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17 October 1972

Refer to: I-14335

MEMORANDUM FOR Mr. Ronald Stowe, L/UNA, State
Mr. Herman Marcuse, Justice
Mr. Adrian de Graffenreid, Interior

*Copied for Stowe
23 MAR 59 JAL*

SUBJECT: Micronesian SOFA

Notwithstanding the current impasse in negotiations on the Micronesian Compact, our Interservice Legal Group in Defense has continued its preparatory work on a status of forces agreement to accompany the Compact. The result of these endeavors is attached hereto as a draft which has preliminary clearance within DoD, but as to which we have not yet received comments from CINCPAC, tentatively expected about 1 November.

Whatever the form of government or association agreed upon with Micronesia, a status of forces agreement will be required, unless the Trust Territory Government can be continued indefinitely. The provisions herein are of course directly related to Title III of the Compact, and would have to be changed accordingly if that expression of US defense authority and responsibility were modified to any appreciable extent. Provisions relating to the status of US forces as distinguished from operating rights, however, could remain substantially unchanged.

In furnishing you this draft for preliminary inter-agency coordination, your attention is invited to two principal aspects:

A. Although this agreement is tied to Section 305 of the Compact, it is limited to a status of forces agreement covering US military personnel, their civilian component, contractor personnel and dependents. We did not see any practical manner to extend the scope of this document to encompass US Government civilian personnel not directly associated with the activities of US forces, and would suggest that such personnel be covered by separate agreement if immunity from local jurisdiction is desired.

B. Article XIII, however, contemplates exercise of the special maritime and territorial jurisdiction of the United States authorized in Title 18 US Code Section 7(iii), and includes provisions relating to arrest and custody. As you will notice, this jurisdiction extends to all US citizens, but is limited to offenses committed within the defense sites. A legal analysis of this jurisdiction is being prepared by the Army, and will be furnished to you as soon as completed.

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Your respective comments and suggestions are invited; should you prefer, I will be glad to arrange a meeting to consider this draft jointly.

Philip E. Barringer
Director, Foreign Military
Rights Affairs

Attachment
Draft Micronesian SOFA
dated 5 October 1972

cc: Mr. Almond, OGC (IA)
Capt. Schuller, ISA/EA&PR
Capt. Smith, Army JAG
Major Gehring, Navy JAG
Mr. B. Allen, SAFGC



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