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REVIEW OF MICRONESIAN STATUS NEGOTIATIONS

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I. BACKGROUND

A. Description of Trust Territory of the Pacific Islands (TTPI-Micronesia)

Micronesia embraces some 3,000,000 square miles of the Western Pacific Ocean, including more than 2,000 islands and islets, but has less than 745 square miles of land area, and a population of only 114,000. These islands are grouped into three major archipelagoes; the Carolines, the Marshalls and the Marianas. Geographically the latter archipelago includes Guam. However, Guam is an unincorporated territory of the U.S. and is not a part of the Trust Territory.

The Micronesian Islands were initially discovered by the Spanish in the 16th century. Micronesia then succumbed to 400 years of varying degrees of foreign domination: first the Spanish, then the Germans followed by the Japanese, and finally the U.S. (The U.S. entered the Micronesian picture at the time of the Spanish-American War with the acquisition of Guam.)

The U.S. administration of the TTPI began in 1944 during the island campaign against Japan, and was formalized by the United Nations in 1947 under the present trusteeship agreement (see below).

Although Micronesia has been administered more or less as a common political unit since the early 1900's, it has only recently been thought of as a nation, and then only by a few U.S.-educated Micronesians. Ethnic, cultural, and linguistic variations among the Micronesians are major and important -- there are at least nine distinctly different languages. There are also major differences in adaptation to western influences depending upon the character and intensity of contact with the Spanish, German, Japanese, and U.S. administrations. The six different administrative districts in the TTPI generally correspond to the basic ethnic, cultural, and linguistic divisions of the Territory and represent the political and social horizons of the average Micronesian. There are also conflicting economic and cultural interests and goals between several of the districts which produce schisms of significant dimensions.

The most significant unifying political force today appears to be the U.S. administration, a bureaucracy which the Micronesians view with some ambivalence. There are basic factors which tend to unify the Micronesians, except for the Marianas, in their dealings with the U.S.: a common desire to preserve and strengthen their respective cultures; an attachment to land which has no parallel in the United States; an increasing desire for control of their affairs; a desire for social and

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economic development which is sometimes in basic conflict with cultural concerns; dissatisfaction with many of the programs and policies of the U.S. administration; and a fear that any additional and significant military presence could result in their lands becoming once again a major battleground. This is not to imply, however, that there is any consensus on these issues among the districts. Indeed, some of these issues are likely to create problems of disunity for any future Micronesian Government.

Economic life centers principally on employment afforded by the heavily U.S. subsidized Trust Territory Government. However, tourism, the small construction and service industries, agriculture, and fishing and its related small marine industry (construction and repair), afford increasing employment opportunities. Given foreign investment, there is scope for considerable expansion in these areas. Prospects for Micronesia, with one of the world's highest population growth rates, to rise above a subsistence level, without a large continuing budget subsidy or massive private foreign capital investment, are minimal.

B. Origins of the Trusteeship

During World War II, these islands came under United States authority in accordance with the international law of belligerent occupation. There was strong sentiment at that time, particularly within the U.S. Defense establishment, for annexation. However, such a course would have been politically embarrassing to the U.S. which was encouraging its colonialist allies to grant self-government to their possessions and encouraging nations which had occupied foreign territories during the war not to retain them.

A decision was taken to place the area under the U.N. Trusteeship system, as a "strategic" trust. On April 2, 1947, the United States concluded a Trusteeship Agreement with the Security Council of the United Nations (as distinct from the General Assembly in the case of non-strategic trusts) establishing the Trust Territory of the Pacific Islands and designating the United States as Administering Authority. A Joint Resolution of the U.S. Congress authorized the President to undertake this arrangement with the U.N.

The "strategic" nature of the Trusteeship involves two unique features: First, the U.S. has the power to veto, through both the terms of the Trusteeship Agreement with the Security Council and U.S. membership on the Security Council, and termination or amendment of the Trusteeship. Second, the Agreement permits the U.S. to close off any of the islands for security purposes. As with all Trusteeships, the U.S. is allowed to fortify the islands. At the same time, however, the U.S. Government is obliged to develop Micronesia "toward self-government or

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independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned". The Trusteeship placed Micronesia under full U.S. administration and legislative control, although it did not provide for U.S. sovereignty.

In the last decade pressures have begun to build within the United Nations and within Micronesia itself which have reduced U.S. freedom of action in Micronesia and argue for an early termination of the trusteeship. These pressures have been reinforced by the gradual disappearance of the Trusteeship system. Nine of the original eleven U.N. trusteeships have been terminated. Only New Guinea and the TTPI remain. Australia, the administering authority for New Guinea, has announced its intention to grant independence to that territory in the near future.

C. Negotiations, 1969 - 1972

The U.S. Government began in the 1960's to consider means of terminating the Trusteeship and extending U.S. sovereignty over Micronesia. Formal discussions were opened with the Micronesians in October, 1969, toward that end. On that occasion, the Micronesians emphasized their attachment to their land, and said that the U.S. Government's desire for options on its future use presented serious problems. In January, 1970, the Micronesian Political Status Delegation (MPSD) rejected an offer of unincorporated territory status. The MPSD was particularly concerned that such status would have given the U.S. unlimited eminent domain authority, and that it made no provision for a local constitution. According to the MPSD spokesman, there could be no negotiations unless the U.S. Government was willing to grant Micronesia the right to draft and approve its own constitution.

At the Second Round of talks on Saipan in May, 1970, the U.S. presented a "Commonwealth Proposal" to the MPSD providing for internal Micronesian self-government under a locally drafted constitution and granting the U.S. circumscribed eminent domain authority. The Micronesian Delegation was unwilling to concede to the U.S. even qualified eminent domain authority, balked at the extension of federal supremacy to the islands, and rejected the principle of permanent association. The MPSD pressed for "free association" with the U.S., based on four "non-negotiable principles". The principles provided, *inter alia*, that Micronesia would be recognized as a sovereign entity possessing the right to choose between independence and free association, and the right to terminate unilaterally any compact of free association it might conclude with the U.S. The two sides agreed to recess the talks to study further each other's proposals. In July, 1970, the MPSD reported to the Congress of Micronesia that it was unable to accept the "Commonwealth Proposal". It proposed instead a self-governing state of

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Micronesia in free association with the United States through a "Compact of Free Association" revocable unilaterally by either party. In August, 1970, the Congress of Micronesia confirmed, in a resolution, its commitment to "free association" and the four "non-negotiable principles".

Following the President's appointment in March, 1971, of Dr. Franklin Haydn Williams as his Personal Representative for Micronesian Status Negotiations and subsequent White House issuance of negotiating instructions, the Third Round of talks on future status was held at Hana, Hawaii, in October, 1971, with what had become the Congress of Micronesia's Joint Committee on Future Status (JCFS). Finding the situation unpropitious for any further discussion of commonwealth status, the U.S. delegation joined in preliminary exploration of the elements of a "Compact of Free Association", as desired by the JCFS. The Hana talks resulted in considerable progress toward the resolution of basic issues of concern to both parties.

At the Fourth Round of talks in Koror, Palau in April, 1972, the two sides reached agreement in principle on a "Compact of Free Association", under which the U.S. would have full authority for the foreign affairs and defense of Micronesia, while full authority for internal affairs would be vested in a Micronesian government. They further agreed that unilateral termination of the compact would be possible after an initial moratorium period. U.S. defense authority and responsibilities, as well as land leases and options, would survive any Micronesian termination of the compact.

The Fifth Round of discussions in Washington in July, 1972, resulted in mutually agreed draft language for the preamble and those titles of the Compact pertaining to internal affairs, foreign affairs, and defense responsibilities. It was decided that later in the year the two sides would work toward resolution of other major aspects of an agreement, including finance, and termination and transition procedures.

A few weeks before negotiations resumed at Barbers Point, Hawaii in October, 1972, the Micronesian Congress, in a special session, adopted a resolution instructing the JCFS also to negotiate with the U.S. an independence option which the Micronesian people and their leaders could examine alongside the Compact of Free Association still under negotiation.

-The majority vote in the Congress for the "independence resolution" did not necessarily reflect majority sentiment for independence. All indications are that only a minority of the Congress favors that course. But almost all members of the Congress have consistently maintained that for Micronesia's act of self-determination to be meaningful, the Congress and the Micronesian people must be able to choose between free association and independence.

When the Sixth Round of talks opened in Hawaii, the U.S. Delegation closely queried the Micronesians on their negotiating objectives, pointing out that it had been the U.S. understanding (after the Hana and Palau talks) that the two sides would seek through negotiations to arrive at an agreement on a free association compact which would then be endorsed by both the U.S. and Micronesian Delegations.

The JCFS, after extensive deliberation, said that it interpreted the Congress' "independence resolution" to mean that eventually an independence option might have to be negotiated and that the JCFS was authorized, if necessary, to conduct such negotiations. When the U.S. Delegation asked the JCFS to indicate what it considered the appropriate elements of an independence option, the JCFS retreated somewhat and parried by declaring such discussion would be "premature and diversionary". According to the JCFS, the major goal was to complete the draft Compact of Free Association, a task with which the JCFS wished to proceed.

Given the uncertainties beclouding the negotiations, including obvious divisions within the Micronesian Delegation, the President's Personal Representative decided it would be unwise to continue drafting a compact and fully reveal U.S. terms of free association until the U.S. Government had had an opportunity to reassess carefully the entire Micronesian situation, including particularly the appropriate U.S. response regarding an independence option. The JCFS likewise believed a pause in the negotiations appropriate so that both sides could undertake necessary internal consultations. Although the two sides tentatively agreed to resume negotiations in December, the JCFS subsequently asked that the talks be further postponed because elections to the Congress of Micronesia in November had necessitated some revamping of the JCFS.

In February of this year, Senator Salii informed Ambassador Williams that until the public lands in the Palau District were returned to the traditional chiefs of those islands and assurances were given that the next negotiating round would concentrate on the issues of finance, transition and termination, there could be no further progress toward an overall agreement.

Ambassador Williams, Senator Salii and other representatives of the JCFS met in Hawaii in early May of this year for informal discussions relating to the resumption of work by their full delegations. It was tentatively agreed that the next round of formal talks would be held in the early autumn and that certain intermediate steps would be taken in the meantime. First, the question of the early return of public lands to the districts would be studied by the U.S. in consultation with interested authorities and individuals in the TTPI Administration, the Congress of Micronesia and the districts. Second, while the land question was being examined, the two chairmen would hold a series of regular informal meetings in preparation for a resumption of the joint effort to complete the draft Compact of Free Association.

D. The Mariana Islands District

The Mariana Islands District is on record favoring a close and permanent relationship with the U.S., including the establishment of American bases, and has already opened negotiations with the United States toward that end. It is hoped that the U.S. will be able to conclude in the relatively near future an acceptable status agreement with the Northern Marianas. (A separate study forwarded to the NSC Under Secretaries Committee on March 19, 1973, deals with these separate negotiations.) In the U.S.-Marianas negotiating round held on Saipan May 15 to June 4 of this year it was tentatively agreed that the Northern Marianas will become a commonwealth of the United States, with sovereignty over the islands vested in the U.S. However, many important details of the relationship remain to be negotiated before a final status is achieved. The progress of negotiations toward final agreement could conceivably depend in part on the pace and direction of U.S. negotiations with the rest of Micronesia. The Northern Marianas could seek advantages from the latter by identifying targets of opportunity (particularly in the financial field) for exploitation in their own negotiations. However, the Northern Marianas' expressed intention of establishing at an early date a relationship clearly differentiating them from the rest of Micronesia suggests they will wish to press expeditiously toward an accord on their future status regardless of what happens in the Micronesian negotiations.

A more likely interplay between the two sets of negotiations lies in the other direction, with the Northern Marianas talks forcing the pace of U.S. discussions with the JCFS. As the immediate and long-term benefits to the Marianas of the relationship they are negotiating with the U.S. become apparent publicly, there could develop internally within the JCFS and from within Micronesia pressures on the JCFS to find a formula for settlement which would be similarly advantageous to the remainder of Micronesia.

Once agreement is reached with the Northern Marianas, implementation will be simplified if U.S. negotiations with the remainder of Micronesia are also sufficiently near a satisfactory conclusion to warrant U.S. moves to terminate the Trusteeship Agreement. However, if, as is likely, the Marianas negotiations are concluded considerably earlier than those with the Micronesians, the U.S. Government must be prepared to implement a status agreement in the Marianas with interim administrative arrangements. This could have the effect of further forcing the pace of the U.S.-Micronesian negotiations (if the JCFS begins to feel the pressure alluded to above), or conversely (and more remotely), of bringing negotiations with the Micronesians to a complete impasse. The latter possibility could occur if the Micronesian Congress chooses to press in the U.N. or in U.S. courts its charge that the U.S. is "illegally" conducting separate status talks with the Marianas.

E. Next Action Steps (Action) Required

The Micronesian negotiations have reached a critical stage. Political pressures in Micronesia have significantly changed the negotiating milieu in the past nine to twelve months and introduced uncertainties which make it necessary for the U.S. to reassess its negotiating position.

The President's Personal Representative is currently operating under two year old instructions (see Annex A), which were based on assumptions that are in some cases no longer applicable or valid. The fundamental needs at this point thus are: (a) a reexamination of the issues which flow from the current state of the negotiations; (b) an assessment of U.S. options; (c) recommendation on courses of action; and (d) an updated set of negotiating instructions tailored to present circumstances.

The primary issues to be addressed are:

1. The character of U.S. interests and requirements in Micronesia.
2. U.S. negotiating objectives.
3. The basic U.S. approach -- including an assessment of status options and the U.S. position on an independence option for Micronesia.
4. U.S. land requirements and related issues.
5. The character of U.S. financial and other assistance.
6. Trusteeship termination issues and U.N. problems.
7. Conditions relating to unilateral termination.

A number of other questions related to the negotiations will also be addressed in the course of this study.

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PRIMARY NEGOTIATING OBJECTIVES

The fashioning on a priority basis of a new political relationship with Micronesia permitting early termination of the trusteeship in a manner which will protect and serve U.S. strategic and political interests through the following elements.

- Denial of the area for military use by third parties.
- Establishment of a stable and friendly self-governing Micronesian political entity through reasonable satisfaction of the political and economic aspirations of its peoples.
- U.S. responsibility for and authority over all matters which relate to the foreign affairs of Micronesia and to defense in Micronesia.
- The right for the U.S. to maintain certain U.S. Government facilities and to obtain land options that will guarantee use of training areas and the right to establish bases in Micronesia.
- Satisfaction of U.S. obligations relating to termination of the Trusteeship Agreement.

SECONDARY NEGOTIATING OBJECTIVES

-- To keep U.S. financial obligations to Micronesia within reasonable bounds and relevant to the character of the future relationship.

-- To keep U.S. administrative and other relationships with Micronesia as simple as possible while accomplishing the above objectives.

-- To establish a relationship with Micronesia which will (in addition to meeting U.S. obligations under the Trusteeship Agreement) obtain United Nations approval, or at least that of a majority of the Security Council and of the Trusteeship Council.

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