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THE DEPUTY SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

21 MAY 1974

MEMORANDUM FOR THE CHAIRMAN, NSC UNDER SECRETARIES COMMITTEE

SUBJECT: Micronesian Status Negotiations: Request for Amendment to Negotiating Instructions (NSC-U/SM-86X) (U)

(U) Reference is made to the 30 April 1974 NSC Under Secretaries Committee (USC) Memorandum which requested comments and or concurrence on the:

a. Proposed USC Memorandum (Attachment 1 to referenced memorandum) to the President which transmits a report of the informal meetings between Ambassador Franklin Haydn Williams, the President's Personal Representative for Micronesian Status Negotiations and Senator Salii, Chairman of the Micronesian Joint Committee on Future Status (JCFS) along with the comments and recommendations of the USC.

b. Letter (Attachment 2 to referenced memorandum) of 12 April 1974 from Ambassador Williams to the President which reports on the progress in the latest round of informal talks held in Carmel, California with the Chairman, JCFS.

(U) Considering the history of the negotiations and the political realities in Micronesia, the tentative agreement on a Compact of Free Association reached by Ambassador Williams and the Chairman of the Joint Committee on Future Status (JCFS) is a remarkable achievement. While there are a number of difficult obstacles remaining to be resolved, the following comments are submitted with full recognition that the Carmel meeting represents a quantum step forward in the negotiations.

(S) As emphasized by Ambassador Williams, the agreements reached at Carmel with regard to termination and the survival of US defense interests exceeded the letter, but not the spirit of the current negotiating instructions (15 year unilateral termination and 99-50 year survivability of defense rights). However, under the Carmel agreement, US defense interests and the survival of such interests should be reasonably protected since the Compact of Free Association could be terminated only by mutual consent during the 15 years. Thereafter, it may be terminated unilaterally with a two year waiting period during which time both parties would be committed by the Compact to negotiate a mutual security agreement embodying the military and denial rights as set forth in the Compact. This security agreement would have to be concluded before termination of

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SUBJ TO G.D.S. OF E.O. 11652
AUTOMATICALLY DOWNGRADED AT
TWO-YR INTERVALS
DECLAS ON 31 DEC 1982

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the Compact could become effective, thus in effect making termination possible only by mutual consent after the first 15 years also.

(U) The President's Personal Representative reiterated to the Chairman, JCFS, by letter on 11 April 1974, the established US position that we expect the military land negotiations to be fully worked out before the Compact can be signed. Moreover, the draft Compact provides that the agreements for the required lands and waters will be listed in the Compact itself. Ambassador Williams' letter to the President, however, does not mention that the US has no existing leases or deeds for much of the required military land, or that there is no legal entity at this time on the Micronesian side with authority to negotiate or enter into agreements on military lands. Defense considers this potential problem of sufficient importance to be mentioned in the report to the President.

(C) Similarly, the Department of Defense believes there is a significant omission in the Report's listing of further steps to be taken before the Compact can be signed. The Draft Compact (Section 305) calls for the legal status of United States military personnel, citizen civilian employees, and dependents stationed in Micronesia to be established by mutual agreement and to come into force simultaneously with the Compact.

(U) It should be pointed out that as a separate action, the agreed Draft Compact, as modified at the Carmel meetings, is still under review by the Department of Defense and other concerned agencies and has not yet received their concurrence.

(C) If the full membership of the JCFS accepts the agreements made at Carmel, then significant progress will have been made toward the successful outcome of the Micronesian Status Negotiations. This should then permit us to devote our attention to the other important tasks which must be accomplished before the Trusteeship can be successfully terminated.

(C) While the Chairman, Joint Chiefs of Staff and I basically concur in the referenced correspondence to the President, it is recommended that the items noted in the above paragraphs be included on page 4 of the proposed Chairman, USC memorandum to the President as indicated in the attachment.

H. P. Clement

Attachment
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ATTACHMENT TO ENCLOSURE

Recommended Addition to Page 4 of the proposed Chairman, USC Memorandum to the President.

"3. The United States position with the JCFS has been that the Compact cannot be formally concluded until we actually have acquired deeds or leases to the required land. Ambassador Williams' letter of 11 April 1974 to the Chairman, JCFS, conveyed the sense of this position by reminding him for the record of "...our previously expressed position that we expect the military land negotiations to be fully worked out before the Compact can be signed." At the same time, it should be understood that the United States has no existing leases or deeds for much of the land described in the previously agreed Annex B to Title Three of the Draft Compact, and that there is no legal entity at this time on the Micronesian side with authority to negotiate or enter into agreements for these lands. This is a potentially significant problem area.

4. There is an important step which must be taken before signing the Compact and which is not mentioned in the report. A jurisdictional agreement, similar to a Status of Forces Agreement with foreign countries, remains to be negotiated with the Micronesians. This agreement will protect United States forces, their military personnel, United States citizen civilian employees of United States forces, contractors of United States forces, and their dependents, while in Micronesia. As written, the Compact of Free Association will not come into force until this jurisdictional agreement is concluded.

5. As Ambassador Williams indicated, the complete draft of the Compact of Free Association, substantively agreed upon by the leadership of both delegations at the Carmel talks, must still receive the formal concurrence of interested departments of the United States Government.

Considering the history of the negotiations and the political realities in Micronesia, the tentative agreement on a Compact of Free Association reached by Ambassador Williams and Senator Sali is a remarkable achievement. While there are a number of difficult obstacles still to be overcome, the above comments are submitted with the full recognition that the Carmel talks represent a quantum step forward in the negotiations."

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