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*Handwritten notes:*  
3-2-73  
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ROUTINE  
R 091722Z OCT 73  
FM SECSTATE WASHDC

TO CINCPAC HONOLULU HI

UNCLAS SECTION 1 OF 2 STATE 199863/1

E.O. 11652: N/A  
FOLLOWING SENT ACTION SECSTATE FROM HICOMTERPACIS SAIPAN  
OCT 5

QUOTE  
UNCLAS.

PASS TO AMBASSADOR FRANKLIN HAYDN WILLIAMS, OMSN  
DEAR AMBASSADOR WILLIAMS:  
THANK YOU FOR YOUR DISPATCH OF SEPT 21 REGARDING YOUR MEMO OF MAY 9.  
THE DELAY IN OUR ANSWERING THAT MEMO WAS DUE TO THE FACT THAT THE  
JOINT COMMITTEE ATTEMPTED TO GET THE VIEWS OF THE PEOPLE OF MICRONESIA ON  
THIS IMPORTANT QUESTION PRIOR TO OUR RESPONSE.  
IT SHOULD BE STRESSED THAT THE INFORMATION CONTAINED IN THIS DISPATCH  
SHOULD BE TREATED IN A FLEXIBLE MANNER, OBVIOUSLY, THESE MATTERS WILL  
REQUIRE CONTINUED REFINEMENT AS THE ISSUES NARROW. THE CONCLUSIONS  
AND RECOMMENDATIONS CONTAINED IN THIS DISPATCH REPRESENT OUR IMPRESSIONS  
FROM THE DISTRICT HEARINGS, AND NO ACTION HAS BEEN TAKEN ON THESE RECOMMEN-  
DA- TIONS BY THE JOINT COMMITTEE OR THE CONGRESS OF MICRONESIA.  
SPECIFIC ANSWERS TO THE POINTS YOU RAISED ARE AS FOLLOWS: (1) ALL  
PUBLIC LAND IN MICRONESIA SHOULD BE RETURNED TO THE PEOPLE OF  
MICRONESIA.

PAC: J2(5)...ACT  
00-01-02(5) PA(2) IG(2) J1(5) J3(8) J4(7) J5(11) J8(10)  
J72(1) J73(1) J74(2) DDO(4) DPR(1) USIA(1)

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THIS RETURN SHOULD BE ACCOMPLISHED BY LEGISLATION ADOPTED BY THE CONGRESS OF MICRONESIA, IN ACCORDANCE WITH THE WISHES AND DESIRES OF THE PEOPLE OF EACH DISTRICT IN WHICH SUCH PUBLIC LAND IS LOCATED. DIFFERENT PROVISIONS MAY BE MADE APPLICABLE TO EACH DISTRICT. IN THE CASE OF PALAU, BECAUSE SETTLEMENT MUST TAKE PLACE PRIOR TO THE NEXT ROUND WHICH WILL TAKE PLACE BEFORE THE NEXT SESSION OF THE CONGRESS OF MICRONESIA, AND BECAUSE OF THE CLEAR CHOICE OF THE PALAUANS AS TO WHO SHOULD RECEIVE RETURN OF PUBLIC LANDS IN THAT DISTRICT BE ACCOMPLISHED BY EXECUTIVE DEGREE BY THE HIGH COMMISSIONER OR SECRETARY OF THE INTERIOR, I.E. TO QUIT CLAIM ALL INTERESTS IN PUBLIC LANDS WITH RESPECT TO PALAU. WHILE IT IS PREFERABLE THAT SUCH LEGISLATION SHOULD BE ADOPTED SIMULTANEOUSLY AS TO ALL DISTRICTS, WE DO NOT VIEW A SIMULTANEOUS TRANSFER AS ABSOLU

TELY NECESSARY. THE TIMING OF ANY SUCH LEGISLATION MUST NECESSARILY DEPEND ON THE WISHES OF THE PEOPLE OF THE DISTRICT CONCERNED. (2) WHILE YOUR QUESTION REGARDING WHO WOULD TAKE TITLE TO RETURNED LANDS PRESUPPOSES CERTAIN CONDITIONS WHICH MAY OR MAY NOT BE PRESENT IN MICRONESIA, WE CAN STATE THAT IN GENERAL LEGISLATION AUTHORIZING THE TRANSFER OF LAND TO THE PEOPLE OF THE DISTRICT SHOULD PROVIDE THAT TITLE SHOULD BE TRANSFERRED TO PERSONS OR ORGANIZATION OF PERSONS SPECIFIED BY THE PEOPLE CONCERNED. AGAIN, THERE NEED NOT BE A SOLUTION TO ALL DISTRICTS OR TO ANY TWO DISTRICTS FOR THAT MATTER. (3) YOUR QUESTION REGARDING ADJUDICATING OF RIVAL CLAIMS AGAIN PRESUPPOSES THE ABSENCE OF TRADITIONAL MEANS FOR ADJUDICATION. IN THE ABSENCE OF SUCH TRADITIONAL MEANS, HOWEVER, THE TRUST TERRITORY COURTS SHOULD BE UTILIZED TO ADJUDICATE ALL CONFLICTING LAND CLAIMS AT THE DISTRICT LEVEL. WE CONSIDER IT OF THE HIGHEST IMPORTANCE THAT NO TRANSFER OF LAND FROM THE TRUST TERRITORY GOVERNMENT SHOULD BE IMMUNED FROM SUIT SO THAT TITLES CAN BE SETTLED WITHOUT IMMUNITY AS AN OBSTACLE (4) THE LAND MANAGEMENT FUNCTION AND LEGISLATIVE AUTHORITY OVER LAND (WITH THE SOLE EXCEPTION OF THE CURRENT PROVISIONS REGARDING OWNERSHIP OF LAND) SHOULD BE TRANSFERRED TO THE DISTRICTS ALONG WITH THE LAND. SPECIFICALLY, (A) LEGISLATIVE AUTHORITY OVER LAND SHOULD BE TRANSFERRED

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FROM THE CONGRESS TO THE SEVERAL DISTRICT LEGISLATURE IN ACCORDANCE WITH THE WISHES OF THE PEOPLE, AND EXCEPT AS NOTED ABOVE; (B) AT THIS TIME WE SEE NO NEED FOR THE ESTABLISHMENT OF SEPARATE LAND COURTS FOR EACH DISTRICT. TRADITIONAL METHODS OF SETTLING LAND DISPUTES SHOULD BEAR MOST OF THE ANTICIPATED WORKLOAD, AND ADDITIONAL JUDGES COULD BE ADDED ON A TEMPORARY BASIS IF THE INCREASED COURT CASELOAD MAKES THE NEED FOR THE SAME APPARENT; (C) THE LAND CADASTER PROGRAM SHOULD BE CONTINUED, IF THE PEOPLE OF THE DISTRICT CONCERNED SO DESIRE AND CONTROL SHOULD BE TRANSFERRED TO THE SEVERAL DISTRICTS; (D) NO EMINENT DOMAIN AUTHORITY SHOULD BE VESTED IN THE CENTRAL GOVERNMENT. EMINENT DOMAIN COULD BE VESTED IN A DISTRICT GOVERNMENT IF THE PEOPLE OF THAT DISTRICT SO DESIRE. THIS HOLDS TRUE NOT ONLY FOR THE PRESENT BUT FOR THE FUTURE GOVERNMENT AS WELL AND (E) THE LAND MANAGEMENT FUNCTION SHOULD ALSO BE TRANSFERRED TO THE SEVERAL DISTRICTS. WE BELIEVE THAT SUFFICIENT MANPOWER AND MONETARY RESOURCES COULD BE FOUND TO EFFECT THIS CHANGE. WE ALSO RECOMMEND THAT THE ADMINISTERING AUTHORITY SHOULD ABSORB ANY ADDITIONAL COSTS INVOLVED AS PART OF ITS TRUSTEE RESPONSIBILITIES. (5) TIDAL LANDS, LAGOONS AND ALL SUBMERGED TRUST TERRITORY LANDS ARE TREATED BY THE PEOPLE OF MICRONESIA IN THE SAME MANNER AS LAND IS TREATED. WE RECOMMEND THAT TITLE TO THESE AREAS PRESENTLY HELD BY THE TRUST TERRITORY GOVERNMENT SHOULD ALSO BE RETURNED TO THE DISTRICTS FOR APPROPRIATE DISPOSITION. (6) AN EXCEPTION TO THE RETURN OF LANDS TO THE DISTRICTS SHOULD BE MADE FOR THE PURPOSE OF PROTECTING HOMESTEAD ENTRYMEN WHO HAVE NOT YET FULFILLED THE REQUIREMENTS FOR A CERTIFICATE OF COMPLIANCE. EVENTUALLY, THE HOMESTEAD PROGRAM IN THE TRUST TERRITORY LEVEL WILL BE PHASED OUT AND INDIVIDUAL DISTRICTS SHOULD BE FREE TO ESTABLISH HOMESTEAD PROGRAMS SHOULD THEY SO DESIRE; (7) WE RECOMMEND THAT PUBLIC LAND PRESENTLY USED FOR PUBLIC PURPOSES SHOULD ALSO BE RETURNED TO THE DISTRICTS WITH THE PROVISION THAT THERE BE SOME PROVISIONS, EITHER BY LEASBACK TO THE GOVERNMENT OR EASEMENT, SO THAT THE GOVERNMENT COULD CONTINUE TO USE THOSE LANDS WHICH IT PRESENTLY USES FOR PUBLIC PURPOSES. THE PEOPLE OF THE DISTRICTS CON-

END OF MESSAGE

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UNCLAS FINAL SECTION OF 2 STATE 199863/2

CERNED SHOULD BE FREE TO ESTABLISH ADDITIONAL LEASES TO THE TRUST TERRITORY GOVERNMENT, SHOULD THE NEED ARISE. (WE WOULD REMIND YOU THAT

THE PEOPLE OF PALAU HAVE REQUESTED THE RETURN OF PUBLIC LANDS IN PALAU DISTRICT PRIOR TO THEIR FURTHER CONSIDERATION OF UNITED STATES LAND REQUIREMENTS IN THAT DISTRICT, AND THAT THE JOINT COMMITTEE HAS REQUESTED YOUR REPLY AS TO THIS REQUEST PRIOR TO THE NEXT ROUND OF TALKS. WE AGAIN RESTATE OUR POSITION THAT YOUR DELEGATION MUST ADDRESS

THE QUESTION OF RETURN OF PUBLIC LANDS IN PALAU DISTRICT. WE SEEK YOUR AGREEMENT IN PRINCIPLE TO THE RETURN OF THESE LANDS ON THE GENERAL GUIDELINES CONTAINED ABOVE TO BE ACCOMPLISHED BY LEGISLATION ADOPTED BY THE CONGRESS OF MICRONESIA. WE BELIEVE THAT YOUR REPLY NEED CONCERN ITSELF WITH SIMILAR QUESTIONS AS TO OTHER DISTRICTS WHICH HAVE NOT RAISED QUESTIONS SUCH AS THOSE RAISED BY THE PEOPLE OF PALAU

WE CONTINUE TO EXPECT YOUR RESPONSE PRIOR TO THE NEXT ROUND OF TALKS. WE TRUST THAT THIS INFORMATION HAS ANSWERED YOUR QUESTIONS. IF THERE ARE FURTHER MATTERS WHICH REQUIRE CLARIFICATION, PLEASE DO NOT HESITATE TO INQUIRE. VERY TRULY YOURS, LAZARUS E. SALII, CHAIRMAN, JCFS UNQUOTE KISSINGER

END OF MESSAGE

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