

THE UNDER SECRETARY OF STATE
WASHINGTON

NSC UNDER SECRETARIES COMMITTEE

7104615

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March 31, 1971

MEMORANDUM FOR THE PRESIDENT

Subject: Trust Territory of the Pacific Islands --
Future Political Status

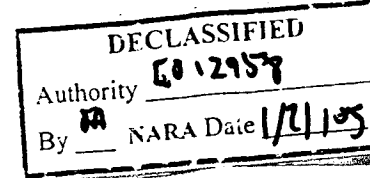
On February 3, 1971, the Under Secretaries Committee reviewed Micronesia's future political status and the options open to the United States for resolving this issue (Tab B).

I. Status of Discussions

The Committee agreed that negotiations and other contacts with the Congress of Micronesia have failed to produce appreciable progress beyond clarifying the respective positions.

The most recent U.S. proposal, advanced in the May 1970 discussions, envisaged that Micronesia would become a U.S. commonwealth, in permanent association, under U.S. sovereignty. (The proposal explicitly protected Federal Supremacy, so as to avoid the constitutional ambiguities of Puerto Rico's status.) Our delegation stated that the United States could not now foresee when a status of independence "might be appropriate to the circumstances of the Territory."

The Micronesian Delegation advanced four "non-negotiable" principles which affirm Micronesia's



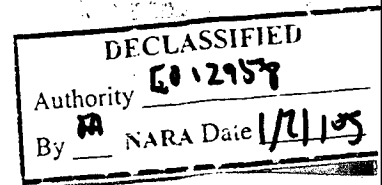
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sovereignty and right to independence or unilaterally terminable "free association with any nation." The Congress of Micronesia subsequently endorsed these four principles and declared the U.S. offer "unacceptable in its present form."

Micronesian leaders recognize the Territory's economic dependence on the United States. Most are convinced that if limitations can be placed on U.S. powers some form of association with the United States would best preserve the unity of the islands and their political and cultural identities. These leaders strongly object to retention by the United States of the power of eminent domain -- in view of the importance of land in local culture -- and to the vague but implicitly broad powers which the United States would reserve under Federal Supremacy provisions. Many also believe that a provision for unilateral termination is essential to preserve the concept of Micronesian sovereignty and to protect basic Micronesian interests. (We have indications that some formula, carefully circumscribed in law and difficult in practice, might be acceptable.) Their proposed solution is a "free association" -- a status which would recognize Micronesian sovereignty but generally leave defense and foreign affairs responsibilities to the United States.

More recently, there are increasing indications that it may be difficult, if not impossible, to obtain a single solution for the Territory as a whole in view of the growing alienation between the Marianas, where pro-U.S. sentiments are strong, and the other five districts, which desire a looser form of association. Culminating ten years of agitation, the Marianas District Legislature last month adopted a resolution stating the District's intention to secede



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from the Territory -- at an unspecified time. Thus, we may be required -- or, depending upon developments, may prefer -- to deal with the Marianas separately.

Under these circumstances, some of the following options, although they were developed as Territory-wide solutions, would become applicable to the five remaining districts. We would not expect any major difficulty in reaching agreement with the Marianas.

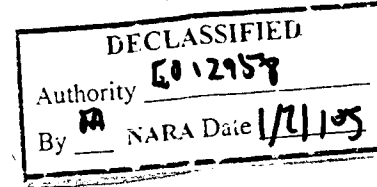
II. Options

The Committee agreed that we cannot hope simply to maintain the status quo, politically and administratively. The United States should, of course, take all possible steps to improve conditions for the status talks, such as improvements in administration and increased Micronesian responsibility for the government of the Territory. The Committee does not believe, however, that such actions alone will win Micronesian acceptance of the U.S. proposal in its present form.

The United States can approach the problem in several different ways:

- We could try to make the continuation of the Trusteeship acceptable to the Micronesians by giving them full self-government under it, subject only to U.S. security requirements, with the expectation that this could later result in a more favorable permanent solution than now attainable.

- We could continue to seek the extension of U.S. sovereignty over the islands. Thus,



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we could modify the U.S. commonwealth proposal in an attempt to make such an arrangement acceptable to the Micronesians; or, alternatively, we could, by means of a plebiscite, give those districts which would prefer to become part of the United States (e.g., the Marianas) the opportunity to do so, and seek to negotiate a separate arrangement with the remainder of the Territory.

- We could abandon the objective of U.S. sovereignty and seek to construct a looser, but still close, relationship ("free association") that would reflect U.S. strategic interests and largely satisfy Micronesian desires.

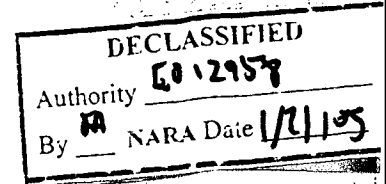
These broad approaches have been developed into a number of specific options summarized at Tab A and described in detail at Tab B.

III. Recommendations

The Committee is uncertain which of these approaches and options are negotiable. Moreover, approaches negotiable with the Micronesians might not be acceptable to senior members of the U.S. Congress. Thus, before proceeding with further negotiations with the Micronesians, we would propose to undertake appropriate Congressional consultations (Tab C).

In light of these uncertainties, our recommendations are presented in terms of a general negotiation sequence setting forth a series of steps, each of which might constitute an acceptable solution to the status question.

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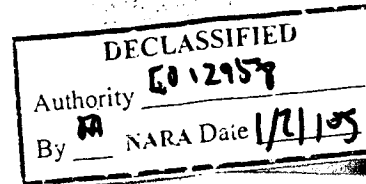
The departments differ on what would be the desirable initial step (Step A vs. Step B below). Furthermore, beyond the initial steps, the sequence is necessarily tentative and should be kept under review. We will continue to report on the progress of the negotiations and, as necessary, seek revalidation of the proposed negotiating authority in light of new developments.

Following is the general negotiation sequence for which the Committee requests your decision and approval.

Step A: Micronesian self-government under Trusteeship (Tab B, pp. 11-15 -- recommended by Interior as initial step; opposed by State and Defense).

The United States would, for the time being, discontinue efforts to end the Trusteeship. Meanwhile, the United States would undertake to turn over to the Micronesians, as rapidly as possible, the full administration of the Trust Territory, including relations with foreign countries other than military involvements. A commitment would be required by the United States to continue financial support at approximately present levels (\$50-60 million), without limitation on the use of such funds. The Micronesians would be free to reorganize the present administration, draft a constitution, and establish governmental bodies of their own devising.

The United States, by maintaining the Trusteeship, would continue its rights to exclude any foreign military presence and to retain or condemn land for military purposes.



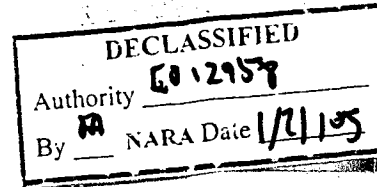
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Step B: Modified Commonwealth (Tab B, pp. 19-20 -- concessions limited to eminent domain and Federal Supremacy: recommended by State and Defense as initial step; by Interior as second step).

With the aim of extending U.S. sovereignty over the Territory as a whole, we would, within predetermined limits, continue to seek a solution along the lines of a commonwealth relationship modified only where essential to obtain Micronesian agreement. We would not accept a provision for unilateral termination. The U.S. negotiating limits would be:

- a. Eminent domain: Forego the exercise, as distinguished from the inherent power, of U.S. eminent domain, provided that long-term use of needed land in the Marianas is assured by prenegotiated arrangements (option, lease or purchase) and that present facilities in the Marshalls are retained. We would make every effort to obtain basing options in Palau for future contingencies; we would forego such options only as a last concession in exploring this Step and only if it were reasonably clear that a settlement of the status question was obtainable within the modified commonwealth framework.
- b. Federal Supremacy: Limit the exercise of Federal Supremacy where such is practicable, legal and not in derogation of overall U.S. national interests. We might agree that the United States would exercise Federal powers only in the fields of foreign relations and defense, except as agreed by the Micronesians or required by a national emergency.



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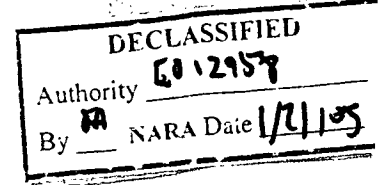
Step C: Modified Commonwealth (Tab B - pp. 19-20; Step B with addition of concession on unilateral termination).

If the concessions on eminent domain and Federal Supremacy (Step B) fail to produce agreement, we would offer the Micronesians a provision for unilateral termination, carefully circumscribed, possibly through a complex procedure and after a specified period of years. (For example, Micronesia might be given the right to terminate the commonwealth relationship, after a specified period, upon approval by a two-thirds majority of the Micronesian Congress and the Micronesian electorate.) Individual districts voting against the termination, e.g., the Marianas, would have the right to remain with the United States.

A termination provision would be offered only if two conditions were met: (a) it were clear that all other provisions of the modified commonwealth proposal (Step B) were acceptable to the Micronesians and that the addition of the unilateral termination clause provided a basis for final agreement; and (b) there were explicit agreement that the prenegotiated strategic arrangements (i.e., denial and basing rights) would legally survive a possible termination.

Step D: Multiple Solutions (District-by-district plebiscite option, Tab B, pp. 21-22, or variations thereof, as described below).

As a result of the most recent developments in the Marianas, we may be unable to find a single solution which will satisfy all districts -- i.e., a modified commonwealth (Steps B or C) may be unworkable as a Territory-wide solution.



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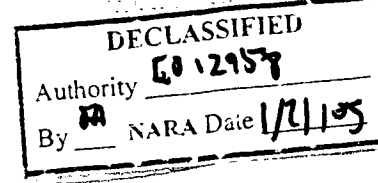
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Should this occur we would agree to offer the Marianas -- and any other district that found the option attractive -- the choice of joining with the United States. We should remain flexible as to the form of such an association, e.g., union with Guam or a separate territory/commonwealth, depending on which districts chose to join with the United States.

As regards the remainder of the Territory*, we would initially attempt to find a single separate solution, preferably by continuing the exploration of Steps B and C. Should this prove unsuccessful, we would consider further whether we should: (a) propose a "free association" type arrangement or a status of full independence to these remaining districts as a group; or (b) try to deal with each district separately.

At some point, we may find it useful to suggest a plebiscite that would offer each district a clear, hard choice between commonwealth status and full independence, with those districts choosing independence hopefully joining into a single entity (Tab B, pp. 21-22). Such a suggestion may have utility as a negotiating tactic at an early stage. In view, however, of the separatist sentiments in the Marianas and the mutual antagonism between the leaders of that district and those of the rest of the Territory, there is a distinct possibility that such a suggestion would be accepted, thus prematurely committing the United States to this approach.

* The Trusteeship agreement can legally be terminated only for the Territory as a whole. Thus, the United States cannot terminate the Trusteeship only for parts of the Territory or arrange for termination at different times.



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Step E: "Free Association" (Tab B, pp. 23-25)

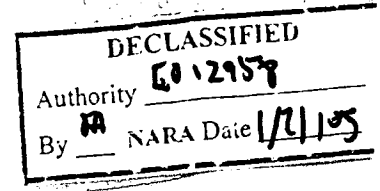
Under this step, we would explore a relationship of "free association". While abandoning the goal of U.S. sovereignty to satisfy key elements of the Micronesian position, we would attempt to negotiate a compact terminable only by mutual consent. We would insist on exclusive control over foreign relations and defense. Moreover, in most other respects, we would seek to establish a pattern of close relationships similar to that existing under a modified commonwealth to build up vested Micronesian interests in the association (e.g., participation in Federal domestic programs, access to the U.S. judicial system, rights of U.S. nationality, etc.). Finally, we would also insist upon prenegotiated arrangements, which would be designed legally to survive the association, to provide for strategic denial of the area and the same degree of access to land for military needs as under the modified commonwealth (Steps B or C).

Discussion:

The positions of the departments and agencies differ with regard to the merits of Step A:

Should the United States offer full self-government within an overall framework that would maintain the Trusteeship?

Interior believes that we should now proceed with this approach, thereby making time work in our favor. This approach will give the Micronesians a better appreciation of the problems of self-government, thus enabling us to strike a better bargain at some future date.

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State and Defense agree that increased self-government is advisable but believe that this approach -- aside from serious practical problems, including acceptability in the Marianas -- would at best deflect the Micronesians only, temporarily from the status issue. Having established a fully self-governing and functioning Micronesian state, and allowing it to forge unrestricted political and economic links with other nations, we would, as a practical matter, find it very difficult to ignore a petition for the lifting of the Trusteeship a few years hence under terms desired by the Micronesians.

In summary, the Committee requests your decision on the general negotiation sequence:

(a) Beginning with Step A
(favored by Interior)

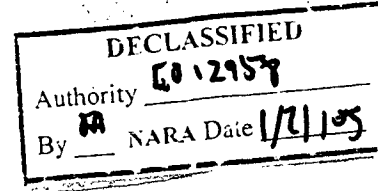
(b) Beginning with Step B
(favored by State and
Defense)

Disapprove

(The approved sequence will also serve as the basis of early consultations with the U.S. Congress).

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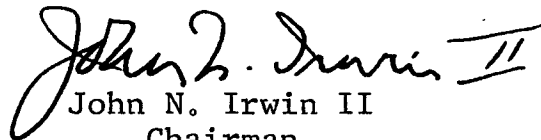
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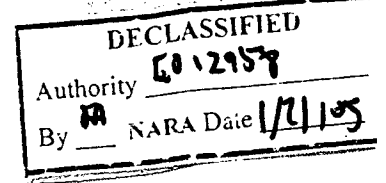


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In addition to the Committee's regular members, the Departments of Justice and of the Interior (which chairs the Interagency Committee on Micronesian status) and the Office of Management and Budget (OMB) have participated in this review.


John N. Irwin II
Chairman



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Enclosures:

- Tab A - Summary of Options
- Tab B - Report of Interagency
Committee
- Tab C - Proposed Congressional
Consultations