

0502035

DEPARTMENT OF STATE
THE LEGAL ADVISER

CONFIDENTIAL

(20)
EXCISE (68)
EXCISE
R

July 1, 1972

MEMORANDUM

TO : Captain William Crowe
Office of Micronesian Status Negotiations

FROM : L/UNA - Ronald F. Stowe *RFS*

SUBJECT: TTPI: Draft Compact

Enclosed is our most recent draft of a Compact for association between Micronesia and the United States. Although I have taken advantage of many comments and suggestions from other agencies and other members of the IAG, it should be understood that this could not at this time be considered a cleared document.

I would appreciate your assistance in circulating copies of this draft to all relevant members of the IAG and in eliciting again their concurrence or comments as quickly as possible, so that appropriate revisions can be made. I would appreciate comments not only on the proposed text but also on the underlying rationale and the proposed fallback language which are found on the page following each section we would propose. The third page in each series contains the comparable text on each point from the Micronesian draft Compact which Senator Salii passed to Ambassador Williams last December.

FR I would like to point out the very questionable status of the Micronesian draft as a representation of current thinking in the Micronesian delegation. Although it is an interesting reference I would caution against too heavy reliance on their draft as we compare our positions. *release*

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

Enclosure:
As stated

<p>L/UNA REST OF STATE A/CDC/MR</p> <p>REVIEWED BY <i>B. H. BIAS</i> DATE <i>8/6/87</i></p> <p>RDS <input type="checkbox"/> or KDS <input type="checkbox"/> EXT. DATE _____</p> <p>TS AUTH. _____ REASON(S) _____</p> <p>ENDORSE EXISTING MARKINGS <input type="checkbox"/></p> <p>DECLASSIFIED <input checked="" type="checkbox"/> RELEASABLE <input checked="" type="checkbox"/></p> <p>RELEASE DENIED <input checked="" type="checkbox"/></p> <p>PA or FOI EXEMPTIONS _____</p>	<p>DEPARTMENT OF STATE A/CDC/MR</p> <p>CONFIDENTIAL</p> <p>REVIEWED BY <i>J. FELDMAN</i> DATE <i>1/8/86</i></p> <p>CLASSIFICATION EXTENDED</p> <p>RDS <input type="checkbox"/> or KDS <input type="checkbox"/> EXT. DATE _____</p> <p>TS AUTH. <i>J. Feldman</i> REASON(S) <i>OADR</i></p> <p>ENDORSE EXISTING MARKINGS <input type="checkbox"/> <i>5/13/83</i></p> <p>DECLASSIFIED <input type="checkbox"/> RELEASABLE <input type="checkbox"/></p> <p>RELEASE DENIED <input checked="" type="checkbox"/> IN PART <i>Bias BS</i></p> <p>PA or FOI EXEMPTIONS _____</p>
--	---

05 424309

DECLARATION

CONTENTS

	Page
PREAMBLE.	1
TITLE	
I. Internal Self-Government	2
II. Foreign Affairs and Defense.	6
III. Finance and Administration	18
IV. Applicable Laws.	22
V. Trade and Commerce	25
VI. Citizenship and Nationality.	28
VII. Immigration and Travel	31
VIII. Representation and Consultation.	34
IX. Dispute Settlement	35
X. Amendment and Termination.	36
XI. Effective Date	38

No.

Travel

Representation

34

Settlement

424310

PREAMBLE

THRICE the brinded Crowe hath mewed,
Thrice and once Salii hath whined;
Crawford cries "'Tis time, 'Tis time!"

ROUND about the cauldron go,
In the draft proposals throw.
For a charm of powerful trouble
Let the Compact boil and bubble!

DECLASSIFIED

US 6/30/72

PREAMBLE

The United States of America and Micronesia,

Desiring to maintain a close and enduring relationship between them,

Recognizing that upon termination of the trusteeship status of Micronesia a new political system is required to enable the people of Micronesia to govern themselves,

Considering the need of the Micronesian people for continued support from the United States and the importance of their territory to the maintenance of international peace and security,

THEREFORE, AGREE that the following terms of this Compact shall constitute the foundation on which their future relationship will be built:

424312

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 1A -

(b) (1) (5)
(a) (5)

PREAMBLE

The Preamble will be used in the future to help interpret the general spirit and intention of the Compact. It should therefore be forward looking rather than backward, referring to the new relationship rather than to the Trusteeship which will have no validity in the future.

Substantive points are appropriately made in the body of the Compact, namely the operative sections, and not in the Preamble. (Many formal agreements have little or no Preamble at all.)

If we must succumb to drafting a long and complex Preamble with the Micronesians, particular attention should be paid (1) to ensure that the provisions are equally weighted (the Micronesian draft now focuses exclusively on United States obligations), and (2) to ensure that we do not accept a continuance of the broad Trusteeship Agreement obligations to support Micronesia. Our support will be based solely on the obligations we assume in the body of this Compact.

BT
AS
BS

ALTERNATIVE TEXT:

Within the above guidelines there is very broad scope for permissible language. Page 1 contains only one possible version.

CONFIDENTIAL

424313

CONFIDENTIAL

DECLASSIFIED

COMPACT OF FREE ASSOCIATION BETWEEN THE UNITED STATES
AND MICRONESIAPreamble

- (1) WHEREAS, the United States has served as the administering authority of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by the Security Council of the United Nations on April 2, 1947, and the Government of the United States on July 18, 1947; and

WHEREAS the United States recognizes that pursuant to Article 76b of the Charter of the United Nations the administering authority is directed to "promote the development of the inhabitants of the Trust Territory toward self-government or independence as may be appropriate to the particular circumstances and the freely expressed wishes of the peoples concerned"; and

WHEREAS the people of Micronesia have indicated in a plebiscite conducted with the aid of the administering authority and observed by the United Nations their wish to exercise their right of self-determination by forming a sovereign and independent State, governed by the terms of a written constitution, and have further indicated their wish to enter into a relationship of free association with the United States; and

WHEREAS the Congress of Micronesia, is the duly elected legislative body of the Trust Territory of the Pacific Islands empowered to act in respect of this compact;

NOW THEREFORE, the Government of the United States and the Congress of Micronesia enter into this compact for the purpose of terminating the Trusteeship of the Trust Territory of the Pacific Islands and establishing a sovereign and independent State of Micronesia, in free association with the United States.

DECLASSIFIED

DECLASSIFIED

US 6/28/72

TITLE I

INTERNAL SELF-GOVERNMENT

Section 101

Micronesian
Constitu-
tion

(a) 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.

(b) The Constitution of Micronesia shall guarantee to the inhabitants of Micronesia/fundamental human rights, including 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.

(c) The Constitution of Micronesia shall remain consistent with the provisions of this Compact.

DECLASSIFIED

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 2A -

Section 101

Micronesian
Consti-
tution

(a) [The Micronesians will reasonably insist on "full authority," to which we can agree. We cannot, however, accept "unqualified" as proposed in their 12/71 draft. In fact their authority could conceivably be qualified by overriding defense or foreign affairs considerations although we would hopefully be able to avoid this type of conflict.]

(b) (c) (5)
215

BL
AS
85

(b) These civil rights should be specifically enumerated for clarity and immediate recognition by the U.S. Congress and the Micronesian people neither of whom should have to cross reference to the Trusteeship Agreement or any other document to discover what we have agreed on with regard to civil rights. In addition, this formula says "human rights, including" and hence establishes minimum rather than maximum criteria.

(c) [Appears to be agreed.]

BL
AS
85

CONFIDENTIAL

DECLASSIFIED

424316

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 2B -

Title I

Free Association

(1) Section 101. The relationship between the United States and Micronesia is to be based on the following principles:

(a) that sovereignty in Micronesia resides in the people of Micronesia and their duly-constituted Government, which has full and unqualified powers to control the internal affairs of Micronesia;

* * * * *

(c) that the people of Micronesia have the right to adopt their own constitution and form of government and to amend, change or revoke any such constitution or form of government at any time, provided only that the constitution shall remain consistent with the provisions of this pact, and shall continue to guarantee the freedoms designated in Article 7 of the Trusteeship Agreement relating to the Trust Territory of the Pacific Islands;

DECLASSIFIED

424317

DECLASSIFIED

- 3 -

US 6/28/72

Section 102

Micronesian
Government
Structure

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.

DECLASSIFIED

424318

0000000000

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

(4)

- 3A -

(b)(1)(5)
(a)(5)

Section 102

Micronesian
Govern-
ment
Structure

Although § 101 could reasonably be read to include this point, the Micronesians have wanted specific reference to their right to decide on their own governmental machinery. We have no objection to this desire. The phrase "in accordance with Section 101 of this Compact." is added to ensure that the qualifiers of § 101 also clearly apply to § 102, and this phrase should not be dropped.

BIA
OS

CONFIDENTIAL

424319

0000000000

DECLASSIFIED

Micronesian draft
(1) 12/71
(2) 7/72

- 3B -

- (1) This point was covered in Title I, Section 101(c) of the Micronesian draft of 12/71, reproduced below. This text also appears on page 2B of this book.

Section 101.

* * * * *

(c) that the people of Micronesia have the right to adopt their own constitution and form of government and to amend, change or revoke any such constitution or form of government at any time, provided only that the constitution shall remain consistent with the provisions of this pact, and shall continue to guarantee the freedoms designated in Article 7 of the Trusteeship Agreement relating to the Trust Territory of the Pacific Islands;

DECLASSIFIED

424320

DECLASSIFIED

US 6/28/72

Section 103

Micronesian
Self-
Determi-
nation

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 Title X of this Compact.

DECLASSIFIED

424321

DECLASSIFIED

CONFIDENTIAL

- 4A -

US 6/30/72
Comments and
Fallback

(5)

(b) (1) (5)

(a) (5)

Section 103

Micronesian
Self-
Determi-
nation

[C] This is probably one of the most important concerns to the Micronesians, namely that if this relationship does not work they can get out and do whatever they want to. We basically agree with that position EXCEPT that we insist on continuing base and denial rights in the defense area. We have discussed this point with the Micronesians and apparently are in general agreement. Rather than unnecessarily emphasizing that reservation here (it is squarely addressed in Title X), this language says the people of Micronesia may choose their future status in accordance with Title X. That encompasses not only the procedures of termination in Title X but also the limitations on termination, hopefully without sounding offensive here.]

[E] The reference in line 5 to becoming a "sovereign and independent state" is inserted deliberately to connote that Micronesia under the Compact will not be a sovereign and independent state. They have proposed language similar to this, but the word "become" significantly clarifies their somewhat ambiguous formula, perhaps in a direction they will find troublesome. It is definitely in our interest to keep this phrase, but not absolutely critical if it provokes strong resistance.]

release

CONFIDENTIAL

DECLASSIFIED

424322

DECLASSIFIED

Micronesian draft
(1) 12/71
(2) 7/72

- 4B -

Section 101.

- (1) (b) that the people of Micronesia possess the right of self-determination and may, therefore, at any time, choose independence or self-government in free association with any nation or organization of nations;

DECLASSIFIED

424323

DECLASSIFIED

US 6/28/72

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.

DECLASSIFIED

424324

DECLASSIFIED

CONFIDENTIAL

- 5A -

US 6/30/72
Comments and
Fallback

(b)(1)(5)
(a)(5)

Section 104

U.S.
Authority

Although this principle is rather a legal necessity since we have no legal authority now in Micronesia except for the Trusteeship Agreement, we should have no objection to spelling it out if the Micronesians so desire. This formula expands slightly on the Micronesian draft of 12/71 in that (1) it adds the possibility for mutual agreements outside the Compact and (2) it suggests by "necessary to fulfill" that all elements of U.S. authority need not be specifically enumerated in the Compact. Point (1) must be maintained. Point (2) should be maintained in substance but could reasonably be inferred from the following language if necessary:

B8
A5
B5

ALTERNATIVE TEXT

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

B1A5
B5

CONFIDENTIAL

DECLASSIFIED

424325

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 5B -

Section 101

- (1) (e) that the Government of the United States retains only such rights and responsibilities in relation to the independent State of Micronesia as are set forth in this compact; and

DECLASSIFIED

424326

DECLASSIFIED

- 6 -

US 6/30/72

TITLE II

FOREIGN AFFAIRS AND DEFENSE

Section 201

Foreign
Affairs

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

(a) The Government of Micronesia and the Government of the United States each have a right to consult the other at any time on matters of mutual concern relating to foreign affairs, and they shall establish official channels to facilitate such consultations on a close and regular basis.

(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 Government of Micronesia agrees to enact whatever appropriate domestic legislation may be required for the enforcement of such treaties or agreements. However, the United States shall conclude international treaties or agreements which have geographical application to Micronesia but not to other territory for which the United States Government has foreign affairs responsibility only with the consent of the Government of Micronesia.

DECLASSIFIED

424327

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 6A -

(b)(7)(C) (S)(C)

Section 201

Foreign
Affairs

[The final phrase of the first sentence, "notwithstanding . . . Compact," is added to ensure that in later interpretation of the Compact no other Section such as #203 will be considered to diminish the full scope of the U.S. foreign affairs authority. This phrase is not absolutely indispensable, but it should be dropped only if serious opposition is expressed. This is the only place in the Compact that we clearly establish that in case of dispute foreign affairs will take precedence over internal affairs.]

BLAS
BS

(a) [Emphasis should be focussed on the "right" to consult rather than a duty to consult. "Right" places the burden for initiative on the party who desires information; "duty" connotes consultation before taking action. Although our intention would be to inform and consult in advance of undertaking commitments for Micronesia whenever possible, we cannot accept a general obligation to do so. There inevitably will be instances in which timing, remoteness and other pressures will make the delay for such consultations intolerable.]

BLAS
BS

ALTERNATIVE LANGUAGE for (a):

[The GOM and the USG shall establish official channels through which they may consult with each other at any time on matters of mutual concern relating to foreign affairs.]

BLAS
BS

[The key word here is "may" rather than "shall."]

BLAS
BS

(b) [Having been in dispute, this principle should be squarely resolved. As it is of considerable significance and of particular sensitivity even to minor word changes, modifications should be made with particular care.]

BLAS
BS

ALTERNATIVE FORMULATION for (b):

(b) [The authority . . . party. The United States shall consult with Micronesia on the effects of such application. The GOM shall enact within a reasonable time after such consultation whatever appropriate.]

BLAS
BS

CONFIDENTIAL

DECLASSIFIED

424328

DECLASSIFIED

CONFIDENTIAL

- 6A(2) -

(b)(1)(3)
(a)(5)

[domestic legislation may be required for the enforcement of those treaties and agreements.]

(c) [However, the USG shall conclude . . . only with the consent of the GOM.]

(b) [The formulation "effects of such application" in can reasonably be interpreted not to require consultations before any commitment is made, but the second sentence does require consultations before the GOM has to enact domestic legislation.]

ALTERNATIVE TEXT for (a):

[Add following sentence to present (a)]

[The Government of the United States shall endeavor to keep the Government of Micronesia informed of developments concerning foreign affairs which are of particular concern to Micronesia.]

ALTERNATIVE TEXT for (a):

(a) [The Government of the United States shall consult at any time at the request of the Government of Micronesia on any matter of mutual concern relating to foreign affairs. They shall establish official channels to facilitate those consultations on a close and regular basis.]

BIAS
BS
BIAS
BS
BIAS
BS
BIAS
BS

CONFIDENTIAL

DECLASSIFIED

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 6B -

Title II

(1) Undertakings on the Part of the Government
of the United States

Section 201. The Government of the United States undertakes to administer and conduct the external affairs of Micronesia on behalf of the Government of that State, and shall have full responsibility in this regard except in such matters of trade or economic affairs as are the subject of provisions elsewhere in this compact. In exercising this function, moreover, the United States shall solicit the views of and act in close and regular consultation with the Government of Micronesia.

DECLASSIFIED

424330

DECLASSIFIED

- 7 -

US 6/28/72

Section 202

Consular
Assistance

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

DECLASSIFIED

424331

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback (9)

- 7A -

b6)(s) (a)(5)

Section 202

Consular
Assistance

[Presumably an agreed principle. Note that this protection extends to all Micronesian citizens whether or not they are U.S. nationals. The passport question may be but need not necessarily be handled here as we can give this protection whether Micronesians carry U.S. passports or not.]

45
45
45

ALTERNATIVE TEXT:

[We could agree without difficulty to "traveling in foreign countries." The only reason for not including it now is that we should avoid the appearance that we reject whatever ideas of their 12/71 draft that we have not verbatim accepted. With this in mind our original proposals should all be somewhat different from theirs.]

45
45
45

CONFIDENTIAL

DECLASSIFIED

424332

(1) Section 203. The Government of the United States undertakes to accord the State of Micronesia and its people special consideration, irrespective of its practices with regard to governments or citizens of other foreign states in the following respects:

* * * * *

(g) In accordance with its responsibility to administer and conduct the external affairs of Micronesia, the Government of the United States shall accord its protection and its consular services to citizens of Micronesia traveling in foreign countries on Micronesian passports.

DECLASSIFIED

- 8 -

US 6/28/72

Section 203

Micronesian
Authority
in Foreign
Affairs

The United States shall separately set forth those areas of foreign commerce, technical, cultural and educational exchange, for which the Government of Micronesia, with its consent, shall exercise certain responsibilities.

DECLASSIFIED

424334

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 8A -

Section 203

(b)(1)(3) (a)(3)

Micronesian
Authority
in Foreign
Affairs

[This provision will doubtless be contested.]

DIASDF

[We do not wish to include in the Compact itself the specific scope of Micronesian responsibility in the foreign affairs field. To do so would give just as much weight to Micronesian authority as to the grant of U.S. authority, the result being a diminution of U.S. overall authority in the specific areas referred to as subject to Micronesian discretion.]

SI
AS
BS

[We wish to establish a system in which the U.S. alone has full authority over foreign affairs. We will commit ourselves in the Compact to working out reasonable and desirable delegations of that authority, but this will ultimately be a unilateral act of the USG. We can work out that separate agreement now rather than after the Compact is signed, and of course as a matter of fact it would be done in full consultation with the GOM. It must, however, be an action by the USG if in substance as well as in declaration we are to have full authority over foreign affairs.]

SI
AS
BS

CONFIDENTIAL

DECLASSIFIED

424335

DELETED

Micronesian draft

(1) 12/71

(2) 7/72

- 8B -

- (1) Section 303. The Government of Micronesia shall possess full power and authority to enter into any pact or agreement with a foreign country other than the United States providing for economic or technical assistance unless it can be shown that such economic or technical assistance has immediate military significance.

Title IV

Reservations on the Part of Micronesia

Section 401. The Congress of Micronesia on behalf of the people of Micronesia and their Government expressly reserves the following powers:

- (a) The power to obtain membership in United Nations agencies or similar international organizations;
- (b) The power to negotiate and conclude trade agreements with other countries in respect of goods;

* * * * *

- (e) The power to conclude agreements of local concern with other states, territories or possessions in the South Pacific area.

DELETED

424336

DECLASSIFIED

Section 204

Air
Commerce
Maritime
Navigation

The authority of the United States under Section 201 shall include the right to regulate air commerce and maritime navigation in 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 air carriers to provide service to Micronesia.

DECLASSIFIED

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback (11)

- 9A -

~~(b)(4)(5)(a)(3)~~

Section 204

Air
Commerce
Maritime
Navigation

International air routes are so laden with foreign affairs implications that we really must maintain the right to regulate and negotiate agreements affecting that commerce. Similarly international rules on maritime shipping are of sufficient importance that we should be able to ensure Micronesian cooperation. [The Micronesians may well want U.S. regulation even of purely domestic aviation and shipping because they lack the skills and personnel to run their own systems. However, if this is resisted, we do not need to insist on domestic regulation so long as no impediment is placed in the way of meeting all international obligations.]

BD
AS
SS

CONFIDENTIAL

DECLASSIFIED

424339

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 9B -

- (1) Section 203. The Government of the United States undertakes to accord the State of Micronesia and its people special consideration, irrespective of its practices with regard to governments or citizens of other foreign states in the following respects:

* * * * *

(d) The Government of the United States shall, by agreement with the State of Micronesia, also provide such other programs and services as may be made applicable to the State of Micronesia in accordance with appropriate United States laws and regulations. Such programs and services may include, but shall not be restricted to, the areas of banking, maritime shipping, Coast Guard patrol, AIR TRAFFIC CONTROL, public health and education. The State of Micronesia shall take all necessary action to provide for compliance with the laws and regulations relevant to the application of such United States programs and services.

BUT:

Section 401. The Congress of Micronesia on behalf of the people of Micronesia and their Government expressly reserves the following powers:

* * * * *

(d) The power to regulate surface and air transport in and through the territory of Micronesia to the extent that no undue interference is caused to the defense activities of the United States; and

DECLASSIFIED

424340

DECLASSIFIED

- 10 -

US 6/28/72

Section 205

Defense

The United States shall have full authority for the conduct of all matters concerning defense in Micronesia, including the right to protect Micronesia against armed attack or threats thereof, the right to conduct activities relating to the security of the United States and the right to exercise its responsibilities for international peace and security. The United States undertakes to ensure that the activities of its forces stationed in Micronesia shall be conducted with full regard for the welfare and safety of the people of Micronesia.

DECLASSIFIED

424341

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comment and
Fallback

- 10A -

(12)

~~(b)(1)(5)(a)(i)~~

Section 205

Defense

[This formulation is somewhat broader than the three categories we suggested at Palau. We should in the future insist on the broad right to act pursuant to our "responsibilities for international peace and security."]

RL
AS
BS

CONFIDENTIAL

DECLASSIFIED

424342

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 10B -

- (1) Section 202. The Government of the United States undertakes to assure the security of the sovereign territory of Micronesia against armed aggression or threats thereof by any foreign power.

DECLASSIFIED

424343

DECLASSIFIED

US 6/28/72

Section 206

Military
Facilities
Denial

The United States shall have the exclusive right to establish and maintain military bases and to conduct military activities within the territory of Micronesia, and shall have full freedom of access to such bases and facilities. No other country shall enjoy such rights or access within the territory of Micronesia without the express consent of the United States. The United States shall have the right to establish and maintain military facilities in the Marshall and Palau Districts as provided in Annex A of this Compact. The rights specified in this Section shall continue for the duration of time set out in the military base agreements contained in that Annex, which shall be an integral part of this Compact.

(Plus Annex.)

DECLASSIFIED

CONFIDENTIAL

CONFIDENTIAL

US 6/30/72
Comments and
Fallback (13)

- 11A -

(b)(1)(5) (a)(5)

Section 206

Military
Facilities
Denial

[Sentences one and two ensure denial of foreign military bases and military activities. Sentence three ensures our right to establish and maintain particular bases, and sentence four ensures that possible termination of the Compact before the term of years spelled out in the basing agreements will not alter our base and denial rights. This point is also covered in the termination sections of Title X.]

BTAS
BS

[We can be more specific about the Marshall and Palau base rights here if desired, although the precise details of the agreements would fit much better into an Annex. The Annex would clearly be an integral part of the Compact and would have every bit as much legal authority as the main body of the Compact. It is merely a device for including detail that would be overly cumbersome in the body of the document.]

BTAS
BS

CONFIDENTIAL

CONFIDENTIAL

424345

Title III

(1) Undertakings on the Part of Micronesia

Section 301.

(a) The Congress of Micronesia, on behalf of the people of Micronesia and their government, agrees that the United States shall have the right to the exclusive use and occupancy of military facilities in the following areas: (1) Kwajalein Atoll; (2) Eniwetok Atoll; (3) Bikini Atoll; (4) Various facilities in the Marianas - particularly on Tinian; and (5) Existing Coast Guard facilities. This right shall continue for the duration of this compact and, except in the event of unilateral termination by the United States, for a term of 25 years thereafter on the same terms and conditions. At the expiration of this 25-year period, the parties will agree to the renewal of any and all of these base rights on mutually acceptable terms.

(b) Micronesia grants to the Government of the United States the option to lease for defense purposes on terms and conditions mutually acceptable to the two governments, the following areas: (1) Malakal Harbor - or suitable alternative site - no more than 40 acres for naval supply facility; (2) Babelthaup Island - storage depot; and (3) Babelthaup Island - expansion for military use of existing civilian airport. This option shall continue for the duration of this compact and, except in the event of unilateral termination by the United States, for a term of 25 years thereafter.

* * * * *

(e) The Government of the United States shall pay to the Government of Micronesia annually the sum as set forth in Appendix A attached hereto for the use of the military facilities and for the options on the areas designated in subparagraphs (a) and (b) above. In the event that the United States exercises its option with respect to any of the areas designated in subparagraph (b) or acquires the use of other areas pursuant to subparagraph (c), the parties agree to determine an appropriate adjustment of the total amount to be paid annually by the United States under this subparagraph.

DECLASSIFIED

- 11B(2)-

Section 302. The Congress of Micronesia agrees that no country other than the United States shall be permitted to establish military bases within the territory of Micronesia or to conduct military operations of any kind whatsoever therein without the express consent of the Government of the United States. No vessels of other countries serving any military purpose or possessing any intelligence gathering capability shall be permitted entry into Micronesian waters.

0311597030

424347

DECLASSIFIED

- 12 -

US 6/28/72

Section 207

Coast
Guard

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

DECLASSIFIED

424348

0315007030

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 12A -

Section 207

Coast
Guard

Mutually agreed in principle.

CONFIDENTIAL

0315007030

424349

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 12B -

(1) Section 203.

* * * * *

(d) The Government of the United States shall, by agreement with the State of Micronesia, also provide such other programs and services as may be made applicable to the State of Micronesia in accordance with appropriate United States laws and regulations. Such programs and services may include, but shall not be restricted to, the areas of banking, maritime shipping, COAST GUARD PATROL, air traffic and control, public health and education. The State of Micronesia shall take all necessary action to provide for compliance with the laws and regulations relevant to the application of such United States programs and services.

03:15:07:030

424350

DECLASSIFIED

Section 208

Military
Service

Citizens of Micronesia who are otherwise qualified in accordance with United States law shall be eligible to volunteer for service in the Armed Forces of the United States, but shall not be subject to involuntary induction into military service unless they become permanent residents of the United States.

DECLASSIFIED

424351

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 13A -

Section 208

Military
Service

Mutually agreed in principle.

CONFIDENTIAL

09115007000

424352

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 13B -

(1) Section 203.

* * * * *

(f) In order to accommodate the wish of the people of Micronesia to have the privilege of unrestrained entry into and exit from the United States, the Government of the United States makes the following declarations:

* * * * *

(2) Citizens of Micronesia may volunteer to serve in the armed forces of the United States but shall not be subject to involuntary induction into military service, unless they elect to assume permanent residence in the United States.

DECLASSIFIED

424353

DECLASSIFIED

US 6/28/72

Section 209

Legal Status
of US
Military
Personnel,
etc.

The legal status of United States military personnel, of U.S. citizen civilian employees, and of their dependents, while stationed in Micronesia shall be established by mutual agreement which shall remain in effect for so long as such personnel are stationed in Micronesian territory or United States military base rights remain in force.

0311587000

424354

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 14A -

(b)(1)(5)(a)(5)

Section 209

Legal Status
US Military
Personnel

[Mutually agreed in principle, but no details have yet been specified. Presumably the precise agreement will be more troublesome to work out.]

BLAS
BS

CONFIDENTIAL

DECLASSIFIED

424355

- (1) Section 502. In order to effect the discharge by the United States of its defense obligations expressed herein, the United States Government and the Government of Micronesia shall conclude an agreement respecting the stationing of American military personnel at United States military installations within the territory, which, upon approval by both governments, will remain effective so long as this compact continues in force.

DECLASSIFIED

US 6/28/72

Section 210

Eminent
Domain

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 in addition to 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 use of such areas.

DECLASSIFIED

424357

DECLASSIFIED

CONFIDENTIAL

- 15A -

US 6/30/72
Comments and
Fallback

(b)(1)(5)(a)(5)

BTAS
BS

Section 210

Eminent
Domain

(Mutually agreed in principle. The Micronesian draft of 12/71 says "shall accede" on negotiated terms. However, that draft had no formal standing, in light of their later statements it is doubtful they would accept that formulation now as it sounds too severe, and in fact our proposal is every bit as strong without sounding so offensive. A commitment to accede to a request on mutually agreed terms is no better from our point of view than a commitment to negotiate a mutually satisfactory agreement. The commitment to accede is meaningless without mutual agreement on the terms.

B
A
B

CONFIDENTIAL

DECLASSIFIED

424358

(1) Section 301.

* * * * *

(c) In addition to the foregoing, if the United States should require for defense purposes other areas within the territory of Micronesia than those specified above, the Government of Micronesia will give sympathetic consideration to any request by the United States in that regard, and will accede to such request on terms and conditions to be negotiated in good faith, unless such request is determined by the Government of Micronesia to be in serious and irreconcilable conflict with overriding interests of the people of Micronesia.

DECLASSIFIED

- 16 -

US 6/28/72

Section 211

Environment

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

DECLASSIFIED

424360

CONFIDENTIAL

CONFIDENTIAL

- 16A -

MS 6/30/72

Comments and
Fallback

(16)

(b)(1)(s) (a)(s)

Section 211

Environment

We can commit ourselves to endeavor or to try to protect the environment. Absolute protection is of course impossible in this context and hence we cannot hamstring ourselves by an absolute commitment not to do any damage.

Handwritten initials and scribbles on the right margin.

CONFIDENTIAL

CONFIDENTIAL

424361

DECLASSIFIED

Micronesian draft
(1) 12/71.
(2) 7/72

- 16B -

(1) Section 301.

* * * * *

(d) In utilizing the facilities set forth in subparagraphs (a), (b) and (c) above the United States shall act to protect the surrounding environment from permanent or irreparable damage. No new facilities will be constructed unless the parties to this compact agree that such construction will not pose a serious threat of such environmental damage.

DECLASSIFIED

424352

DECLASSIFIED

- 17 -

US 6/28/72

[Section 212

Issue: Possible Defense agreement for application
after termination of Compact.]

03115387030

424363

DECLASSIFIED

CONFIDENTIAL

- 17A -

US 6/30/72
Comments and
Fallback

(17)

~~(b)(1)(c)(2)(3)~~

BLASBY

[Section 212]

Defense
Agreement

[Should be dropped.]

CONFIDENTIAL

DECLASSIFIED

424364

TITLE III
FINANCIAL AND ADMINISTRATIVE PROVISIONS

Section 301

The United States Government 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:

Financial Assistance

(a) The United States shall provide (fill in after Constitutional Convention) 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 establish a matching fund with an annual maximum of _____ which shall be available to (fill in after Constitutional Convention), for use in providing educational and other local public services, in a ratio of five dollars from the matching fund for every one dollar of district tax revenues raised in each district.

U.S. Federal Programs and Services

(c) The United States may, subject to approval by the Congress of the United States, extend to Micronesia such United States federal programs and services as are from time to time mutually agreed. The Government of the United States reserves the right to modify or withdraw such programs or services at any time after appropriate consultations with Micronesian authorities.

18
~~(b)(7)(C)(D)~~

Section 301

Finance

[This proposes a certain lump sum contribution to the central Micronesian Government and a matching fund for direct payment to the separate district governments. Subsection (c) provides for extension of mutually agreed U.S. federal programs and services. It also ensures that the USG could modify or withdraw that extension unilaterally after appropriate consultations.]

31
AS
BS

DECLASSIFIED

(1) Section 203 * * *

(a) the United States shall continue to assist and support the economic growth of Micronesia and to aid in providing for the health and welfare of its citizens, for the duration of this compact or until such time as Micronesia becomes self-sufficient in these areas and indicates it no longer desires all or any part of such assistance. The minimum level of such assistance for each of the first _____ years after the effective date of this compact is set forth in Appendix A attached hereto. Aid and support under this subparagraph shall be in the form of funds or goods and services, as heretofore provided by the United States as administering authority of the Trust Territory of the Pacific Islands, but shall not necessarily be limited thereto. At the end of _____ years the Government of the United States agrees to give sympathetic consideration to the needs of the Government of Micronesia in determining the level of further assistance under this subparagraph.

DECLASSIFIED

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.

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 19A -

(19)

(b)(1)(5)(a)(5)

Section 303

Currency

Mutually agreed in principle. We do not really care if the Micronesians adopt their own currency, although admittedly it would probably be a monetary disaster for them if they chose to do so.

Handwritten initials and markings, including a large bracket on the right side and some scribbles.

CONFIDENTIAL

DECLASSIFIED

424369

DECLASSIFIED

Micronesian draft
(1) 12/71
(2) 7/72

(1) Section 203.

* * * * *

(c) the currency of the United States shall continue to be official legal tender within the territory of the State of Micronesia until such time as the Government of Micronesia shall act to institute its own currency and fiscal system. The parties hereto may subsequently agree upon the terms and conditions of an appropriate transitional period whenever a Micronesian currency shall be adopted.

DECLASSIFIED

424370

DECLASSIFIED

- 20 -

US 6/28/72

Section 304

Banking

The Government of Micronesia shall have full 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 the opportunity to participate in United States federal banking programs in accordance with applicable United States laws and regulations.

0314507000

424371

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 20A -

(20)
~~(b)(1)(5)(a)(5)~~

Section 304

Banking

[Federal Reserve says this is quite acceptable but doubts Micronesia would have much to gain by joining most U.S. federal banking programs.]

~~BIAS AS~~

CONFIDENTIAL

DECLASSIFIED

424372

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- (1) No comparable section in Micronesian draft of 12/71.

03115587034

424373

Section 305

Postal
Services

In accordance with Section 301(c) of this Compact the United States shall provide in particular regular postal services to the People of Micronesia.

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 21A -

Section 305

Postal
Services

The Micronesian delegation has requested and we can agree to the continued provision of postal services. Any gradual transfer of the system to the Micronesian Government will have to be worked out with the Postal Service. Such a transfer would be possible under this provision as the phrase "In accordance with Section 301(c)" provides for the possible modification or termination of this service.

This should not be contentious.

CONFIDENTIAL

DECLASSIFIED

424375

(1) Section 203.

* * * * *

(b) the Government of the United States shall continue to provide regular postal services to the State of Micronesia, during a period of gradual transition of postal services, facilities and equipment from United States control and ownership to Micronesian control and ownership. It is the intent of the parties hereto that such transition shall be completed, and the requirement for services by the United States under this subparagraph terminated, within ___ years from the effective date of this agreement.

DECLASSIFIED

- 22 -

US 6/28/72

TITLE IV

APPLICABLE LAWS

Section 401

TTPI Laws
continued

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

0319587030

424377

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 22A -

Section 401

TTPI Laws
continued

This provides for continuation in force of laws the Congress of Micronesia has enacted in the past except those that would be inconsistent with the Compact or with the new Micronesian Constitution. The new legislature established by the Micronesian Constitution would of course have full authority to amend or repeal those laws.

No dispute anticipated.

CONFIDENTIAL

CONFIDENTIAL

424378

DECLASSIFIED

- 22B -

Micronesian draft

(1) 12/71

(2) 7/72

- (1) No comparable provision in 12/71 draft.

03115587030

424379

DECLASSIFIED

US 6/28/72

Section 402

The Government of Micronesia shall by legislation or other appropriate legal means ensure compliance within its jurisdiction with United States laws and policies relating to its responsibilities for foreign affairs and defense in Micronesia. In the adjudication of cases involving United States responsibilities for foreign affairs and defense under this Compact, there shall be an automatic right of appeal from the highest Micronesian court to the United States Ninth Circuit Court of Appeals.

03:15:07:00

424380

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 23B -

(1) No comparable provision in 12/71 draft.

0315587030

424381

Section 403

The Government of Micronesia 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.

DECLASSIFIED

(1) Section 203.

(d) * * * The State of Micronesia shall take all necessary action to provide for compliance with the laws and regulations relevant to the application of such United States programs and services.

DECLASSIFIED

424383

TITLE V
TRADE AND COMMERCE

Section 501

U.S. Treatment of
Micronesian Goods

The United States shall grant to Micronesian goods and commerce treatment no less favorable than that extended 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.]

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 25A -

(2) (b)(1)(c) (a)(5)

Section 501

U.S. Treatment
of Microne-
sian Goods

The first proposal obviously will not wash. The second says that we agree to duty-free entry but that the USG will decide what the criteria are for distinguishing between goods of Micronesian origin and others. This is of major significance for not all products coming out of Micronesia will necessarily qualify, and a simple statement of 50% value added is insufficient unless it is clear how the value is measured. We cannot at this time discuss those precise criteria, although they would presumably be decided on some reasonable basis.]

Handwritten scribbles and a bracket on the right margin.

CONFIDENTIAL

DECLASSIFIED

424385

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

-25B-

(1) Section 203.

* * * * *

(e) The Government of the United States assures the continuation of trade policies with respect to Micronesia that will have the effect of preserving the unrestrained trade relationship mutually existing between the two parties. Goods as to which at least 50% of the value originates in Micronesia will be admitted into the United States free of duty.

DECLASSIFIED

424386

DECLASSIFIED

- 26 -

US 6/28/72

Section 502

The Government of Micronesia shall extend to goods and services from the United States treatment no less favorable than that extended to goods from any other country.

DECLASSIFIED

424387

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 26B -

- (1) Section 304. Micronesia undertakes that in respect of trade, the goods of the United States shall be permitted entry into and traded within the territory of Micronesia on terms at least as favorable as those accorded to goods from other countries.

DECLASSIFIED

424388

Section 503

Import
Control

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.

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 27A -

Section 503

Import
Control

This section recognizes that the GOM will be responsible for Micronesian import regulations, the only limitation being that those regulations must be consistent with U.S. international commitments such as non-discrimination under GATT.

This has been agreed to in principle by the Micronesian delegation and should not cause difficulties.

CONFIDENTIAL

DECLASSIFIED

424390

- (1) No precisely comparable provision in 12/71 draft but intent is clearly similar to our provisions.

DECLASSIFIED

US 6/28/72

TITLE VI

CITIZENSHIP AND NATIONALITY

Section 601

Micronesian
Citizen-
ship

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

DECLASSIFIED

424392

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 28A -

22

(6) (5)

Section 601

Micronesian
Citizenship

Although no mention of this issue was made in the 12/71 draft, the Micronesians asserted a desire for this authority at Hana. As long as we are protected with regard to immigration into the U.S. (see Title VII) we should have no objection to this request.]

Handwritten initials or mark in a bracketed area.

CONFIDENTIAL

DECLASSIFIED

424393

- (1) No comparable provision in 12/71 draft but principle supported in Micronesian papers at Hana.

Section 602

U.S. National-
ality

The United States and Micronesia agree that the following persons shall be nationals 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 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 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 physically resided in Micronesia for at least three of those five years.

Section 602

(23) (b)(1)(5)(a)(5)

U.S.
Nation-
ality

[This section establishes the general rule that Micronesians will be U.S. non-citizen nationals and explains the criteria for that nationality. The Micronesian draft of 12/71 requests that Micronesians be "considered" U.S. nationals for immigration purposes only. Our position is that they should be U.S. nationals, although exempted from the draft, or that they would be aliens, conceivably with special immigration privileges. We cannot without further consultations specify what particular special conditions. In any case as aliens Micronesians would still be subject to Federal and State regulation and restrictions on aliens, which they presumably would not desire. (See Comments under Sections 603 and 701.)

B1
A5
B5

CONFIDENTIAL

0315047030

424396

DECLASSIFIED (1) 12/71
(2) 7/72

(1) No comparable provision in 12/71 draft.

DECLASSIFIED

424397

Section 603

Foreign
Nation-
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 citizenship or nationality, 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.

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 30A -

Section 603

• Foreign
Nationality

This section allows exemption from U.S. nationality for any Micronesian who has nationality or citizenship of any country other than the United States and who wishes to retain that nationality or citizenship.

Conceivably we could expand this provision to say in addition that any Micronesian who does not desire to be a U.S. national can be exempted from Section 602 simply by making a similar declaration. (This is under review.)

ALTERNATIVE TEXT:

"Any person . . . or nationality, or any other person described in Section 602 who does not desire to become a national of the United States, shall make (remainder same).

CONFIDENTIAL

DECLASSIFIED

424399

DECLASSIFIED

Micronesian draft
(1) 12/71
(2) 7/72

- 30B -

(1) No comparable provision in 12/71 draft.

03115307030

424400

DECLASSIFIED

TITLE 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 laws of the United States. Citizens of Micronesia who are not United States nationals shall be accorded treatment as aliens for these purposes.

DECLASSIFIED

424401

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 31A -

Section 701

. Microne-
sians to
U.S.

This section opens free entry into the United States to any Micronesian who qualifies for and becomes a U.S. national. It specifically notes that any Micronesian who is not a U.S. national, regardless of whether he is a Micronesian citizen, will be considered an alien under U.S. immigration law.

CONFIDENTIAL

DECLASSIFIED

424402

(1) Section 203.

* * * * *

(f) In order to accommodate the wish of the people of Micronesia to have the privilege of unrestrained entry into and exit from the United States, the Government of the United States makes the following declarations:

(1) Citizens of the State of Micronesia shall be treated, for the purposes of immigration laws of the United States, and for those purposes only, as nationals but not citizens of the United States, provided that the privileges of United States nationals shall not be accorded to those Micronesians who are citizens or nationals of any other foreign country or who have taken affirmative steps to preserve or acquire a foreign nationality.

DECLASSIFIED

US-6728/72

- 32 -

Section 702

U.S. Citizens
in Micro-
nesia

The Government of Micronesia may establish, amend or revoke laws and regulations concerning immigration or entry of non-Micronesians into Micronesia, consistent with the foreign affairs and defense responsibilities of the United States. Micronesia agrees that citizens of the United States will be treated at least as favorably as any other non-Micronesians in this regard.

03115007000

424405

DECLASSIFIED

CONFIDENTIAL

US. 6/30/72.

Comments and
Fallback

- 32A -

(24) (b)(1)(5) (a)(5)

Section 702

U.S. Citizens
in Micro-
nesia

This section acknowledges that the GOM may regulate the immigration and entry of non-Micronesians including U.S. citizens into Micronesia so long as no discrimination is practiced against U.S. citizens and so long as appropriate U.S. defense and foreign affairs interests are protected.

[There is mutual agreement on this principle except for the reservation regarding foreign affairs which has not yet been proposed.]

[Note to Al Smith: The TTPI Government already regulates the entry of U.S. citizens et al. into Micronesia so this is really not much of a departure from present practice. Besides, it's a nice place to visit, but)]

HTAS
ES
HTAS
ES

CONFIDENTIAL

DECLASSIFIED

924406

DECLASSIFIED (1) 12/71 (2) 7/72

(1)

Section 305. Micronesia agrees to accord to citizens of the United States the right of entry into the territory of Micronesia for all purposes including immigration on terms no less favorable than those accorded to citizens of other foreign countries.

* * * * *

(c) The power to regulate the exist from and entry into the territory of Micronesia by the citizens of Micronesia, together with the power to regulate the entry and exit of aliens to the extent that no interference is caused with the defense activities of the United States;

DECLASSIFIED

DECLASSIFIED

- 33 -

US 6/28/72

Section 703

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

09115907030

424408

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 33A -

25 (4)(c)(5)(a)(5)

Section 703

U.S. Immi-
gration
Law

[This section clearly states that the USG of course remains free to change its immigration, nationality and citizenship laws regardless of any commitment made in this Compact. This should be included in the Compact and obviously is not subject to compromise.]

BLAS
B

CONFIDENTIAL

DECLASSIFIED

424409

DECLASSIFIED

- 34 -

US 6/28/72

TITLE VIII

REPRESENTATION AND CONSULTATION

Section 801

Liaison
Offices

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 to them.

DECLASSIFIED

424411

DECLASSIFIED

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 34A -

Section 801

Liaison
Offices

Mutually agreed in principle, although we are
a little short on details on this one.

CONFIDENTIAL

DECLASSIFIED

424412

DECLASSIFIED Micronesian draft
(1) 12/71
(2) 7/72

- 34B -

(1) No comparable provision in 12/71 draft.

DECLASSIFIED

424413

TITLE IX
DISPUTE SETTLEMENT

Section 901

Disputes between the Government of Micronesia and the Government of the United States which relate to the interpretation of provisions of this Compact shall be settled by negotiation between those governments.

0000000000

CONFIDENTIAL

US 6/30/72
Comments and
Fallback

- 35A -

(26) (b)(1)(5)(a)(5)

Section 901

Dispute
Settlement

[The Micronesians have asked for a tribunal with one member appointed by the Secretary-General of the U.N. However, our limit regardless of how we phrase it is consultation or negotiations between the USG and GOM.]

A1
AS
B/B

CONFIDENTIAL

0000000000

424415

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 35B -

(1)

Section 503. Whenever a dispute arises between the parties to this compact regarding its interpretation or the application of any of its provisions, either party may request submission of the dispute to a panel which shall be comprised of one United States representative, one Micronesian representative, and one representative designated by the Secretary-General of the United Nations with the consent of both parties. Both parties agree to abide by the decision of a majority of the panel.

DECLASSIFIED

424416

DECLASSIFIED

CONFIDENTIAL

US 6/30/72

Comments and
Fallback

- 38A -

Section 1101

(28)

~~(b)(1)(5)(a)(9)~~

[This issue has not yet been addressed, but should hardly be contentious since it is based on mutual consent. [The only problem could be a focus on the explicit definition of the parties to the Compact, namely the USG and the People of Micronesia. We cannot agree that the Micronesian party be the GOM, because our whole rationale has been that the people of Micronesia vest certain powers in the USG and others in the GOM. This draft is phrased in a way which hopefully will not be difficult for the Congress of Micronesia, but nowhere do we say that the GOM is authorizing the fundamental USG authority in foreign affairs and defense.]]

BLAS
BS

Effective
Date

CONFIDENTIAL

424417

DECLASSIFIED

Micronesian draft

(1) 12/71

(2) 7/72

- 38B -

Title V

(1) Effective Date of Compact, Duration and Termination

Section 501. This compact shall become effective immediately upon its approval by the governments of both parties in accordance with their respective constitutional processes.

(NB - At Palau the Micronesian delegation moved much closer to our position on this point.)

DECLASSIFIED

424418