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July 27, 1972

**MEMORANDUM FOR MR. RONALD F. STOWE, L/IO, DEPARTMENT OF STATE**

**SUBJECT: Foreign Affairs Powers - Micronesian Draft Compact.**

May we have your opinions - at your early convenience, with respect to the following questions:

**1. Section 201 (a).**

What is the intended effect of the final clause i. e. "notwithstanding any other provision of this Compact?"

-In particular, does this clause operate in your view - and in the view of the Micronesian delegation to establish overriding foreign affairs powers in the United States in all situations -

(1) wherever the United States deems that the foreign powers are to be exercised,

(2) wherever other provisions in the Compact are inconsistent?

Comment. If the United States has the powers suggested by the above questions, how are disagreements, disputes or misunderstandings to be resolved between Section 201 (a) and Section 202? We are particularly concerned with the meaning - in concrete cases - of the term "predominantly" as used in Section 202.

**2. Section 204.**

The questions to be raised under Section 204 call for its operation with respect to Annex A:

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-Is Section 204 (b) intended to override all the exercise of foreign affairs powers such that the United States can make the final determination whether its exercise of those powers are or are not "in conflict with United States foreign policy and United States security interests?"

Comment. Annex A gives the "Government of Micronesia" certain powers normally associated with foreign affairs powers, and hence, apart from the above problem indicates a possible, additional conflict with Section 201.

-Is it the view of the delegation that the Government of Micronesia exercising its own foreign affairs powers can become associated "in regional organizations, United Nations Specialized Agencies, or their subsidiary bodies, of which the United States is a member?"

-To what extent is this, or does this require, an exercise of "sovereignty" or "sovereign powers" in the international sense? Or must the United States exercise these powers for Micronesia in its behalf? And in that event is the United States one of the Parties in interest?

Comment. Note the apparent circuitous flow between Section 204 and Annex A.

Furthermore, note that normally sovereign States become members of the entities referred to in the cited portion of Annex A. Is Micronesia to be treated as sovereign for such purposes?

-In exercising its powers under Annex A I (b) is Micronesia exercising sovereign powers? It is our understanding that it may exercise the powers in (b) and (c) without consulting or - in the extreme case - without the consent of the United States other than as provided here?

3. Annex A III.

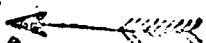
Note that the Government of Micronesia may comment on an "activity" in foreign affairs, and then the United States may inform Micronesia of a possible conflict with United "international commitments, responsibilities or policies." To what extent does this provision detract from the powers imposed by Section 201? Or does the final clause of Section 201 (a) "cover" this point?

-To the same effect do III and IV of Annex A compel the United States to play post hoc - watchdog activities - over Micronesians' exercise of foreign powers instead of having Micronesia consult with the United States prior to the exercise of such powers?

Comment. Although the above questions relate to foreign affairs powers, they also relate directly to defense powers. For example, and without going into detail here, extensive take-over of communications or commerce might cause the United States concern if they fell into the hands of investors of countries unfriendly to the United States, or even in the hands of investors from a singly foreign country.

Signed

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