

THE WHITE HOUSE

WASHINGTON

Old Executive Office Building
Room 361
Washington, D.C. 20506

November 15, 1974

Senator Lazarus Salii
Congress of Micronesia
Saipan, Mariana Islands

Dear Lazarus:

This letter will cover a number of matters on which you and I undertook to take follow-up action as a result of our recent meeting in Honolulu. It will also serve to confirm our understandings in a number of areas and to review some of the initiatives that will have to be taken locally before title to public lands can be transferred to the districts.

With respect to the important question of prior consultation on the executive action to be taken to transfer title to public lands, the Department of the Interior has agreed that Micronesian leaders will be invited to participate in a discussion of this subject in order that local views may be considered fully before a Secretarial Order is issued to authorize the transfer of title to public land to the districts. You should have heard directly from the Department of Interior on this matter by the time this letter arrives.

Turning to Palau I enclose a copy of a letter I have just written to Speaker Luit in response to the Palau District Legislature's October 18 resolution which was forwarded to me. In addition to my effort to clear up what would appear to be some unfortunate misunderstandings, and to give certain reassurances, I have also noted the initiatives that will have to be taken locally if Palau wishes to have title to public land in that district transferred to a local legal entity and before the final negotiations for the land options called for in Annex B can begin.

In Honolulu you asked me to cover in writing steps which Palau would have to take to move the land transfer along and to expedite the land negotiations. In order to transfer the public lands the Palau District Legislature will first have to make a formal request to the High Commissioner for the transfer of title to that district. No action will be taken by the Administering Authority in the absence of such a request.

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Second, the Palau District Legislature will have to enact legislation creating a legal entity that would hold the transferred land in trust for the people of the district in a manner determined by the District Legislature, subject only to the considerations set forth in the United States land policy statement of last November and the subsequent implementing Secretarial Order. In connection with the last requirement, we are proceeding under the assumption that the formal statement of November 12, 1973 signed in Washington by the "Palau Delegation" remains valid. In view of the recent resolution of the Palau District Legislature we will need reaffirmation of that commitment by the authority with which we will be negotiating.

In order to be able to carry out the land negotiations as we discussed in Honolulu the Palau District Legislature should also take steps to create a negotiating authority which will have the necessary power to negotiate and to enter into binding arrangements subject to whatever requirements for subsequent approval as the District Legislature and the Congress of Micronesia may deem appropriate. Since the land options may very well involve private as well as public land it would seem to us that provisions will have to be made empowering the negotiating authority, directly or through the land entity or the Palau District Legislature, to acquire the rights to such land as may be agreed to (public and/or private) if it is to be in a position to enter into binding commitments, which it must be if the negotiations are to be successfully concluded.

Although as I said in Honolulu while the U.S. is in no pressing hurry with respect to defense land needs in Palau since all it needs are options, I would nevertheless hope that the steps you indicated you were considering will be taken in order to speed up the arrangements in Palau which will be necessary before the public lands can be transferred and before we can get on with the task of completing the Compact. I do hope that this process will not take too long since we are as anxious as you are to reach final agreement on a complete Compact so that it can be submitted to your Congress for its formal concurrence at an early date and to the people of Micronesia and to the Congress of the United States for their approval.

With regard to the draft Compact itself and the changes we discussed in Honolulu I have now been able to review the substantive language in Section 202 which we proposed and can affirm that the Honolulu language is acceptable. Specifically, the section as approved now reads: "...provided, however, that any treaties or international agreements, or provisions thereof, which in its effect relates exclusively to Micronesia, or predominantly to Micronesia rather than to the United States, will be applied to Micronesia only with the consent of the Government of Micronesia".

On Titles VII and VIII I believe you were going to seek approval on the tentative agreement reached with respect to nationality and the language agreed to in Honolulu. Our inquiry with the Immigration and Naturalization Service has provided the following information. United States law does not provide for persons becoming naturalized nationals. Spouses and adopted children of United States nationals, who are not themselves U.S. nationals, will receive the same preferential treatment should they seek to enter the United States as is accorded the spouses and adopted children of resident aliens.

For the record I would now like to reiterate the U.S. position and the understandings that we reached on the interpretive points raised in your letter to me of September 9, 1974:

1. It was agreed that Section 302(b) grants to the United States the right to use Micronesian air, land and water as may be necessary to carry out defense missions as set forth in Section 302(a) and as provided for particularly in Section 302(b) and in Annex B, A(3). If the United States is in need of land for defense purposes in addition to those specified in Annex B, the U.S. will acquire such use rights only in accordance with Section 303(c).

2. Section 303(d) states clearly that agreements covering the use of Micronesian lands and waters as agreed to in Annex B shall not contain any limitation on the use of such lands and waters which conflict with the basic defense authorities and responsibilities of the United States as provided for by the Compact. It was agreed that in the land sub-negotiations any such limitations will not be insisted upon inasmuch as Sections 303(d) and 506 will be controlling.

3. Section 304(c). We are in agreement with your interpretation of this Section as set forth in your September 9, 1974 letter.

4. With regard to your fourth point we agree the performance by either party of its obligations will be governed by applicable law.

Attached for your review is a copy of a draft which incorporates our understandings reached at Carmel in April, Guam in July and in Honolulu late last month. As mentioned above the draft is now complete except for: (1) Title IV (402) and Annex B which by agreement is an integral part of the Compact; and (2) Titles VII and VIII pending final agreement on the nationality question. I also wish to bring to your attention again the possibility that the U.S. may wish to request a further

consideration of Title XI. I will attempt to give you a definitive answer on this point just as soon as possible.

Finally in view of the recent discussions with respect to the Marianas and in order to avoid any misunderstanding I would like in addition to say again that it is the U.S. position that the Compact as it stands applies only to the Carolines and the Marshalls. It is only on this understanding that the United States gives approval to Section 1201(a).

Finally it was agreed that further exchanges and discussions will be required before final understanding can be reached on transition. We will have to discuss the commitments which the United States will be willing to enter into at the time of the signing of the Compact covering the level of financial assistance to be provided during the final transition of the TTPI from trustee status to its new status. The matter of United States assistance for the relocation of the capital of the new government must also be addressed prior to a final agreement on transition.

Let me say in closing that I am pleased with the progress that has been made over the past seven months (Carmel, Guam and Honolulu) in narrowing the number of substantive issues that remain to be solved before the completion of the Compact. I am also encouraged by the broad areas of agreement in principle that have been achieved in important related areas such as the transfer of title of public land to requesting districts and in the area of transition. We remain anxious to conclude the remaining items on our agenda as rapidly as local circumstances may permit. To this end any undertaking which you and/or the JCFS can initiate to expedite the next steps in the negotiations will be most welcome by our side. We stand ready to proceed at any time toward what I am sure is our common objective--a completed agreement for a new political status of free association.

With best wishes.

Sincerely yours,

Haydn

Franklin Haydn Williams
U.S. Ambassador
Micronesian Status Negotiations

Enc: as indicated

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