

DEPARTMENT OF STATE  
THE LEGAL ADVISER

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MEMORANDUM

Compact

June 15, 1972

TO : Captain William Crowe  
Office of Micronesia Status Negotiations  
Department of the Interior

FROM : Ronald F. Stowe  
L/UNA

SUBJECT: Draft Compact; U.S. Proposal

*J. Stowe*  
7/9/72  
Personal copy

Attached is an uncleared draft of a compact along the lines we may wish to propose to the Micronesians in July. This draft will certainly require considerable thought and further refinement and hence I would appreciate its circulation and your request for prompt reaction from the relevant agencies. Particular attention should be focussed on deciding which provisions should be modified for tactical reasons so that we have room for compromise.

- I would also add the following comments:
- (1) The preamble has been consciously omitted until we decide what we want to say in the body of the document.
  - (2) Section 203 on Micronesia authority in foreign affairs is obviously not adequate for a final agreement but consideration should be given to whether we should start this way.
  - (3) Section 301 on finance is not an attempt to represent our consensus. Rather, it merely provides a target to organize our thinking around.
  - (4) Part IV on Applicability of U.S. Laws and Part VIII on Liaison clearly require additional provisions.

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I have given Messrs. Grant and Armitage copies of this draft.

Attachment:  
Draft Compact

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 _____	TS AUTH. _____ REASON(S) _____
ENDORSE EXISTING MARKINGS <input type="checkbox"/>	DECLASSIFIED <input checked="" type="checkbox"/> RELEASABLE <input checked="" type="checkbox"/>
RELEASE DENIED <input type="checkbox"/>	PA or FOI EXEMPTIONS _____

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MICRONESIAN COMPACT

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JUNE 15 U.S. DRAFT

Table of Contents

	Page
PART I: Internal Self-Government .....	1
PART II: Foreign Affairs and Defense .....	3
PART III: Finance and Administration .....	8
PART IV: Applicability of Laws .....	10
PART V: Trade and Commerce .....	12
PART VI: Citizenship and Nationality .....	13
PART VII: Immigration and Travel .....	15
PART VIII: Representation and Consultation .....	16
PART IX: Dispute Settlement .....	17
PART X: Amendment and Termination .....	18
PART XI: Effective Date .....	20

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05- 415287

PART I

INTERNAL SELF-GOVERNMENT

Section 101

Micronesian  
Constitu-  
tion

The people of Micronesia and their duly constituted government shall have full authority to govern the internal affairs of Micronesia, including the right to adopt, amend or revoke their own Constitution; provided only

(a) that that Constitution shall guarantee to the inhabitants of Micronesia freedom of conscience; freedom of speech, of the press and of assembly; freedom of worship and of religious teaching; freedom from unreasonable search and seizure and from cruel or unusual punishment; and freedom of migration and movement, and

(b) that that Constitution shall remain consistent with the provisions of this Compact.

Section 102

Micronesian  
Government

The people of Micronesia shall have the right to adopt and alter their own system of self-government in accordance with section 101 of this Compact.

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Section 103

Micronesian  
Self-  
Determina-  
tion; Sov-  
ereignty

The people of Micronesia, in the exercise of their right of self-determination, may in the event of termination of this Compact freely choose their own future political status, including the right to become a sovereign and independent state or to enter into free association with any state or group of states, in accordance with Part X of this Compact. →

Section 104

U.S.  
Authority

The United States shall retain only such rights and authority with respect to Micronesia as are necessary to fulfill its responsibilities as set forth in this Compact or as otherwise mutually agreed.

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PART II

FOREIGN AFFAIRS AND DEFENSE

Section 201

Foreign  
Affairs

The United States shall have full authority over all matters which relate to foreign affairs in Micronesia, notwithstanding any other provision of this Compact.

(a) The Governments of Micronesia and of the United States shall establish official channels for regular and mutual consultation on matters concerning foreign affairs in Micronesia.

(b) The authority of the United States shall include the right to apply to Micronesia any appropriate international treaty or agreement to which the United States is a party. The United States shall consult with Micronesia on the application of such treaties or agreements. The Government of Micronesia agrees to enact after such consultation whatever appropriate domestic enabling legislation may be called for in those agreements.

(c) The United States shall conclude international treaties or agreements which apply to Micronesia but not to the United States only with the express consent and approval of the Government of Micronesia.

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OS- 415290

Section 202

Consular Assistance

The United States shall extend consular assistance and diplomatic protection to Micronesians traveling outside of Micronesia or the United States.

Section 203

Micronesian Authority in Foreign Affairs

The United States and Micronesia shall agree on areas of foreign commerce, technical, cultural and educational exchange, certain responsibilities for which shall be exercised by the Government of Micronesia.

Section 204

Air Commerce

~~The authority of~~ The United States shall ~~[include]~~ <sup>have full</sup> ~~the right~~ <sup>authority</sup> to regulate air commerce to and among the districts of Micronesia. This authority shall be exercised in close consultation with the Government of Micronesia. The United States shall obtain the consent of the Government of Micronesia before granting any new authority to domestic or international carriers to provide service to Micronesia.

Section 205

Defense

The United States shall have full authority ~~to~~ <sup>over</sup> ~~the conduct of~~ all matters concerning defense in Micronesia, ~~including~~ <sup>to</sup> ~~protection of~~ Micronesia) against armed attack or threats, ~~thereof~~ as well as activities relating to the security of the United States or to

*of armed attacks*

*and all United States bases and defense facilities on Micronesia*

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its international responsibilities. [The United States shall endeavor to ensure that the activities of its forces stationed in Micronesia shall not interfere with the legitimate rights of the people of Micronesia except as essential for the protection and safety of life and property.]

*Greeny*  
*1/11/77*

Section 206

Denial

No country other than the United States shall be permitted to establish military bases or conduct military activities of any kind within the territory of Micronesia without the express consent of the United States. No vessels of other countries serving any military purpose or possessing intelligence gathering capability shall be permitted to enter Micronesia waters without the consent of the United States.

*?*

Section 207

Coast  
Guard

The United States shall ~~continue to~~ provide Coast Guard protection as well as emergency air and sea search and rescue assistance to the people of Micronesia.

*?*

Section 208

Military  
Service

Citizens of Micronesia who are otherwise qualified shall be given the opportunity to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military

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service unless they become permanent residents of the United States.

Section 209

SOPA

The legal status of United States military personnel and U.S. citizen civilian employees while stationed in Micronesia shall be established in a <sup>by mutual</sup> ~~special~~ agreement which shall <sup>remain in</sup> ~~continue in~~ effect for so long as such personnel are stationed in Micronesian territory.

Section 210

Base Rights

The United States shall have the right to exclusive use and control of military facilities specified in Annex A of this Compact. The United States shall have <sup>free</sup> ~~unrestricted~~ access to those facilities by air and by sea, and shall have unrestricted use of the air space and territorial waters of Micronesia as might be required. These rights shall continue for the duration of this Compact and in the event of its termination for the period of time specified in the lease agreements.

Section 211

Security Pact

The Governments of Micronesia and of the United States agree that in the event of the termination of this Compact the mutual security agreement contained in Annex B shall immediately enter into force regardless of the nature of any change in Micronesia's political status.

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Section 212

Option  
Rights

The United States shall have the option to lease for defense purposes the areas specified in Annex A(II) according to the terms set out therein. In the event of termination of this Compact these options or subsequent leases shall remain valid for the period of time specified therein.

Section 213

Eminent  
Domain

RW

~~The United States Government shall have no right of eminent domain over land in Micronesia.~~ If in the exercise of its responsibilities under Section 205 the United States should require areas within the territory of Micronesia other than those specified in Annex A, the Government of Micronesia shall give sympathetic consideration to any such request by the United States and shall negotiate in good faith a mutually acceptable agreement for the temporary use of such areas, unless that request is considered by the Government of Micronesia to be in irreconcilable conflict with <sup>the</sup> fundamental welfare of the Micronesian people.

Section 214

Environment

In its use of military facilities in Micronesia the United States shall endeavor to protect the surrounding environment from permanent or irreparable damage.

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PART III

FINANCIAL AND ADMINISTRATIVE PROVISIONS

Section 301

The United States Government <sup>will</sup> ~~agrees to~~ assist the people of Micronesia in their efforts to maintain and develop effective public services and a growing economy in the following manner:

(a) The United States shall provide to the Government of Micronesia an annually appropriated sum of at least \_\_\_\_\_ for unrestricted use by the Government of Micronesia in providing public facilities and services to the people of Micronesia.

(b) The United States shall <sup>will</sup> establish a matching fund with an annual maximum of \_\_\_\_\_ which shall be available to the various District Governments of Micronesia in a ratio of five dollars from the matching fund for every one dollar of district tax revenues raised in each district.

Section 302

U.S. Federal  
Programs  
and  
Services

The United States may, where permitted by relevant United States laws and regulations, extend to Micronesia such United States federal programs and services as are from time to time mutually agreed. The Government of

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Micronesia in turn shall, by legislative or other legal means, require and enforce compliance within its jurisdiction with the United States laws and regulations relevant to any federal program or service which is extended to Micronesia. The United States reserves the right to modify or withdraw such programs or services at any time after appropriate consultations with Micronesian authorities.

Section 303

Currency

The currency of the United States shall be the official legal tender of Micronesia ~~until such time as the Government of Micronesia shall adopt its own currency.~~

Section 304

Banking

The Government of Micronesia shall have authority to establish and regulate the operation of banks in Micronesia. The United States shall provide advice and assistance to Micronesia in the establishment of such system, including, on mutually agreed terms, the opportunity to participate in United States federal banking programs.

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PART IV

APPLICABILITY OF UNITED STATES AND  
MICRONESIAN LAWS

Section 401

TTPI Laws  
continued

The laws of the Trust Territory of the Pacific Islands in force on the effective date of this Act, except as modified by this Compact or pursuant to approval of the Micronesian Constitution, are hereby continued in force, subject to modification or repeal by appropriate authority.

Section 402

The Government of Micronesia shall by legislation or other appropriate legal means require and enforce compliance within its jurisdiction with United States laws relevant to its responsibilities for foreign affairs and defense in Micronesia. The Government of the United States reserves the right to exercise concurrent jurisdiction to adjudicate alleged violations in Micronesia of the United States laws referred to in this section and to enforce the decisions of United States courts in such cases. Enforcement of those laws and judicial decisions shall be effected whenever appropriate and possible through Micronesian authorities.

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Section 403

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PART V

TRADE AND COMMERCE

Section 501

U.S. Treat-  
ment

The United States shall grant to Micronesian goods and commerce treatment as favorable as it extends to any foreign country.

[Alternative Section 501

The United States agrees to the principle of duty-free entry of Micronesian goods into the United States and undertakes to develop detailed rules and procedures to apply that principle to goods of Micronesian origin.]

Section 502

Micronesia shall extend to goods and services from the United States treatment as favorable as that extended to goods from any non-Micronesian source.

Section 503

The Government of Micronesia shall have the authority to establish, change or eliminate import duties and other regulations including internal charges, laws and conditions governing the importation of and commerce in goods from outside of Micronesia, subject only to compatibility with United States obligations under Part II of this Compact.

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PART VI

CITIZENSHIP AND NATIONALITY

Section 601

Micronesian  
Citizen-  
ship

The Government of Micronesia shall have the authority to establish criteria for Micronesian citizenship.

Section 602

U.S. Na-  
tionality

The United States and Micronesia agree that the following persons shall be nationals but not citizens of the United States:

(a) All inhabitants of or persons born in Micronesia, and their children, who resided in Micronesia on July 18, 1947, including those residents of Micronesia temporarily absent from the territory of Micronesia on that date who after that date continued to reside in Micronesia and who have taken no affirmative steps to preserve or acquire a foreign nationality;

(b) All persons who by birth or naturalization have become citizens of the Trust Territory of the Pacific Islands between July 18, 1947, and the effective

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date of this Compact [and who are within the Trust Territory or otherwise subject to the jurisdiction of the United States] and who have taken no affirmative steps to preserve or acquire a foreign nationality;

(c) All persons who become citizens of Micronesia in accordance with criteria established pursuant to section 601 after the effective date of this Compact, who have had that citizenship status for at least five years, and who have resided in Micronesia for at least three of those five years.

Section 603

Foreign  
National-  
ality

Any person described in section 602 who is a citizen or national of a country other than the United States, and who desires to retain his present political status, shall make a declaration under oath of such desire within two years after the effective date of this Compact or within six months after becoming 21 years of age, whichever comes later, such declaration being made as prescribed by regulations. Having made such a declaration, any such person shall not be a national of the United States by virtue of this provision.

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PART VII

IMMIGRATION AND TRAVEL

Section 701

Micronesians  
in U.S.

Citizens of Micronesia who are United States nationals shall be free to enter, reside in or leave the United States at any time in accordance with the privileges of that nationality. Citizens of Micronesia who are not United States nationals shall be accorded treatment as aliens for these purposes.

*Can they  
join U.S.  
A. Freed?*

Section 702

U.S. Citizens  
in Micro-  
nesia

The Government of Micronesia may establish, amend or revoke laws and regulations concerning immigration or travel of non-Micronesians in Micronesia, subject to security considerations. Micronesia agrees that citizens of the United States will be treated <sup>no less</sup> at least ~~as~~ favorably <sup>than the U.S.</sup> as any other non-Micronesians in this regard.

Section 703

Nothing in this Compact shall affect the right of the United States Government to enact, amend or repeal any law concerning nationality, citizenship, or immigration.

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PART VIII

REPRESENTATION AND CONSULTATION

Section 801

The Government of the United States and of Micronesia agree to establish in the central seat of government of Micronesia and in Washington, D.C. respectively official Liaison Offices for the purpose of maintaining close and regular consultations on matters of mutual interest between them.

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- 17 -

PART IX

DISPUTE SETTLEMENT

Section 901

Disputes between the Governments of Micronesia and of the United States which relate to the interpretation of provisions of this Compact shall be settled by negotiation between those governments. If after \_\_\_\_\_ months from the commencement of those negotiations there has in the opinion of either party been insufficient progress toward resolution of the dispute, a tribunal consisting of one representative from each party and a third member chosen by the consent of the other two shall be constituted and shall by procedures agreed among them render on that dispute an opinion which shall be binding on both parties.

- *From U.S. Congress' attitude/reat, the*

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PART X

AMENDMENT AND TERMINATION

Section 1001

Amendment

This Compact may be amended at any time upon the mutual consent of Micronesia and the United States and in accordance with their constitutional processes.

Section 1002

Termination

(a) This Compact may be terminated by mutual consent of the parties at any time during the first fifteen years after it enters into force.

(b) Thereafter it may be terminated unilaterally by either party in accordance with the following provisions:

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i.e. to match present period

- (1) This Compact may be terminated by the Government of the United States in accordance with its established constitutional processes.
- (2) This Compact may be terminated by the Government of Micronesia upon the affirmative vote of two-thirds of each House of the Micronesian legislature and the approval in referendum of two-thirds of the Micronesian public

OS 415305

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voting in such a referendum. At least ninety days must elapse between introduction of such a measure in the legislature and its approval by that legislature, and at least sixty days must elapse between the time of final legislative approval and the date of the public referendum.

- (3) Termination of this Compact shall in no way alter the rights and obligations of the United States or of Micronesia with regard to base rights, denial of foreign military activity in Micronesia, or other mutual security agreements which may have been mutually concluded before or during the operation of this Compact. Such agreements shall be terminable only according to their own provisions.

(c) If termination of this Compact is effected pursuant to section 1002(a), that termination shall become effective on a date mutually agreed by the parties. If termination is effected pursuant to section 1002(b) without mutual consent, that termination

OS 415306

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shall be effective not less than one year from the date that the appropriate criteria of that subsection are satisfied.

PART XI

EFFECTIVE DATE

Section 1101

Effective  
Date

This Compact shall enter into force on a date mutually agreed by Micronesia and the United States. That effective date shall be preceded by approval of this Compact and of a Micronesian Constitution by the people of Micronesia, by approval of this Compact by the United States Government, and by agreement by the President of the United States that the Constitution of Micronesia is consistent with the provisions of this Compact.

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