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TITLE VII - Citizenship and Nationality

TITLE VIII - Immigration and Travel

Background:

The JCFS has now said it does not want reciprocity with the U.S. on immigration and travel, fearing the effect on Micronesia of unlimited entry rights by U.S. citizens and nationals. It therefore proposês to drop Title VII entirely, thus foregoing the privileges attendant upon accepting the offer of U.S. nationality for Micronesian citizens, and to modify Title VIII by dropping Sections 801(b) (reciprocal treatment for U.S. and Micronesians on entry privileges) and 801(c) (giving Micronesian citizens who are also U.S. nationals free entry into the U.S.). For these they would substitute a new section 801(b) simply providing that the subject of entry into the two countries by citizens of the other would be made the subject of future agreement between the two governments. Alternatively they suggest the U.S. consider dropping reciprocity.

This subject was previously discussed at Hana where the U.S. was prepared to offer special free entry arrangements to Micronesians on a non-reciprocal basis but never surfaced the offer. This same position was carried over to Carmel as a second fall off position, the first being to drop Titles VII and VIII entirely.

Discussion:

It is easy enough to drop Titles VII and VIII entirely, or as suggested by the JCFS drop subsections (b) and (c) of Section 801 leaving 801(a) saying Micronesia can regulate immigration and adding a new subsection (b) agreeing to work out a separate agreement on entry at a later date. This has the distinct

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disadvantage, however, of giving to a future Micronesia one more trapping of independence which is undesirable psychologically and subject to misunderstanding internationally.

Giving the Micronesians treatment as U.S. nationals, on the other hand, might be construed as giving them another advantage which should be reserved for a closer relationship with the United States than free association. The people of the Marianas might not like it, since it would be akin to the privileges of territorial status enjoyed by Samoans and that being offered those individuals in the Marianas who did not wish to become full U.S. citizens. It would be, however, less than the full U.S. citizenship being offered the Marianas under the new commonwealth arrangement.

There are other advantages to treating the Micronesians as U.S. nationals. It would simplify the passport problem (they could all travel on U.S. passports) and would give them thus a dependent status internationally which might be politically desirable from an international standpoint. If they are not treated as U.S. nationals they cannot enlist in the U.S. Army and Air Force and Section 306 would have to be revised accordingly. It might be possible to treat them as U.S. nationals for all purposes except entry into the United States, but this would probably have little appeal to the JCFS.

The alternative of retaining the offer of U.S. national treatment with all its privileges, including entry into the U.S., but making it non-reciprocal, i.e., barring free entry into Micronesia by U.S. citizens and U.S. nationals, has considerable appeal, but certain disadvantages. The U.S. Congress is not likely to be too keen on the idea but could probably be sold on the basis that the precedent has already been set by U.S. Congressional approval of the Samoan arrangements where U.S. citizens and other U.S. nationals are denied permanent

residence privileges. (The same is true of non-Indian U.S. citizens claiming the right to permanent residency on Indian reservations).

The principal objection is likely to come from the Marianas and Guam who dislike the idea of giving Micronesians free entry rights and rights of permanent residency. It may be possible to get around this obstacle by wording the non-reciprocal provision so as to permit Micronesians free entry for residence purposes only into the states of the United States and D.C. thereby protecting all the territories equally.

Recommendation:

This subject should be thoroughly and frankly discussed with Sali and the others with a view to preserving their treatment as U.S. nationals but making free entry privileges available to Micronesians only on a non-reciprocal basis and limiting even their entry into the U.S. for residence purposes to the states and D.C. Proposed language is attached.

If this too proves unacceptable to the JCFS we should reluctantly acquiesce in dropping Title VII entirely and limit Title VIII to the revised version of Section 801(a) treating Micronesians simply as aliens for entry purposes.

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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 treated as a U.S. national for all purposes, except that free entry into the United States for residence purposes by citizens of Micronesia who are not also U.S. citizens shall not extend to the Territories of the United States.

Section 702

Any persons described in Section 701 who is a citizen or a national of a foreign country other than Micronesia shall cease to be treated as 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.

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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, except as provided in this Compact or as otherwise agreed.

(b) Citizens and nationals of the United States who are not citizens of Micronesia shall be free to enter and exit Micronesia but not to establish residence in Micronesia.

(c) Micronesiansprovisions applicable to entry and exit to and from Micronesia by citizens and nationals of the United States and personnel sent to Micronesia pursuant to Section 403 of this Compact shall not be more restrictive than the comparable United States regulations governing those Micronesian citizens who are United States nationals.