



INTERNATIONAL SECURITY AFFAIRS

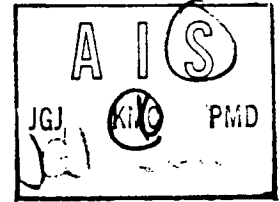
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ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

2 AUG 1974

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In reply refer to:
I-5857/74



MEMORANDUM FOR THE DEPUTY SECRETARY OF DEFENSE

SUBJECT: Micronesian Compact and Jurisdictional Agreement - ACTION MEMORANDUM

(1) Ambassador Williams, the President's Personal Representative for Micronesian Status Negotiations, desires to conclude as early as possible the basic Compact on Free Association with Micronesia, and to relegate to later subordinate negotiations its accompanying Jurisdictional Agreement (equivalent to a status of forces agreement). DoD circulated a draft Jurisdictional Agreement to interested US agencies in January 1973, but formal consideration within the US Government has never taken place. This agreement would include a number of important rights for the United States, particularly the following, which Micronesia might not consider as authorized by the Compact alone:

(1) Exemption of US contractors from Micronesian taxation. For the past several years, as a total exception to our policy in other overseas areas, DoD contractors in the Kwajalein Missile Range have been paying Micronesian income taxes. Because of the extensive nature of the Army Safeguard program in Kwajalein, these taxes amount to some \$5 million annually. DoD has accepted this arrangement only because of the unusual responsibilities of the US as the administering power of the Trust Territory. Once that arrangement ends, however, DoD contractors should be placed on the same basis as in other host countries worldwide, in order to avoid a precedent which could lead to greatly increased defense costs overseas.

(2) The status of nationals from third countries present in Micronesia in connection with Defense activities. In accordance with the practice elsewhere, it is our view that third country nationals, particularly those of a technical or highly skilled character, should be entitled to the same privileges and immunities as comparable US personnel.

(3) Special maritime and territorial jurisdiction. We believe that the nature of the Micronesian arrangements will permit us to take advantage of a statutory provision and exercise jurisdiction over all US citizens within the defense sites, but this point needs to be firmly accepted within the US Government.

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

SEC DEF CONTR No. X-2412

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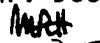

(C) Although the overriding importance and priority of the Compact is recognized, the Jurisdictional Agreement should provide for certain rights and privileges, including those mentioned above. It is therefore highly desirable that negotiations for the Jurisdictional Agreement be completed prior to conclusion of the negotiations on the Compact (which will contain the major quids that the US will offer); or, at the very least, that negotiations on the Jurisdictional Agreement be well under way by that time. There has been resistance to this approach within the interagency group supporting the Micronesian status negotiations. Since negotiations on the Compact appear to be moving toward formal completion by mid-January 1975, we believe that this subject should be addressed with urgency in the larger senior forum of the NSC Under Secretaries Committee.

(U) Your signature of the attached memorandum to the Under Secretaries Committee, outlining the problem and urging early consideration of this point, is therefore recommended.



Robert Ellsworth
Assistant Secretary of Defense
International Security Affairs

Concurrence:

Department of the Army - Mr. Koren, DUSA 
Department of the Navy - RAdm Shanahan, Op-60 
Department of the Air Force - Mr. Doolin, SAFIA 
General Counsel - Mr. Hoffmann 
Joint Staff - RAdm Hannifin, J-5 

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