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MICRONESIAN STATUS NEGOTIATIONS

Proceedings of the Seventh Round of Negotiations

Washington, D.C.

November 14 - 21, 1973

OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS
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MICRONESIAN STATUS NEGOTIATIONS

SEVENTH ROUND

NOVEMBER 14 - NOVEMBER 21

1973

AT

DEPARTMENT OF THE INTERIOR

WASHINGTON, D.C.

OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS
WASHINGTON, D.C.

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ATTENDING

FOR MICRONESIA:

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Chairman of the Joint Committee
on Future Status

Representative Ekpap Silk
Co-Chairman

Senator Andon Amaraich

Senator Ambilos Iehsi

Senator John Mangefel

Senator Tosiwo Nakayama

Senator Edward DLG Pangelinan

Senator Roman Tmetuchl

Senator Petrus Tun

Representative Ataji Balos

Representative Herman Q. Guerrero

Representative Resio Moses

STAFF

Mr. Paul Warnke, Esquire, Consultant

Mr. Kaleb Udui, Legislative Counsel

Mr. Michael White, Committee Counsel

Mrs. Janet Craley, Secretary

FOR THE UNITED STATES:

Ambassador Franklin Haydn Williams
The President's Personal
Representative for Micronesian
Status Negotiations

Mr. James M. Wilson, Jr., U.S. Deputy
Representative for Micronesian
Status Negotiations

Captain Richard Y. Scott, U.S. Navy
Director, Office for Micronesian
Status Negotiations

Mr. Barry Ballow, OMSN

Mr. James Berg, Office of Territorial
Affairs, Department of the Interior

Mr. John Dorrance, Department of State

Mr. Adrian L. deGraffenried, OMSN

Mr. O. Thomas Johnson, Department of
State

Colonel William R. Kenty, U.S. Air Force,
Joint Chiefs of Staff

Mr. Harmon E. Kirby, OMSN

Mr. Stephen A. Loftus, Jr., OMSN

Mr. Herman Marcuse, Department of
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Mr. Solomon Silver, OMSN

Colonel Athol M. Smith, USA, OMSN

Captain E.C. Whelan, U.S. Navy, OSD/ISA

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Mrs. Marianne M. Long, Secretary

Miss Melody June Withrow, Secretary

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FIRST PLENARY SESSION

WEDNESDAY MORNING

NOVEMBER 14, 1973

The Seventh Round of Negotiations of the Joint Committee on Future Status of the Congress of Micronesia and the President's Personal Representative for Micronesian Status Negotiations was convened in the Secretary's Conference Room of the Department of the Interior, Washington, D.C. at 10:07 A.M., November 14, 1973.

AMBASSADOR WILLIAMS: Senator Salii, Congressman Silk and Members of the Joint Committee, it gives me great pleasure to formally open the Seventh Round of our negotiations. I would like to acknowledge the presence this morning of our guests.

We are very pleased to have the Honorable Bethwel Henry with us, the Speaker of the House of Representatives of the Congress of Micronesia.

We are also very happy that the Honorable Stanley Carpenter, the Director of the Office of Territorial Affairs, is with us this morning.

And also the Honorable Edward E. Johnston, High Commissioner of the Trust Territory of the Pacific Islands.

I have just noticed that High Chief Ibedul Gibbons is with us this morning. We are very pleased to have him here.

I now turn to my formal statement.

As we open this Seventh Round of Negotiations on Micronesian future political status, the U.S. Delegation renews its commitment to continue to work with you faithfully and constructively to develop a status agreement which will be in the mutual interest of Micronesia and the United States.

Our two delegations have already traveled a long road together toward a satisfactory final agreement. I have no doubt, that as we labor together purposefully in the days ahead, we will make further substantial progress toward our common objectives.

At Barbers Point, a little over a year ago, we jointly decided that a pause in the talks would be appropriate. It was felt that time was needed to enable each Delegation to reexamine its position in order to determine whether the premises which had initially prompted it to embark on a joint effort to construct a compact of free association remained valid, and assuming that the answer was affirmative, to prepare adequately for the further negotiations required to bring these talks to fruition.

This pause has been longer than perhaps either side had originally anticipated. Its length was occasioned by circumstances unforeseen at

If self-government can be defined as the individual's right to make decisions on those matters which concern him most directly, and have greatest salience for his society, transferring to the Micronesian people control over their public land must be considered as nothing less than an enormous step in the direction of self-government.

Finally, let me mention an action which, though still largely prospective, should nonetheless, be included in any list of major recent developments influencing Micronesia's future.

I speak of the letter I received from the President of the Senate and the Speaker of the House of the Congress of Micronesia informing me of the intent of the Congress to consider again legislation calling for the early convening of a Constitutional Convention.

On behalf of the United States Government, I welcome this possibility -- recalling that the American Delegation first urged the calling of such a convention during the Koror Talks in April of 1972. A request for financial assistance has now been received, and in order to lend concrete encouragement to the Congress' efforts, I have with pleasure recommended to the Secretary of the Interior that a supplemental appropriation be sought immediately from the United States Congress to help defray the cost of a Constitutional Convention.

In the absence of a Micronesian Constitution, planning and implementation of any design for transition to self-government can, at best, be only uncertain and incomplete.

On the other hand, the very act of holding a successful convention at which a wide spectrum of Micronesian citizens will be engaged in constructing the foundation and framework of the future Micronesia, will, in and of itself, constitute a monumental citizen participation in self-government, bringing to the Micronesian people invaluable experience and additional confidence in their capacity to determine, without outside interference, their own affairs and their own destiny.

The three decision items mentioned do not directly relate to these status talks, but do relate to the direction in which Micronesia is moving i.e., toward self-determination and self-government. It is this same goal which has brought us together again, to complete our unfinished task.

As we take up this work, I would like to reaffirm that the United States' objective for these talks remains constant. We have said that we have legal commitments and moral obligations which we intend to live up to. We have also said that we have legitimate national interests which we do not intend to ignore.

At Hana, I underscored a theme which continues to be basic to the United States' negotiating position: I said that the United States is only interested in developing the kind of framework for future U.S.-Micronesian relations which will meet the needs, circumstances and desires of the people of Micronesia and which will win their support. To do otherwise, would be to build an edifice on sand, a structure whose foundation would gradually erode and, in time, be washed away.

In May of this year, I noted in a public statement at Majuro that the U.S. will fulfill its promise to the Micronesian people to insure that they have the opportunity to choose freely their own future - and I underline the word "freely". I said that the United States would neither rush the Micronesians toward a decision on future status more quickly than they wished, nor would the United States attempt to delay a resolution of the future status question. I concluded by renewing the United States' pledge to continue to work cooperatively with the Joint Committee toward a status agreement reflecting the will of the people.

This remains the United States position this morning. We are prepared to press on with the negotiations toward a compact of free association. We recall that it was the Joint Committee which first proposed that such a future association be developed via the negotiating process. We recall further that the Congress of Micronesia has several times since confirmed its belief that a free association arrangement would be most compatible with Micronesia's aspirations and requirements.

During recent months, you have no doubt reflected upon the nature and substance of the negotiations and the direction in which they are leading. The United States side is aware, of course, that members of the Joint Committee visited all the districts last summer to consult directly with the Micronesian people on their expectations regarding future status. That undertaking on your part, supplementing your individual reflections and your internal consultations as a body, has doubtless given you added perspective on the attitudes and sentiments of your people.

Speaking about our sentiments, I would like to repeat that we do not wish to impose ourselves or our friendship on Micronesia. We seek instead an association not based on the narrow limits of legal, political and economic considerations, or of self-interest. We seek rather a relationship based on mutual respect and trust, a relationship which the people of Micronesia would understand, would want, and would enter into freely with hope and enthusiasm.

As we prepared for this meeting, we have tried to keep this ideal in mind. We have tried to view each issue as it might be perceived by Micronesians as well as from the perspective of the American interest. We continue to believe that we share a number of important common interests. We continue to believe, also, that your understandable and commendable goals for Micronesian self-government can be met within the framework of the kind of political association we have been working toward.

In conclusion, I sincerely hope that by the end of the month we will have finished our task of drafting a blueprint for a new relationship which will prove to be mutually beneficial, and which will recognize, respect, protect, and further the long-term interests of Micronesia.

That concludes my statement, Mr. Chairman.

SENATOR SALII: Thank you, Ambassador Williams.

Ambassador Williams and other distinguished delegates, we are truly pleased that this Seventh Round is finally underway.

It has been more than a year since we began putting together the actual language of a draft Compact of Free Association between Micronesia and the United States. The reason for this delay is a matter of record.

Our Delegation preconditioned the resumption of these talks upon the return of so-called "public" lands in Micronesia to their rightful owners.

On the eve of our departure from Micronesia to Washington, we received from you a response to our request. It came as the people of Micronesia had long asked in the form of an official United States Government Policy. In its essence the policy is an agreement, a commitment, on the part of the United States that it will return the so-called public lands to the districts of Micronesia immediately.

The actual implementation of this policy will, out of necessity, have to be held in abeyance for a few months pending certain actions on the part of the Congress of Micronesia and the District Legislatures.

Yesterday, our two Delegations met to discuss this new American policy. I now place the minutes of yesterday's discussions into the official record of this Seventh Round.

(Minutes of this meeting are included as Appendix A)

I will only state here that your Delegation and ours are able to open the talks this morning, because our Delegation finds the American policy acceptable, with the clarifications and modifications agreed upon yesterday.

And now that the land question is out of the way, the task before us is to complete drafting the Compact of Free Association. There is no reason that this task cannot be completed in a short period of time. Both sides have had more than one year to formulate their positions on the remaining issues of finance and termination.

Our Drafting Committee is prepared to meet with yours immediately after this morning's session, to begin that task.

We have found in the past that this formal type of meeting rarely results in actual language of the drafting, and therefore, I do not extend these remarks.

And finally, I do not find this great capital city objectionable in any great respect, but we find your weather a bit too cold for our warm blood.

(Laughter)

You can therefore be assured that our Delegation is prepared to wind up these talks in the shortest amount of time possible for several reasons.

Thank you.

AMBASSADOR WILLIAMS: Thank you, Senator Salii. We are ready to move forward to the very practical task of drafting. Perhaps before bringing this First Plenary session to a close, I might take this occasion to introduce the members of the American Delegation:

(At this point Ambassador Williams introduced the members of his delegation)

SENATOR SALII: We are very pleased to see you this morning. If I may, too, I would also like to . . .

(At this point Senator Salii introduced the members of his delegation)

AMBASSADOR WILLIAMS: Thank you.

Unless there is further business, Mr. Chairman, I would move that we adjourn the formal Plenary Session so that the two working committees can convene here in this room immediately following the cessation of this session.

The meeting is adjourned.

[The proceedings terminated at 10:30 A.M.]

CLOSING PLENARY SESSION

WEDNESDAY AFTERNOON

NOVEMBER 21, 1973

The closing plenary session of the Seventh Round of Negotiations between the Joint Committee on Future Status of the Congress of Micronesia and the President's Personal Representative for Micronesian Status Negotiations was convened in the Secretary's Conference Room of the Department of the Interior, Washington, D.C. at 3:37 P.M., November 21, 1973.

(Ambassador Williams called the meeting to order and opened the proceedings by requesting Senator Salii to give his closing statement)

SENATOR SALII: Ambassador Williams, members of the United States Delegation:

We have now reached a point at which, we believe, it is necessary for the United States Delegation to make some key decisions. We believe that the present round of talks has successfully focused the attention of both delegations on some major areas on which the failure or success of negotiations for a Compact of Free Association will be determined.

We are, as we have previously stated, very pleased that it has been possible for the two sides to agree on the principles for the return of public land. This has permitted us to go forward with the discussions of the very important issue of the level of financial support to be granted by the United States to the Government of Micronesia in the first years following the termination of the trusteeship. It has been and remains our position that we cannot usefully discuss the remaining details of the proposed Compact of Free Association until it becomes clear that there is a substantial likelihood that we can reach agreement on the question of financial support. At the present time, our positions are very wide apart. It has been possible for us to agree to a large extent on the structure of the section on finances, on the procedures to be followed, and on associated matters. On the matter of the level of financial support itself, however, we are sorry to have to recognize that no progress has been made. Our initial proposal, advanced a year and a half ago in Koror was for an overall level of \$100 million annually for the first ten years, plus the continuation of the existing U.S. federal programs provided in Micronesia. Your proposal, advanced this week for the first time, would involve a level of support totalling between \$40 and \$41 million annually for the six districts of Micronesia plus the continued provision of the services afforded by the Federal Aviation Administration, the postal service, and the weather service.

Since these respective propositions have been advanced the United States Delegation has been unwilling to make any significant improvement in its offer. We, on the other hand, have been willing to reduce our request by \$20 million annually and to accept a significant diminution in the federal programs to be offered without compensation subsequent to termination of the trusteeship.

Because of this wide gap and the apparently unyielding stance of your delegation, we have had to conclude that we cannot usefully proceed with

the discussions of the remaining sections of a Compact of Free Association until this gap is substantially narrowed. Regardless of the ability of our delegations to adjust remaining differences, the Compact is not one which the Joint Committee would be willing to recommend to the Congress of Micronesia if it contains figures which approximate those in your current proposal.

Accordingly, the Joint Committee desires at this time to present to you and the members of your delegation alternative ways by which it may be possible for us to break the present deadlock and proceed toward the completion of a Compact of Free Association.

The immediate problem, as we have suggested, is the vast difference between us on the level of financing to be provided by the United States. You have suggested that this difference reflects a difference in approach. As we understand your position, the termination of the trusteeship should bring about a significant reduction in the amount of U.S. money directed toward Micronesia. You have suggested that, instead, we should pursue other possible sources of financial support and investment. For our part, we regard the status of free association, as presently contemplated by both delegations, as one which involves a most appreciable measure of continuing United States involvement in Micronesia. Titles II and III as negotiated ad referendum in July 1972 would commit the Government of Micronesia to allow a virtual U.S. domination of Micronesian foreign affairs and the liberal use of Micronesian territory for U.S. security purposes. We are firmly of the view that the level of U.S. financial support embodied in your present proposal is totally inadequate to justify this degree of continuing association between Micronesia and the United States.

For purposes of proceeding with the negotiations, we would therefore suggest as one possible approach that we accept the proposition that the amount of financial support to be provided by the United States will be far less than we had anticipated in reaching this stage in our negotiations. We would hope, from your comments, that this offer can be somewhat improved. We would therefore be prepared now to resume the discussion of the other sections of the Compact. On this basis, however, it would be necessary for us to reevaluate the nature of the association and to reopen for substantial modification the provisions on which tentative agreement has previously been reached. Specifically, we would contemplate a significant curtailment of the degree of authority to be delegated to the United States in foreign affairs and defense matters under Titles II and III.

If you desire to proceed on this basis, we are ready to do so. It should be noted, however, that the Committee could not undertake to recommend affirmatively to the Congress of Micronesia a Compact of this nature and with these levels of support. We would, however, be willing to present such a Compact to the Congress for its consideration and action.

The alternate course is for both sides to continue to view the status of free association under the concepts that have previously guided our negotiations. Such a status, as we have pointed out, would contemplate a continuing relationship which is close and lasting. It would, because of its **intimacy**, seriously restrict the ability of Micronesia to attract investment from other countries and the creation of profitable trade relationships. We are prepared now, as we have been in the past, to go ahead with the negoti-

ations of a Compact thus structured. We must repeat for the record, however, what we have asserted to you in our informal discussions. We cannot go ahead with the negotiations of a Compact structured around these concepts unless the United States Delegation is willing at this point to meet us at least half way in our financial requests. It is our understanding that you are not prepared at this point to make any such financial proposals. Under these circumstances, completion of negotiations of a Compact designed to bring about a continuing and close association would be fruitless.

The Joint Committee thus proposes that you give consideration to these alternative approaches. If you desire now to negotiate on the assumption of a lower level of financial support, more consonant with your proposal than with ours, we are prepared to do so immediately but would only do so on the mutual recognition that the status to be developed would be one of far looser association than that which we have thus far envisioned. If you do not desire to proceed with the negotiations on this basis, we would then request that you take the action necessary to permit the continuance of our negotiations on the basis of our previous assumption. In the latter event, the Committee will stand ready to resume these negotiations at such time as you can present to us a proposal which would be consistent with the adoption of a Compact under which the United States and Micronesia would become closely associated. We are not prepared to conclude a Compact under which we would grant rights of the character set forth in the drafts of Titles II and III in return for a level of support such as has been proposed. In our view, we would be giving too much for too little return.

As you know, the next session of the Congress of Micronesia will begin the second Monday of January next year. At that time, it will be the responsibility of the Joint Committee to report to the Congress on the negotiating situation and the prospects of their success. It is my hope that you will be able to present a proposal to us prior to that time which will permit the resumption and, hopefully, the successful conclusion of these negotiations. In the absence of some proposal from you which affords such promise it will be the responsibility of the Committee to advise the Congress that the talks on free association have proven to be unproductive and that some other course should now be considered.

AMBASSADOR WILLIAMS: As I look up and down your side of the table I note that most of the members of the Joint Committee present here this afternoon have been directly involved in these negotiations longer than I. Some of you can trace your participation back to the very first days of the old Political Status Commission. A few of you, on your side of the table, may remember the words of admonition contained in the Political Status Commission's final report to the effect that the negotiations and the actions leading to a termination of the trusteeship and the emergence of a self-governing Micronesia would be long, difficult and very complex, and that a great deal of patience, trust and understanding would be required on the part of both parties.

This afternoon we bring to an early close the Seventh Round. Many of you I am sure share with us a sense of disappointment that our expectations have not been realized. We, like you had hoped that November 1973 might have seen the completion of the task which we began in July 1972 - that is the joint effort to translate into Compact language the preliminary agreements reached in prior rounds.

I am certain that this failure was not due to a lack of desire or good will on either side but rather to honest conceptual differences and, in terms of expectations, wide differences with respect to future financial arrangements. I regret that these differences seem to have been so great in your mind that you found it necessary to put off completing the draft compact until your finance conditions were met. The U.S. delegation had hoped, of course, that we could have reached agreement not only on Title IV but also on the remaining Titles of the Compact so that the Congress of Micronesia would have been able to see a complete outline of the whole structural framework of a potential Free Association agreement.

But be that as it may, I still believe that the past week has seen further advancement down the long road toward Micronesian self-government. It began with a discussion of the new American policy on public land announced on November 1 some two weeks in advance of the opening of these talks. This decision by the U.S. Government has been hailed as a significant step toward greater internal self-government and the fulfillment of an American promise.

Washington during the past week has also been the scene of **hearings** which could lead to the funding of a Micronesian **Constitutional Convention**. Again, this action indicates the desire on the part of **my government** to encourage Micronesian self-government. The next move, as it has been in the past, will be up to the Congress of Micronesia.

During the past week here in this very conference room, at meetings of the Joint Drafting Committee, exchanges of drafts and informal discussions have also produced some further tentative understandings on the Compact itself, limited to be sure, and also tentative, but progress nonetheless.

A clear advance was made in arriving at mutually acceptable language in the financial provisions of the Compact even though there was no agreement on the dollar amounts to fill in the blanks. However, we are now closer together on the essential elements and terms of the future financial relationship than we were a week ago.

Likewise, progress was made informally on revising the language of Title V on the applicability of laws, which seemed to meet your concerns and your reservations. Similarly, an exchange of drafts on a Termination Title resulted in our acceptance of much of your language.

These signs of a willingness on the part of both parties to reach accommodation gave promise that further tentative understandings would be reached in many if not all of the remaining titles of the compact. In order to expedite this effort we presented to you our draft of all of the remaining titles which I ask be made a part of the official records of this round.

(U.S. Draft Compact Titles IV-XII, and Draft Annex C is included as Appendix B to these records).

We did so with the clear understanding that frank exchanges and give and take would undoubtedly modify the language we were proposing. We were prepared to listen to your views. We were prepared to negotiate, with the hope that upon completion of the draft compact we could then turn to the final

item on the agenda - transition - the gradual assumption of greater responsibilities for self-government and finally transition from trusteeship status to your new status.

But yesterday it became clear that we had run into a roadblock. We thought we were still in midstream in our exchange on finance, that there was still room for discussion not only on finance but on other remaining substantive issues. Your view was a different one and of course, as is your right, you stated clearly that you were not prepared to go forward with the talks on finance or any other subject until your conditions and financial requirements as set forth in your Saturday proposal were met by the U.S. side.

In your position which you have just re-stated you have given us two alternatives as a way of proceeding, alternative pre-conditions that must be accepted if we are to continue the task of completing a draft compact. We regret that we simply cannot proceed on the basis of our accepting in advance positions you insist must be met as a pre-condition for continuing the negotiations. As you said this afternoon, "Our positions are very wide apart". This does not surprise us. At Koror some 18 months ago, I said, "Our views on the future level and categories of U.S. financial support are far apart". They still are.

I hope that it will be possible for our views to come closer together. **At** the suggestion of your Chairman and in the interest of clearing up any misunderstanding, I would like to summarize briefly the U.S. position on finance.

Let me begin by speaking of the conceptual approach we have followed. In considering the level of future U.S. financial support for Micronesia in the post-trusteeship period we have approached this matter on "a need basis" How much would the future Government of Micronesia and the district governments need to function effectively and to provide the people of Micronesia with essential and adequate programs and services. We asked the Joint Committee a long series of serious questions in this regard. We also asked about anticipated revenues and the prospects for third country or international assistance as supplements to the U.S. contribution. We had hoped for a cooperative approach in determining in general terms the general levels of reasonable dollar needs of the future Government of Micronesia. We did not receive any answers. It became clear that your conceptual approach was different from ours.

We thus proceeded to make our own estimates of needs based on current data, projections and upon the sentiments and statements expressed from time to time by members of this Committee and other Micronesian leaders. I ask that a summary of these estimates as presented to the Drafting Committee also be inserted in the records of this round. (*U.S. figures are included as Appendix C to these records. Micronesian figures are included as Appendix D*). Our figures were in part based on these statements and these assumptions:

1. Your stated goal was to work toward economic self-sufficiency.
2. Your statement that economic development was to be gradual taking into account the need to preserve Micronesian traditions and culture.

3. Your statement that your future government would be less costly - would be simpler in structure - and would be decentralized.

4. Your statements that your dependence on expatriates would be over.

5. The assumption that your future government would embrace five districts and not six since the Marianas were seeking (as you all know) a separate status.

Given these assumptions and in particular the strength of sentiments expressed by the leaders of Micronesia that in the future it must become less dependent on outside assistance and that it should think in terms of living within its means, the U.S. initially thought that the level of continuing U.S. support in the post-trusteeship years would be lower than during the high level of the last years of the trusteeship.

Upon reflection and reconsideration the U.S. proposal was modified upward. It was decided that the U.S. would undertake an obligation to continue to support the Government of Micronesia at substantially the same level as during the closing years of the trusteeship. Promised budgetary support would enable the central and district governments to operate and provide services at the current level. It would also provide for a continuation of CIP expenditures at near the current levels plus loan funds at low interest rates for district economic development. Additionally, some essential services would be provided without cost and whatever land was used by the U.S. for military purposes would be paid for on a fair market value basis. The proposal which we presented totalled \$43 million annually for the initial post-trusteeship period for five districts excluding payments for the use of public land - a figure considerably higher proportionately than the figure of \$40-41 million for six districts appearing in your statement today.

In presenting our proposal the U.S. mentioned that during the transition period before the end of the trusteeship the U.S. would continue to provide funds to complete major CIP projects so that the new Government of Micronesia would not be burdened with these expenditures during its start-up period. We noted too that our suggested level did not take into account other real and potential sources of Micronesian income and assistance. They are:

1. Increasing Micronesian tax revenues and other income.
2. U.S. one-time grants for transition costs including relocation expenses.
3. Bilateral and multilateral economic and technical assistance.
4. Public and private loans including funds from foreign investment in Micronesia.

In summary, we considered our proposal when viewed against the level of current operations, projected need and potential sources of income, to be fair and reasonable. Our guarantee of continuing basic support at approximately the current level of support plus the prospects of additional income would have, we believe, provided for steady forward progress in government services in Micronesia, and a gradual movement toward greater economic self-

sufficiency and economic independence.

Conversely, the latest JCFS proposal still totals by our calculations in the neighborhood of \$100 million annually for six districts including federal services, programs and loans. We believe this would lead Micronesia to greater and greater dependency and away from its stated goal of self-sufficiency. We feel that the figures you presented and the justification are unconvincing. Your initial proposal called for doubling the amount now given to Micronesia and even your recently reduced figures are vastly in excess of what the U.S. Government is now providing the TTPI. It seems to us, on the face of it, unrealistic to suppose that once a territory sheds its trust status that the measures of assistance from the former administering authority should be greatly in excess of the annual level of support provided during the period of the trusteeship itself.

As we have said many times in the past, the willingness of the U.S. to commit itself to continuing financial support to a future Micronesia would depend on the nature of our future relationship. You yourselves have recognized that what you might expect under alternative forms of future association are very different things indeed. At one end of the scale is commonwealth or membership in the American family with all its obligations and also with all its benefits, including the widest range of federal programs and services. At the other end is independence with no U.S. financial obligations. We know that you are aware of these differences and as I have said in the past, we respect your resolve that your future status not be dictated by money. We know that you still consider, as the Joint Committee has said previously, that, and I quote, "the legal rights we consider essential to the effective protection of a Micronesian identity cannot and will not be bartered for financial and economic advantages".

I close as I began, by acknowledging again that I am disappointed with our failure to make greater progress - but I do not despair. Problems in the past have been overcome. For a while the question of land stood in the way of agreement. It was resolved. Control of laws and the issue of federal supremacy at one time also impeded progress. This problem too was overcome. Likewise, for at least two and perhaps three rounds our respective positions on change of status seemed insurmountable. This hurdle was eventually cleared and a little over a year ago the JCFS in a report to the Congress of Micronesia said, "Our four principles have been met".

Agreement too can be reached on finance. In your opening sentence today you stated that we have reached a point where it is necessary for the U.S. to make some key decisions. I would also say that the time is coming for you to make some key decisions as well. I know you will be reporting to the Congress of Micronesia and in the process you will be reexamining the progress that has been made and the prospects for final agreement. I too will be reviewing where we stand, the issues that separate us, and where we go from here in my report to my principal.

We do thank you for your courtesies and for your effort to understand our point of view. We also appreciate the sincerity of your position and the motivation that guides your work. I hope that we will keep in touch over the next weeks. Our objectives, as I have said before, will not change. We will continue to seek a proper way to end our trusteeship over the TTPI in a manner consistent with our legal obligations and our moral obligations to

the people of Micronesia. Finally, although we take leave without accomplishing what we set out to do, I continue to be optimistic that time, additional study and a continuing exchange of views will in the end result in an agreement that we can both accept heartily and, I say this with emphasis, with great relief.

Senator Salii, Members of the Joint Committee, that concludes my statement, and unless Senator Salii or Members of the Joint Committee have any response, I believe the time has come for us to bring the Seventh Round of these status talks to an end. All of us on this side of the table want to wish all of you a very Happy Thanksgiving and God speed you as you return to your homes.

Thank you very much.

The meeting is adjourned.

(The proceedings were adjourned at 4:03 P.M.)

APPENDIX A

Minutes of the Meeting between the Micronesian Delegation on Future Status and the American Delegation held in the Secretary's Conference Room, Interior Department, Washington, D.C., at 10:15 A.M., Tuesday, November 13, 1973.

Attending:

For Micronesia:

Chairman Lazarus E. Salii
Senator Andon Amaraich
Senator Edward DLG Pangelinan
Senator Ambilos Iehsi
Senator Tosiwo Nakayama
Senator Roman Tmetuchl
Senator John Mangefel
Senator Petrus Tun
Representative Resio Moses
Representative Herman Q. Guerrero
Representative Ataji Balos

Staff:

Paul Warnke, Esq., Consultant
Kaleb Udui, Legislative Counsel
Janet Craley, Secretary

For the United States:

Ambassador Franklin Haydn
Williams
Mr. James M. Wilson, Jr., U.S.
Deputy Representative
Captain Richard Y. Scott
USN, Director, OMSN
Colonel Athol M. Smith, U.S.
Army, OMSN
Colonel William R. Kenty,
USAF, JCS
Captain Edward C. Whelan, USN
OSD/ISA
Mr. Harmon Kirby, Special
Assistant, OMSN
Mr. James Berg, DOTA
Mr. Adrian deGraffenried,
Legal Advisor, OMSN
Mr. Stephen A. Loftus, OMSN

AMBASSADOR WILLIAMS: Senator Salii, I would like to open with a word of very warm welcome to all of you on this cold morning as we open this special pre-seventh round meeting on land. In addition to the members of the Joint Committee on Future Status, we are honored by the presence of so many distinguished Micronesians, including a delegation from Palau headed by High Chief Ibedul, High Chief Reklai and the Speaker of the Palau District Legislature, Mr. Luit. I would also like to acknowledge the presence of other representatives and officials from other districts and from Trust Territory Headquarters in Saipan. I know that all of you have come a long way to talk about a subject of very great individual and collective importance, namely, your own land. I know that you are all anxious to see this matter finally resolved after so many years. I note too that warmer climes call and I would suspect that you are not only interested in the return of your lands, but that you are also interested in returning to your own land and the warmth of your own homes. Therefore, I am going to move on rather quickly to our agenda this morning. I will be making a brief opening statement to be followed by a statement from Senator Salii and that will be followed by responses and discussion from any of you here who would like to speak.

Gentlemen, we welcome this opportunity to review informally an important subject of interest to you and, I believe, to every Micronesian -- that is, the recently announced U.S. policy decision to transfer to district control title to the public lands in Micronesia. Hopefully, this meeting, preliminary to the formal opening of the seventh round of future political status negotiations, will serve to clarify the new U.S. policy and to answer any questions you may have about it.

(U.S. Policy Statement is included as attachment 1 to these minutes)

I think it probable that it is the actual implementation of this public lands transfer policy that is of most interests and concern to you. Although the policy's implementation will be basically the responsibility of the United States Department of the Interior and the Trust Territory Government, the Congress of Micronesia will be asked to exercise important responsibilities in discretionary areas of implementation.

I would like to review briefly the background to the U.S. policy statement on transferring public land to the districts. Since late last spring, the United States Government has been actively studying this very complex question. This study has included the work of fact-finding teams which spent the entire month of August travelling throughout Micronesia and compiling insights from public, government and traditional and private leadership elements in each of the districts. I have already made the findings of those study teams available to you through your chairman. In addition and significantly, we have given careful consideration and weight to the views which the Joint Committee submitted on October 9 in response to my May 9 series of questions on public land. We thank you for your response.

Secretary of the Interior Morton, on our recommendation, has approved a new United States policy on public lands in the Trust Territory of the Pacific Islands, which calls for the early return of those lands to the districts if the people of the districts so desire. The document you have before you sets forth specifically the new policy and is, we think from our extensive study of the problem this year, fully reflective of and responsive to Micronesian opinion.

You will note that the United States policy contains certain safeguards and qualifications. These are minimal and are included to insure that the U.S. will continue to be able to fulfill its responsibilities as administering authority for Micronesia until the termination of the Trusteeship Agreement.

I emphasize the character and intention of these safeguards and limitations: they are at once minimal and necessary for the orderly conduct of government in the public interest. It might be helpful for us to recall in this context how rarely the power of eminent domain has been exercised during the period of the trusteeship. You may be sure that from now until the end of the trusteeship it would be used, if at all, only with the greatest circumspection, to meet presently unforeseen contingencies demonstrably related to public needs urgently requiring satisfaction. In any case, the safeguards we are discussing here are but temporary since they will remain in force only during the remaining years of the trusteeship.

The central significance of the U.S. decision to return control over public land to those districts requesting it is that the people of Micronesia, acting through their elected and territorial government and other types of leadership, are being asked to assume responsibility for managing matters pertaining to land, culturally the most prized, and socially and economically the most significant commodity in Micronesia. This constitutes an enormous step in the transition toward full self-government. At Hana, and again at Koror, the Joint Committee on Future Status emphasized that to reach an acceptable future status agreement it would be necessary for the Micronesian people to be assured that following the end of the trusteeship they would have control of their own laws and of their land. As you know, in previous negotiating sessions on the draft compact of free association our two delegations

have readily agreed on language in the agreement stipulating that the Micronesians themselves will be wholly responsible for enacting the laws by which they will manage their internal affairs. And now, by this decision of the U.S. Government to return public lands to local control, the Micronesian people are ensured that they will have control of their land just as soon as they, through their representative bodies, request it. We are not talking about transferring land to local control at the end of the trusteeship. We are talking about doing it now.

To ensure that the policy on the transfer of public lands does indeed foster self-government -- i.e., does in fact encourage the Micronesian people to make some of the important timing and other decisions relating to the transfer -- the policy is so designed that it can be flexibly implemented. The people and the leadership groups of each district are being asked to determine for themselves and express through their local legislature, how and when the public land transfer will be effected for their district. The U.S. is not laying down a timetable, uniformly applicable for all the districts, as to when this transfer is to be made. Nor are we telling the people of Micronesia to which body or bodies in the districts we would expect to make the title transfer. To repeat, questions relating to timing and to arrangements for receiving land within the districts will be essentially Micronesian decisions. The new U.S. policy affords the Department of the Interior and the Trust Territory Administration, acting in conjunction with the Congress of Micronesia, the ability to respond appropriately to the desires regarding implementation that will be expressed by the districts.

I think it probably would be useful for me to comment specifically on one aspect of our definition of public lands being returned to district control which has perhaps inadvertently given rise to some misinterpretation and confusion. This relates to the public lands in which the U.S. has expressed an interest for possible military use. I wish to emphasize that all of the lands in the Palau District on which, during previous negotiations, the U.S. has asked options for military use, are in fact included in the lands we are prepared to transfer to district control. In the Marianas, most of the land in which the U.S. has expressed an interest falls within our definition of public lands which will, upon request, be transferred to the district. The rest of the land in the Marianas which the U.S. would like to use if currently military retention land, but even that land, of course, is now under negotiation between the U.S. and the Marianas Political Status Commission.

I perhaps need make no further comment here regarding the new policy's implementation except to repeat that I view implementation to be the responsibility of the TT Administration acting in cooperation with the Congress of Micronesia and the District Legislatures and under the guidance of the responsible Washington Agency - The Department of the Interior.

We would hope, and indeed we understand that you share our expectation, that both the Joint Committee on Future Status and the Office for Micronesian Status Negotiations should in effect now be able to bow out, leaving the actual implementation of the policy for transfer of title to public lands in Micronesia to others, as we turn our attention to our principal task -- future political status.

Having said this, we would be happy to examine with you if you so desire what is going to be necessary in the way of implementation. On implementation

the U.S. is flexible. However, in any detailed discussion of this matter we feel that it would be fruitful to involve the High Commissioner and Mr. Carpenter, the Director of the Office of Territorial Affairs -- and I am sure that such a meeting can be arranged at your convenience.

As you are aware, I am sure, the Trust Territory Administration and the Department of the Interior have already taken the first major implementing step in line with the new land policy by requesting a supplemental appropriation for Fiscal Year 1974 for mounting an accelerated public land cadaster survey and its related adjudicatory functions. We have been informed by Trust Territory Headquarters and district officials that a greatly increased cadaster effort is a necessary step in the transfer of public lands to local control and ownership.

Furthermore the Trust Territory Administration has been and will continue to study actively the need for legislation and for amending and revising as necessary the Trust Territory Code in order to facilitate the implementation of the new public land policy outlined in the U.S. statement of November 2, 1973.

In conclusion let me say that to the extent that we have been able to, consistent with protecting public and individual interests in land in Micronesia, our plan for transferring control over public lands to the districts has incorporated virtually all of the elements of the Joint Committee on Future Status telegram to me of a month ago in response to my request for its views. Responsible Washington Departments and Agencies also firmly believe that the new policy is eminently fair -- in that it meets the desires which the Micronesian people have expressed to date, permits them to reaffirm their interest in having the lands returned to district control, and invites them to establish the mechanisms for accomplishing same. In our view, this new policy should permit the Congress of Micronesia and the District Legislatures great latitude in accommodating the major and sometimes diverse desires and concerns of each district relating to public land. Finally, in addition -- it reserves sufficient authority to the Trust Territory Administration for the execution of the trusteeship until the trusteeship is dissolved.

That concludes my statement, Senator Salii.

SENATOR SALII: Thank you, Ambassador Williams. I would like now to read the response of our Delegation to the United States Policy statement on the Return of Public Land.

The Micronesian Delegation has read and considered carefully all of the matters raised in the United States Delegation's position paper on the question of the return of public lands to the people of Micronesia. While we note that neither this paper nor our previously expressed position contemplates all of the many details and specific situations which are involved in the return of public lands, the terms and conditions set forth in the United States Delegation's position will be generally acceptable to the Micronesian Delegation upon satisfactory resolution of the following points:

1. Eminent Domain. We recognize that, by virtue of its trusteeship responsibilities, the United States will continue to have the power of eminent domain. We believe, however, that given our desire to see the return of all

public land to the districts, this power should be severely curtailed in its exercise. The Trust Territory Government's power of eminent domain should have restrictions placed upon it far greater than those which are presently in force in order to assure that the process will, in the words of the United States Delegation, "be used only as a last resort", and to assure that the process is responsive to the needs of the people of Micronesia. It is therefore our position that any necessary exercise of the eminent domain power ought to be done pursuant to district law, and not by act of the Trust Territory Government itself.

2. Military Land. The United States Delegation has proposed that title to lands which the United States Delegation has requested for future military purposes would be returned to the people of the districts only "with the prospective titleholders' formal commitment to accommodate those needs in good faith on terms to be mutually agreed with the United States authorities". We have already told the United States Delegation that we have no objection in principle to United States military land requirements in Micronesia, or to making land available to the United States for that purpose. We are additionally prepared to make a formal commitment to negotiate these matters in good faith with the United States after title to the lands is returned. However, we must hold firm to our previously expressed position that agreement to the lease of lands to the United States military cannot be a precondition to the return of title to public lands.

3. Military Retention Lands.

At the present time, there are approximately 18,000 acres of land in Micronesia that are leased to military agencies of the United States Government. These lands are commonly referred to as military retention lands.

A substantial portion of these lands is so-called public land. The length of the leases with regard to these lands is frequently so great as to amount to virtual ownership and would effectively deprive the transferee of title to these lands of the use and enjoyment thereof. Accordingly, it is the position of our Delegation that all leases of public land to the United States military, which land is not presently used by the military, should be terminated immediately.

The remaining portion of these military retention lands is land which belongs to individuals and is leased through the Trust Territory Government to the United States military. In this case also, it is our Delegation's position that, if such lands are unused, the leases should be terminated in order that the owner of the land might enjoy his full rights of ownership.

Of the lands which are used at the present time by the United States military, it is our Delegation's position, as previously expressed, that all leases of land to the United States military should be subject to renegotiation before the termination of the Trusteeship Agreement. This is consistent with our position as expressed above relating to the nature of the commitment of owners of land desired by the United States for future military use.

4. Leases of Land to the Trust Territory Government. Our Delegation has no objection to the continuance of leases of land which are presently used by the Trust Territory Government for public purposes such as schools, roads,

and hospitals. There is a substantial amount of land, however, which is leased by individuals to the Trust Territory Government and which is not presently used or planned to be used by the Government for any public purpose. It is our Delegation's position that such leases ought to be treated in a manner similar to that in which we have agreed to treat public land, and that therefore such leases ought to be terminated, at the request of the landowner.

5. Manner of Negotiation. As our Delegation has previously expressed, all future negotiations for military land requirements of the United States must be conducted and concluded only with the approval of the Congress of Micronesia, and additionally of a district legislature, if it so desires, and may not be concluded by the United States solely with a landowner. The people of Micronesia have an interest in whether there is to be a United States military presence in Micronesia which far transcends a mere landlord and tenant relationship between the landowners and a prospective lessee.

That concludes our response to the position paper on land.

AMBASSADOR WILLIAMS: Thank you Senator Salii. We would like a very short break now in the meeting so we can consider our response to the statement that you have just presented to us. So, if it is agreeable to you, we would like to ask for a ten to fifteen minute break.

RECESS

AMBASSADOR WILLIAMS: Senator Salii and gentlemen, thank you for giving us this time to consider your very thoughtful response to the policy paper which we have been referring to on the transfer of public lands from the Trust Territory Government to the districts. We have used the time to study and to discuss within the time limits we have had the various points you have made.

I would like to begin my response by making a few general observations, noting at the outset that your statement refers to the U.S. policy statement as a United States Delegation position paper. I would like to make it clear that the paper is not a position paper of the American Delegation. It has been approved by the Secretary of the Interior, under his authority. It is an executive administrative decision based upon our recommendations and, of course, upon your requirements. So, it is not a U.S. position paper; it is a U.S. policy paper. As I have also said, it is a policy designed to accommodate your expressed desires. It has only a limited number of safeguards. These would apply only during the time until the termination of the trusteeship. After that the people in the islands of Micronesia would be free to do as they please with respect to administering their own laws and lands.

Also, as I said, we are very flexible with respect to implementation; flexibility is built into the paper deliberately. We do not have the same degree of flexibility when it comes to the substance of the policy decision taken by the Secretary of the Interior.

Aside from the foregoing clarification, the United States does not have any real problems with the Micronesian response as we understand it. We suggest that the points raised by the statement we were given this morning orally by Senator Salii be considered one by one. We will proceed to comment on specific items raised in the order in which they were presented.

First, eminent domain. Eminent domain, in our view, can be shared with the districts but cannot be given up entirely so long as the U.S. Government continues to have its responsibilities under the U.N. Trusteeship. The exercise of eminent domain, both in U.S. practice and under the Trust Territory Code is strictly limited by the rigid requirements of due process of law. These are designed to protect the rights of the original individual property holder and to assure fair compensation for any taking of land. Also it is a power that I understand has rarely been used. In the 25 years of the trusteeship, the central government has used it only a couple of times without the consent of the landowners and only in cases of extreme urgency. The power of eminent domain will remain with the administering authority until termination of the trusteeship. There is little or nothing that can really be changed in the Code on this score. Eminent domain authority will, on the other hand, be exercised very sparingly. The central government will move first to the districts and ask them to acquire any land needed in the future for public purposes. If the districts have their own power of eminent domain, this would be relied on first; the central government's authority thus would probably never be used, so we may be talking about an academic question. However, in our view, the ultimate authority, so long as the trusteeship remains in effect, must remain with the Trust Territory Government, circumscribed by law, by the Trust Territory Code and by rigid requirements of due process of law.

Turning to numbered paragraph two in your presentation, military land. It would appear to us that our two delegations are basically in agreement on this matter. I have only one or two questions to clarify in your position. First, you state, "We are additionally prepared to make a formal commitment to negotiate these matters in good faith with the United States after title to the lands is returned". Am I correct in understanding that it is your intention that those receiving title to the land would give the United States, prior to transfer of title, a commitment to negotiate regarding United States land needs after the title transfer has actually been effected? Secondly, when you say you are prepared to make a formal commitment, who, specifically, do you think would give that commitment, the Congress of Micronesia, the Joint Committee, the prospective recipients of land titles in the districts, or who? The United States would, I think want to involve the prospective recipients in such a commitment.

Let me turn now to military retention land. The new U.S. policy doesn't, as a matter of fact, address the problem of military retention land one way or the other. I did comment a bit on it in my opening remarks, but the U.S. policy on transfer of land titles to the districts does not touch on this. The United States is already on record that military retention land in the Marianas will be returned with the exception of those lands presently under negotiation. Incidentally, before I leave this subject, I would like to say there may be some difference in our respective figures on the total amount of retention land. I think you are using 18,000 acres, and it is our understanding that today there are 14,000 acres in military retention land. You might also be interested to note that close to 23,000 acres of military retention land have already been returned to the public domain.

Turning now to the next point, leases of land to the Trust Territory Government, to the very best of our knowledge, there are no lands leased by the Trust Territory Government which are unused or not planned to be improved in the near future. As you are aware, the Trust Territory Government makes a

practice of issuing leases with the conditional clause that if improvements are not commenced within a certain period of time, the land lease will be reopened for it while an investigation takes place, and the control would be vested in the landowner until such investigation might be completed. Additionally, if negotiations have been completed and a lease comes into effect and the plan for use is not realized, the lease returns to the lessor. We would again stress that no lease lands are presently unused. If, contrary to our information, there are unused pieces of land leased to private owners, this situation should be and will be corrected immediately. It is therefore our conclusion that under the item, "Leases of Land to the Trust Territory Government" we do not have an issue.

Finally, turning to the manner of negotiation, we have no difficulty with the idea of leasing military land from or through the Congress of Micronesia or its agent or through the districts so long as that lease is legally sufficient to bind the actual owner and any future Government of Micronesia in accordance with the terms of the lease. We cannot, as we agreed earlier, finally sign off on a Compact -- and your Chairman has repeated this statement -- until there is agreement on those provisions dealing with United States requirements to carry out the defense provisions of the Compact.

Gentlemen, this concludes our quick response to your statement.

SENATOR SALII: Thank you, Mr. Ambassador. You have raised some questions with respect to our response to the policy statement of the United States Government on land which would require some response on our part. I would like to have a brief recess for our delegation to convene and then respond to the points you have raised and any additional comments we might have to make on this matter.

AMBASSADOR WILLIAMS: Are you suggesting we remain in the vicinity then?

SENATOR SALII: Yes sir.

AMBASSADOR WILLIAMS: I think since we are a smaller group, we can leave this room so you can use the conference room for your discussion.

RECESS

SENATOR SALII: We are pleased at the willingness of the United States Delegation to accept our basic position on the issues we have raised with regard to the United States paper on the return of lands. We are happy to have the explanation that this constitutes an official policy of the United States Government.

It is our view that the clarifications we have received are consistent with this United States policy.

You have raised a few points and questions that require some response. With regard to eminent domain, we recognize that the ultimate authority will continue to reside with the Administering Authority until termination of the trusteeship. We understand, however, that it is your intention that this power would only be exercised in coordination with the District Legislature in which the land is located.

With regard to the negotiation of land leases for military use, when we refer to the fact that "We are prepared to make a formal commitment to negotiate", we refer to this Delegation. We understand that the United States will want to obtain a commitment to negotiate from the landowner to whom the title is returned. Obtaining such a commitment is the responsibility of the United States. This Delegation will be willing to assist in this connection.

The Palau Delegation, by which I mean the Ibedul, the Reklai and the Speaker and members of the Legislature who are here, including Senator Tmetuchi and myself, has already made a formal commitment to negotiate after the land is returned.

Mr. Ambassador you have raised the question of the desirability of our Delegation, and possibly in conjunction with yours, reviewing with officials of the Trust Territory Government and from the Interior Department the implementation of this policy. It is the view of our Delegation that it is not necessary at this time to go into such a review of details, but we would like to keep the door open for such a review at some time in the future when we find the time.

Thank you, sir.

AMBASSADOR WILLIAMS: Thank you, Senator Salii. We would like to have the opportunity to review your response to the question of commitment with respect to negotiations for land for military requirements. At the same time, let me say we are very pleased with the overall statement you have just made. If we could have time to study your most recent statement, we could then be back in touch with you directly -- I am sure by this afternoon -- so we could proceed tomorrow morning as scheduled with the opening of the seventh round, if that is agreeable.

SENATOR SALII: Just one point of clarification; you say you will be in touch with us. Would you like us to leave this room?

AMBASSADOR WILLIAMS: We could, or we could come back after lunch. I don't know how long it will take us. It might not take very long if you can be patient. I thought possibly you would prefer to break and we would be in touch with you this afternoon.

SENATOR SALII: Why don't we specify a time this afternoon and then break and come back?

AMBASSADOR WILLIAMS: We could do that, but I don't know if our problems will be great enough to require everyone to come back. Why don't you give us a few minutes, and we can wind this up this morning.

RECESS

AMBASSADOR WILLIAMS: Mr. Chairman and members of the Joint Committee: I sought a clarification from your Chairman and Counsel. Mr. Wilson and I are now perfectly satisfied on the issue of timing since we now understand that the Joint Committee was talking about making a commitment in advance of the transfer of title to the public lands. We also understand that the representatives of the Palau Delegation have prepared a written statement they would like to give to us [Attachment 2] along the lines of the earlier informal

statements that have been made in our meetings with them. With this clarification, I want to thank all of you for the consideration you have given our policy paper and the spirit of your replies. As far as I am concerned, we have reached the understanding we had hoped for, Mr. Chairman. I would only ask that perhaps, as the last order of business, you and I consider a short joint release to the press because, as you know, they are outside. Perhaps we could work on that after the adjournment of this meeting.

SENATOR SALII: We thank you. I think it would be a good idea for both of us to give a short statement to the press, especially in view of the agreement reached between us at this point.

AMBASSADOR WILLIAMS: Thank you very much. Our first meeting is concluded and we look forward to the opening tomorrow morning of the seventh round of talks. What time would you like to start tomorrow?

SENATOR SALII: 10:00 A.M.

AMBASSADOR WILLIAMS: That will be satisfactory. The meeting is adjourned.

TRANSFER OF TITLE OF PUBLIC LANDS FROM THE TRUST TERRITORY
OF THE PACIFIC ISLANDS ADMINISTRATION
TO THE DISTRICTS: U.S. POLICY
AND NECESSARY IMPLEMENTING COURSES OF ACTION

I. INTRODUCTION

The U.S. Government, as administering authority in the Trust Territory of the Pacific Islands, has always considered public land in Micronesia to be property held in trust for the people of Micronesia. For years it was thought that the ultimate disposition of these lands would be decided by the people of Micronesia themselves as one of the important features of the post-Trusteeship system of government they established under their own constitution.

Public lands include all lands acquired by the prior Spanish, German, and Japanese administrations for governmental or other public purposes, as well as such lands as the Trust Territory Government may itself have acquired for public purposes. Tidelands and marine lands are considered public domain as well. As used herein "public lands" also encompass those private Japanese properties, including those of Japanese Government controlled agencies and corporations, which were seized at the end of World War II and placed under the control of an "alien property custodian". Although technically not public lands, they have been controlled and disposed of in the same manner as public lands, and are administratively treated as such.

According to current calculations, over sixty percent of Micronesia's total land area is public land. The public land areas in each of the six districts of Micronesia is: Palau 68%; Yap 4%; Truk 17%; Ponape 66%; Marshall Islands 13%; and Mariana Islands 90%.

II. THE MICRONESIAN REQUESTS

Recently requests have been made in Palau that public land in that district be turned over now to its traditional leaders to be held in trust for the people of Palau. This position has received the support of the Palau District Legislature. Subsequently it was formally endorsed by the Congress of Micronesia's Joint Committee on Future Status and communicated to the U.S. Government.

The United States responded that it had no difficulty in principle with this request and agreed to study the early transfer of public land to the districts as a matter of priority, indicating that it could not in a matter as important as this act for one district alone but must consider the problem in all districts. The Joint Committee replied that each district should determine for itself what it wished done with its public land.

III. POLICY DETERMINATIONS

The United States has now completed an extensive study of the problem in all districts. This has included consultation with leaders and experts at all levels within the Trust Territory and has taken into consideration the further views expressed by the Chairman of the Joint Committee recently in response to a series of questions posed last May.

As a result of that study the United States has now concluded that if it is the desire of the people in a district that public lands in that district be turned over to the district now before the termination of the Trusteeship the United States is willing to accede to their wishes and to facilitate the transfer of title. This transfer, however, must be subject to certain limitations and safeguards set forth below designed to protect those individuals who have acquired property interests in public lands under the trusteeship and to meet the continuing land needs of the Trust Territory Government for public use. These limitations and safeguards will apply until the Trusteeship ends, at which time the new government will be free to modify them as it chooses.

IV. MAJOR COURSES OF ACTION

A. Role of the Legislative Bodies

The Congress of Micronesia is requested to pass such enabling legislation as is necessary to effect the early transfer of title to public lands as indicated herein and to amend or modify as necessary the Trust Territory Code as it relates to public land.

The United States requests that the district legislatures in each district formally indicate the wishes of the people in that district with respect to the public land located therein. This should include specifically whether the people of the district wish the Trust Administration to turn over public land in the district and if so to whom in that district and when.

The proposed recipients must be legally qualified to receive and accept title to property, and if a legal entity is not available or is not qualified legally to receive real property under the law it must be created or become so qualified for this purpose. Recipients must agree to hold the public land in trust for the people of that district to be disposed of under terms determined by the district legislature and subject to the limitations set forth below.

B. Limitations and Safeguards

1. In the case of public lands now being actively used by the Trust Administration and subordinate units thereof, title to these lands will not be transferred but will be retained by the Trust Administration so long as it is needed and will revert thereafter to the districts, as above.

2. In order to meet immediate future needs under the trusteeship, the Trust Administration will also retain title to those public lands which are specifically identified as needed for capital improvement projects contained in previously approved economic development plans covering the next five years. For other needs the Trust Territory Government will negotiate directly with property titleholders but will retain an ultimate authority of eminent domain as presently provided under the Trust Territory Code. This authority may be shared, however, with any district if its legislature so decides.

3. Where former public land has been turned over to individuals as part of the homestead program title shall remain in the homesteader or his assignees. Where applications for homesteads have been approved before a date to be determined by the Congress of Micronesia but full title has not yet been issued by reason of inability to fulfill the requirements for a certificate of compliance, title shall be retained by the Trust Administration to be turned over to the homesteader as prescribed by present law. If, however, any such applications are not finally perfected within the time period prescribed by the Trust Territory Code the land involved will revert to the appropriate district to be disposed of as the legislature of that district may prescribe. District legislatures will be free to institute their own homesteading programs as they may desire.

4. In the case of other interests in public land, including leases and other land uses acquired by individuals or business or private concerns from the Trust Administration prior to the effective date of transfer of title to public lands to the district, title to such land shall not be turned over to the new titleholder in the district until that titleholder has formally agreed to respect the terms of the arrangements previously entered into by the Trust Administration. In the case of tenants at will or tenants by sufferance now occupying public land with the concurrence of the Trust Administration, title would not pass until the new titleholder has formally agreed to respect such arrangement for a reasonable period of years, whose number is to be determined. In both cases the new titleholder would receive rents previously paid to the Trust Administration.

5. Where public land is to be used to meet defense needs under the terms of proposed future status agreements with the United States title to such public land will pass simultaneously with the prospective titleholder's formal commitment to accommodate those needs in good faith on terms to be mutually agreed with United States authorities.

6. In the case of public land to which there are unresolved claims transfer of title to each district shall be subject to such claims, which may then be settled under procedures and means prescribed by the individual district legislatures, which may include traditional means; providing, however, that in the event such claims still remain unsettled the claimant will have access to regular courts of the Trust Territory. The titleholders to public land must agree before title is finally passed

to hold the United States and the TTPI Administration harmless from claims other than those resulting directly from the action of the United States or its duly authorized agents.

7. Title to tidelands, filled lands, submerged lands and lagoons shall be turned over to the districts; provided, however, that the central government of the Trust Territory shall retain the right to control activities within these areas affecting the public interest.

C. The Cadastral Program

The U.S. Government intends to initiate a special effort under the direction of the Trust Administration to complete within three years the cadastral program on all public lands. Funds to initiate this effort will be sought by supplemental appropriation and it will be accomplished by special contracts which will permit current land office personnel and resources to concentrate on completion of the private land cadaster program as the districts may desire.

D. The Land Management Function

Land management functions will be turned over to the districts to be handled as the district legislatures may determine. The Trust Administration will maintain a small land management office of its own to administer land used by the Central Government and to provide such advisory services as may be requested by the districts.

E. Timing

Transfer of title can take place just as soon as necessary implementing action has been taken by the elected representatives of the people of Micronesia, the individual district legislatures and the prospective titleholders. Transfer need not take place simultaneously for all districts.

V. IMPLEMENTATION

Responsibility for the implementation of this policy will rest with the High Commissioner of the Trust Territory. Further instructions and guidance regarding its implementation will be provided by the Department of the Interior.

BACKGROUND PAPER ON U.S. DECISION TO RETURN MICRONESIAN
PUBLIC LANDS TO DISTRICT CONTROL

---INTRODUCTION

The United States has always considered the public lands which the TTPI Government is holding in trust for the people of Micronesia to be Micronesian property, which would ultimately be returned to Micronesian control. When the U.S. was informed earlier this year that many Micronesians favored an early transfer of control over the land to district authority, Ambassador F. Haydn Williams said that the U.S. had no objection in principle, and that the U.S. would immediately undertake in each district a priority study of local views on public lands, including the question of how the transfer to local control could best be managed, given the many different land patterns and traditions throughout the TTPI.

The comprehensive study which followed included extensive discussions in all the districts of Micronesia as well as with land experts at all levels within the Trust Territory Government. The study also considered the views of the Congress of Micronesia's Joint Committee on Future Status which were submitted in response to a series of questions posed by Ambassador Williams. Since there appears to be general agreement in Micronesia that there should be an early solution to the public lands problem and strong sentiment for district control over public lands, the United States is willing to transfer title and control over Micronesian public lands to the district in which those lands are located if that is the desire of the people of the district concerned. The U.S. approach to accomplishing the transfer is being released today to Senator Salif, Chairman of the Joint Committee on Future Status and will be discussed with him and the Joint Committee on Future Status when they meet with Ambassador Williams in Washington beginning November 13.

---THE DEFINITION OF PUBLIC LAND AND ITS EXTENT

According to current calculations, over sixty percent of Micronesia's total land area is included in the working definition of "public land" used by the TTPI Government. The proportion of public land to the total land area in each of Micronesia's six districts is: Palau 68%; Yap 4%; Truk 17%; Ponape 66%; Marshall Islands 13%; and Mariana Islands 90%.

The Trust Territory Code and various Trust Territory court decisions define public lands as all lands acquired by the prior Spanish, German, and Japanese administrations for Governmental or other public purposes, as well as those lands which the TTPI Government may itself have acquired for public use. As in U.S. Territories, tidelands and marine lands are also considered to be in the public domain. Moreover, former private Japanese properties, including those belonging to agencies and corporations controlled by the Japanese Government, which were seized at the end of World War II and placed under the control of an "alien property custodian", are administratively handled as public lands, although they are not technically a part of the public domain.

Only a very small proportion of the Trust Territory's public lands is currently being used for such public purposes as schools, hospitals, airports, roads, Post Offices. Additional small parcels have been leased for commercial undertakings, or have been made available to individuals for homesteading. However, the great bulk of public land is not in use, and will thus be available for the Micronesians to dispose of themselves in accordance with whatever appropriate legal procedures they choose to establish.

--THE U.S. APPROACH TO RETURNING CONTROL TO THE DISTRICTS

Under the new U.S. policy there will be an early transfer of public land to the districts if the people of these districts so desire, subject only to some minimum safeguards and limitations. Since the disposition of the public lands is recognized to be a Micronesian issue to be handled by the Micronesians, according to their laws, customs and traditions, only a limited number of safeguards appear necessary. These are designed to enable the Trust Territory to continue to meet its responsibilities for serving public needs during the remainder of the trusteeship and to protect private Micronesian citizens who have acquired property interests in public lands, have leased public lands, or are now living on public lands by agreement with the Trust Territory Government.

The Congress of Micronesia will be asked to play an active role in the land transfer by passing enabling legislation and appropriately amending or modifying the Trust Territory Code. It is expected that prior to the January session of the Congress of Micronesia the High Commissioner of the Trust Territory will submit a list of land laws that should be amended by the Congress before a transfer can be effected. A rather large body of present legislation may be affected.

Each District Legislature will be asked to indicate whether the people of its district wish the United States to transfer public lands to the district and if so to whom the lands should be transferred and when. The persons or groups or organizations receiving the public lands, however, must have or be given by appropriate action the legal capacity to hold title. For example; if it is determined that title should go to a District Legislature, prior action would be necessary to charter that legislature to enable it to hold title to land. Or, if it is determined that land title should go to municipalities, land boards, traditional leaders or specially created legal entities or other types of trustees, they would have to be given a similar capacity.

In addition, the new titleholders must hold the public lands "in trust" for the people of the districts. This means they do not hold it for their own individual or personal use. Disposition of public land can be accomplished by traditional means or new homesteading programs, or by leasing or by other means as locally determined.

Under these procedures the requested transfer of public land to the traditional leaders in Palau in trust for the people of Palau seems feasible. Other districts would decide for themselves what they wanted.

After these arrangements have been made, the TTPI Government will transfer title to all public lands not being used or not needed for immediate future use, by the Trust Territory Government. However, such action need not take place simultaneously for all districts.

The TTPI Government must be able to go forward on presently approved capital improvement projects such as water, electric and sewage lines, new roads, hospitals, new schools, enlarging docks and harbors, and improving airfields. The public land areas needed for these projects have already been identified. Once public lands are no longer needed title will be turned over to the districts. Any other future needs will have to be met by negotiation between the Trust Territory Government and the land owners. The Trust Administration will continue to hold the power of eminent domain until the end of the trusteeship to be used only as a last resort, but this power may be shared with the districts if the legislatures so desire. The power of eminent domain can then be exercised locally for district projects as well.

Citizens who have gained title to land by homesteading, along with their heirs and assignees, will remain in possession of their lands. Where people have entered land under a homestead program but have not yet received title, they will get it from the TTPI Government as soon as the homestead requirements have been met. If the homesteader does not satisfy the homestead requirements under the law, then the title to the homestead property will be turned over to the district.

Where people have leased public land from the TTPI, they will be able to continue to use the land under the terms of the lease. If people now use or live on public land without a legal agreement but under an informal arrangement with the Trust Administration, the title to these lands will not pass to the district until an arrangement is made to permit the person now occupying the public land to continue in possession for a reasonable period of years after title is transferred to the districts.

In the case of public land to be used for defense purposes under proposed future status agreements with the United States title will be passed to the new titleholders when they have formally committed themselves to accommodate those requirements on terms to be mutually agreed with the United States.

There are some plots of public land over which there are unresolved claims. In these cases transfer of title to each district will be subject to such claims, which may then be settled under procedures and means prescribed by the individual legislatures, providing, however, that in the event such claims still remain unsettled the claimant will have access to regular courts of the Trust Territory. In addition, future titleholders to public land must agree before title is finally passed, to hold the TTPI Administration and the United States harmless from claims other than those resulting directly from action of the United States or the TTPI Administration or their duly authorized agents.

The U.S. will have no objection to having title to tidelands, filled lands, submerged lands and lagoons also turned over to the districts. However, the central government of the Trust Territory shall retain the right to control activities within these areas affecting the public interest, such as prescribing measures for navigation, control of pollution and the protection of the environment.

The U.S. plan for transferring public land recognizes the inadequacy of existing land data and boundary descriptions involving public lands. It also recognizes the operational difficulties encountered in the current survey program under the Trust Territory Government and the inadequacy of the resources allocated to that program. Because these two shortcomings could significantly delay the transfer of lands, and because many leaders in Micronesia have requested a completed survey and boundary settlement by the U.S. prior to a transfer, the U.S. Government has already requested the U.S. Congress to authorize funds to initiate a special CADASTRAL effort. This augmented program will be under the direction of the High Commissioner. He is being asked to complete within three years a CADASTRAL program on all present public lands. Without such a special program, it is estimated that almost thirty years would be required to complete the surveys of these lands. Hopefully, the proposed three year CADASTRAL program will be accomplished by special contracts which will leave present land survey personnel and resources free to concentrate on completion of the private land CADASTER program as desired by the districts.

PALAU LEGISLATURE

The undersigned members of the Palau District Delegation, after examining in detail the United States Statement of Policy on the transfer of public lands from the Trust Territory Administration to the Districts, and being cognizant of the interests and wishes of the people of the Palau District expressed from time to time through the Palau Legislature, approves of and hereby accepts the United States' proposals and recommendations contained in said United States Statement of Policy, subject, however, to the following specific terms or conditions:

A. Role of the Congress of Micronesia.

The Palau District Delegation does not deem it necessary nor proper for the Congress of Micronesia to become involved and entangled in the procedural process of returning title of public lands from the Trust Territory of the Pacific Islands Administration to the Districts. First of all, it is felt that the Congress of Micronesia is a legal entity which came into existence as recently as 1965 and has no political nor historical involvement or connection whatsoever with the question of public lands in the Trust Territory. The controversy and problems arising out of the concept of public lands in the Trust Territory of the Pacific Islands are rooted in the colonial history of Micronesia, particularly Palau. Therefore, it is the strong feeling of this Delegation that inasmuch as the lands in Palau now constituting the so-called public lands were taken or claimed to be such by the executive and not legislative acts of various administrations, especially the United States, they should be returned to each district, and, in the case of Palau, by some sort of executive order, i.e., quitclaim deed, on the part of the Administering Authority or agents thereof without the necessity of passing

the enabling legislation by the Congress of Micronesia. This course of action seems to be more expedient. However, noting the procedural nature of the role of the Congress of Micronesia in effecting the return of public lands to the Districts and as a gesture of great respect and support for the Congress of Micronesia and the political unity of the Trust Territory of the Pacific Islands, this Delegation has decided to accept said role of the Congress of Micronesia provided that it makes provision for the enabling legislation in their forthcoming regular session. In the event that the Congress of Micronesia fails to pass appropriate enabling legislation in the forthcoming regular session, it is the position of this Delegation that, in view of the importance of this matter to the people of Palau, the enabling act take the form of an executive order as hereinabove explained.

B. Standing of the Traditional Leaders of Palau to Receive and Accept Title to Public Lands in Trust for the People.

The Palau District Delegation hereby reaffirms the position of its legislature that the public lands in the Palau District be returned to its traditional leaders in trust for the people of Palau. As the United States Statement of Policy concerning the return of public lands stated in part:

" . . . the requested transfer of public land to the traditional leaders in Palau in trust for the people of Palau seems feasible." It should be pointed out that the traditional leaders of Palau constitute the most stable and most permanent body politic in the Palau District which is intrinsically responsive to the needs and desires of the majority and which enjoys wide public support. The traditional leaders, therefore, are in all respects legally qualified to receive and accept title to public lands in trust for the people of Palau. This Delegation believes that in view of the unequivocal position of the Palau Legislature that the traditional leaders be public land trustees in the Palau

District, the Congress of Micronesia in passing the enabling legislation should make a mention of this fact, thus relieving the Palau Legislature from having to restate as a matter of procedure an already well-known and publicized position.

C. Limitations and Safeguards.

The Palau District Delegation is of the opinion that "limitation" numbered "2" in the United States Statement of Policy regarding the power of eminent domain should be amended so that the power of eminent domain shall be exercised only through the District Legislature of the district wherein the land being condemned is located.

D. Formal Commitment to Accommodate the Defense Needs of the United States

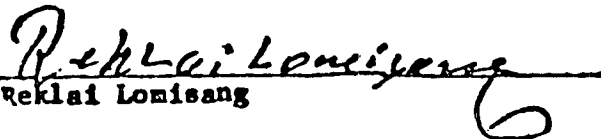
The Palau District Delegation does not dispute the thrust of "limitation" number "5" in the United States Statement of Policy; but, because of the broad implications of this subject, it would like to emphasize this Delegation's position that the Palau Legislature shall represent all titleholders whose land shall be needed by the United States for defense purposes, and the United States shall have to negotiate with such titleholders through the Palau Legislature. Furthermore, it should be pointed out in this connection that this Delegation cannot and will not accept the suggestion that title will be passed to the new titleholders when they have formally committed themselves to accommodate the land requirements of the United States for defense purposes; this Delegation believes that the subject of return of public lands should be separated from and not be conditioned upon the making of such formal commitments. However, this Delegation, on behalf of the Legislature and the people of Palau, does hereby make a formal commitment to negotiate in good faith with the United States in order to accommodate the United States' defense requirements in the Palau District.

Dated: November 12, 1970

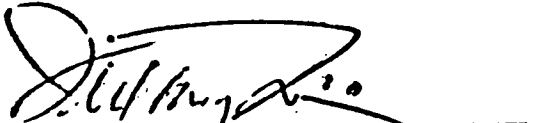
By direction of Palau Legislature

Traditional Leaders:

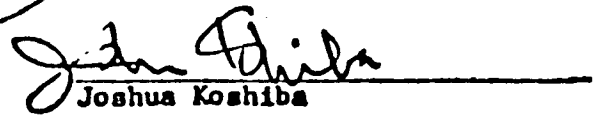

Ibedul Gibbon


Reklai Lonisang

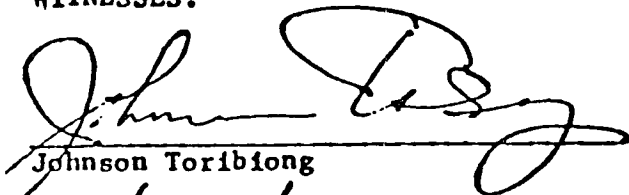
Elected members:



Itebang Luit



George Ngirarsaol


Joshua Koshiba

WITNESSES:


Johnson Toribiong


Lazarus Sali


Roman Tmetuchl

TITLE IV

Financial Provisions

Section 401

The Government of the United States, in order to advance the economic and social welfare of the people of Micronesia and in recognition of the special relationship that has existed and continues to exist between the United States and Micronesia, agrees to provide on a grant basis to the Government of Micronesia, subject to Congressional approval, \$__ million annually for the first five years of this Compact, \$__ million annually for the next five years, and \$___ million annually for the next five years. The parties shall negotiate in good faith as to the amount of such financial assistance for periods subsequent to the first fifteen years after the effective date of this Compact. These funds will be for use by the Government of Micronesia for programs and operations of that Government or any sub-division thereof as authorized by the Government of Micronesia.

Section 402

The Government of the United States shall make available to the Government of Micronesia in amounts to be agreed, funds to cover compensation paid to land owners at fair market values for the purposes specified in Title III.

Section 403

(a) The Government of the United States agrees to provide the Government of Micronesia, without compensation, the services of the U.S. Postal

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Service, U.S. Weather Service, and U.S. Federal Aviation Administration. The levels of such services shall be that extended to the Trust Territory of the Pacific Islands on the effective date of this Compact. The Government of Micronesia shall make arrangements to provide for the use of land necessary for such purposes at no cost to the U.S. Government.

(b) The Government of the United States and the Government of Micronesia, from time to time, may agree upon the extension of additional federal programs and services to Micronesia. The cost of such additional programs and services will be charged against the overall assistance figure in Section 401.

(c) The Government of Micronesia may impose taxes or other levies upon the personnel or property related to the programs and services provided by the United States in Micronesia pursuant to this Compact only as provided in Annex C.

Section 404

(a) The Government of the United States will contribute annually for fifteen years on a grant basis, \$___ million to a Government of Micronesia Capital Improvement Program Fund. This Fund will be used for public sector investment in essential economic, social, and physical infrastructure.

(b) The Government of the United States will also make available, to the Government of Micronesia, for allocation to District Governments, financial assistance on a loan basis for economic development projects at the district level at an annual amount of \$___ million for fifteen years, subject to the terms of long-term low interest loan agreements between the Government of the United States and the Government of Micronesia.

(c) The parties shall negotiate in good faith as to the amounts of such economic assistance, as is provided for in this Section, for periods subsequent to the first fifteen years after the effective date of this Compact.

Section 405

The provisions of this Title will remain in effect for the duration of this Compact. Sections 401, 403(a) and 404 will be reviewed by the Government of Micronesia and the Government of the United States at five year intervals from the effective date of this Compact taking into account changing economic conditions.

TITLE V

Applicable Laws

Section 501

(a) The treaties and international agreements applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact shall be applicable to Micronesia, as well as the treaties and international agreements made applicable to Micronesia pursuant to Section 202 of this Compact.

(b) The statutory law of the United States applicable to the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact shall not be applicable to Micronesia except as otherwise provided in this Compact or in other agreements between the United States and Micronesia.

Section 502

(a) Treaties and international agreements applicable to Micronesia shall have the force of internal law in Micronesia without the need of implementing legislation if they are self-executing, regardless of whether such treaties or international agreements became or shall become applicable to Micronesia prior to or after the effective date of this Compact. A treaty or international agreement shall be presumed to be self-executing, if the United States has not enacted implementing legislation for itself at the time of its proclamation by the President.

(b) The Government of Micronesia will enact whatever domestic legislation is appropriate or required to enforce or implement those treaties and international agreements applicable to Micronesia pursuant to Section 501(a) of this Compact which are not self-executing. The implementing legislation enacted by the United States shall, however, have the force of internal law

in Micronesia pending the enactment of the Micronesian legislation provided for in this sub-section.

(c) The Government of Micronesia will undertake to comply with and to enforce faithfully the treaties, international agreements and laws set forth in subsections (a) and (b) of this section.

Section 503

(a) The Government of Micronesia will adopt and enforce such measures as may be necessary (1) to protect the personnel, property, installations, services programs, and official information maintained by the Government of the United States in Micronesia pursuant to this Compact, and (2) to ensure the effective implementation of the services and programs provided by the Government of the United States in Micronesia pursuant to this Compact. Such measures shall include appropriate and adequate civil and criminal remedies against:

1. Fraud against the Government of the United States.
2. Theft, embezzlement, or destruction of property belonging to or in the custody of the Government of the United States; or the theft, and unauthorized use of official information of the Government of the United States.
3. Interference with the operation of installations, programs, or services maintained by the Government of the United States in Micronesia pursuant to this Compact.

(b) In the event the Government of Micronesia does not adopt and enforce the measures required by sub-section (a) of this section, the related programs or services extended by the United States to Micronesia under Section 403 may then be withheld, to the extent that the implementation or operation of such programs or services thereby becomes impossible.

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(c) The Government of the United States may, with the approval of the Government of Micronesia, provide investigative and enforcement services to insure compliance with the laws and regulations relating to services and programs extended to Micronesia by the United States pursuant to this Compact.

Section 504

(a) Nothing in this Compact shall be construed as constituting a submission of the one party to the jurisdiction of the courts of the other.

(b) The Courts of Claim of either of the parties shall not have jurisdiction over any claim against either of the parties growing out of or dependent upon this Compact.

(c) The provisions of Section 1346(b) and of Chapter 171, Title 28, United States Code shall not be applicable to any claim arising in Micronesia.

Section 505

The Governments of Micronesia and the United States will cooperate with each other in the pursuit, capture, imprisonment, and delivery to appropriate authorities of fugitives from justice who have fled from the jurisdiction of one party to that of the other. The precise terms of this mutual obligation shall be subject to a separate agreement by the Government of Micronesia and the Government of the United States which shall come into force simultaneously with this Compact.

Section 506

In the conduct of its activities in Micronesia, the Government of the United States will endeavor to protect the surrounding environment from permanent or irreparable damage by adherence to standards no less restrictive than those established by the United States law, except as otherwise may be agreed.

TITLE VI
Trade and Commerce

Section 601

The Government of Micronesia will have the authority to establish, change or eliminate import duties and other regulations, including internal charges, laws and conditions governing the importation of and commerce in goods from outside of Micronesia, subject only to compatibility with United States obligations under Title II of this Compact.

Section 602

(a) The Government of the United States and the Government of Micronesia will each accord to products of the other party, from whatever place and by whatever type of carrier arriving, and to products destined for exportation to the territories of such other Party, by whatever route and whatever type of carrier, treatment no less favorable than that accorded like products of, or destined for exportation to, any foreign country, in all matters relating to: (1) customs duties, as well as any other charges, regulations and formalities levied upon or in connection with importation and exportation; and (2) internal taxation, sale, distribution, storage and use. The same rule shall apply with respect to the transfer of payments for imports and exports.

(b) Neither the Government of the United States nor the Government of Micronesia shall impose restrictions or prohibitions on the importation of any product of the other Party, or on the exportation of any product to the territories of the other Party; unless the importation of the like product of, or the exportation of the like product to, all foreign countries is similarly restricted or prohibited.

Section 603

(a) In the exercise of its authority and responsibility under Section 201(a), the Government of the United States will apply to Micronesia and the Government of Micronesia will enforce appropriate international treaties, agreements and standards which relate to air and maritime commerce.

(b) The Government of the United States agrees to obtain consent of the Government of Micronesia before granting any new authority to any United States or foreign air carrier for international air commerce to or from Micronesia, except for aircraft operated for or under the control of the Government of the United States in connection with activities under Title III.

(c) The Government of Micronesia shall have the power to regulate domestic air and maritime commerce between points wholly within the territory of Micronesia to the extent that such regulation does not infringe on the treaties, agreements and standards set forth in subsection (a) of this section and does not conflict with appropriate regulations of the Federal Aviation Agency.

Section 604

The United States Government interposes no objection to having the currency of the United States continue to be the official legal tender for Micronesia until

such time as the Government of Micronesia acts to institute its own currency. The terms and conditions of an appropriate currency transitional period shall be as mutually agreed.

TITLE VII

Citizenship and Nationality

Section 701

Every citizen of Micronesia who either is a citizen of the Trust Territory of the Pacific Islands on the day preceding the effective date of this Compact, or who thereafter becomes a citizen of Micronesia by birth, and who has not taken any affirmative step to preserve or acquire any foreign citizenship or nationality, shall be a national but not a citizen of the United States unless he is otherwise qualified for United States citizenship.

Section 702

Any person described in Section 701 who is a citizen or a national of a foreign country shall cease to be a national of the United States within one year after the effective date of this Compact, or within six months after becoming 18 years of age, whichever comes later, unless he renounces that foreign citizenship or nationality.

TITLE VIII

Immigration and Travel

Section 801

(a) The Government of Micronesia shall have the power to regulate immigration and entry of persons who are not citizens of Micronesia into Micronesia.

(b) Micronesian provisions applicable to entry and exit of United States citizens to and from Micronesia shall not be more restrictive than the comparable United States regulations governing those Micronesian citizens who are United States nationals.

(c) Citizens of Micronesia who are United States nationals shall be free to enter, reside in or leave the United States at any time in accordance with the laws of the United States. Citizens of Micronesia who are not United States nationals shall be accorded treatment as aliens for these purposes.

TITLE IX

Representation and Consultation

Section 901

The Governments of the United States and of Micronesia agree to establish at the central seat of Government of Micronesia and in Washington, D.C., respectively, official Resident Offices for the purpose of maintaining close and regular consultations on matters of mutual interest to them. The privileges and immunities respecting the Resident Offices shall be subject to a separate agreement.

TITLES X

Dispute Settlement

Section 1001

Disputes between the Government of Micronesia and the Government of the United States which relate to the interpretation or application of the provisions of this Compact shall be settled by negotiation.

TITLE XI

Amendment and Change of Status

Section 1101

This Compact may be amended at any time by agreement of the parties.

Section 1102

(a) This Compact may be terminated at any time by mutual consent of the Government of Micronesia and the Government of the United States.

(b) After the expiration of the first fifteen years following its

entry into force it may also be terminated unilaterally by the Government of the United States in accordance with its constitutional processes, or the Government of Micronesia may initiate termination of this Compact by referring the issue to the people of Micronesia eligible to vote in any local or general election as defined in the Constitution of Micronesia. If two-thirds or more of such voters shall favor termination, including a two-thirds majority in each of at least two-thirds of the districts of Micronesia, the Government of Micronesia shall enact legislation certifying the results of the vote on this issue and terminating the Compact effective on a date not earlier than two years following such enactment. The Act of the Government of Micronesia and the termination of the compact shall not be applicable to any district of Micronesia in which a majority of the voters have voted against termination.

(c) If termination of this Compact is effected pursuant to Section 1102(a), that termination shall become effective on a date mutually agreed by the parties. If termination is effected pursuant to Section 1102(b) without mutual consent, that termination shall be effective not less than two years from the date that the appropriate criteria of the subsection are satisfied.

(d) During the period of two years to the effective date of termination set forth under the provisions of Section 1102(b), any district in which a majority of the voters has voted against termination shall be given the opportunity to negotiate with the United States with respect to its future political status. Upon the effective date of termination, if an agreement has not been concluded with respect to the future political status of any such district, all relevant provisions of this Compact shall continue in

full force and effect with respect to that district subject to agreement of the U.S. and that district upon an appropriate reduction in the level of financial aid to be provided by the United States under Title IV. The Constitution of Micronesia shall cease to apply to such district upon the effective date of termination of the compact by the other districts of Micronesia.

Section 1103

The defense authority of the United States over its military areas and facilities and the use thereof in Micronesia, and the rights of denial set forth in Section 302, shall upon any termination of this Compact remain in force for no less than ___ years, or thereafter as extended by agreement. To this end, these provisions, Sections 303 through 305, and Annex B to this Compact shall remain in force for such period.

TITLE XII

Approval of the Compact and Effective Date

Section 1201

(a) The Compact will be approved by Micronesia, if a majority of those voting in a referendum to be held in Micronesia, vote in favor of the Compact. All persons who would be eligible to vote in elections for the Congress of Micronesia, if such elections were held on the day the referendum is conducted, shall be eligible to vote in the referendum. In determining whether a majority has voted for or against the Compact, only the affirmative and the negative votes shall be counted.

(b) This Compact will be approved by the U.S. in accordance with its constitutional processes.

Section 1202

The President of the United States shall issue a proclamation announcing a date mutually acceptable to the United States Government and Micronesia at which the Compact will come into effect, when he finds:

1. That the Compact has been approved as provided for in Section 1201; and that
2. The people of Micronesia have adopted a Constitution pursuant to Section 101 of the Compact; and that
3. The requirements of the United States for the use of land and water areas set forth in Title III of this Compact have been satisfied; and that
4. The jurisdictional and extradition agreements set forth in Sections 305 and 505, respectively, of the Compact have been concluded; and that
5. The Trusteeship Agreement between the United States and the Security Council of the United Nations for the former Japanese Mandated Islands, has been terminated or will terminate on the day on which the Compact becomes effective.

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ANNEX C

In order to assure the maximum benefits to the people of Micronesia from the assistance to be furnished in accordance with provisions of this Compact:

(a) Any supplies, materials, equipment or funds introduced into or acquired in Micronesia by the Government of the United States of America, or any contractor financed by that Government, for purposes of any program or project conducted hereunder shall, while such supplies, materials, equipment or funds are used in Micronesia in connection with such a program or project, be exempt from any taxes imposed by the Government of Micronesia or of any subdivisions thereof on ownership or use of property, and any other such taxes, investment or deposit requirements and currency controls in Micronesia, and the import, export, purchase, or use of any such supplies, materials, equipment or funds in connection with such a program or project shall be exempt from any Micronesian tariffs, customs duties, import and export taxes, or taxes on purchase of property, and any other such taxes or similar charges in Micronesia. No direct tax (whether in the nature of an income, profits, business tax or otherwise) shall be imposed by the Government of Micronesia upon any contractor, not having a regular place of business in Micronesia, who is financed by the Government of the United States of America hereunder.

(b) All personnel, accredited to the service or program, except citizens and permanent residents of Micronesia, shall be exempt from income and social security taxes levied under the laws of Micronesia with respect to income which is paid from funds provided by the Government of the United States or any agency thereof and upon which they are subject to the income or social security tax laws of the United States of America or any other

Government and from taxes on the purchase, ownership, use or disposition of personal movable property (including automobiles) intended for their own use. Such personnel and members of their families shall receive the same treatment with respect to the payment of customs and import and export duties on personal effects, equipment and supplies imported into Micronesia for their own use, and with respect to other duties and fees, as is accorded by the Government of the United States to diplomatic personnel of foreign countries resident in the United States, subject only to the limitation that continuous customs free entry shall be limited to personnel, including their families, of comparable grade to the diplomatic personnel accorded continuous customs free entry by the United States.

(c) All personnel (other than those referred to in paragraph (b) of this Article) under contract with, or employed by public or private organizations under contract with, the Government of the United States of America, or the government of Micronesia, or financed by the Government of the United States of America, who, not being citizens of or normally resident in Micronesia are present in Micronesia to perform work in connection herewith and whose reentrance into Micronesia has been approved by the Government of Micronesia shall be exempt from income and social security taxes levied under the laws of Micronesia with respect to income upon which they are obligated to pay income or social security taxes to any other government.

APPENDIX C

Table I

UNITED STATES PAPER ON FINANCE

MICRONESIA OPERATIONS BUDGET

(\$ Millions)

1. 1973 District Budgets (5 districts)(See Table II)	23.346
2. 1973 H.Q. organization and functions (See Table III) assumed to be required after reorganization of government (6 districts)	10.035
3. Less 1/6 to exclude Marianas	<u>- 1.670</u>
4. Net H.Q. Requirements	8.365
5. Total operations budget (line 1 plus line 4)	31.7
6. 20% savings in Government Expenditures after reorganization	<u>- 6.3</u>
7. Net Government expenditure requirements	25.4
8. Assumed level of tax revenues in early years	<u>- 3.0</u>
9. Budget deficit	22.45

Table II

1973 DISTRICT BUDGETS (OPERATIONS)

(\$ Millions)

	<u>Marshall's</u>	<u>Ponape</u>	<u>Truk</u>	<u>Yap</u>	<u>Palau</u>	<u>Total</u>
District Administration Office	.256	.1161	.192	.162	.135	.906
Public Affairs	.129	.129	.115	.108	.120	.601
Resource and Development	.283	.693	.531	.316	.578	2.401
Health Services	.900	.763	1.175	.502	.678	4.018
- Education	1.599	1.846	2.216	.752	1.108	7.521
Protection Persons and Property	.151	.208	.201	.150	.214	.924
Transportation and Communications	.135	.112	.118	.113	.086	.564
Public Works	1.064	1.090	.885	.762	1.077	4.878
Administration	<u>.372</u>	<u>.292</u>	<u>.329</u>	<u>.280</u>	<u>.260</u>	<u>1.533</u>
TOTAL	4.889	5.294	5.762	3.145	4.256	23.346

21
22

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Table III

CENTRALIZED ORGANIZATIONS AND FUNCTIONS
NOT FULLY REPRESENTED AT DISTRICT LEVEL

(\$ Millions)

1. Congress of Micronesia	1.0
2. Judiciary	.325
3. Office of Chief Executive	.313
4. <u>Public Affairs</u>	
(a) Housing Loan Fund (.250)	X
5. <u>Resources and Development</u>	
(a) Office of Director (.070)	X
6. <u>Health Services</u>	
(a) Medical Administration (.370)	.370
(b) School of Nursing (.234)	.234
(c) Hospital and Outer Island Services (1.548)*	1.548
7. <u>Education</u>	
(a) In-Service Teacher Training (.160)	.160
(b) Scholarships and Medical Education (.632)	.632
(c) Micronesian Occupation Center (MOC) (.413)	.413
(d) Community College of Micronesia (CCM) (.413)	.413
(e) Aid to Non-Public Schools (.212)	X
8. <u>Protection of Persons and Property</u>	
(a) Public Defender (.260)	.260
(b) Local Judiciary (.246)	.246
9. <u>Transportation and Communications</u>	
(a) Office of the Director (.068)	X
(b) Transportation Office (.363)	.363
(c) Sea Transportation (1.480)	1.480
(d) Communications (.671)*	.671

10. Public Works

(a) Engineering and Administration (.604)	.604
(b) Operations and Maintenance (.504)*	.504

11. Administration

(a) Management Services (.094)	X
(b) LNO (.122)	X
(c) Executive Operations (.021)	X
(d) Office Finance Director (.052)	X
(e) Automated Data Processing (.300)	X
(f) Financial Management System (.118)	X
(g) Procurement and Supply (.562)*	.562
(h) Finance and Accounting (.481)*	.481
(i) Personnel Training (.104)	.104
(j) Leased Housing Fund (.330)	X
(k) Audit (.117)	.117
(l) Program and Budget (.235)	.235
(m) Personnel Benefits (.263)	X
(n) Disaster Control Office (.031)	X

10.035

*Also represented at District level but represents large expenditure item at headquarters, in addition.

MICRONESIAN PAPER ON FINANCE

PROJECTED TOTAL REQUIREMENTS THROUGH 1985 - FOR ALL SIX DISTRICTS

(\$ millions)

TABLE #2

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985
Total Operations Base (From Table #1)	55.4	57.7	61.6	65.7	70.2	75.0	80.2	85.9	91.8	98.3
Plus 3 Large CIP Items (Bank, airlines, shipping lines - total \$185.0)	18.5	18.5	18.5	18.5	18.5	18.5	18.5	18.5	18.5	18.5
Plus District Identified CIP Needs	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0	38.0
TOTAL	111.9	114.2	118.1	122.2	126.7	131.5	136.7	142.4	148.3	154.8

Ten-year total \$1306.7 million

Ten-year average 131.0 million

APPENDIX D

PROJECTED OPERATIONS REQUIREMENTS THROUGH 1985 FOR ALL SIX DISTRICTS

TABLE #1

(\$ millions)

	1976	1977	1978	1979	1980	1981	1982	1984	1985
Operations	52.8	55.6	60.1	64.9	70.1	75.7	81.8	88.4	103.0
Replacement of other agency funded programs	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0	8.0
Less COM revenues	(5.4)	(5.9)	(6.5)	(7.2)	(7.9)	(8.7)	(9.6)	(10.5)	(12.7)
TOTAL OPERATIONS BASE	55.4	57.7	61.6	65.7	70.2	75.0	80.2	85.9	98.3

Ten-year total 741.8

Ten-year average 74.2

Notes on Micronesia's Proposal for Financing.

CIP Needs

The identification of total district CIP needs was done primarily by the district planners, with input from a variety of people, including the district administrations and elected and traditional leaders. The compilations generally reflect a fulfillment of the master plans which were drawn up under the auspices of the Trust Territory Administration.

The total figure of \$380 million was allocated on an equal basis to each of the ten fiscal years covered by the Micronesian Delegation's proposal and did not take into consideration any priorities for construction of specific capital improvement projects, which would result in differing amounts for each of the fiscal years under consideration; nor do the figures include the very important matter of rising construction costs, which have in the past been estimated at 10% per year. The focus, then, is on what was to be built, and not on when construction was to take place.

Operations

As is the case for CIP projects, the Micronesian Delegation has gone forward on the fundamental assumption that the future Government of Micronesia will include all six districts of the present Trust Territory.

The operations budget for FY 1975, as appropriated by the United States Congress, was approximately \$48 million. This figure was used as a base for calculation of operations budgets for Fiscal Years 1976 through 1985. The growth factor built into the operations budget reflects an 8% annual growth factor, which in turn is based upon the current Trust Territory pay level, which incorporates 6% annual increments. The additional 2% growth factor is as a result of the expansion of governmental activities which must necessarily result from the increased CIP funding. Also included within the operations figures is an annual figure of \$8 million, which reflects the present value of U.S. programs and services in Micronesia which are not funded directly out of the Trust Territory's annual budget. It should be pointed out that the value of these programs and services is more likely to increase rather than decrease in the future. Also, our calculations do not include any growth factors.

Congress of Micronesia revenues have been costed out of the total operations base figures. These figures were based on projected FY 1975 revenues and include a 10% annual growth factor. Admittedly, these figures may be understated due to the increase in revenues which will undoubtedly result from an expanded CIP funding level. Any increase in revenue, however, should not be significant.

Summary

In summary, the Micronesian Delegation's request for a grant of \$100 million annually for the next ten years reflects our basic position that the physical plant which should have been established during the Trusteeship must be rapidly established under any form of future association between the United States and Micronesia, in order that the mutual goal of both delegations of economic self-sufficiency for Micronesia can be achieved. Our figure of \$100 million annually is substantially less than the projected total requirements which appear in Table #2, since that table does not reflect the cost savings which might be achieved in the future as well as the increased revenues which would result both to the government and the private sector from the increased level of CIP funding.

Future Economic Support

It should be pointed out that with the completion of this ten year program, costs both for government operations and for capital improvement would decline sharply and increasingly. The initial start-up period for the new government would necessarily involve some duplication of effort between the central and district governments which can later be eliminated. Moreover, when the capital plant expansion is completed, not only will new capital costs decrease, but also additional revenues will be generated. It is therefore contemplated that any requirements for external financing support will begin to diminish at the completion of this initial ten years.