutter

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