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

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MEMORANDUM FOR THE CHAIRMAN, NSC UNDER SECRETARIES COMMITTEE

SUBJECT: Micronesian Compact and Jurisdictional Agreement

(C) As indicated by CINCPACREP Com message 150400Z July, the Micronesian negotiations have moved forward substantially in recent weeks under Ambassador Williams' direction, and tentative agreement has now been reached with the chief Micronesian negotiator regarding a draft of the entire Compact of Free Association. Nevertheless, there is one related point which I believe should be resolved by the NSC Under Secretaries Committee.

(C) I am concerned about the timing and sequence of negotiations on the proposed Compact in relation to the so-called Jurisdictional Agreement which will establish the legal status and operating rights of US forces in Micronesia. As I understand it, Ambassador Williams contemplates concluding formal negotiations on the Compact as soon as practicable, and then addressing the Jurisdictional Agreement. Such a course of action, however, would postpone a number of important issues until the Jurisdictional Agreement is negotiated, rather than considering them in connection with the Compact. Among these issues are such matters as exemption of US contractors from Micronesian taxation, the status of nationals from third countries present in Micronesia in connection with defense activities there, and special maritime and territorial jurisdiction over US citizens within the defense sites.

(C) The Department of Defense position with respect to these matters is set forth in our draft of a status of forces agreement with Micronesia, which was circulated to other interested Executive Branch agencies in January 1973. However, no formal interagency consideration has been given to this draft by non-Defense agencies since that time, apparently on the ground that such questions should be deferred until after final conclusion of the Compact. If important issues such as those referred to above are addressed only after the US has substantially exhausted its financial and other negotiating leverage in the course of concluding the Compact, our ability to obtain a satisfactory Jurisdictional Agreement would be seriously impaired. In this connection, I note that in the last round of negotiations a provision of the Compact which would make Presidential approval contingent upon satisfactory conclusion of

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DECLASSIFY on December 31, 1980
Classified by Director, OASD (ISA) (MBA)

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the Jurisdictional Agreement was deleted. Although I understand the Micronesians have orally agreed that the Jurisdictional Agreement will in fact be negotiated prior to signature of the Compact, this deletion emphasizes the need for the US agencies concerned to address promptly all unresolved questions in the Jurisdictional Agreement.

(C) I urge early consideration by the Under Secretaries Committee of the substantive issues involved in the Jurisdictional Agreement, and so permit Ambassador Williams to negotiate that document with the Micronesians.

(Signed) W P CLEMENTS

cc:

Ambassador Franklin Haydn Williams, Special
Representative of the President for
Micronesian Status Negotiations
The Special Assistant to the President for
National Security Affairs
The Deputy Attorney General
The Under Secretary of the Interior

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