

H *① DAGLO S.* *These are not -*
casual enemies in *6/7* *1972*
Pres as drafted →

MEMORANDUM FOR MR. MARCUSE

Subj: Questions concerning the method of binding political subdivisions of Micronesia

ILP TTP1

1. Under international law, will not the Compact be binding upon the state of Micronesia, and therefore upon both its central government and any political subdivisions it may have, without requiring (a) preambular language, (b) a definition of the "Government of Micronesia", or (c) language in each section specifying its relevance to the central government or political subdivisions?
2. If the obligations of the Compact are binding upon all levels of government within Micronesia under international law without additional language, does the addition of other language specifically referring to political subdivisions really give the U.S. any additional protection?
3. Before the Micronesians have drafted a Constitution and allocated authority and responsibility among different levels of government, is it possible to determine which sections of the Compact shall be made applicable to the central government only and which to all levels of government?
4. If the U.S. believes a local governmental practice is inconsistent with a section of the Compact which refers only to the central government, does that omission mean that the local government is not bound by the Compact?
5. Concerning ^a local governmental practice under some section of the Compact which specifically refers to both central and local levels of Micronesian government, does the USG deal directly with the local government for correction of ~~a~~ ^{the} grievance or with the central government?

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6. If the Compact contains a definition of the "Government of Micronesia" which includes reference to the local levels of government, can the central government decline responsibility for a local governmental practice because the Micronesian Constitution allocates authority on that subject to the local governments?
7. If the "Government of Micronesia", by definition or by language additions to specific sections of the Compact, expressly includes local levels of government, does this broaden the forms of government available for choice by the Micronesians in drafting their Constitution which will still be "consistent with the provisions of this Compact," as required by Section 101 of the Compact?
8. Is additional language necessary in Section 102 to indicate that section does not require any Micronesian Constitution to locate all authority in their central government, a result which is very improbable anyway considering Micronesian politics? If such language is necessary, shall it be added to Section 201(c)?
9. Does the President of the United States, by implication of Section 1202.2, also determine if the constitution adopted by the people of Micronesia pursuant to Section 101 is consistent with the provisions of the Compact?
10. Under Sections 201(b) and 307 shall the U.S. accommodate wishes expressed directly to the USG by a single local government, if the "Government of Micronesia" is defined elsewhere in the Compact to include political subdivisions?

11. Under Section 202, is consent for the negotiation of international agreements necessary only from the central government, from concerned local governments as well, or from all governments in Micronesia? The same question may be raised with respect to the assurances required in Section 203(b) before the establishment of consulates in Micronesia.

12. Under Sections 204 and Annex A, is the U.S. agreeing only that the central government may undertake such activities, or that any level of Micronesian government may undertake such activities (assuming that the Micronesian Constitution will permit such activities without central coordination or sponsorship).

13. Under Section 302(b) there is an implied obligation upon the Government of Micronesia to permit the USG activities and operations described in that paragraph. If other sections specifically refer to local levels of government when the obligations of those sections are deemed binding upon local levels of government, does omission of such an express reference in Section 302(b) leave local levels of government free to impeded those USG activities and operations?

14. Section 303(d) prohibits the inclusion in the Annex B agreements for lands and waters of limitations on the use of lands and waters which conflict with USG defense authority and responsibility. Since our negotiations for such agreements will be with local governmental bodies, must there be added specific language so they will be precluded from seeking such limitations in their negotiations with the USG?

15. Section 303(e) prescribes the minimum duration for Annex B agreements. Since the agreements will be negotiated with local governmental bodies, is it necessary to add additional language at this time to ensure that they are bound by this provision in their negotiations with the USG?