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PUBLIC LAND -- POSITION PAPER

1. Problem:

a. To devise a procedure for transferring control over public land from the U.S. (TTPI Administration) to each TTPI district that wants it, while providing for the following during the remaining period of the trusteeship:

- Retention by central government of land presently used by TT Administration and U.S. Government.
- Guaranteed recognition and confirmation of current leases and other uses of public land arranged by TT Administration, ~~as well as reasonable assurances of the survivability of those rights in the Post-trusteeship period.~~
- Arrangements to facilitate acquisition of land from new owners to meet future central government requirements with eminent domain authority remaining in the TTPI Administration.

b. To secure agreement as a result of this which will assure realization of basic U.S. military requirements in Palau, the Marshalls and the Marianas.

c. To reorganize land management functions so as to provide services and assistance in each district, to include equitable settlement of outstanding claims.

2. Proposed Principles

a. Any agreed solution for turning over all public land to any district that wants it must, to be acceptable to the U.S., be subject to the following:

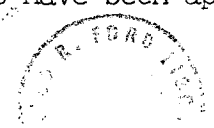
- (1) The administering authority would not turn over land presently used by TT Administration or U.S. Government. The administering authority would retain for the next five years, unless the trusteeship were ended before then, title to land on which CIP projects have been approved but not yet

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funded. However, the agreement would specify that when land was not longer needed it would be turned over to the district in question in whatever manner it desired.

(2) Existing leases and other arrangements made by the TT Administration involving current use and occupancy of what it now classified as public lands must be acknowledged and recognized by entities or individuals receiving title to public lands for the period of the present leases, or in the case of less formal use arrangements a fixed number of years (ideally ten, minimally five) at the end of which time occupiers would have to make new arrangements with the titleholders. Homesteads on which entry permits had been granted by the TT Administration prior to May 8 and still occupied must be fully recognized and protected.

(3) The Districts should be expected to facilitate the acquisition of lands to meet future purposes of the TT Government. The TT Administration will retain an ultimate right of eminent domain to facilitate such future acquisition of land for public purposes.

(4) All recipients must agree to hold the U.S. harmless for any disputes or settlements that may arise after the transfer except for those claims where damage is found to have been the direct result of action by U.S.

b. The question of title to submerged land should not be raised, leaving the matter to the COM, but the central government must in all cases retain power to regulate uses to which submerged lands are put.

c. Before title is actually transferred District recipients must agree to meet U.S. military requirements as set forth in Annex B of the draft compact and in the case of the Marianas as specified in the agreement worked out in subsequent status negotiations. In this connection it will be necessary

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to complete the long postponed U.S. military land survey in Palau as soon as possible in order to identify specific areas in question.

d. The Central Government will maintain limited land management functions (related to the remaining TT Administration land holdings and central management advisory services) with the rest of the function turned over to the districts as follows:

(1) Cadastral programs will be administered at the district level. In order to complete present cadastral survey requirements on an accelerated basis (i.e., within three years) the U.S. will seek special funds from the U.S. Congress for each district in amounts determined on the basis of the individual needs of that district.

(2) Claims will be administered at the district level in accordance with rules and procedures laid down by district legislatures, retaining land commissions as desired.

(3) Unsettled claims will be subject to regular referral to the court system as at present.

e. Role of TT Administration, COM, District Legislatures and the U.S.:

(1) TT Administration to accomplish land title transfers as required and reorganize land management and claims functions at central and district levels as indicated.

(2) COM to enact legislation as necessary to accomplish the foregoing (see paragraph 3).

(3) District legislatures to take appropriate implementing action to include as necessary indicated actions in section 3.

(4) The United States will assist in providing special funding for the cadaster program and in addition turn over those military retention lands that are not proposed for future military use and are not needed to satisfy related

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civil programs.

3. Proposed Solutions - District by District - On the basis of opinions expressed to the U.S. land survey teams in each district, and on the assumption that these will prevail in any future formal canvass by the COM the following district by district solutions seem most likely in individual districts with consequent actions indicated:

a. Palau

On the assumption that the views of District Legislature and traditional leaders continue to coincide on return of public lands to traditional leaders:

(1) Subject to general qualifications in paragraph 2, above, the TT Administration will execute title transfers of present quality on unused public lands to traditional leaders in the name of the respective municipal councils (which will have to have been chartered before then).

(2) Municipal Councils will execute simultaneously binding documents acknowledging and confirming the validity of the TT Administration leases and other arrangements referred to in paragraph 2 a (2) above.

(3) The traditional leaders would meet immediately with representatives of the U.S. and JCFS to negotiate before title transfer is effective the terms under which U.S. military requirements will be met in Palau.

(4) The District Legislature will establish and fund an accelerated land cadaster program as necessary to augment U.S. funded assistance, as specified in paragraph 2d(1).

(5) District Legislature will determine whether or not it wishes to exercise its own eminent domain authority concurrently with the TT Administration.

b. Yap

On the assumption that the views of District Legislature favoring return of unused public lands to municipalities in the districts prevail:

(1) Subject to general qualifications in paragraph 2, above, TT Administration will execute title transfers on unused public lands to the appropriate municipalities.

(2) District Legislature will establish and fund (as an augmentation to the U.S./TTPI funding assistance specified in Paragraph 2d(1)) a land cadaster program appropriate to local needs.

(3) District legislature will determine whether or not it wants to exercise an eminent domain authority concurrently with the TT Administration.

c. Marianas

On the assumption that views of the MPSC prevail favoring early return of public land to a central legal entity in the district which will serve as the Marianas trustee :

(1) District Legislature will create a legal corporate entity ("Trustee") to receive and hold title to public lands in trust for the people of the Marianas.

(2) Subject to the general qualifications in paragraph 2, above, TT Administration will execute title transfer on unused public lands to the Trustee once it is created by an act of the District Legislature.

(3) The U.S. Government will release to TT Administration for transfer to the Trustee those military retention lands not used by the U.S. military or required for related civilian or contingency purposes. (Post-trusteeship handling of contingency areas to be included in the U.S.-Marianas Commonwealth Agreement).

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(4) Marianas Trustee will simultaneously execute a binding document acknowledging and confirming the validity of TT Administration leases and other arrangements on both public and military retention lands as specified in paragraph 2a(2), above.

(5) The Marianas District Legislature will establish and organize a land management function and accelerated cadastral program, and provide funds as necessary to augment special U.S. assistance as specified in paragraph 2d(1), above.

d. Truk

On assumption that the views of the Truk District leadership will no longer support a go slow approach, awaiting a new Micronesian Central Government solution regarding return of the public lands, and assuming the Trukese propensity for mutual distrust and consensus continues, Truk is then likely to decide on control by a District Land Authority, that will subsequently decide the fate of each category of public land. This would entail:

(1) Subject to the general qualification in paragraph 2, above, TT Administration will execute title transfer to all public lands in the Truk District to the District Land Commission or other legal entity following their creation and chartering by the District Legislature.

(2) The District Legislature will establish and fund (as an augmentation to U.S./TIPI funding assistance described in paragraph 2d(1)) a land cadaster program appropriate to local needs.

(3) The District Legislature will determine whether or not it wants to exercise its own eminent domain authority concurrently with TT Administration.

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e. Ponape

On assumption that the Ponapeans continue to support their indicated preference for District Legislature/Land Board control of public lands:

(1) Subject to the general qualification in paragraph 2, above, the TT Administration will execute title transfer to all public lands in the Ponape District to a District Land Commission (Board) or other legal corporate entity following their creation and chartering by the District Legislature. Specifics of the Land Board Charter might include:

(a) Title and control of land will be passed to a District Land Board or Commission, under overall control of the District Legislature, as soon as the Board is organized and chartered by the District Legislature, and certified by the HICOM as being in consonance with the overall purpose and requirements of the transfer agreement.

(b) Land Board size and membership will be determined by the Legislature except that each board should contain at least one voting member from:

- 1 Elected Municipal officials (as appropriate).
- 2 District Legislature
- 3 District Executive Government
- 4 Traditional Leadership (Council of Chiefs).

(c) Kusaidan Land Board representation, proportionate to their public land area, must be specified.

(2) The District Legislature will establish and fund (as an augmentation to the U.S./TTPI funding assistance specified in paragraph 2d(1)) a land cadaster program appropriate to local needs.

(3) The District Legislature will determine whether or not it wants to exercise its own eminent domain authority concurrently with TT Administration.

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f. Marshall Islands

On assumption that the views of the Iroij and District Legislature continue to coincide **on return** of public lands to the traditional leaders:

(1) Subject to the general qualifications in paragraph 2, above, the TT Administration will execute title transfer on unused public land to the Iroij as soon as a legal entity representing them can be chartered.

(2) Elected municipal officials might appropriately have at least one representative on the land receiving entity (largely composed of Iroij) to be created.

(3) The District Legislature and land receiving entity will both execute, simultaneously with the land transfer, binding agreements acknowledging and confirming the validity of TT Administration leases and other arrangements referred to in paragraph 2, above.

(4) JCFS will officially acknowledge survival of U.S. leases in post-trusteeship period.

(5) The District Legislature will determine whether to exercise an eminent domain authority concurrently with the TT Administration.