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(6A)

March 8, 1972

MEMORANDUM FOR THE PRESIDENT

Through: Dr. Henry A. Kissinger

Subject: Micronesian Status Negotiations

Ref: Dr. Kissinger's memo of 20 July 1971  
containing negotiating instructions  
and terms of reference

The purpose of this memorandum, which is being forwarded with the concurrence of the State, Defense, and Interior Departments, is to seek clarification and a modification of my instructions prior to the fourth round of talks scheduled for early April in Micronesia.

REQUEST FOR DECISION

As discussed in subsequent sections of this memorandum, my present instructions are not specific with respect to two important issues: (1) title and (2) sovereignty. In order to clarify these instructions and to improve the prospects of reaching an acceptable agreement I am now requesting that

1. I be authorized under Position II, if necessary for agreement, to call the new relationship "Free Association," with this acceptance of their title being contingent upon clear recognition in a Compact of Association of full U.S. authority over foreign affairs and defense, access and denial provisions and pre-negotiated military basing agreements which would legally survive any future termination of the political relationship.

Approved:

Disapproved: *Provisionally*

*Executive Order* F&I-282

101st President of E.O. 12067

by *Director, Office of Primary Council*

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2. I be authorized under Position II, if necessary for  
agreement, to acknowledge that sovereignty resides in the  
people of Micronesia, provided that fundamental U.S.  
interests are fully safeguarded as envisaged in my  
instructions and in the NSC USC Option Paper of 31 March 1971.

Approved:

Disapproved:

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#### BACKGROUND

My current instructions (a copy of the applicable portions is attached) were based largely on assessments and recommendations that are now nearly a year old. Today the internal political situation in Micronesia is rather more mixed and unstable than it was a year ago. For example, an Independence Coalition has been formed within our Congress claiming approximately 1/3 of the members; the probable split-off of the Marianas from the Trust Territory is now widely acknowledged; signs of further disunity among the districts are raising doubts about the viability of a united Micronesia after the Trusteeship is terminated; and finally, relations between the Congress of Micronesia and the Trust Territory Administration are strained, and a demand for more self-government and local responsibility is on the rise.

Even in the face of these developing strains, there is reason to believe that the status talks in Hawaii in October had a calming effect on a large element of Micronesian leadership. In the talks, a deliberate effort was made to concentrate on the practical issues of a future relationship rather than on sometimes emotional abstractions. The strategy was to break the previous impasse, and we believe that we were successful in this and in strengthening the more moderate and pro-American delegates while weakening somewhat the pro-independence faction.

#### NEXT ROUND OF TALKS IN PALAU

The next round of talks will inevitably bring into the open certain questions of nomenclature and definition that were not taken up in Hawaii. The problems that may arise over titles and terminology may be more those of honor, pride, and language than of substance and practical consequence. Given the present psychological mood and the extreme sensitivity of the Micronesians of Micronesia, an effort must be made to prevent the talks from breaking down over issues of language. This may require certain changes in our nomenclature on our part, which are important to them but which do not endanger our basic interests.

A primary concern of the Micronesians, mainly for reasons of self-interest and pride rather than substance, is sovereignty. The principal characteristic of the forthcoming negotiations clearly will be Micronesian

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insistence on nomenclature that acknowledges in some way their own non-negotiable principles." Agreement may hinge on our willingness to acknowledge in some fashion their first principle (sovereignty resides in the people of Micronesia and their duly constituted government), and labeling a future relationship "Free Association."

It is my judgment that under the present circumstances it may be difficult, if not impossible, to get an agreement which insists on calling the relationship "Commonwealth" and which explicitly concedes full U.S. sovereignty in a conventional sense over Micronesia. Such goals, if rigidly held to, would probably cause a breakdown in the talks, if only because the Micronesians would interpret the American position as unqualified annexation.

My present instructions are unclear as to whether in Positions I and II the final agreement must explicitly extend and assert "U.S. sovereignty" over the whole of Micronesia. In fact, the instructions in Positions I and II permit significant limitations on U.S. sovereignty which have no precedents in American history with respect to territories or possessions. In effect, Position I calls for a division of authority with the U.S. having powers over external affairs and defense and the Micronesians having what would amount to virtual sovereign control over their own internal affairs. Under my Position II instructions, which add the right of unilateral termination (carefully circumscribed), a further and substantial index of sovereignty would be conceded to the Micronesians.

#### FOURTH ROUND OBJECTIVES

It is my intention at the next talks to take up where the discussion at Hana left off and to continue to press for Position I. Under this arrangement the Micronesians would receive internal autonomy and the right to terminate the Compact with the consent of both parties. Their sovereignty would not be expressly acknowledged except in the sense that Micronesian approval of a compact would constitute a "sovereign act of self-determination."

Given existing Micronesian attitudes and positions, our Position I may very quickly become untenable at the next session. If it becomes clear that only the termination and sovereignty issues prevent agreement, a move to Position II may be indicated. In that event, I believe the

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prospects of agreement could be materially enhanced if my instructions were worded so as not to have to insist on an explicit extension of full U.S. sovereignty. Having once offered unilateral termination, we could then agree to characterize the relationship as free association and, if essential to get final agreement, could acknowledge that sovereignty resides in Micronesia. All of this, of course, would be conditioned on Micronesian acceptance of U.S. authority over those areas of the relationship which are of essential concern to us.

Fundamental American objectives would be satisfied if an agreement clearly guaranteed:

- (1) U.S. authority over foreign affairs and defense,
- (2) access to Micronesian lands to meet minimum U.S. military requirements,
- (3) denial of the area to third countries for military purposes contrary to our interests, and
- (4) termination procedures that would protect our interests and insure that defense interests and military basing rights would survive any future change in the relationship.

Under this arrangement the Micronesian people would possess sovereignty in the sense that they would 1) have control over their internal affairs (self-government) and 2) ultimate control over their political future (unilateral termination). At the same time, the U.S. would exercise sovereign authority over the areas that are of primary significance to the United States: foreign affairs and defense. This kind of accommodation between Micronesian sensitivities and the practical reality of American interest in Micronesia could eliminate the sovereignty issue as a point of difference between the two sides.

~~In Micronesia in April our objective will be to negotiate as close and lasting a relationship as is possible under the existing circumstances, one that will protect our basic interests, and one that will permit an orderly transition and termination of the Trusteeship Agreement.~~

If agreement in April is not possible within the limits of Position II, I intend to suggest adjournment of the talks at that point.

For separate talks with the Marianas (Position III) could go forward in circumstances indicated.

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MEMORANDUM FOR THE PRESIDENT

Through: Dr. Henry A. Kissinger

Subject: The Micronesian Status Negotiations

Ref: Dr. Kissinger's memo of 20 July 1971  
containing negotiating instructions and  
terms of reference

The purpose of this memo is to seek clarification and a modification of my instructions prior to the fourth round of talks now scheduled for April in Micronesia. The request takes into consideration the outcome of the talks held last October in Hawaii and more recent information and developments which have further clarified the issues that remain to be resolved.

My current instructions (a copy of the applicable portions is attached) were based largely on assessments and recommendations that are now nearly a year old. During this intervening period a number of important developments have taken place. The position of many members of the Congress of Micronesia on the status question has hardened; an Independence Coalition has been formed within the Congress claiming approximately 1/3 of the members; a congressional delegation has visited Japan to consult on possible future Japanese economic assistance, the probable split-off of the Marianas from the Trust Territory is now widely acknowledged; signs of further disunity are raising doubts about the viability of a united Micronesia after the Trusteeship is terminated; political unrest throughout Micronesia continues to grow;

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relations between the Congress of Micronesia and the Trust Territory Administration are strained and agitation from within and without for more self-government and local responsibility is on the rise. In general, the internal political situation is more unstable and difficult than it was a year ago.

However, according to reports from Micronesia the status talks in Hana in October had a calming effect on a large element of Micronesian leadership. In the talks, a deliberate effort was made to concentrate on issues. Emotional and controversial questions were studiously avoided. Our strategy was to break the previous impasse and we believe that we were successful in this and in strengthening the more moderate and pro-American delegates while weakening somewhat the pro-independence faction. Still, the gains achieved in the October talks have been conditioned by the political difficulties referred to above.

The next round of talks will undoubtedly bring into the open certain questions of nomenclature and definition that were not taken up in Hawaii. The problems that may arise over titles and terminology may be more those of form, pride, and language than of substance and practical consequence. Given the present psychological mood and the extreme sensitivity of the leaders of Micronesia, an effort must be made to prevent the talks from breaking down over issues of language. This may require certain changes in nomenclature on our part, which are important to them and which do not endanger our basic interests.

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Their primary concern is with sovereignty. The principal characteristic of the up-coming negotiations clearly will be Micronesian insistence on nomenclature that acknowledges their "four non-negotiable principles" which they have stood fast on for the past two years. We now have adequate evidence to be able to predict that they will insist on calling the new relationship "Free Association: and that agreement may hinge on our willingness to acknowledge in some fashion, their first principle (sovereignty resides in the people of Micronesia and their duly constituted government). It is my judgment that under the present circumstances it may be very difficult, if not impossible, to get an agreement which explicitly extends full U.S. sovereignty in a conventional sense over Micronesia and that such a goal, if rigidly held to, could possibly cause the breakdown of the talks.

My present instructions are unclear as to whether in Positions I and II the final agreement must explicitly extend and assert "U.S. sovereignty" over the whole of Micronesia. The background papers on which my instructions are based state that extension of U.S. sovereignty is an objective under Positions I and II. The negotiating instructions themselves, however, do not mention this specifically.

In actual fact, the instructions under Position I and II call for significant limitations on U.S. sovereignty which have no precedents in American history with respect to territories or possessions. In effect, Position I calls for "divided sovereignty" with the U.S. having

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432174



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powers over external affairs and defense and the Micronesians having powers over internal affairs. Under Position II, which adds the right of unilateral termination (carefully circumscribed) a further and substantial index of sovereignty would be conceded to the Micronesians. Thus, Position II instructions authorize an agreement which would grant Micronesia in a very real sense "residual sovereignty."

It is my intention at the next talks to take up where the talks at Hana left off and to continue to press for Position I. Under this arrangement the Micronesians would receive internal autonomy and the right to terminate the Compact with the consent of both parties, but their sovereignty would not be acknowledged.

If I have read the Micronesian environment correctly, Position I may very quickly become untenable at the next session. Once it is clear that only termination and sovereignty issues prevent agreement, a move to Position II may be indicated. In that event, I believe the prospects of agreement could be materially enhanced if my instructions were structured so as not to insist on an explicit extension of U.S. sovereignty. Having once offered unilateral termination, we could then agree to characterize the relationship as free association and, if essential to get final agreement, could acknowledge that ultimate sovereignty resides in Micronesia. At the same time, of course,

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432175

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American authority over those areas of the relationship which are of the greatest concern to us would have to be established.

It would seem that the fundamental American objectives would be satisfied if an agreement clearly guaranteed

- (1) U.S. authority over foreign affairs and defense,
- (2) access to Micronesian lands to meet minimum U.S. military requirements,
- (3) denial of the area to third countries for military and other purposes contrary to our interests, and
- (4) termination procedures that would protect our interests and insure that defense interests and military basing rights would survive any future change in the relationship.

Under this arrangement the Micronesian people would possess sovereignty in the sense that they would 1) have control over their internal self-government and 2) ultimate control over their political future (unilateral termination). Simultaneously, the U.S. would exercise sovereign authority over the areas that are of primary significance to U.S. interests: foreign affairs and defense. This kind of accommodation between Micronesian sensitivities and the practical reality of the American interest in Micronesia could eliminate the sovereignty issues as a point of difference between the two sides.

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In Micronesia in April our objective will be to negotiate as close and lasting a relationship as is possible under the existing circumstances, one that will protect our basic interests, and one that will permit an orderly transition and termination of the Trusteeship Agreement.

If agreement is not possible within the limits of Position II in April, I will probably suggest adjournment of the talks at that point rather than falling back to Position IV. While determining the next negotiating steps, separate talks with the Marianas could very likely begin (Position III).

Summary and Request for Decision

As discussed above, my present instructions are not specific with respect to two important issues (1) title and (2) sovereignty. In order to clarify these instructions and to improve the prospects of reaching an acceptable agreement I am now requesting that

1. I be authorized to call the new relationship if it is necessary for agreement, "Free Association" under Position II, with this acceptance of their title being contingent upon clear recognition in a Compact of Association of U.S. full authority over foreign affairs and defense, access and denial provisions and pre-negotiated military basing agreements which would legally survive any future termination of the political relationship.

Approved:

Disapproved:

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2. I be authorized under Position II, if necessary to our agreement, to acknowledge that sovereignty resides in the people of Micronesia, provided that fundamental U.S. interests are fully safeguarded as envisaged in my instructions and in the NSC USC Option Paper of 31 March 1971.

Approved:

Disapproved:

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P. Haydn Williams

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