



DEPARTMENT OF DEFENSE
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Termination Proposal

The defense responsibility and authority of the United States over its bases and the use of those bases in micronesia, and the rights of denial set forth in Section 302, shall, upon any termination of this Compact, remain in force for no less than _____ years, or thereafter as extended by agreement. To this end, Sections 302 through 304 and the Annexes to this Compact shall remain in force for such period provided however that Section 302(a)(1) shall terminate with the termination of this Compact unless otherwise agreed.

Comment.

1. The above clause presupposes that we can and will effectively continue the sections on defense powers mentioned.

2. The above clause indicates that the defense of Micronesia set out in 302(a)(1) will cease, the argument to be made that this defense was (a) not contemplated by the Parties; (b) such defense falls under part of the area of activity which engages the foreign affairs powers and hence would have to be renegotiated; (c) and in any event the defense of Micronesia is a matter to which we could not commit the Congress in advance on an indefinite basis but would require a separate mutual security treaty. (Query the use of the argument in "c").

3. The negotiators should indicate that the protection of the bases, their defense, and the defense of "international peace and security" which carries over as an objective from the Trusteeship Agreement is a fundamental US objective. But the kind of activity envisaged under a serious threat in these terms is not only difficult

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to envisage, but if envisaged would necessarily require a wide discretion in the exercise of powers. The exercise is therefore elastic: it grows or diminishes in strength according to the defense needs. The United States will not use the area for excessive or unnecessary military activities - and this could be read into the record as an "understanding" in the negotiation. On the other hand, the failure to provide for such discretion and freedom to act would mean that the objectives could not be met - and therefore that the Compact's post-termination provisions were unsatisfactory.

4. The proposal also as noted would suggest a "mutual" security agreement. Such an agreement could be "available" as a talking paper for this negotiation. (Already provided). Or it could be discussed without reference to precise language. It is a matter of policy and negotiating strategy whether it would be advisable to negotiate such a treaty and make it an annex to the Compact - to come automatically into effect at the time of any unilateral termination. On the other hand, it can be "cold" as a real treaty - to be entered into between a "sovereign" Micronesia and the United States.

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