



Department of State

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REVIEWED BY <u>the</u>	DATE <u>MAR. 5 1987</u>
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E.O. 11652: NA
TAGS: PFOR, TQ
SUBJECT: TRANSMITTAL OF LETTERS
PASS TO STATUS LNO BERGESEN FROM AMBASSADOR WILLIAMS

PLEASE TRANSMIT FOLLOWING TEXTS BY MOST EXPEDITIOUS MEANS
TO SENATOR SALII AND SPEAKER LUII. SIGNED ORIGINALS WILL
FOLLOW. ALSO TRANSMIT COPIES OF LUII LETTER, AS INDICATED,
TO SALII AND CERTAIN MEMBERS OF COM.

QUOTE

NOVEMBER 15, 1974

SPEAKER ITEL BANG LUII
PALAU DISTRICT LEGISLATURE
KOROR, PALAU

DEAR SPEAKER LUII:

ON MY RETURN FROM THE STATUS TALKS HELD LAST MONTH IN HONO-
LULU WITH SENATOR SALII AND CONGRESSMAN SILK I RECEIVED A
LETTER FROM EXECUTIVE SECRETARY ALONZ TRANSMITTING TO ME
THE PALAU DISTRICT LEGISLATURE'S RESOLUTION NO. 74(2)-23 OF
OCTOBER 18 CONCERNING THE TRANSFER OF TITLE TO PUBLIC LANDS
FROM THE TTPI CENTRAL GOVERNMENT TO THE DISTRICTS. I HASTEN

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TO RESPOND TO YOU AND THE MEMBERS OF YOUR LEGISLATURE IN THE HOPE THAT I MAY CLEAR UP IMMEDIATELY SOME OBVIOUS MIS-APPREHENSIONS WITH RESPECT TO U.S. POLICY AND INTENTIONS CONCERNING THE RETURN OF PUBLIC LAND TO LOCAL DISTRICT CONTROL.

LET ME BEGIN BY SAYING THAT THE U.S. HAS ATTEMPTED TO BE RESPONSIVE TO THE WISHES OF THE PEOPLE OF MICRONESIA TO HAVE THE TITLE TO PUBLIC LAND IN THE TTPI TRANSFERRED TO LOCAL LEGAL ENTITIES, AND THE U.S. REMAINS WILLING TO ACCOMMODATE SUCH A TRANSFER UPON REQUEST WITHIN THE GUIDELINES SET FORTH IN THE NOVEMBER 1973 POLICY STATEMENT ISSUED BY THE SECRETARY OF THE INTERIOR. THIS WILLINGNESS ON THE PART OF THE U.S. IS IN FACT IN ACCORDANCE WITH THE EXPRESSED WISHES OF THE PALAU DISTRICT LEGISLATURE AS SET FORTH IN PREVIOUS RESOLUTIONS AND IS IN RESPONSE TO A SPECIFIC REQUEST OF THE JCFS OF THE COM.

TURNING TO THE RESOLUTION I WOULD LIKE FIRST TO CORRECT THE STATEMENT THAT "THE UNITED STATES IS UNWILLING TO RETURN THE PUBLIC LANDS UNTIL ITS OWN DEFENSE REQUIREMENTS ARE MET". THIS IS NOT TRUE. AS WE SAID LAST NOVEMBER, THE U.S. IS WILLING TO TRANSFER TITLE TO PUBLIC LAND TO PALAU IN ADVANCE OF THE NEGOTIATIONS CALLED FOR IN ANNEX B OF THE DRAFT COMPACT WITH THE UNDERSTANDING THAT THE COMMITMENT TO NEGOTIATE "IN GOOD FAITH", AS SET FORTH IN THE PALAUAN STATEMENT OF NOVEMBER 12, 1973, WHICH YOU AND OTHER PALAUAN LEADERS SIGNED REMAINS VALID. IN VIEW OF THE RECENT RESOLUTION OF THE PALAU DISTRICT LEGISLATURE WE WILL NEED REAFFIRMATION OF THIS COMMITMENT BY THE AUTHORITY WITH WHICH WE WILL BE NEGOTIATING. I WOULD LIKE TO ASSURE YOU THAT CONTRARY TO LANGUAGE OF THE RESOLUTION THE U.S. DOES NOT WISH TO DEPRIVE NOR HAS IT EVER INTENDED TO DENY THE PEOPLE OF PALAU THEIR RIGHT TO PARTICIPATE FULLY IN THE NEGOTIATIONS FOR OPTIONS FOR THE POSSIBLE FUTURE USE OF THEIR LAND BY THE UNITED STATES FOR DEFENSE PURPOSES.

NEXT I WOULD LIKE TO CLARIFY THE U.S. POSITION ON THE AMOUNT OF LAND THAT WOULD BE RETURNED UNDER ITS STATED LAND TRANSFER POLICY. I UNDERSTAND THAT SOME OF YOUR LEGISLATORS MAY HAVE THE IMPRESSION THAT MORE LAND WOULD BE

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RETURNED UNDER THE CONGRESS OF MICRONESIA LEGISLATION THAN BY EXECUTIVE ACTION. THIS TOO IS INCORRECT. THE AMOUNT OF PUBLIC LAND THAT WOULD BE RETURNED BY EXECUTIVE ACTION UPON THE REQUEST BY THE PALAU DISTRICT LEGISLATURE WOULD BE EXACTLY THE SAME AS THAT WHICH WOULD HAVE BEEN RETURNED UNDER THE LAND BILL. IT IS UNFORTUNATE THAT A MISUNDERSTANDING AROSE LEADING TO THE MISAPPREHENSION THAT THE U.S.

BY EXECUTIVE ACTION WOULD WITHHOLD THE RETURN OF SOME PUBLIC LANDS TO PALAU IN ORDER TO SATISFY ITS OWN MILITARY REQUIREMENTS. AGAIN LET ME REPEAT THERE IS NO BASIS OF TRUTH WHATSOEVER IN SUCH AN ALLEGATION.

I ALSO UNDERSTAND THAT SOME OF YOUR LEGISLATORS MAY HAVE THOUGHT THAT SOME OF THE PUBLIC LAND IN PALAU WAS STILL MILITARY RETENTION LAND AND WOULD THUS NOT BE RETURNED AT THE TIME OF TRANSFER BY EXECUTIVE ACTION. AS YOU KNOW ALL OF THE U.S. MILITARY RETENTION LAND IN PALAU HAS ALREADY BEEN RETURNED TO THE PUBLIC DOMAIN AND I DO HOPE THERE IS NO LINGERING MISUNDERSTANDING ON THIS QUESTION. IF THERE ARE ANY DOUBTS I WOULD APPRECIATE YOUR HELP IN MAKING THIS POINT CLEAR.

IN OUR OCTOBER 29-30 TALKS IN HONOLULU SENATOR SALII STATED THAT THE IMPORTANT THING WITH RESPECT TO THE LAND TITLE TRANSFER QUESTION "WAS THE RESULT AND NOT THE METHOD". I WAS PLEASED TO HEAR HIM SAY THIS AND TO NOTE HIS ADDITIONAL STATEMENT THAT THE DESIRED RESULT (RETURN OF PUBLIC LAND) COULD BE ACCOMPLISHED BY EXECUTIVE ACTION. WITH RESPECT TO EXECUTIVE ACTION THE U.S. HAS AGREED WILLINGLY TO SENATOR SALII'S AND CONGRESSMAN SILK'S REQUEST THAT MICRONESIAN LEADERS BE CONSULTED BEFORE A SECRETARIAL ORDER IMPLEMENTING THE U.S. PUBLIC LAND TRANSFER POLICY IS ISSUED. I HAVE NOTED THAT IN A PRESS RELEASE ON SAIPAN SUBSEQUENT TO OUR HONOLULU MEETING, SENATOR SALII, TERMING THE TALKS "VERY SUCCESSFUL", REFERRED TO THE PROSPECTIVE ISSUANCE OF SUCH AN ORDER FOR THE RETURN OF PUBLIC LAND BY EXECUTIVE ACTION.

WE ALSO REVIEWED IN HONOLULU THE STEPS THAT WOULD HAVE TO BE TAKEN BY PALAU TO SPEED UP THE REALIZATION OF ITS LONG

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HELD DESIRE TO GAIN TITLE OVER LOCAL LAND NOW HELD BY THE TTPI GOVERNMENT. FIRST, THE PALAU DISTRICT LEGISLATURE SHOULD MAKE A FORMAL REQUEST TO THE ADMINISTERING AUTHORITY TO TRANSFER TITLE. SECOND, THE PALAU DISTRICT LEGISLATURE WILL HAVE TO ENACT LEGISLATION CREATING A LEGAL ENTITY TO RECEIVE TITLE TO PUBLIC LAND BEFORE AN ACTUAL TRANSFER CAN BE EFFECTED.

THIRD, TO MEET THE PALAUAN COMMITMENT TO NEGOTIATE "IN GOOD FAITH" TO SATISFY U.S. LAND OPTIONS, THE PALAU DISTRICT LEGISLATURE WILL HAVE TO EMPOWER A LOCAL BODY WITH AUTHORITY TO NEGOTIATE FOR THE LAND OPTIONS WITH THE U.S. AND TO ENTER INTO A BINDING LEGAL AGREEMENT. THIS AUTHORITY, AS YOU KNOW, MUST RELATE TO BOTH THE PUBLIC AND PRIVATE LANDS ENCOMPASSED BY THE LAND OPTION AREAS. I AM

SURE THAT OTHER DETAILS OF THE LAND TRANSFER PROCESS WILL BE SET FORTH SOON IN SPECIFIC GUIDELINES FROM THE TTPI ADMINISTRATION. I AM CONFIDENT THAT THE IMPLEMENTATION OF THIS PROCESS WILL BE GREATLY FACILITATED AS A RESULT OF THE ADVANCE CONSULTATION WE HAVE AGREED TO.

I SINCERELY HOPE THAT THIS LETTER WILL HELP TO ELIMINATE THE MISUNDERSTANDINGS THAT MAY HAVE LED TO RESOLUTION NO. 74(2)-23. IN SUMMARY, LET ME REPEAT THAT THE COMMITMENTS MADE BY THE U.S. LAST NOVEMBER IN WASHINGTON IN YOUR PRESENCE REMAIN EXACTLY AS STATED. THE U.S. CONTINUES TO BE WILLING TO TURN OVER THE TITLE TO PUBLIC LAND IN PALAU TO PALAU IF SO REQUESTED, BEFORE THE START OF THE NEGOTIATIONS FOR U.S. MILITARY LAND OPTIONS, SUBJECT TO THE CONSIDERATIONS SET FORTH IN THE NOVEMBER 1973 POLICY STATEMENT WHICH THE PALAU DISTRICT LEGISLATURE SUBSEQUENTLY APPROVED ON NOVEMBER 30, 1973 BY RESOLUTION NO. 73(S)-3.

BECAUSE OF THE IMPORTANCE OF THIS MATTER AND THE NEED FOR CLARIFICATION I AM SENDING COPIES OF THIS LETTER TO THOSE MEMBERS OF THE COM WHO WERE SENT CERTIFIED COPIES OF THE REFERENCED RESOLUTION, AND TO THE MEMBERS OF THE PALAUAN DELEGATION TO THE COM.

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PLEASE ACCEPT MY CONTINUING RESPECT AND MY WARMEST BEST WISHES.

SINCERELY YOURS, FRANKLIN HAYDEN WILLIAMS, U.S. AMBASSADOR,
MICRONESIAN STATUS NEGOTIATIONS. END QUOTE.

QUOTE

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 THE 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 LUII 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

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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 THE 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. 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 COMMITMENT TO NEGOTIATE IN GOOD FAITH CONTAINED IN THE 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

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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 OTHER 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 HAVE 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

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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) SET 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 UNDER SEPARATE COVER 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

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WITH BEST WISHES.

SINCERELY YOURS, FRANKLIN HAYDN WILLIAMS, U.S. AMBASSADOR,
MICRONESIAN STATUS NEGOTIATIONS. END QUOTE. INGERSOLL

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