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15 January 1973

MEMORANDUM FOR CAPTAIN GORDON SCHULLER, USN
ISA/EA&PR

SUBJECT: Survival of United States Strategic Rights in Micronesia
Upon Unilateral Termination of the Proposed Compact.

The attached draft and working paper is intended to provide the President with the necessary background and options relating to United States objectives and claims in Micronesia. This paper addresses the primary objective in Micronesia in terms of its strategic importance, which indicates the danger and risks inherent in the loss of defense powers and authority in the event of unilateral termination of the Compact by Micronesia at a point where the United States would not wish to see it terminated. It includes in the options some which are intended as policy rather than legal options. I wish to emphasize that the options are not mutually exclusive and a number of them can be negotiated together depending upon other policy considerations than those analyzed here.

SIGNED

Attachment

Harry H. Almond, Jr.
Office of Assistant General Counsel
International Affairs

cc: Mr. Phillip E. Barringer
ISA/FMRA

GC

Chron

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WORKING DRAFT
H. H. ALMOND, JR. /OAGC(IA)
15 January 1973

Survival of United States Strategic Rights in Micronesia Upon
Unilateral Termination of the Proposed Compact.

1. The United States objectives in Micronesia are primarily concerned with the strategic value which Micronesia offers in the South Pacific. These objectives are preserved in the proposed Compact with Micronesia in the rights relating to defense powers and defense authority.

2. At least three factors associated with United States objectives may be discerned: (1) hostile or potentially hostile armed forces must be denied the right to enter Micronesian territory or territorial waters; (2) the United States must have the exclusive right to maintain land based operations in Micronesian territory; (3) the maintenance of international peace and security is to be furthered, and alien hegemony over Micronesia is to be avoided, by stabilizing the area under a United States security umbrella.

3. These objectives of the United States are protected in the

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proposed Compact in provisions . The major problem which the United States must face is how to continue to protect these objectives in the event of unilateral termination of the Compact by Micronesia.

4. The Compact presently provides that in the event of unilateral termination most of the foreign affairs and commercial rights which the United States will enjoy under the Compact will terminate. However, the present provisions specifically call for the defense powers and authority to survive as legal rights for a period, depending upon the negotiations, extending to 50 years even though the Compact itself is terminated and even though Micronesia may then seek to become independent of the exercise of further foreign affairs competence by the United States.

5. It should be noted however by way of caution that since the Micronesians can denounce not only the Compact but also the conditions calling for survival of United States defense powers and authority and they would in that event no longer be effective even though such conduct by Micronesia would present a breach of the Compact. Hence, to this end, friendly relations with the Micronesians is important to United States objectives.

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6. A number of options for ensuring protection of United States defense authority and powers are available some of which may be combined:

-The United States might purchase, or seek long term (50 year or longer) leases of sites in Micronesia for the exercise of defense powers. This form of protection would be reinforced if the United States could also secure either exclusive control or a form of "sovereignty" over those sites. The United States claims to the lawful use of these sites in the event of a breach in relations with Micronesia would then be treated analogously to those of Guantanamo in Cuba.

-The United States may and should insist upon the survival of defense powers and authority in the Compact to be negotiated with Micronesia. The protection afforded by these provisions extends beyond the protection afforded under a purchase or lease of sites in the sense that these provisions provide for freedom of movement over the entire territory of Micronesia and not solely within the base areas.

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-Measures may be negotiated by the United States, and made part of the Compact, intended to prevent or retard the process by which the Micronesians exercise of unilateral termination will take place. For example, unilateral termination may be made effective and contingent upon a referendum of the Micronesians people, wherein a two-thirds vote of Micronesians adults is needed to terminate the Compact.

-The United States can adopt and pursue policies and measures intended to lead to closer ties with the United States. These measures might seek to encourage a movement within Micronesia favorable to Micronesia becoming a territorial possession of the United States. On the other hand, this option is not presently believed to be feasible because it appears to be a reverse of current trends.

But it should not be dismissed out of hand since its feasibility depends on political considerations. Its feasibility might be enhanced by strong commercial and economic ties by Micronesia relative to those established by Micronesia with other countries.

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-The United States can seek base operating rights and establish those rights by an appropriate agreement.

This option would differ and extend beyond the present United States negotiating objective which calls for a SOFA (Status of Forces) arrangement in Micronesia.

-The United States might seek a mutual security agreement, with the understanding that this arrangement is based upon Micronesia entering into such an agreement with the United States on the basis of sovereign equality. It could be negotiated in the present negotiations to be included in the Compact but to become effective upon unilateral termination. It could, if friendly relations are anticipated, / be-negotiated at the time of unilateral termination. It is evident that in any event such a mutual security agreement is dependent upon good relations between the two countries but that negotiation of the mutual security agreement will tend to shape or set the stage for future relations at the outset.

-The United States can consider the continuation of the existing Strategic Trust Agreement. This option is not

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available unless there is a complete breakdown in the negotiations. The continuation of the Strategic Trust Agreement would be justified before the United Nations on the argument and principle that the Micronesians had not reached the stage of political maturity to negotiate their independence. It is evident that this argument would require the Micronesian negotiating team to accept it.

-The United States may consider at this time or at a later time splitting off such Micronesian territorial areas as the Marianas. If this option is entertained, policy assessments must be made with respect to the impact upon getting a desirable Compact with all of Micronesia, or, alternatively, the desirability of accepting an arrangement with the Marianas (or other island groupings) and letting the remainder of Micronesia become independent.

-The United States might, depending upon the course of the negotiations, bargain with the Micronesians for an extended

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term prior to the time that unilateral termination will be exercisable, (e.g. 50 years) in return for an agreed amount of economic and financial aid to the Micronesians.

Present Micronesian negotiating tactics and positions suggest that this approach might be fruitful.

-The United States might reserve, in the event that none of the above options can be negotiated, the understanding that Micronesian territory and territorial waters shall be neutralized. This objective may require the participation of the United Nations Security Council.

-Apart from the above options, the United States might negotiate an undertaking by Micronesia to deny its territory and territorial waters to (a) all alien powers, or to (b) all alien powers except the United States. This is the weakest position which the United States might take because it is based entirely upon good faith compliance by Micronesia. and there are no separate ties, as in the other options, to promote good faith.

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