



DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D. C. 20301

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26 June 1974

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MEMORANDUM FOR CAPT. EDWARD C. WHELAN, JR.
EA&PR, ISA, OASD

SUBJECT: TTPI - Draft Compact of Free Association.

Pursuant to your request dated 25 June 1974 my comments in brief are as follows. The changes provided by Mr. Warnke (on my copy) relating to Title III do not create any difficulties. The United States at an appropriate time wants expressly to include the terms "air space" to ensure that military operations in air space will not be restricted.

With respect to Section 303(a), the purpose of this section must provide the United States full freedom of action in using, maintaining, operating, and operating from military bases and to grant this as an exclusive use, i. e. excluding other countries. Mr. Wilson's proposal would not be helpful because it suggests limitations and particularly since the limitations otherwise set forth in the Compact are clearly implied. But we have implied but have not stated an opening phrase:

"..... to fulfill the responsibilities and authority of the United States set forth in Section 301"

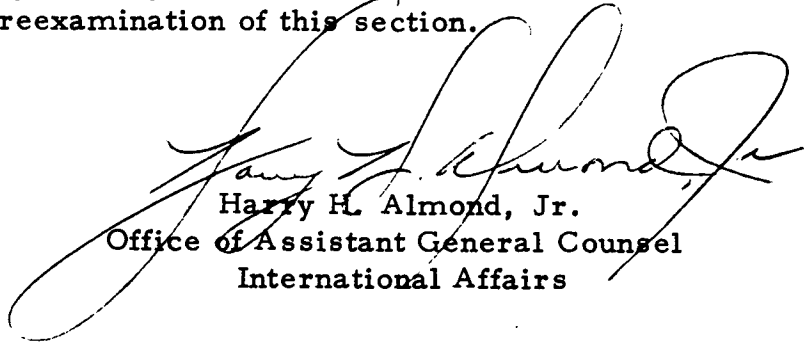
With respect to Section 303(c) the concern suggested with this paragraph has not been made specific. The provision has ample protective language for the Micronesians because requests must be made, negotiations must take place in good faith, the requests are founded only upon the emergency powers associated solely with defense, and the provision for suitable procedures which the Micronesians are to adopt will enable them to control abuse. As in all provisions of this kind a standard of reasonableness applies. Spelling out language of this kind is unnecessary.

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With respect to Section 304(c) the suggestion that it be deleted is unclear. The rights are granted to the United States and the provision provides that they shall not be assigned by the United States.

With respect to Section 306 no real comment is necessary. It provides strictly for volunteers subject to the United States law. Changes if any made in Titles VII and VIII would of course require a reexamination of this section.



Harry H. Almond, Jr.
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