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12 MAR 84 Jm
Specification Requested

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ECWhelan:12-13-74:kkc

DEFENSE ADVISERS POSITION ON MPSC LAND PROPOSAL

- I. The inclusion in the Covenant of the specified amounts of land, the method of arriving at the price and the method of acquisition and payment are acceptable. However, if the Covenant is expected to be an "operative legal document" the eminent domain provisions must be completely unfettered and the "cosmetic" section 806.a. should be removed or drastically altered to eliminate a probable basis for lawsuits in the future. If rewritten, 806.a. should provide no substantive rights only procedural guidelines.
- II. The MPSC position in Part III must be resolved before this section can be fully answered.
- a. Any change in Tinian acreage would have to be referred to Washington.
 - b. Out-grants, including Ken Jones lease, may be acceptable; however leases must be restrictive to include:
 - Compatible use (no permanent structures) which would minimize damages on condemnation/recapture.
 - Subject to the power of unfettered eminent domain, to terminate out-grants wherever necessary.
 - c. The more hinderances and encumberances on the land make it less useful to DOD (and raise the same problems the military is encountering in foreign countries).

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