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DEPARTMENT OF STATE
THE LEGAL ADVISER

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MEMORANDUM

March 7, 1972

TO : OSN - Captain Crowe
FROM : L/UNA - Ronald F. Stowe *RFS*
SUBJECT: TTPI: Draft Talking Points on Foreign Affairs

Attached is a suggested draft of talking points on various issues concerning foreign affairs which were raised at Hana. Although the points are addressed consecutively here, we do not recommend that all these points be covered when we first address the issue of foreign affairs. On the contrary, we strongly recommend that our first approach should be focussed unequivocally on our insistence on full control over foreign affairs.

Such an opening approach might be accompanied as at Hana by a general reference to the fact that we would be willing to have Micronesia exercise certain types of functions within the scope of foreign affairs, but should not include detailed discussion of such exercise.

Once we have secured Micronesian agreement on the principle that the United States will have complete authority over foreign affairs, we could then discuss particular delegations of that authority along the lines suggested in the attached draft.

Attachment:
Draft talking points

Clearances:
S/PC - Mr. Grant
IO/UNP - Mr. Sylvester *as*

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|---|--------------------|
| DEPARTMENT OF STATE A/CDC/MR | |
| REVIEWED BY <u>J. FELDMAN</u> | DATE <u>1/8/86</u> |
| RDS <input type="checkbox"/> or XDS <input type="checkbox"/> EXT. DATE _____ | |
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DRAFT TALKING POINTS ON FOREIGN AFFAIRS

During our last series of meetings in Hawaii both your delegation and ours expressed some preliminary thoughts on the subject of responsibility under a new Compact for foreign affairs in Micronesia. Although we had presumed on the basis of earlier statements made over a period of years by both U.S. and Micronesian spokesmen that this was an area essentially free from dispute between us, we discovered at Hana that significant misunderstandings had apparently arisen.

Since those meetings last October I have endeavored to clarify the United States' position and to reconcile our differences on this issue through a number of oral and written communications with Senator Saliu as Chairman of the Micronesian Delegation, and I think we are now much closer to a satisfactory understanding.

I would like at this point to review the U.S. position and the extent of our discussions since Hana. Let me say first of all that in the view of the United States the matter of foreign affairs authority must be clearly and satisfactorily resolved if we are to accept the obligations and burdens which you request we assume in a new relationship.

In short, our position is that complete authority over matters relating to foreign affairs must remain with the United States.

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[Quote Williams-Salii Exchange]

However, as we said at Hana we are willing to agree that Micronesia could exercise broad discretion in certain areas of foreign affairs. We would recognize that willingness in the Compact and would spell out the specifics of the scope of such discretion in a special agreement which could be amended from time to time by mutual consent.

We would anticipate, for example, that subject to security considerations Micronesia would be free to send or receive commercial, technical, cultural or educational missions to and from countries other than the United States, and to or from appropriate international organizations. We would similarly anticipate that Micronesia would generally be free to conclude commercial, technical, cultural or educational agreements with foreign individuals, companies or associations.

Although the United States would necessarily be the instrument through which formal intergovernmental agreements would be concluded for Micronesia, we would wish to provide full opportunity, perhaps through Liaison Offices in Micronesia

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and Washington, for Micronesian citizens and for the Micronesian Government to express their desires and preferences and to suggest appropriate diplomatic initiatives they would like to have undertaken for Micronesia. We would also wish to establish with your cooperation machinery for close and regular mutual consultation on matters of foreign affairs affecting Micronesia.

Whenever we agreed to negotiate or conclude an international or intergovernmental commitment specifically on behalf of Micronesia we would wish to have Micronesian participation in the preparation for negotiation of such agreement.

At appropriate American embassies overseas we would be prepared to designate a U.S. official of appropriate rank to have responsibility for overseeing Micronesian trade, tourism and consular affairs. Furthermore, in addition to providing general consular assistance and diplomatic protection to Micronesians traveling abroad, we would specifically give particular assistance whenever requested and appropriate to, for example, Micronesian trade or tourism promotion missions. Such missions might either travel to areas of interest to Micronesia or, with the consent of the appropriate host government, could be established on a permanent basis. We would welcome the establishment of such missions within the United States.

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To assist in expanding the number of Micronesian officials with expertise and experience in foreign trade, we would be prepared to offer a program of special internships. Persons designated by Micronesia and accepted by the United States could be enrolled in suitable courses at the Foreign Service Institute of the Department of State, such as economic and commercial affairs, international trade expansion, and others. Such course work could be followed by assignment, for example, as an intern in the Department of Commerce.

We do not feel that Micronesia necessarily must be within the customs zone of the United States. It is our opinion that, if you so desire, Micronesia should generally be free to establish, change or eliminate import duties as well as internal charges, laws and regulations affecting imports into Micronesia. We would be prepared to negotiate for Micronesia intergovernmental agreements such as reciprocal tariff reductions on the terms you request so long as those terms would not violate the general trade guidelines of the international community to which we have adhered. This would not mean that Micronesian laws governing tariffs and customs must be the same as ours; it merely means that in those cases where we would make international commitments for Micronesia we would not wish to violate the general international trade principles to which we may have subscribed.

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With regard to regulation of American products coming into Micronesia, we would ask only for treatment at least as favorable as that granted any other non-Micronesian source of imports.

Certainly Micronesia would be free to establish its own laws and regulations governing non-Micronesian investment within its territory, subject only to security considerations in individual cases. In this instance also we would expect only that we would receive treatment no less favorable than that extended to any other outside source of investment.

In return, we would be prepared to extend to Micronesian goods coming to the United States special treatment along the following lines:

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During earlier sessions of these status negotiations you have requested our opinion on the prospect of Micronesia's participation in the activities of certain international organizations. We would have no objection in principle to Micronesian participation as an associate member in appropriate international organizations such as U.N. specialized agencies or regional organizations which provided for such participation by freely associate states. We would encourage Micronesian participation in organizations such as ECAFE which have particular relevance to the Pacific area. Because of the considerable variations in considerations relevant to participation in different organizations we would want to consider such applications on a case-by-case basis, but we would intend to be as forthcoming and accommodating to Micronesian preferences as possible.

With regard to actual participation in such agencies or organizations we do wish to note an unfortunate but growing tendency to allow or even encourage the intrusion of highly political issues into what were intended to be exclusively technical forums. In such cases we would expect the Micronesian delegation to be guided by the U.S. position on those particular issues.

In general, considering not only your past history but also the possible benefits in the future we would encourage a close relationship between Micronesia and U.N. agencies.

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As I mentioned earlier, the United States would be prepared to offer consular assistance and diplomatic protection to Micronesians traveling outside of Micronesia or the United States. In this connection the issue of what type of international travel documents or passports Micronesians would carry has arisen. We have investigated this question thoroughly with our consular and passport experts, and we would very strongly recommend in the interest of Micronesian travels that U.S. passports be used, perhaps with special marking to identify the carrier as a Micronesian.

Permit me to explain the reasoning behind our position. First of all, immediate recognition and acceptance of one's passport is of very great importance in saving time and avoiding considerable inconvenience while traveling abroad. The U.S. passport obviously is known, recognized and accepted throughout the world.

Second, the United States has many bilateral agreements with countries in every area of the world providing for certain agreed standards of treatment for Americans traveling in those countries. If Micronesians were identified by U.S. passports in those countries, an immediate presumption would arise that they were entitled to the same considerations. Otherwise, it is not unlikely that at least in areas outside the southern Pacific region immigration officials would not make that presumption and that the intervention of the American consul or other official would be required to clarify what otherwise would have been a routine matter.

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Quite aside from any burden on the consul, the inconvenience imposed on the Micronesian could be considerable, and the impediments to free travel significant.

The general question of immigration and emigration from Micronesia is one in which there are clearly elements of both domestic and foreign affairs, and hence is one the responsibility for which, according to our concept of a new political relationship, might well be divided between us.

I would divide this issue into two parts: (a) rights of immigration to Micronesia, and (b) rights of immigration to the United States. Subject only to security considerations, we would presume Micronesia would be free to establish, amend or revoke whatever standards, laws and regulations you would deem appropriate with regard to the immigration of non-Micronesians into your territory. In this respect we would ask only that U.S. citizens be given treatment at least as favorable as that extended to any other non-Micronesian.

We would expect that anyone not under court order or other legal restraint would be free to emigrate from Micronesia at any time.

You have requested the right freely to enter, remain and work in, or leave the United States at any time, and we have told you we wished to find a way to make this possible. We have thoroughly reviewed this request, together with the other rights and privilege you seek, and we have concluded that

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probably the only and certainly the most efficient way that we can satisfy your proposals is through a grant of the status of U.S. non-citizen nationals.

You apparently are not interested in providing that all Micronesians would be U.S. citizens under our new political relationship. There remain therefore the categories of (a) U.S. national or (b) alien with regard to U.S. laws.

As U.S. nationals Micronesians would automatically be entitled free entry into, residence in and exit from the United States; to employment opportunities in most jobs within the United States; and to consular assistance and diplomatic protection abroad.

Although as aliens Micronesians might specially be granted the right to enter the United States, they would necessarily remain subject to the restrictions imposed on aliens under U.S. laws. In particular, numerous limitations on employment opportunities apply to aliens within the U.S. under State as well as Federal law. There are, of course, even greater employment opportunities for U.S. citizens than for non-citizen nationals, namely, the right to become a government employee, but nonetheless the opportunities for a national still significantly exceed those for an alien, and the obligation of the United States to care for and protect a national are of course of a considerably greater order.

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In sum, we have proposed, therefore, that the appropriate Micronesian authorities should regulate immigration into Micronesia, subject only to security considerations which either Micronesia or the U.S. might perceive, and that those Micronesians who are U.S. nationals should have all the rights of such nationals, including the right freely to enter, reside in or leave the United States.

In order to avoid a situation in which individuals from outside Micronesia would seek to exploit the Micronesian privilege in order to enter the United States, we would have to work out between us what the standards for entry into the United States must be. Just as Micronesia would fully control and regulate immigration into its territory, the United States Government shall of course retain complete authority over its own immigration laws and procedures.

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