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[To be inserted near end  
of "Supermemo":]

Implementation of Future Political Status:  
Termination of the Trusteeship  
and Interim Arrangements

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The objective of the ongoing negotiations is to create a new political status for the Marianas. Since implementation of such a status will require termination of the Trusteeship Agreement (at least with respect to a portion of the Trust Territory), both the Political Status Commission and the United States delegation must consider strategies designed to expedite termination.

Currently, it appears that the United Nations would oppose partial termination of the Trusteeship for the Marianas. Since the U.N. Security Council must approve the terms of any alteration of the Trusteeship Agreement, Article 83, United Nations Charter, the Marianas should initiate efforts (on its own and through the United States Government) to persuade the United Nations to change its position on this subject. The Report of the most recent U.N. Visiting Commission, due to be published this summer, should contain valuable insights into current U.N. thinking on this subject, particularly its reaction to the opening of separate negotiations between the Marianas and the United States.

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The United States must be made to understand that basic interests of the Marianas cannot be adequately protected if the ultimate termination of the Trusteeship is postponed for several years because of statements in the U.S.-Micronesian negotiations or general intransigence by the United Nations.

The Marianas can push the United States in this direction by insisting that the United States negotiate toward a binding agreement on future political status, subject only to U.N. approval on termination of the Trusteeship. As a practical matter, such an arrangement may offend the U.N. by appearing to prejudice its traditional role of participation in the formulation of post-trusteeship status. For example, the U.N. has always approved the terms and conditions under which a plebiscite is held to determine future political status of a trust territory. U.N. resistance to such a plebiscite in the Marianas could seriously restrict the short-run capability of the Marianas to secure a binding commitment from the U.S. of any future political status.

Recognizing this possibility, the Marianas can and should demand "moral" commitments from the United States to abide by the agreements reached in the current negotiations. Congressional resolutions or executive

proclamations to this effect, although not legally binding, would have an international significance. They would be morally "enforceable" by the people of the Marianas; they could serve to break the "log jam" in the U.S.-Micronesian negotiations; and they could serve to influence the U.N. to adopt a more realistic view on the subject of a separate settlement of the future political status for the Marianas.

The Marianas should seek to draw the United Nations into any transitional or interim arrangements leading toward that future political status as soon as it is tactically advantageous to do so. Any thaw in the current U.N. "hard line" against separate determination should be exploited fully.

In the meantime, the Marianas should recognize the possibility that unavoidable circumstances and conditions will defer ultimate termination of the Trusteeship for many years. In this context, the nature of the transitional or interim relationship between the Marianas and the United States takes on special significance and must be considered a critical subject for the ongoing negotiations.

There appear to be three important parameters to the Marianas interest in interim arrangements. First, the Marianas will want to assure that the interim arrangements will be a meaningful step toward the realization of their

chosen future political status and that U.S. incentives toward termination of the Trusteeship are maintained during this period. Second, the Marianas will want to simulate, as much as possible, the benefits of the future political status during any interim arrangement; in particular, although the United States will remain the administering authority for the Marianas under the Trusteeship, the Marianas will want to implement procedures to minimize interference by the U.S. government in Marianan internal affairs. Finally, and closely related to the foregoing, the Marianas must take care that in reading any agreement on interim arrangements, they do not give away any essential bargaining power for further negotiations on ultimate termination of the Trusteeship; specifically, we believe the Marianas should resist any interim agreement which establishes "permanent" arrangements with respect to the right of the United States to use land in the Marianas for military bases.

Under the Trusteeship, the U.S. must remain the ultimate administrative authority over the Marianas; this requirement would preclude any compact or agreement that would legally insulate the interim territorial government of the Marianas from interference by the United States. It would be consistent with the Trusteeship, however, for the

U.S. to structure its interim relationship with the Marianas such that its reserved power to interfere in Marianas internal affairs is limited.

We fully expect the United States delegation to argue that the interim status can be implemented by a mere amendment of the Secretary of Interior's Order which now relates to all of Micronesia. While it is true that the administration of the Marianas can be altered by amending that Order and that such an amendment can be accomplished quickly, it is also true that it would be a simple matter for this or some future Administration to amend the Order again.

The ease with which the interim status of the Marianas can be changed, without its consent, by the Secretary of the Interior poses a threat to the security of whatever interim status is negotiated by the Commission. A Presidential Order creating the new interim arrangement would provide only slightly more assurance in this respect.

An Act of Congress would be most desirable since it could only be amended by another Congressional act -- a matter of significantly greater complexity than amending an Executive Order. An Act of Congress would also be required to structure the interim arrangement in such a way as to minimize the likely interference by the U.S.

government in the internal affairs of the Marianas during an interim period. The existing legislation implicitly gives the Executive Branch absolute power to veto or nullify local legislation. (This authority is implemented in the Secretarial Order for Micronesia.) The Marianas may wish to make it more difficult to veto certain kinds of local legislation. For example, the Marianas might want only a Congressional power of veto. Alternatively, if the President can veto Marianas legislation, it may be desirable to provide for an "override" (by a 2/3 or 3/4 vote) by the Marianas legislature -- subject only to nullification or veto of the override by the U.S. Congress itself.

In short, it appears desirable for the interim status of the Marianas to be implemented by an Act of Congress -- particularly if this "interim" status is seen as likely to last a considerable period of time.

Securing an Act of Congress for the transitional administration of the Marianas under the Trusteeship may prove politically difficult and may consume more time than it is worth. Even with an Act of Congress, no interim political structure can assure absolute freedom from interference in the Marianas' internal affairs. More importantly, unless the Marianas maintain their bargaining power throughout the interim period, the U.S. may have little incentive to

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move beyond the interim arrangements and seek to implement the agreed-upon future political status through termination of the Trusteeship.

The key to these problems may lie in the United States military land requirements on the Marianas. Although the U.S. arguably has the power to take any land it wants in Micronesia by eminent domain or the like, it obviously has determined that its long run best interests lie in negotiating with the peoples directly affected. Thus, land for military bases may be the most significant bargaining "lever" the Marianas possesses.

Accordingly, it might prove mistaken to accede to any "permanent" arrangements with respect to land for U.S. military bases before termination of the Trusteeship on terms acceptable to the Marianas. Interim arrangements with respect to this land should be devised which continue the need for the U.S. to respect the interests of the Marianas during the interim period and which continue the incentives for the U.S. to press toward termination of the Trusteeship.

The interim settlement of the U.S. military land requirements, therefore, may prove to be the most sensitive topic of these negotiations -- at least, in the short run. It can perhaps be used as a lever to persuade the U.S. to expedite its negotiations with Micronesia or, alternatively, to lobby in the U.N. for partial termination of the Trusteeship for the Marianas.

If these efforts are unsuccessful and the U.S. requires commitments for its military bases in the interim period, a mechanism could perhaps be structured for handling this land in the interim period which would assure the continued respect by the U.S. for the interests of the Marianas.

Tying any land settlement for military bases to an agreement with the territorial government could prove an illusory protection since, under the Trusteeship, any territorial government would constitute an arm or alter ego of the U.S. government. Such an agreement could be unilaterally amended by the United States, even if at a political "cost" of the goodwill of the people of the Marianas. More solid protection would be obtained if the U.S. entered into a binding agreement with a private corporation (controlled democratically by the people of the Marianas), which vested title to the military land in the private corporation and provided for a lease of the land for bases during the interim period.

Such a corporation would have quasi-governmental functions but could hold the U.S. to its agreements. The lease arrangement could be subject to renegotiation under certain conditions, such as failure to terminate the Trusteeship after a fixed period of time, which would create meaningful incentives for the U.S. to work toward