

Answers Supplied by TT Administration to Questions from UNVM

(Subjects Pertinent to Status Issue)

19
7,6,2,4,3

Question 6

✓ The Trusteeship Council at its 39th session suggested to the Administering Authority that in the interim period while constitutional arrangements are being worked out for a new political status and to facilitate the transition so that status consideration be given to the possibility of restricting the applicability of the power of disallowance held by the U.S. Secretary of Interior to specified areas in which U.S. interest continues to be direct. What has been done?

ANSWER

The entire subject of transitional arrangements toward a new political status for the Trust Territory of the Pacific Islands is under continuing discussion between the Congress of Micronesia Future Political Status Committee and Ambassador Franklin Haydn Williams, President Nixon's personal representative for status negotiations. For this reason, no action has been taken by the Trust Territory Executive Branch to put this suggestion into effect.

Question 7

How many times in 1972 have officers of the Trust Territory Administration appeared before the committees of the Congress of Micronesia and been interrogated by these committees?

ANSWER

Officers of the Trust Territory Administration have appeared before committees of the Congress of Micronesia to be interrogated on legislation whenever requested by the Congress. During 1972 thousands of man hours were spent by the Executive Branch officials in this procedure and many trips were made by Administration officials to both Palau and Ponape to the regular session and the special session of the Congress of Micronesia.

Question 8

Is the bill requiring the advice and consent of the Congress on all major administrative appointments made by the High Commissioner (passed by the Congress in May 1971) signed into law?

ANSWER

The bill requiring advice and consent of the Congress of Micronesia on major administrative appointments was signed into law by the High Commissioner on April 12, 1972, and is now Public Law 4C-48. Since that time a number of nominations have been made to the Congress, or the appropriate committee thereof, some of which have been accepted by the Congress and some of which have been rejected.

Question 7

According to the file, the High Commissioner after meeting with the representatives of Kusaie on 31 August 1972, said that in principle he had no objection to the establishment of a separate district for Kusaie. If the information is correct, does it mean that the Administration will take steps for the establishment of such a district? Did the Administration accept the recurrent costs of this establishment for Kusaie itself?

ANSWER

It is correct that the High Commissioner, both at the 31 August meeting with representatives of Kusaie and later on the occasion of the dedication of the Tofd Road on Kusaie, indicated that he would give serious consideration to the establishment of Kusaie as a separate district at some time in the future. He also pointed out, on both occasions, that their method of accomplishing this objective should be to work through the Congress of Micronesia and through whatever process is established for a Micronesian Constitutional Convention. At this point in time, it is not felt that the action could or should be taken administratively without approval of the Congress of Micronesia. As far as additional costs are concerned, a study was made by the District Administrator's Representative on Kusaie, at the request of the High Commissioner, which indicated that Kusaie could operate as a separate district for almost identically the same annual cost now required for its operation as a sub-district.

ROI-NAMUR ISLAND, KWAJALEIN ATOLL

Roi-Namur is an island located at the northwest tip of Kwajalein Atoll, within the Marshalls District. During the pre-war period, what is now Roi-Namur consisted of three (3) islands, Ruot, Nimur and Enedrikdrik, however, these islands were joined due to fill activities of the Japanese Imperial Government and the United States Government. The island is 420 acres in size. Roi-Namur was occupied by the Japanese prior to World War II and substantial fortifications, including an airstrip, were constructed.

The island was secured in February, 1944, after active combat. Initial indications were the Japanese had paid for and properly acquired the land and the United States Government assumed that ownership passed to the United States as alien property.

However, in 1965, a land title hearing was held and the Land and Claims Administrator ruled to the contrary holding the Japanese Government had never actually paid for the land and thus it was still owned by the Roi-Namur people. Negotiations were conducted with the owners, however, settlement was not arrived at.

During April, 1970, an independent real estate appraiser practicing in Honolulu was retained by the Department of Defense. His assignment was to appraise the property and arrive at a fair rental value of the property to be paid in a lump sum for past use and also a future 25-year period by the United States.

His appraisal was submitted to the contracting agency, Department of the Navy, Pacific Division Naval Engineering Command, on April 2, 1971. A copy of this appraisal was submitted to the Trust Territory for its review and comments after which a meeting was scheduled in Honolulu for September 1, 1971, to discuss the appraisal conclusions.

During March, 1972, a meeting was held in the office of the District Administrator, in Majuro, attended by the traditional leaders involved, Iroij Kabua Kabua, Iroij Lejellon Kabua, Iroij Albert Loeak and Senator Amata Kabua as spokesman for his father, Iroij Lejellon Kabua. At this time those present were informed of the status of the case and that the Navy representatives stated they must obtain certification of funds available from the Army, for whose use the land is sought, and authority to make an offer, before the Navy, as negotiating agency for the Army, could actually make an offer.

On July 13, 1972, representatives of the Trust Territory met with those of the Navy to again discuss the case and determine when the owners may expect an offer to be made, or actual discussion involving monetary compensation to commence and were advised this depends entirely upon when, and if, the Army approves the appraisers figures, certifies availability of

2.

funds and authorizes the Navy to proceed to enter into actual negotiations based on a figure acceptable to the Army. No indication was given as to when such a decision would be made.

The Congress of Micronesia thereafter passed a joint resolution introduced by Congressman Ataji Balos, a copy of which is attached, demanding payment of compensation declaring that if such was not accomplished within sixty (60) days of the date thereof, the people would return to their island, Roi-Namur. On December 13, 1972, the traditional leaders of the owners of Roi-Namur met on Kwajalein Island with representatives of the United States Government and Trust Territory to discuss settlement. An offer was made by the representatives of the United States. The owners rejected the offer and proposed a counter offer. This figure was discussed and the representative of the United States advised he was not in a position to respond to the counter offer at that time but would report the counter offer to Washington and respond thereafter. To date, no formal response has been received to the knowledge of the Trust Territory.

Attachment

024279

A HOUSE JOINT RESOLUTION

Urging the Department of Defense and the Army of the United States to pay just and due compensations to the people of Roi Namur for the use of their island by the United States Army.

1 WHEREAS, the United States has since World War II built military
2 bases, conducted military training, tested deadly war weapons or
3 otherwise used islands of Micronesia for its military and war purposes
4 but at a tremendous expense of human hardships and sufferings to some
5 people of Micronesia; and

6 WHEREAS, the United States did the same to the people of Roi Namur
7 when it removed them from their island and commensed to use the island
8 for improvement of its military and war capabilities; and

9 WHEREAS, the people of Roi Namur, who as a result are now a homeless
10 people scattered all over the Marshall Islands District, have never been
11 compensated for their removal and the use of their island and have
12 repeatedly requested the United States Government to return their island
13 to them and to compensate them for the use of their island; and

14 WHEREAS, the United States have failed to fulfill a promise made
15 during a 1970 meeting between its representatives and the leaders of
16 the Roi Namur people to pay in 1971 the compensations for their removal
17 and continued use of their island by the U. S. Army; and

18 WHEREAS, the leaders and people of Roi Namur have stated that if
19 the United States will not pay them just and due compensations, they
20 will after sixty days from now return to Roi Namur with or without
21 approval by the United States Army; and

22 WHEREAS, the United States Government agreed under the 1947 U. N.
23 Trusteeship Agreement to assist and protect the rights of the people of the
24 Trust Territory of the Pacific Islands, including the people of Roi
25 Namur; now, therefore,

1 BE IT RESOLVED by the House of Representatives, Fourth Congress of
2 Micronesia, Second Special Session, 1972; the Senate concurring, that
3 the Department of Defense and the Army of the United States are hereby
4 requested to immediately pay just and due compensations to the people of
5 Roi Namur for the use of their island by the U. S. Army; and

6 BE IT FURTHER RESOLVED that certified copies of this Joint Resolution
7 be transmitted to the Secretaries of the U.S. Department of Defense,
8 State and Interior and the Army, the Chairmen of the U.S. Senate Foreign
9 Relations Committee and House Foreign Affairs Committee, and the U.S.
10 Senate and House Interior and Insular Affairs Committees; the President
11 of the U.N. Trusteeship Council; and the High Commissioner.

12
13 Date: 8/31/72

Introduced by: Ataji Palos
Ataji Palos

Musa Kelang

Henry Jonual
Charles T. Duma
Chapman Lake
John K. ...
John K. ...
John K. ...
John K. ...
John K. ...

1. The Trust Territory Code suggests that by becoming a Chartered District, a district can gain more control over its own affairs. Has this suggestion been interpreted or tested in any of the six districts?

Section 2 of Title 3 of the Trust Territory Code provides in part:

"Section 2. Responsibilities and powers of districts. District governments may be formed by charter granted by the territorial government. The jurisdiction of such government, or governments, will extend to the whole of an administrative district, as defined by Section 1 of this Chapter. Unless and until such a district government is chartered in a district, its government shall consist of its chartered legislature, the District Administrator, and their respective employees ..."

There is no chartered district government in the Trust Territory of the Pacific Islands. However, all of the six district legislatures and many of the municipalities have been chartered.

During the Fifth Congress of Micronesia, First Regular Session, 1973, the Congress attempted to legislate on the subject matter. Senate Bill No. 82, dealing with the chartering of district governments, was introduced and passed by the Senate but the bill did not pass the House of Representatives. Attached herewith are a copy of Senate Bill No. 82, S.D. 1 and a copy of Standing Committee Report No. 59, dated February 16, 1973. The bill and the Committee Report thereof are self-explanatory.

2. When both some Japanese fishermen and the people of Rongelap were victims of the nuclear tests it seems that an agreement was

promptly concluded with Japan for the compensation while the people of Rongelap did not receive an equivalent compensation. It is generally said that this difference of treatment is due to the fact that the agreement with Japan was negotiated between two independent states while no such agreement could have been discussed between an Administering Authority and private persons -- Is there another explanation?

The 82 people of Rongelap exposed to fallout did receive more compensation than that of the Japanese crew members of the "Lucky Dragon". In fact, their compensation per person -- with one exception -- was higher than that of the Japanese. An Official Unclassified Department of State Intelligence Report No. 6941, dated May 19, 1955, (copy attached) includes translation of a note verbale. This note indicates that an exchange of notes between the United States and Japan resulted in payment by the United States to Japan of \$2,000,000 in solatium money. As indicated in the Intelligence Report, most of the money went to Japanese tuna fishing firms, according to distribution decided upon by the Japanese Government. Payments to the individual fishermen amounted to U. S. \$5,556.00 and to the family of one crew member who died, a payment of U. S. \$15,278.00 was made. After the Rongelapese returned to their homeland in 1957, the leaders of the island and the Administering Authority held several negotiations regarding compensation, but without success. In 1962, H. R. 1988 was introduced in the United States Congress which later became law (Public Law 485) (copy attached) on August 22, 1964. The amount appropriated under the act was \$950,000.00. This payment was supposedly for full settlement and discharge of all claims against the United States. Each exposed person -- after deduction of legal fees -- received \$10,494.19 or, in case of death of an exposed person, this amount was divided among the descendants of the deceased.

Compensation in various forms has been paid to the affected individuals of Rongelap. They have been provided extensive medical care and treatment and they continue to receive periodic examinations and treatment. They were, of course, provided housing and subsistence from the time of their evacuation (1954) until their return (1957) to Rongelap. Since their return, in addition to new houses, several community facilities have been constructed. Soon after the event small claims for property losses, such as clothing and handtools, were paid by the Department of Defense in a total amount of \$6,869.00.

February 12, 1973

The Honorable Andon Amaraich
Chairman, Committee on Judiciary and
Governmental Operations
The Senata, Congress of Micronesia
Sojapan, Mariana Islands 96950

Dear Mr. Chairman:

This office has been requested to comment on Senate Bill No. 82, an act "Establishing district governments, and for other purposes".

The instant bill, Senate Bill No. 82, directs the High Commissioner to charter the government of each district and provides for election of district administrators and assistants.

Department of Interior Order No. 2918, dated December 27, 1968, relating to the executive and legislative authority of the Government of the Trust Territory in the High Commissioner, makes clear that while the legislature may legislate in "all rightful subjects" such legislature may not be inconsistent with orders of the Secretary of Interior. On the other hand, it is manifestly clear that the executive authority is vested in the High Commissioner.

Therefore, the legislature may not require or direct the High Commissioner to delegate his authority to another. This would be the effect of requiring the executive to charter district governments with elective administrators.

It is felt that this instant bill intrudes upon the executive prerogative and is contrary to law. Whatever its merits, it must be opposed on that ground.

Sincerely yours,

Mamoru Nakamura
Acting Attorney General

cc: Special Assistant/Legislative Affairs
Director of Public Affairs
Chief, Legislative Maison Division



THE SENATE
CONGRESS OF MICRONESIA
SAIPAN, MARIANA ISLANDS 96930

AM

COMMITTEE on
JUDICIARY and
GOVERNMENTAL OPERATIONS

Andon Ameralch, Chairman

Lazarus E. Salli, Vice - Chairman
Olympio T. Borja
Ambilos Iehal
Petrus Tun
Wilfred I. Kendall

STANDING COM. REPT. NO. 59

FEBRUARY 16, 1973

RE: S.B. No. 82

The Honorable Tosiwo Nakayama
President of the Senate
Fifth Congress of Micronesia
First Regular Session, 1973

Dear Mr. President:

Your Committee on Judiciary and Governmental Operations, to which
was referred Senate Bill No. 82, entitled:

S.B. No. 82, "A BILL FOR AN ACT ESTABLISHING DISTRICT
GOVERNMENTS, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of this bill is to provide for the establishment of district governments. The bill would require the High Commissioner to submit to the Congress a proposed charter for each district government. The district governments would consist of an executive branch, including an elected District Administrator and Deputy District Administrator, and a cabinet appointed by the District Administrator with the advice and consent of the district legislature; a legislative branch, consisting of the presently-organized district legislature; and a judicial branch, organized in accordance with the provisions of Trust Territory law.

The bill stems primarily from the many previous efforts by the Congress of Micronesia to provide for the election of District Administrators. This effort culminated at the Second Regular Session of the Fourth Congress of Micronesia in House Bill 154, and a companion measure in the Senate, which would simply have provided for elected District Administrators. The Administration's testimony regarding that bill, with which both a Special Committee of the House of Representatives as well as your Committee agreed, was that by virtue of the intricate relationships between the High Commissioner, the District Administrators, and the people, an elected District Administrator could not exist in the absence of a formally chartered district government, outlining the

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FEBRUARY 16, 1973

RE: S.B. NO. 82

relative obligations of the District Administrator to his dual superiors, the High Commissioner and the people. The Administration indicated that it would support such a measure.

This measure, then, was drafted and introduced, taking as its authority Section 2 of Title 3 of the Trust Territory Code, which authorizes the territorial government to charter district governments. We interpret this Section as requiring a charter to be enacted into law by the Congress and promulgated by the High Commissioner. There are two ways to accomplish this goal. First is authorizing the several district legislatures to call charter conventions. This is a very expensive and slow method, and, due to both the importance of executive branch input and the fact that at least two of the branches of the district government would be relatively unchanged, your Committee believes it best to try the other approach, at least prior to the time when a Constitution of Micronesia provides for the formation of district governments. The other approach, as provided in this bill, would require the executive branch to submit proposed charters to the Congress for its consideration and possible enactment. Additionally, the bill specifically incorporates former recommendations of the Administration as to a number of important matters.

Not surprisingly, the Administration testified against the passage of this bill, as it invariably does as to any measure designed to achieve an increasing measure of self-government for the people of Micronesia, and as to any measure which even attempts to control the stranglehold which the High Commissioner has on the government and its workings. In this case, however, the Administration's comments are clearly seen in light of its previous testimony on similar bills. In such a light, the objections raised to this measure appear particularly transparent. We deal with them in turn.

1. That an insufficient amount of time is provided for drawing up the district charters. Your Committee finds it inconceivable that this task should take longer than one month per district, even if full district participation is sought. Conferences with elected, appointed, and traditional leaders should not consume more than two weeks, and the drafting should take not more than an additional two weeks. Even if this bill did not become law until April 1, the Administration would have fifty percent more time than this, or a total of nine months, to complete the charters and transmit them to the Congress.

2. The bill should be held in abeyance until the completion of the work of the Constitutional Convention. This is a clear delaying tactic. The Constitution will not have been ratified by the people of Micronesia until 1975, under the present version of the bill calling a Constitutional Convention for Micronesia. In addition, the Constitution will not take effect until the termination of the Trusteeship Agreement, which may well be several years in the future. In the interim, the need for chartered district governments, with elected chief

FEBRUARY 16, 1973

RE: S.B. NO. 82

executives, still exists and will continue to exist.

3. That the Congress of Micronesia has no power to direct the High Commissioner to do anything. Your Committee is insulted by the arrogance shown by the Administration witness who attempted to convince the Committee of the legal truth of this proposition. We recognize that constitutional custom in the United States -- the separation of powers doctrine -- may prevent the United States Congress from directing the President to do something, but a number of things are clear as to Micronesia: (1) the rapid growth of Presidential power in the United States, with the resulting decline of the role of the Congress, is not something which we would like to see take place in Micronesia; (2) the Chief Executive of the Trust Territory Government is not responsible to the people, as is the Chief Executive of the United States; and (3) the language found in the delimitations of power in the Secretarial Order differ substantially from those found in the United States Constitution. In this connection, your Committee notes that the Congress of Micronesia is given the power to legislate "on all rightful subjects of legislation," with certain specified exceptions, while the High Commissioner is listed as only the "executive authority" of the Trust Territory Government. To your Committee, an "executive" is a person who executes, or carries out, the wishes or orders of another. In the case of the Trust Territory Government, it is the responsibility of the High Commissioner to carry out the wishes and orders of the Congress, expressed in laws or resolutions. Clearly, where Congress has not provided directions, or where there is room for interpretation, the High Commissioner is left with substantial authority to interpret and to make policy, but we firmly believe that, when asked to operate as an "executive," he must do so.

Despite this unassailable logic, we have amended the bill to require that the Attorney General, rather than the High Commissioner, is to be given the responsibility for transmitting the proposed charters to the Congress. We do this not only because of the objections raised by the Administration witness, unfounded as they may be, but also because we realize that any transmittal by the Attorney General will have the imprimatur of the High Commissioner in any case, and that, according to the same witness, the High Commissioner's alleged immunity from Congressional direction does not extend to the Attorney General.

The amendment is listed as follows:

On page 1, line 1, the words "High Commissioner" are deleted, and the words "Attorney General" are inserted in lieu thereof.

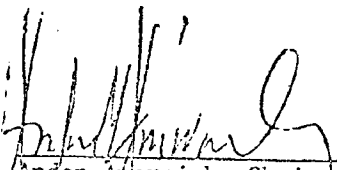
Section 2 of Title 3 of the Trust Territory Code antedates the Congress of Micronesia, having been a part (Section 74a) of the Trust Territory Code, 1966 edition. We cannot believe but that, the Administration having drafted this Section and enacted it into law, it is the Administration's intention to implement it. We believe that this bill provides a simple, inexpensive way of

FEBRUARY 16, 1973

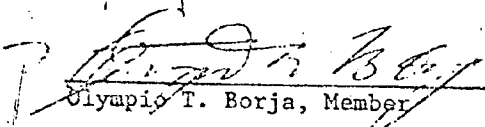
RE: S.B. NO. 82

implementation, and at the same time enables the Administration to live up to its obligation to promote the development of the people of Micronesia toward self-government.

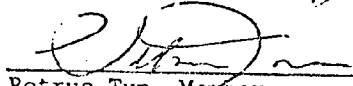
Your Committee is thus in complete accord with the intent and purpose of Senate Bill No. 82, as amended, and recommends its passage on Second and Final Reading in the amended form attached hereto.



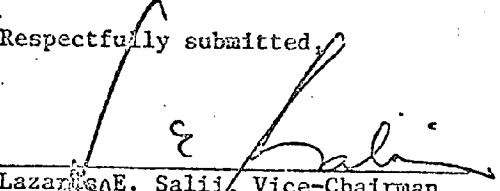
Andon Ataraich, Chairman




Olyapio T. Borja, Member



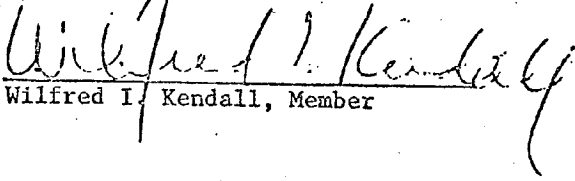
Petrus Tun, Member

Respectfully submitted,


Lazaro E. Salii, Vice-Chairman



Ambilos Ieksi, Member



Wilfred I. Kendall, Member

A BILL FOR AN ACT

Establishing district governments, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

1 Section 1. Not later than January 1, 1974, the ~~High Commissioner~~
2 Attorney General shall submit to the Congress of Micronesia a proposed
3 charter for the government of each administrative district of the Trust
4 Territory, which charter shall provide for the following:

5 (1) an executive branch, consisting of a District Administrator
6 and a Deputy District Administrator who shall be elected by the people of
7 of the district every four years, whose relationships with and relative
8 responsibilities to the people and to the High Commissioner shall be
9 defined in the said charter; a cabinet, consisting of District Departments
10 of Education, Finance, Health Services, Personnel, Public Affairs, Public
11 Works, Resources and Development, and Transportation and Communications,
12 who shall be appointed by the District Administrator with the advice and
13 consent of the district legislature; and such other officials as the District
14 Administrator may, by district or Trust Territory law, appoint;

15 (2) a legislative branch, which shall consist of the district
16 legislature, upon such terms as are provided in the charter of such district
17 legislature on the effective date of this act; and

18 (3) a judicial branch, organized and constituted in accordance
19 with the provisions of Trust Territory law.

20 Section 2. Amendment. (1) Section 51 of Title 3 of the Trust
21 Territory Code, as amended by Subsection (5) of Section 7 of Public Law
22 4C-48, is hereby further amended to read as follows:

23 "Section 51. There shall be in each district a District
24 Administrator and a Deputy District Administrator, each of
25 whom shall be nominated by the High Commissioner and the

1 High Commissioner by and with the advice and consent of the
2 Congress of Victoria in accordance with law regarding
3 administrative appointments shall appoint these officials
4 who shall be elected by the people of the district in accordance
5 with the provisions of the charter of the district government.

6 The District Administrator shall be responsible to the High
7 Commissioner, through the Deputy High Commissioner, for the
8 proper administration of the district, in accordance with the
9 provisions of the charter of the district government. The
10 District Administrator shall have such powers and perform such
11 duties as may be prescribed by law or assigned to him by the
12 High Commissioner or by the charter. He shall have such
13 assistants as necessary to coordinate and supervise the work of
14 the district may be provided for by the charter or by district law."

15 (2) The provisions of this Section shall take effect immediately
16 in any administrative district which has been chartered under the provisions
17 of Section 2 of Title 3 of the Trust Territory Code, upon the effective date
18 of such charter.

19 Section 3. Transition. The High Commissioner may by regulation provide
20 for the orderly and effective transmission of authority from the present
21 governmental system to the district government authorized by any charter
22 enacted into law under the provisions of Section 2 of Title 3 of the Trust
23 Territory Code, prior to the effective date of such charter, and following
24 its enactment into law.

25 Section 4. Effective date. This act shall take effect upon its

1 approval by the High Commissioner, or upon its becoming law without such
2 approval.

3

4 Date: 1/22/73

Introduced by: /s/ Olympio T. Borja
Olympio T. Borja

/s/ Edward Pangelinan

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2 copies

MEMO ROUTE SLIP Form AEC-25 (Rev. May 14, 1971) AECM 0240		See me about this, Note and return.	For concurrence, For signature.	For action, For information.
TO (Name and unit)	INITIALS DATE	REMARKS		
R. A. Conard, M.D. Associated Universities, Inc. Brookhaven National Laboratory		Subject: ALLOCATION MADE OF \$2,000,000 PAID TO GOVERNMENT OF JAPAN AS COMPENSATION FOR DAMAGES SUFFERED BY JAPANESE NATIONALS AS RESULT OF 1954 NUCLEAR TESTS IN MARSHALL ISLANDS		
TO (Name and unit)	INITIALS DATE	REMARKS		
		Attached you will find a translation of a note to our embassy in Japan from the Japanese Ministry of Foreign Affairs informing us as to how the \$2,000,000 was distributed by the Government of Japan. The note shows a breakdown as to the various allocations made of this money.		
TO (Name and unit)	INITIALS DATE	REMARKS		
		Since the note shows the amounts only in Japanese yen, I am also attaching for your convenience a copy of a State Department report summarizing a newspaper article which also had a breakdown of the distribution, but expressed both in yen and U.S. dollars.		
FROM (Name and unit)	REMARKS			
W.L. Hymes Office of the General Counsel A-241 Atomic Energy Commission				
PHONE NO. 4565	DATE 10/14/71			

USE OTHER SIDE FOR ADDITIONAL REMARKS

GPO : 1969 O-216-611

Intelligence Report

No. 6941

May 19, 1955

Office of Intelligence Research

CLASSIFIED BY THE SECRETARY
S/E

MAY 31 1955

JAPANESE CABINET DECIDES ON DISTRIBUTION
OF US SOLATIUM FOR BIKINI INCIDENT

Since January 1955, the Japanese Government apparently has given careful study on distribution of solatium money totaling 720,000,000 yen (US\$2,000,000) transmitted to it by the United States Government in compensation for losses incurred by Japanese nationals as a result of US atomic tests in the Bikini area in the Pacific in the spring of 1954. According to the Asahi Shimbun of April 23, 1955, the Japanese cabinet on that date formally approved a distribution formula after some 15 "consultation sessions" of the government agencies concerned. It is contemplated that disbursement of the compensation money through the Ministries of Welfare, Transportation, and Agriculture and Forestry would commence by early May, if feasible. A summary translation of the distribution formula as reported by Asahi is appended.

It is to be noted that by far the largest share of money, consisting of 88.6 percent of the total, is earmarked for Japanese tuna fishing firms and dealers, presumably in consideration of their large claims. (Compensation for the 23 Fukuryu crew members amounts to slightly more than 11 percent.) The compensation specified by the cabinet for tuna dealers, as well as that for tuna fishing firms that were prevented from continuing operations in the designated "danger zone", was calculated by the government at approximately 80 percent of the estimated loss. Governor Saito of Shizuoka Prefecture, home prefecture of the Fukuryu-Maru, and Director Kobayashi of the Japan Bonito and Tuna Cooperative Federation were immediately quoted as expressing dissatisfaction over what they regarded inadequate compensation and as further urging additional compensation from the national treasury for like losses in the future.

Page _____ of _____
Date _____
From _____

UNCLASSIFIED
(Classification)

F. I. No. _____
No. 1391
From Tokyo

[Translatio~~n~~]

(SEAL)

A 5, No. 686

NOTE VERBALE

May 4, 1955

The Ministry of Foreign Affairs presents its compliments to the Embassy of the United States of America in Japan and has the honor to refer to the notes exchanged between the Minister of Foreign Affairs of Japan and the Ambassador Extraordinary and Plenipotentiary of the United States of America in Tokyo on January 4, 1955, regarding the compensation by the Government of the United States of America for the damages claimed by Japan in connection with the atomic nuclear experiment in the Marshall Islands in 1954, and informs the Embassy that the Japanese Government will distribute, as stated in separate papers, the 2,000,000-dollar compensation accepted from the Government of the United States of America, in accordance with the Cabinet decision on April 28, 1955.

024294

Distribution of Compensation for Damages Caused by the Bikini Blast

<u>Item</u>	<u>Distribution</u>	<u>Remarks</u>
	(thousand yen)	
1. Medical treatment expenses	25,474	
A) The Fukuryu Maru crew concerned	24,869	¥23,819,000 was disbursed from the Seamen's Insurance Special Account (including the sum that will be needed in the future), plus ¥1,050,000 as special medical treatment expenses at the National Hospital.
B) Crew of other boats concerned	605	Disbursement from Seamen's Insurance Special Account.
2. Consolation money and casualty allowance	54,262	
A) The Fukuryu Maru crew concerned	52,792	¥5,500,000 -- consolation money to Mr. KUSOYAMA ¥14,000,000 -- consolation money to 22 persons (¥2,000,000 per capita on an average) ¥3,292,000 -- casualty allowance to 22 persons, from the Seamen's Insurance Special Account.
B) Crew of other boats concerned	1,470	Casualty allowance from Seamen's Insurance Special Account.
3. Losses arising from condemned fish catches	79,269	
A) Cost of fish condemned	41,327	134,179 kan fish thrown away; average price per kan of fish thrown away per month -- ¥308.
B) Expenses for disposal	10,703	Expenses needed for throwing away in the sea or burying in the ground fish caught by 992 boats.

C) Losses arising from suspension of fishing 25,571

¥4,278,000 -- to the owner of the Fukuryu Maru for losses for six months.

¥21,273,000 -- to other boats (fish of which were thrown away up to the end of September).

D) Others 1,688

¥966,000 -- Miscellaneous expenses for 4 boats, fish of which were thrown away immediately after the occurrence of the blast case.

¥722,000 -- expenses to cover damages to ship's fittings, etc.

4. Losses to fishing boats owing to the establishment of the danger zone 51,163

66,000 kan (estimate decrease in fish catch per day) X 3 days -- (reduction in operation days owing to the detour) X ¥323 (average fish price) = ¥53,954,000

¥51,163,000 is 80% of the sum.

5. Losses to persons in tuna industry, owing to fall of fish price 454,204

A) Losses arising from difference of quotations owing to the price fall 413,544

6,640,000 kan fish was caught during 50 days between March 16 and May 4, and an average fish price during this period was ¥323. Compared with ¥400 of the same period of the previous year, the loss rate is 19%, or an equivalent to ¥504,640,000.

80% of this amount is: ¥403,712,000(1)

increased losses arising from going around the danger zone: ¥11,312,000

Increased losses arising from the throwing away of fish: 978,000

¥12,290,000

80% of this amount is: ¥9,832,000(2)

UNCLASSIFIED
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-3-

The sum of (1) and (2) is
¥413,544,000

B) Special fall in price of landed fish caught by these boats that threw away a part of their catch 40,660

Unit price of remaining fish caught by those boats that threw away a part of their catch had to be lowered by ¥25 per kan.

A total of 2,033,000 kan of fish remained from boats that disposed of part of their catch during the period May 5 through September 30, with an estimated loss of ¥50,825,000 (2,033,000 kan X ¥25 = ¥50,825,000. 80% is ¥40,660,000)

6. Losses to merchant ships 1,272

Grant in consideration of demurrage and washing.

7. Losses to distributors, etc. 41,000

A) Brokers at producing centers 16,000

Grant to brokers in Misaki, Yaizu and Shimizu in consideration of their losses

B) Brokers in 6 major cities 22,000

Grant to brokers in consideration of their losses.

C) Fish paste industry, etc. 3,000

Grant in consideration of their losses.

8. Others 13,336

A) Yaizu City 1,236

Advance for travelling expenses of families of the hospitalized seaman, and other emergent expenses.

B) Fishermen's organizations 5,500

¥2,000,000 to the Yaizu Fishery Cooperative Association as emergent expenses: ¥3,500,000 to 22 bonito and tuna fishery traders' organizations, as a grant in consideration of their emergent expenses.

C) Wholesalers and retail traders' organizations in 6 major cities 6,000

Grant to 12 wholesalers and retail traders' organizations in consideration of their expenses.

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Page 4 of
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D) Canning and freezing 600
traders' organizations

Grant to 3 organizations concerned
in consideration of their expenses.

Sum Total

720,000

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Appendix A. DISTRIBUTION OF SOLATIUM

<u>Item</u>	<u>Amount</u> (In thousands of yen)
Medical treatment	25,474 (US\$70,760)
Fukuryu-Maru crew members	24,869
Other seamen	605
Solatia and injuries compensations	51,262 (US\$150,730)
Fukuryu-Maru crew members	52,792
(Kuboyama -- 5,500; 515,200)	54,262,000
22 other Fukuryu-Maru crew members -- 2,000;	
Compensation for 22 men under Seamen's Insurance Special Account -- 3,292)	
Other seamen	1,470
Compensation for abandoned tuna catch	79,289 (US\$220,250)
Estimate of abandoned catch	41,327
Expenses for abandoning operations	10,703
Compensation for suspended operations	25,571
Other	1,688
Compensation for loss incurred by fishing boats consequent upon designation of "danger zora"	51,163 (US\$142,120)
Loss incurred by tuna dealers due to decline of tuna price	454,204 (US\$1,261,680)
Loss by dealers	413,544
Decline of price of tuna abroad fishing craft part of whose catch was abandoned	40,660
Loss incurred by merchant ships	1,272 (US\$3,530)
Loss incurred by [tuna] brokers, etc.	41,000 (US\$113,890)
Brokers at Misaki, Yaizu and Shimizu	16,000
Brokers in six large cities	22,000
Other	3,000

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Appendix A. DISTRIBUTION OF SOLATIUM (continued)

Other		13,336 (US\$37,040)
Yaizu City (reimbursement for emergency aid expenses)	1,236	
Fishery associations	5,500	
Wholesale and retail associations in six large cities	6,000	
Canning and refrigeration firms	600	
Total		720,000 (US\$2,600,000)

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NOTE: The amounts specified for the various categories are exclusive of administrative expenses incurred by the government which amounted to 128,842,000 yen.

Source: Asahi Shinbun, April 28, 1955.

Consolation money to crew of Lucky Dragon (excluding medical expenses) is 7.34% of \$.

\$15,278 to deceased family

\$ 5,556 to crewmen as consolation

5,556

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024300

PACIFIC ISLANDS TRUST TERRITORY—CLAIMS

PUBLIC LAW 88-485; 78 STAT. 598

H. R. 19881

An Act to provide for the settlement of claims of certain residents of the Trust Territory of the Pacific Islands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The Congress hereby assumes compassionate responsibility to compensate inhabitants in the Rongelap Atoll, in the Trust Territory of the Pacific Islands, for radiation exposures sustained by them as a result of a thermonuclear detonation at Bikini Atoll in the Marshall Islands on March 1, 1954.

Sec. 2. There is authorized to be appropriated for such purpose out of the Treasury of the United States the sum of \$950,000 to be expended by the Secretary of the Interior (hereinafter referred to as the "Secretary") in the manner hereinafter provided. After deducting the amount provided for in section 5 hereof, the Secretary shall pay the remainder in equal amounts to each of the affected inhabitants of Rongelap, except that (a) with respect to each such inhabitant who has died before receipt of such payment, the Secretary shall pay such sum to the heirs or legatees of such inhabitant, and (b) with respect to any such inhabitant who is less than twenty-one years of age or who has been adjudged incompetent or insane, payment shall be made, in the discretion of the Secretary, to a parent, relative, other person, or institution for his benefit.

Sec. 3. The Secretary shall give advice concerning prudent financial management to each person receiving a payment pursuant to this Act, to the end that each such person will have information as to methods of conserving his funds and as to suitable objects for which such funds may be expended.

Sec. 4. A payment made under the provisions of this Act shall be in full settlement and discharge of all claims against the United States arising out of the thermonuclear detonation on March 1, 1954.

Sec. 5. The Secretary is authorized to pay reasonable attorney fees for legal services rendered on behalf of the people of Rongelap prior to the date of enactment of this Act. Such fees shall be paid out of the funds authorized to be appropriated in section 2 of this Act, but the total of such fees paid shall not exceed 5 per centum of the appropriated funds.

Sec. 6. The decisions of the Secretary in carrying out the provisions of this Act shall be final and not subject to review.

Approved August 22, 1964.

PROVIDING FOR THE SETTLEMENT OF CLAIMS OF CERTAIN RESIDENTS OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS

July 30, 1962.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. O'BRIEN of New York, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 12078]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 12078) to provide for the settlement of claims of certain residents of the Trust Territory of the Pacific Islands, having considered the same, report favorably thereon with an amendment and recommend that the bill do pass.

The amendment is as follows:

Page 1, line 11, strike out the figure "\$1,000,000" and insert in lieu thereof "\$950,000".

PURPOSE

The purpose of H.R. 12078, as amended, introduced by Representative O'Brien of New York as the result of an executive communication from the Secretary of the Interior, is to provide compassionate relief for certain residents of Rongelap Island in the Trust Territory of the Pacific Islands who were, or may have been, affected by the fallout which followed the explosion of an atomic bomb at Bikini Atoll on March 1, 1954. Companion bills, H.R. 12048, H.R. 12051, and H.R. 12052 were introduced by Representatives Kyl, Aspinall, and Saylor, respectively, and were considered concurrently with the reported bill.

NEED

Eighty-two persons were residing on Rongelap at the time an unexpected wind shift immediately following the detonation of an atomic bomb produced a fallout of significant proportions. Although the exposed persons were immediately removed from the contaminated

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island and were cared for by the Atomic Energy Commission for several years before being returned. The committee feels that a fund should be established for those persons who may suffer ill effects from their unfortunate experience.

The affected individuals have already been given extensive medical care and treatment. They were provided housing, clothing, and subsistence during their absence from their island. Since their return, in addition to new houses, a school, a church, a community building, and other facilities, they have been given new livestock and agricultural aid, as well as subsistence in decreasing amounts. Small claims for property losses such as clothing and handtools, were paid by the Department of Defense.

It cannot be said, however, that there will be no further sequelae to the exposure suffered or that the compensatory measures heretofore taken are fully adequate. Enactment of H.R. 12076 is needed to permit the United States to do justice to these people.

COST

The amount of money authorized to be appropriated by this bill, as amended, is \$950,000.

REPORTS

The executive communication from the Secretary of the Interior, dated May 29, 1962, is as follows:

U.S. DEPARTMENT OF THE INTERIOR.

OFFICE OF THE SECRETARY,
Washington, D.C., May 29, 1962.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Enclosed is a draft of a proposed bill to provide for the settlement of claims of certain residents of the Trust Territory of the Pacific Islands.

We request that this bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

On March 1, 1954, the United States, in connection with a series of nuclear tests then being conducted in the Pacific, exploded an atomic bomb at Bikini in the Trust Territory of the Pacific Islands. Following the detonation wind patterns shifted in such a way so that radioactive fallout, expected to be carried north from the point of detonation to uninhabited islands, in fact occurred south of the line. The people of Rongelap, an island in the Marshall group of the trust territory, suffered significant fallout. The proposed bill is designed to pay compensation to those individuals.

Eighty-two persons then resided on Rongelap. Of that number, five have since died of causes which appear to be unrelated to the fallout. Eighteen of the eighty-two were not on Rongelap at the time of the explosion, for they had gone to the neighboring island of Ailinginae. Two others, but they too suffered significant fallout. Two days after the fallout occurred the 82 persons were evacuated by the Navy and taken to the Kwajalein Naval Base. They remained there for 3 months for purposes of examination and medical care. Because Rongelap was considered too highly contaminated with radioactivity,

they were not returned to their home island until July 1, 1957. Following their stay at Kwajalein, and until they returned to Rongelap, the 82 Rongelapese were housed in a temporary village constructed for them by the Atomic Energy Commission at Ejit Island in Majuro Atoll. When Rongelap had been declared safe for habitation in 1957, the Rongelapese were returned to their island. New houses, built under an Atomic Energy Commission contract, were provided them.

In the period immediately following the fallout, many of the Rongelapese were affected by nausea and itching, a substantial number sustained temporary skin burns, and somewhat less than half sustained some degree of loss of hair, also temporary. In some cases there remain some scarring and pigment change at the former site of deeper burns, but no evidence of cancerous change in these scars has been noted. In all of the Rongelapese there was significant depression of their blood-forming organs during the 2 months following exposure; recovery has taken place in the years since and the counts are now generally considered within normal ranges, although there are a few instances where the counts are lower than in comparable unaffected individuals.

There is to date no evidence of leukemia nor of radiation illness. Further, whether or not the radiation has had any life shortening effects is not apparent. It does appear, however, that bone development in young children who were affected by the fallout may have been retarded and also that there is a possibility of a somewhat greater incidence of miscarriages and stillbirths among the exposed women. Neither sufficient time has elapsed nor sufficient knowledge been acquired to permit positive conclusions to be drawn as to the long-range effect of the fallout on the Rongelapese.

Compensation in various forms has been paid to the affected individuals. They have been provided extensive medical care and treatment, and they continue to receive periodic examination and treatment. They were, of course, provided housing and subsistence from the time of their evacuation until their return to Rongelap. Since their return, in addition to new houses, a school, a church, a community building, and other facilities, they have been given new livestock and agricultural aid, as well as subsistence in decreasing amounts. Small claims for property losses, such as clothing and handtools, were paid by the Department of Defense soon after the event. These claims were paid in a total amount of \$6,869.

In February 1960 a complaint against the United States was sent to the high court of the trust territory by attorneys for the Rongelapese. The complaint sought \$8,500,000 as compensation for property damage, radiation sickness, burns, physical and mental agony, loss of consortium, and medical expenses. In January 1961 the suit was dismissed for lack of jurisdiction.

The interested agencies of the executive branch, specifically the Department of State, the Department of Justice, the Atomic Energy Commission, and this Department, recognize that despite the various forms of assistance and compensation provided the affected individuals, they have not obtained relief in terms of all the types of injury that they may have sustained. They have not received any payments as such for claims based upon pain or suffering in connection with their physical injuries, or their necessary but summary removal from their home island for over 3 years, or their natural concern

about their own future or that of their children. We cannot say with any certainty that there will be no future illness or death, and no diminution in life expectancy, which can be attributed to the 1954 fallout. The problem is further complicated in terms of what measure of damage, in monetary terms, is appropriate considering the nature of their culture and their economy.

The extent to which claims might be legally compensable at this time should not in our view be controlling in any event. You will recall that the United States made an ex gratia payment of \$2 million to the Japanese Government on account of claims arising out of the 1954 fallout on a Japanese fishing boat and its crew. The Japanese Government was responsible for determining how the money should be distributed. We believe that the circumstances here also justify assumption by the United States of "compassionate responsibility" and a monetary payment. Since any statutorily fixed amount of payment to the affected individuals would be purely arbitrary, and might prove to be quite inequitable, the draft bill provides authorization for payment of \$1 million to the Secretary of the Interior to be used for the general benefit of the affected individuals and as compensation for individual personal injuries.

All amounts determined to be due the affected individuals would be held by the Secretary in trust for their benefit and their heirs and legatees. The Secretary would be required to pay the interest or dividends from the trusts to the beneficiaries at least once annually, and would be permitted to make payments from the principal when requested by a beneficiary and when he considers that a "substantial benefit" would be derived from such payments. We believe that the total figure for the individual awards made would be less than the authorized \$1 million. The amount remaining would be held in trust for the general benefit of the affected individuals.

Enactment of this legislation is long overdue, and we thus urge that the Congress give favorable consideration to it at the earliest possible date.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the administration's program.

JOHN A. CARVER, JR.,
Assistant Secretary of the Interior.

Sincerely yours,
A BILL To provide for the settlement of claims of certain residents of the Trust Territory of the Pacific Islands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby assumes compassionate responsibility to compensate inhabitants of the Rongelap Atoll, in the Trust Territory of the Pacific Islands, for radiation exposures sustained by them as a result of a thermonuclear detonation at Bikini Atoll in the Marshall Islands on March 1, 1954.

Sec. 2. There is authorized to be appropriated for such purpose out of the Treasury of the United States the sum of \$1,000,000 to remain available until expended under the supervision of the Secretary of the Interior (hereinafter referred

to as the "Secretary") for the general benefit of the affected inhabitants of Rongelap. The Secretary may segregate a portion of the sum for each affected individual, and hold it in trust for the individual or his heirs or legatees (hereinafter referred to as the "beneficiary" or "beneficiaries"), subject to the provisions of this Act. The amounts segregated and held by the Secretary in trust for individual beneficiaries, and the unsegregated balance, shall, if invested by him, be invested in a manner that in his judgment is prudent.

Sec. 3. (a) The interest or dividends earned from such trust held for an individual beneficiary shall be paid at least annually by the Secretary to such beneficiary. When, in the opinion of the Secretary, there appears to be a substantial benefit to be derived therefrom by any beneficiary, the Secretary may, upon request of the beneficiary, and under such conditions as he may deem appropriate, make the principal sum, or any part thereof, available for expenditure by such beneficiary. Any payment under this subsection may be made directly to a beneficiary who is twenty-one years of age or older. In the case of a beneficiary who is less than twenty-one years of age or who is, in the opinion of the Secretary, mentally incompetent, payment may be made in the discretion of the Secretary to the beneficiary, a parent, relative, other person, or institution for his benefit. (b) The principal, interest, and dividends from funds held for the general benefit of the affected inhabitants of Rongelap shall be used for such purposes as the Secretary deems appropriate.

Sec. 4. A trust for an individual beneficiary created pursuant to this Act may be terminated by the Secretary at any time, and if after reasonable search the beneficiary cannot be located, the principal and accumulated interest and dividends may be added to the unsegregated balance of the funds held for the general benefit of the affected inhabitants of Rongelap.

Sec. 5. The Secretary is authorized to pay reasonable attorney fees for legal services rendered on behalf of a beneficiary, or beneficiaries, prior to the date of enactment of this Act. Such fees shall be paid out of the funds authorized to be appropriated in section 2 of this Act, but the total of such fees paid shall not exceed 5 percent of the appropriated funds.

Sec. 6. The decisions of the Secretary in carrying out the provisions of this Act shall be final and not subject to review.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends enactment of H.R. 12078, as amended.

13. What percentage of the Trust Territory population still lies out of easy reach of medical treatment: hospital dispensary?

Answer: Virtually all Micronesians lie within easy reach of medical treatment in either a hospital or a dispensary. However, approximately 50% of all Micronesians are not within easy reach of the district center hospitals or sub-hospitals.

14. Number of hospital beds by 1975.

Answer: Approximately 600 hospital beds are predicted for 1975.

15. Total spent on health in fiscal year 1972 and as percentage of the Trust Territory budget and projected figures for 1975.

Answer: \$6,000,000 were spent on health in FY 1972, which is 10% of the entire Trust Territory budget. The 1975 total Trust Territory budget is not known but it is expected that 15% of that budget will be spent on health.

16. May the Mission receive a short detailed description of the events which occurred in Rongelap in 1972:

On January 26, 1972, during the Second Regular Session of the Fourth Congress of Micronesia, in whose district live the Rongelapese, made a speech on the House Floor in which he charged that the Rongelapese were being used as "guinea pigs". The Administration rebutted the statements made by Congressman Balos as "irresponsible. At this time, Congressman Balos introduced House Bill No. 199 which became Public Law No. 4C-33, creating the Special Joint Committee on Rongelap and Utirik. Also as a result of the speech, members of the Administration and Congressman Balos discussed what steps might be taken to satisfy his constituents. The agreement resulting from this meeting was that three Japanese doctors would be included among the members of the regular survey team scheduled to examine the people in March, 1972.

In view of the fact that the regular survey of the Rongelapese was long overdue, the Administration made every effort to ensure that the survey to be conducted in March of 1972 would commence as scheduled. Just a few days prior to the commencement of the survey, on March 9, 1972, the following dispatch was received from Tokyo:

"Dr. Ezaki succumbed to continuous pressure by Francisco Uludong and Hiroshima leftist associates and has cancelled plan to participate in subject survey."

By March 9, 1972, Dr. Conard who has been the head of the regular survey team for the last 18 years and his crew had already arrived in Majuro and were awaiting the three Japanese doctors to go to Rongelap and Utirik. Only one Japanese doctor came to Majuro.

Dr. Conard and his team and the Marshall Islands District Personnel, concerned with the medical welfare of the people of Rongelap and Utirik, attempted to persuade the leaders of said atolls to submit for medical examinations, but without success. The leaders told Dr. Conard that they had received instructions from Congressman Balos and Congressman Charles Domnick that they should not submit to any form of medical examinations. Consequently, the team left without examining the people.

On April 11, 1972, Congressman Balos again met the High Commissioner and his medical staff members to work out possible arrangements to have the survey reinstated. The High Commissioner expressed his concern about the fate of the survey and asked all concerned that the "political" aspects of the problem should not be brought up again. He urged everyone to be concerned only in the medical aspects. The Special Joint Committee Concerning Rongelap and Utirik further endorsed this by statement in an interim report that "the sense that the health of the people of Rongelap and Utirik was of the utmost importance".

In July, 1972, the Special Joint Committee selected these four consultants to accompany the Brookhaven team: Dr. William S. Cole of the Bureau of Radiological Health U.S. Public Health Services. Dr. Haruo Ezaki of Hiroshima University, Dr. Toshiyuko Kumatori of the Japanese National Institute for Radiological Sciences, and Dr. E. Eric Pochin of the University College Hospital Medical School, London, England.

In September, 1972, Dr. Conard's team accompanied by the four consultants and the Special Joint Committee successfully completed the 1972 survey of the people of Rongelap and Utirik.

The aborted survey in March cost almost as much as if the survey had been completed. Because of this reason, the funds available from AEC for the supplemental survey in September was partly funded by the Trust Territory in the order of \$8,500.

Two nodular thyroid patients and a terminal case of leukemia were diagnosed during the supplemental survey in September, 1972.

024307

Q. "The Mission has been told that a project will be worked out for the installation of four thousand five hundred inhabitants of Carlson Island (Kwajalein Atoll) in order to lighten the burden of the overpopulation in Ebeye. Might the Mission receive some information about this project."

A. Information received from the District Administrator, Marshalls, indicates that Carlson Island could accommodate four to five hundred (400-500) people when it is developed. The figure four thousand five hundred (4,500) therefore is not correct.

The District Administrator further advises that development of this island is underway. A pig farm has been established on the island and a poultry farm is in the process of being built. The Carlson landowners are now master-planning the island for community living.

For further information the mission is being provided one copy of the master plan which was formulated for Carlson Island.

024308

Q. Is the Administration seeking from the Administering Authority any changes in the methods presently followed in the appropriation of funds for the Territory by the U.S. Congress?

e.g., (a) Lump sum appropriation for budget support;

(b) Multi-year appropriation for development aid.

A. No. Appropriation of funds by the U.S. Congress is one step in the annual budget process followed in the U. S. Although it is not a part of the annual budget process, the process of securing U.S. Congressional authorizing legislation for Trust Territory programs is an important one which affects appropriations for the Trust Territory. Such appropriations can only be made as authorized by separate legislation, which has always included specific dollar limitations on the amounts authorized to be appropriated. The current ceiling on authorized appropriations was set at \$60 million and covers Fiscal Years 1971-73. Legislation has not yet been proposed to the U.S. Congress to authorize appropriations to the Trust Territory subsequent to June 30, 1973. While we do not yet know what such legislation will include in the way of appropriation ceilings or for what period of time, there is some indication that increases will be difficult to achieve and that only a one-year authorization might be proposed. Any change in Congressional appropriation procedures or methods will probably have to await settlement of political status and have to be a part of the status negotiations.

Q. At the 39th session of the TC, the Special Adviser Senator Amaraich recalling the opinion of the 1970 Visiting Mission on the financial powers of the Congress of Micronesia, stated that no action had yet been taken to grant the Congress decisive financial power, even though the U.S. Congress had been urged in the last two years to enact the necessary Legislation. Are there any new developments in this question?

A. No. It should be noted that the urging mentioned in the question has been directed to the Chairman of the House and Senate Subcommittees on Interior Department Appropriations during annual hearings on the Trust Territory budget request. It has been initiated by the Chairman and Co-Chairman of the Congress of Micronesia's Joint Committee on Program and Budget Planning who have appeared at the hearings to help support the Trust Territory budget request. When asked for his views the High Commissioner has indicated that he supports the concept.

A.16. Micronesians have no equity in the Van Camp operation inasmuch as it is a cold storage plant. Van Camp has sold three of its fishing vessels to Micronesians and approximately 60% of their fishermen are presently Micronesian. In addition, they have publicly stated that it is their intention to get all of their fishing vessels taken over by Micronesian businessmen and fishermen. They appear to be making a sincere effort in this direction.

Q.17. Will they have such participation in the proposed Del Monte operation in Majuro?

A.17. Del Monte has offered 45% of the total operation to Micronesian ownership. They have also indicated that they wish to finance fishing vessels to be owned and operated by Micronesians.

Q.18. Any comments, on the various recommendations in the marine resources section of the House of Representatives report on economic development in the Trust Territory of the Pacific Islands?

A.18. In general, the Department of Resources and Development and the Marine Resources Division feel that this report has real merit. However, there are some statements which the Administration cannot agree with. These are minor in nature and do not warrant discussion.

Q.19. Does the Administration support the position of the Congress that if the U.S., because of differing views of the effects of the law of the sea, is not able to properly present Micronesian views on the matter to international conferences, then Micronesian spokesmen should be included in the U.S. delegations to present Micronesian views?

A.19. See attachment. This material explains fully the Administration's stand on this issue.

UNITED STATES OF AMERICA
OFFICE OF THE COMMISSIONER
MUNICIPALITY OF SAIPAN, MARIANA ISLANDS 96950

AG
R
M
CABLE ADDRESS
HICOTT 541

19 October 1972

The Honorable Amata Kabua
President of the Senate
Congress of Micronesia
Saipan, Mariana Islands

Dear Mr. President:

I am pleased to advise that we have this date signed into law Senate Bill No. 247 establishing a Committee of the Congress of Micronesia on the Law of the Sea. This measure has been designated Public Law 48-92.

It gives me great pleasure to officially advise the Congress of Micronesia that in the positive spirit of Article 10 of the Trusteeship Agreement authorizing the administering power to engage in international cooperation, the United States has encouraged the passing of this Act by the Congress of Micronesia. The United States is currently engaged in an intensive international effort to secure broad agreement on outstanding ocean problems at the 1973 Law of the Sea Conference. Further, the United States is a member of the United Nations Seabed Committee, which is charged with preparations for the conference, and has presented to the Committee draft treaty articles on the territorial sea and straits, fisheries, the exploitation of the deep seabed resources and marine pollution. The United States clearly recognizes the importance that law of the sea issues have for Micronesia and believes its proposals would directly benefit the Trust Territory.

The United States under the Trusteeship Agreement has full authority and responsibility for matters relating to foreign affairs for the Trust Territory, including the representation of the Trust Territory in such international negotiations as the Law of the Sea Conference. It is the hope of the United States Government that the Committee

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established by this Act will consult closely with it as the Committee develops its position and that the Committee will avail itself of U.S. assistance in framing its opinions. The U.S. Government would then look forward to receiving the Committee's views. In this manner, therefore, the views and concerns of Micronesia may be most appropriately reflected in the U.S. negotiating position at the Law of the Sea Conference.

Sincerely yours,

Peter

Deputy

Member

Q.1. Has the Administration approached the Administering Authority to seek an end to the embargo on non-U.S. foreign investment in the Territory?

A.1. Yes.

Q.2. If so, when was the most recent approach and how did the Administering Authority respond?

A.2. In November 1971, the High Commissioner requested that Private Investment Company for Asia (PICA), a multinational Panamanian company with many U.S. blue chip stockholders, be exempted from the current interpretation of the present policy relating to the "most favored nation" clause in order that it might provide investment capital to a Micronesian corporation.

The Department of the Interior answered in January, 1972, that "although much of the capital in PICA is held by American shareholders, it is technically a Panamanian corporation...and does not come within the present scope of permissible investment."

In September 1972, a Philippine corporation submitted a business permit application. The Department of Resources and Development was advised by the Department of the Interior that "a legal opinion is being requested on the possible effect of the War Claims Agreement with Japan on this application under the Most Favored Nation Clause of the Trusteeship Agreement."

In November 1972, a request was received from a Japanese firm to do business as a venture under the agreement between the United States and Japan. Legal guidelines were requested by the Department of Resources, but so far have not been received.

Q.3. Regarding the criteria applied to foreign investment proposals (Page 15 of the Guidelines for Doing Business), what would be considered a "satisfactory local participation" what a "reasonable time" and what a "substantial percentage"?

A.3. "Satisfactory local participation" has been set by District Economic Development Boards and has varied from 10-51% depending on type of business. "Reasonable time" is usually set by the Boards as required by the type of business. A "substantial percentage" is also set by the local Boards and varies from 10-51%.

Q.4. May the Trust Territory Government itself acquire shares in foreign investment proposals?

A.4. It has not to date. Enabling legislation would be necessary.

Q.5. What is the Administration's view of the proposals on foreign investment made in the Congress Report on Economic Development (Pages 86-92)?

A.5. Statements made on pages 86-92 are an accurate account of the situation existing in 1971 when the report was made.

Since then the Congress has introduced and passed legislation which corrects many of the problems raised by the report. The administration has supported these measures.

Still to be resolved are:

- a. Revision of most-favored nation policy.
- b. Improving efficiency and effectiveness of District Economic Boards by encouraging District Administrators to assign qualified Business Advisors to staff them.
- c. Micronesian lack of capital for purchase of stock and active participation in management of foreign companies.
- d. Tax incentives and subsidies.

Q.6. Is the District Board system working satisfactorily?

A.6. The District Board system is working extremely well in the Marianas and Yap where the members and staff of the Economic Development Offices have an excellent working relationship. It varies in the other districts in proportion to the interest of the Board members and the public feeling about allowing foreign investment.

INTERNATIONAL ECONOMIC RELATIONS & DEVELOPMENT FINANCE

Q 1. Will the application for Associate Member of ECAFE be submitted to ECAFE at its 1973 session?

A 1. This is presently under advisement and we do not know if the matter will be referred to ECAFE at its 1973 session.

Q 2. Will this follow by applying for membership of Asian Development Bank?

A 2. It is not known at this time.

Q 3. If so will the latter application be submitted this year also?

A 3. Do not know.

Q 4. Has the administration considered enlisting the assistance of international economic institutions such as the ADB or the IBRD in preparing economic surveys -- either overall or in regard to particular sectors?

A 4. Most of the economic studies conducted in the Territory are performed by the Industrial Economist of the Department of Resources and Development. Since the Trust Territory is eligible to obtain UNDP assistance through the UNDP Regional Representative in Apia, Western Samoa, it is hoped that the expert services of the UNDP will be expanded in the Territory in the future.

Q 5. Has the administration obtained or considered obtaining assistance (other than fellowship) from the various relevant UN agencies such as FAO, ILO, UNESCO, ETC. (As an example)

A 5. Yes the administration will continue to obtain these services in the future. The extent of such assistance will depend largely on the availability of funds that can be encumbered by the administration for this purpose.

ANSWERS BY CHIEF, LANDS AND SURVEYS
TO QUESTIONS ASKED BY
UNITED NATIONS VISITING MISSION
2 MARCH 1973

Q. Are there so-called military retention lands outside the Mariana Islands District; if so, where?

A. Yes. Attached as Exhibit A is a complete listing of all lands utilized by the United States Department of Defense in the Trust Territory.

Q. Are these retention lands under the control of the Army, Navy or Air Force?

A. The using activity of the United States Department of Defense is indicated under the second heading on Exhibit A. Although the United States Coast Guard is under the Department of Commerce, lands utilized by the Coast Guard are included in the list as most Micronesians consider it a military activity which in the Trust Territory it is not.

Q. Does TTPI consider that all public lands in the Trust Territory can be used freely by the military? If not, what are the procedures that U.S. military must follow to get public land designated as military retention land?

A. The Trust Territory Government certainly does not feel that the United States Department of Defense may utilize any public lands in the Territory without first carefully negotiating a Use Agreement. The United States and the Trust Territory presently operate under a "Land Agreement" dated December 23, 1955, of which a copy is attached as Exhibit B.

The terms of this land agreement are not presently satisfactory to the Trust Territory in so far as private land acquisition for the United States is concerned. The Trust Territory is placed in the conflicting role of having to acquire the land for the United States while also serving in the role of "trustee" for the people of the Trust Territory. Attempts to have the agreement amended since 1970 have failed. It is the United States position that there is no present need to amend the agreement in that the political status question will be decided shortly; and accordingly the effort expended to amend the agreement would be futile.

MILITARY RETENTION AREA
TRUST TERRITORY OF THE PACIFIC ISLANDS
(notes on Page 5)

Revised by TTPI - 1 October 1974

<u>DISTRICT/LOCATION</u>	<u>COGNIZANT ACTIVITY</u>	<u>ACREASE</u>	<u>TERM OF USE AND OCCUPANCY AGREEMENTS</u>	<u>COST</u>	<u>COST/ACRE</u>	<u>REMARKS</u>
MARSHALL IS. DISTRICT						
<u>KWAJALEIN ATOLL (See Note 1)</u>						
South Loi Is.	Army	9.0	2/9/64 - 2/8/2043)*	\$750,000	\$1250	Test Facility
North Loi Is.	Army	15.0	2/9/64 - 2/8/2043)*			
Kwajalein Is.	Army	576.0	2/9/64 - 2/8/2043)*			
Roi, Bnderikrik & Namur Is.	Army	400.0	2/7/44 - Indef	(note 2)	\$1000	New agmt. in process (Note 2)
Omelek Is.	Army	9.76)	Immediate Possession and	\$ 26,680.64		Under condemnation to TTPI Civil Action 284, filed 4/2/66 (Note 3)
Eniwetak Is.		15.14)	Use 4/2/66 Const. Right of Entry 9/5/69			
Gellinam Is.		5.311)				
Gagan Is.	Army	6.093	4/1/68 - 3/31/93	\$ 6,093	\$1000	
Meik (Meck) Is.	Army	37.0	10/7/63 - 10/6/2062*	\$ 18,500	\$ 500	
Ambo (Legan) Is.	Army	18.0	10/7/63 - 10/6/2062*	\$ 9,000	\$ 500	
Ningi (Nene) Is.	Army	47.0	10/7/63 - 10/6/2062*	\$ 23,500 (\$ 4,600)	\$ 500	(Note 4)
Gugeeghe	Army	59.4	Construction Right of Entry 6/25/60			Agmt w/ U.S. pending determination final title in TTPI.
Ennylabegan	Army	70.527	5/20/63 - Indef.	\$ 40,120.70		(Note 5)
Ennugarrett	Army	5.92	6/24/63 - Indef.	\$ 3,319.18	\$ 500	(Note 6)

*Assignment of Lease

<u>DISTRICT/LOCATION</u>	<u>COGNIZANT ACTIVITY</u>	<u>ACREAGE</u>	<u>TERM OF USE AND OCCUPANCY AGREEMENTS</u>	<u>COST</u>	<u>COST/ACRE</u>	<u>REMARKS</u>
MARSHALL IS. DISTRICT. (CONT'D) Illeginni Is. Illeginni Is. Reef Runway	Army Army	31.22 15.00	11/15/69 - 11/14/94 Right of Entry 8/12/71	\$ 31,220	\$ 1,000	Amdt. to Illeginni Is. agmt. to include reef runway in process. (Permission granted 8/12/71).
Eniwetok Atoll - AFWTR	Air Force	1708.80	3/2/44 - Indef.	\$175,000 (Note 7 re. \$1.02 million ex gratia payment)	\$.102.00	Coast Guard uses 7.76 acres for Loran Sta. "A" under permit of 8/15/50; use of airfield under Joint-Tenancy Agreement of 9/10/60.
Bikini Atoll - AFWTR Ouruksen Is. Eninman Is.	Air Force	.955 .955	4/15/46 - Indef.	\$ 325,000	\$ 235.00 (based on total 1382.4 acres)	By agmt dtd 3/17/70 Bikini Atoll returned to TTPI as of 10/11/69 retaining Ouruksen & Eninman together w/ rt to use the pier, airfield & boat landing area on Eneu Is.
Ebeye Is. (South End) Loran Station Access Road	Coast Guard	11.28 .83	2/9/44 - 2/8/2043*			

NOTE: Quarry Permits from TTPI to USA (Army) adjacent to the following islands: Kwajalein; Cellinam, Gagan, Logan, Omelek and Illeginni. Quarry Permits adjacent to Gugeegue & Ningi Islands in process - TTPI granted Rights of Entry on 8/12/71. Army pays \$0.05 per cubic yard to TTPI Government. Amendment to Illeginni Permit in progress - TTPI granted Rights of Entry on 8/12/71.

* Agreements now complete.

*Assignment of Lease

<u>DISTRICT/LOCATION</u>	<u>COGNIZANT ACTIVITY</u>	<u>ACREAGE</u>	<u>TERM OF USE AND OCCUPANCY AGREEMENTS</u>	<u>COST</u>	<u>COST/ACRE</u>	<u>REMARKS</u>
<u>MARIANA ISLANDS DISTRICT</u>						
<u>TINIAN ISLAND</u>						
No. 1 North Field	Air Force	3145.00	8/1/44 - Indef.	\$ 125,900	\$40	(Areas 3E, 3F, and 3 acres of 3K licensed to TTPI 6/18/70 - Indef. for cattle grazing and farming.)
No. 2 West Field	Air Force	2135.41	8/1/44 - Indef.	\$ 85,416	\$40	
No. 3A Central Bomb Dump	Air Force	430.67	8/1/44 - Indef.	\$ 17,226	\$40	
No. 3E Masalog Bomb Dump	Air Force	878.00	8/1/44 - Indef.	\$ 35,120	\$40	
No. 3F East Bomb Dump	Air Force	443.33	8/1/44 - Indef.	\$ 17,733	\$40	
No. 3G Quartermaster Depot	Air Force	396.98	8/1/44 - Indef.	\$ 15,879.20	\$40	
No. 3K)						
No. 3L) AGF Camp	Air Force	1104.85	8/1/44 - Indef.	\$ 44,194	\$40	
No. 3M)						
No. 3N Bomb Group	Air Force	58.04	8/1/44 - Indef.	\$ 2,321.60	\$40	
No. 3O)						
No. 3P) 313th Wing Hqtrs	Air Force	289.67	8/1/44 - Indef.	\$ 11,586.80	\$40	
<u>SAIPAN ISLAND</u>						
No. 13 Isley Field	Air Force	1189.35	7/9/44 - Indef.	\$ 47,574	\$40	Proposed License to TTPI licensed to TTPI 7/1/66 - 6/30/76
No. 15 Nafutan-Obiam Bomb Dump	Air Force	2244.00	7/9/44 - Indef.	\$ 89,760	\$40	In public use.
Beach Road-Public Roadway	Air Force	38.22	7/9/44 - Indef.	\$ 1,528.80	\$40	In public use.
Wallace Highway-Public Roadway	Air Force	32.52	7/9/44 - Indef.	\$ 1,300.76	\$40	7/1/71 Use and Occupancy agmt supersedes agreement of 7/9/44 covering station site (area 4) of 16.25 acres paid for at the rate of \$40/acre and agreement of 7/18/64 covering housing area of 6.37 acres acquired for \$1.00.
Coast Guard Installation	Coast Guard	22.60	7/1/71 - Indef.	\$ 651.00	See Remarks	
<u>TANAPAG HARBOR (Portion)</u>						
No. 1 Tanapag Harbor	Navy	640.23	7/9/44 - Indef.	\$ 25,609.20	\$40	Licensed to TTPI 1/1/69 - 12/31/88. Dillingham Corp of Micronesia; concrete & asphalt batching plant.
Tanapag Harbor (Portion)		2.385				Licensed to TTPI 4/15/71 - 4/14/76; trailer park.
Tanapag Harbor (Portion)		6.367				Licensed to TTPI 4/15/71 - 4/14/72. Generator Site.
Tanapag Harbor (Portion)		.519				Licensed to TTPI 12/20/66 - Indef. Petroleum products bulk plant.
Tanapag Harbor (Portion)		3.73				

<u>DISTRICT/LOCATION</u>	<u>COGNIZANT ACTIVITY</u>	<u>ACREAGE</u>	<u>TERM OF USE AND OCCUPANCY AGREEMENT</u>	<u>COST</u>	<u>COST/ACRE</u>	<u>REMARKS</u>
<u>SAIPAN ISLAND (CONT'D)</u>						
Tampag Harbor (Portion)						
No. 9 Kobler Field	Navy	3.788	7/9/44 - Indefinite	\$31,838.64	\$40	Licensed to TTPI 4/1/65 - 3/31/75. Warehouse, storage area and barracks.
Kobler Field (Parcels A & B)			3/12/70 - Indefinite			Licensed to TTPI. Commercial Airport Operations & cattle grazing.
Nafutan Rock	Navy	3.02	8/1/44 - Indefinite	\$ 100		Pending relocation of Restricted Area R-7201 to Farallon De Medinilla Is., Mariana Islands.
<u>YAP DISTRICT</u>						
Loran Station of Yap and Cagil-Tomil Island	Coast Guard	205.2278	9/1/63 - Indefinite	\$48,274.32		
Fuel Pipeline	Coast Guard	14.25				Pending
Airfield (Non-exclusive)	Coast Guard	Unknown	7/1/63 - Indefinite			
<u>PALAU DISTRICT</u>						
Angaur Island - Loran Station Airstrip (Non-exclusive)	Coast Guard	16.04		\$ 1.00		Pending
Angaur Island	Coast Guard	258.57				Pending
Angaur Island	Coast Guard	Unknown	7/17/53 (Loran Sta., Waterwell, Pump Sta. & Water Pipeline)			Proposed Use and Occupancy Agmt for CG Instrn.
Angaur Island	Unknown	Unknown	3/18/65 (Fuel Pipeline)			

NOTES

In addition to the specific real property rights noted herein for Kwajalein Atoll, the following agreements pertinent to displaced residents of the Mid-Corridor area are pertinent:

- 18 December 1970 - Army and TTPI Government
- 18 December 1970 - TTPI Government and people of Mid-Corridor area

Under these agreements, Army pays \$420,000 per year, provides rent-free housing on Ebye, and inter alia is obligated to rebuild homes upon return of the people of the Area. Agreement renegotiable in February 1976.

2 The TTPI and Lands and Claims Administrator decision of 1965 declared this land to be privately-owned vice Public Domain land. TTPI was provided with \$80,000 from DOD. (The \$80,000 was subsequently paid into TTPI general revenue fund in FY 1967) earmarked for ultimate settlement. (Additional funds earmarked for settlement: \$305,700 in Army-provided funds, held by PACNAVFACENCCOM). Agreement with claimants still pending.

3 Eniwetok Island, 0.574 acres acquired May 1963 by Civil Action 139, cost \$238.64. Court action later initiated to obtain 1.5 acres on Omelek Island and 1.8 acres on Gellinam Island. Acting on request of the private owners and TTPI Government, an amended Civil Action 294 was filed to condemn the balance of the total acreage of the three islands (i.e., 29,637 acres to be added to the originally obtained 0.574 acres). DOD has deposited \$26,442 with TTPI under Civil Action 294. Settlement pending.

4 Ningi (Nene) Is., 9/7/59 Memo of Understanding with TTPI, \$4,600 paid. Court Action withdrawn because not required. Later acquired by negotiation with owners on 10/7/63.

5 Ennylabegan Is., 6/1/63 Civil Action 136 resulted in payment of \$40,120.70.

6 Ennugarrett, 6/24/63 Civil Action 140 resulted in payment of \$3,319.18, which included interest in amount of \$359.18. Navy made payment to indigenous owners.

7 Eniwetok Atoll, \$1.02 million ex gratia payment; Trust Agreement 8/19/69 with former residents, then living on Ujelang Atoll.

15 September 1955

Land Agreement Trust Territory of the Pacific Islands

This agreement entered into this 23rd day of December 1955, by and between the Secretary of the Interior and the Secretary of the Navy.

1. a. As used in this Agreement, the terms "using" Department or agency or "cognizant" Department or agency shall mean the Department of the Army, the Department of the Navy, the Department of the Air Force, the Coast Guard, or the Atomic Energy Commission, as the case may be, both of which latter agencies have authorized the Department of the Navy to act on their behalf.

b. The term "land parcel" shall mean an assembled tract of land.

c. The term "Trust Territory" shall mean that portion of the Trust Territory of the Pacific Islands under the administrative responsibility of the Department of the Interior.

2. Lands in the Trust Territory designated under Article I, Section C, paragraph 4(c) of the Interdepartmental Transfer Agreement shall be made available under a use and occupancy agreement, hereinafter referred to as the agreement, for such period of time as the using agencies may have a continuing requirement in such lands and provided always that such use be consistent with the purposes of the Trusteeship Agreement. For the purposes of this paragraph, Article I, Section C, subparagraph 4(c) is hereby amended so as to embrace therein such changes in the present land requirements of the using agencies as are reflected in correspondence between the Department of the Navy and the High Commissioner of the Trust Territory, and the Department of the Interior, from 22 May 1951 up to and including the date of this agreement.

3. For each land parcel described in paragraph 2 hereof there shall be an individual agreement which shall be negotiated by the Commander in Chief, Pacific Fleet or his designated representative and by the High Commissioner of the Trust Territory of the Pacific Islands, but which shall not be effective until approved by the Secretary of the Navy and the Secretary of the Interior or their designated representatives. In the case of land which is not owned by the Government of the Trust Territory, such Government shall act for and represent the owner thereof in the conduct of negotiations. In any instance where an agreement for the use of privately owned land cannot be negotiated, it shall be the responsibility of the Government of the Trust Territory to acquire such land or interest therein as may be required and to thereafter make the same available for use upon receipt of fair and just compensation. The Government of the Trust Territory will be responsible for the distribution of such compensation to the former owner thereof. Each agreement shall provide for review, at intervals not exceeding five years, by the using agency of the Government or by the Department of the Navy as the representative

EXHIBIT B

thereof, as the case may be, on the one hand, and by the Department of the Interior on the other, of the using agencies' need for the land parcel concerned and for right of appeal to the President if there should be disagreement regarding such need.

4. Where, by reason of a determination by the using Department or agency, or where, by reason of a decision by the President, in the event of non-agreement between such Department or agency and the Department of the Interior, that the requirement referred to in the first sentence of paragraph 2 no longer exists in respect of a particular land parcel, the agreement pertinent to such parcel shall be terminated, and upon such termination, the land and all interests therein shall revert to the Government of the Trust Territory.

5. A lump sum payment shall be made as may be required by the using agency to the High Commissioner of the Trust Territory for each land parcel covered by agreement. This lump sum shall be in satisfaction of any and all claims arising out of the use or occupancy of such parcel. The initial date of such use or occupancy shall be deemed to have commenced on the date the island on which the particular parcel is situated was declared "secure," unless such use or occupancy in fact occurred subsequent thereto, in which latter case the initial date shall be determined by occupancy. The lump sum payment shall consist either (a) of the negotiated fair use value of the land from the date of occupation through the period of the agreement or (b) of such sum established by the courts of the Trust Territory as a result of such judicial proceedings as may be appropriate.

6. All agreements pertaining to the land described in paragraph 2 hereof shall be between the Department of Interior, as the administering Department of the Trust Territory acting either on its own behalf or for the owner of such land, on the one hand, and the using agency or the Department of the Navy as the representative thereof, as the case may be, on the other.

7. It is understood and agreed that the lands described in paragraph 2 hereof, shall, when not actively used by cognizant using agencies, be made available to the Government of the Trust Territory on a revocable permit basis for the use and benefit of the people of the Trust Territory. Such permit shall be on a nonreimbursable basis when it does not result in any expense to the cognizant agency. Unless otherwise provided, if such lands encompass existing facilities and improvements, all such permits shall provide (a) that the permittee shall adequately maintain or safeguard such facilities or improvements against destruction, impairment, and loss, other than that caused by reasonable wear and tear or damage by elements; (b) that no such facilities or improvements shall be removed or physically altered without prior approval of the cognizant agency; (c) that the issuance of such permit shall entail no obligation on the cognizant agency to maintain existing facilities in an operable condition; (d) that the cognizant agency shall not be responsible for any damage or injury arising out of any use made by the owner, by the Government of the Trust Territory, or by the people of the Trust Territory of such lands, facilities or improvements; (e) that no permanent native dwellings or native settlements shall be established on such lands without prior approval of the

cognizant agency and of the Commander in Chief of the Pacific Fleet or his designated representative; (f) that such permit shall be revocable upon written notice by the cognizant agency to the owner or to the Government of the Trust Territory, if the cognizant agency shall determine that the permitted use of the land, improvements, or facilities is not compatible with the present or immediate future use thereof by such agency or that such use constitutes a hazard to public safety and security.

8. If the use of land and facilities covered by this agreement is essential to the continued conduct of the Trust Territory Government, the agreement or agreements shall provide for such use, and if agreement thereon cannot be reached by and between the High Commissioner of the Trust Territory and the Commander in Chief of the Pacific Fleet, the question shall be referred for settlement in the manner described in paragraph 3 hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this agreement to be signed and sealed as of the day, month, and year cited above.

R. H. Fogler
Assistant Secretary of the Navy (Material)

Wesley A. D'Ewart
Assistant Secretary of the Interior