

JMWilson:7-9-74:kkc

SUGGESTED RESPONSE ON FOREIGN AFFAIRS AUTHORITY

- New JCFS proposal represents significant change in previous position.

- Do not intend to review past history of understandings.

- Will say simply that in U.S. view this is a fundamental switch in basic ground rules under which two sides have been operating since Hana.

- Ground rules were these:

(1) That JCFS was seeking ~~basic~~ arrangement under which Micronesia could become freely associated with U.S. with Micronesia having basic responsibility for its own internal affairs giving it essential elements of self-government and U.S. <sup>having</sup> responsibility for external affairs and defense.

(2) That this arrangement would be terminable after a decent interval to give Micronesia a chance to ~~try~~ <sup>adopt</sup> some other arrangement which could be a closer or a ~~looser~~ arrangement ranging from commonwealth on the one hand to independence on the other.

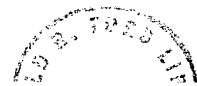
- JCFS proposal now brings into question ~~entire~~ <sup>an essential</sup> element of that equation: U.S. responsibility for foreign affairs.

- Since beginning of these talks U.S. has said that <sup>if</sup> it is to have responsibility for foreign affairs it must entail full authority. Otherwise as a

practical matter it will not work <sup>and is conceptually unacceptable</sup>

- It cannot be <sup>expected to accept</sup> an authority which is prey to someone else's whim or fancy or which is subject to arbitrary limitation by a withdrawal of delegation or enactment of conflicting legislation.

- Our experience with our own Congress and the states has shown conclusively that foreign authority is indivisible and must have primacy over local



*take precedence over*  
legislation. Our own treaties ~~supersede~~ <sup>prevail</sup> our domestic legislation.

- JCFS seems to be saying that the authority in foreign affairs is to be exercised by the U.S. subject to veto by the GOM any time ~~in the future~~ <sup>when</sup> ~~or~~ <sup>when</sup> internal domestic considerations are deemed to be more important by the GOM.

- This is no authority at all.

- It would not work. Here are some practical examples:

#### USE BERGESEN STOWE EXAMPLES

- Furthermore, it is legally impossible under new Vienna convention.

- In our view therefore if the new JCFS position is to prevail we would have a new equation wherein Micronesia would have full responsibility for its internal affairs and the U.S. would be expected to defend Micronesia and handle only those aspects of foreign affairs which the GOM might decide were consistent with its domestic policies - ill defined and subject to change though they might be and whether or not they were consistent with the overall foreign policy and security interests of the United States.

- This represents in our view something very close to independence and <sup>we</sup> a distinct switch from what/have been talking about for the past two years.

- In our view if you want to talk about independence let us do so, but <sup>let's</sup> not continue to talk about something called free association which in Carl Heine's terms is nothing more than camouflaged independence.

- You have said you have now had a chance to look at the Compact as a whole.

- U.S. agrees that this must be done and has in fact approached problem in the same way - Believes that if a major element is to be changed, balance is

upset, and other elements of package must be reexamined and adjusted appropriately, particularly Finance

- U.S. is perfectly willing to talk to you about independence and has offered to do so repeatedly in the past.

- As we said many times before, however, if we talk independence we begin from scratch and we would not under those circumstances consider it had any financial obligations.

- By the same token it must be made clear that U.S. would expect at minimum to continue present lease arrangements at Kwajalein and in view of continued strategic importance of area would insist that area not be opened up to armed forces of other nations.

- If you really wish to talk independence with us now we are prepared to do so.

*If on the other hand we have misinterpreted your proposed changes we would be happy to be advised of the cause of our misinterpretation & to explore the matter further.*

