

WORKING PAPER

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J. Taylor/NSC

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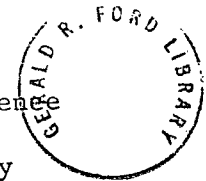
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STATUS OPTIONS

In light of developments over the past year, it appears that the preferred status solution - a compact of free association, under which the U.S. would retain responsibility for and authority over foreign affairs and defense - is no longer within our grasp. Not only has the COM declined to endorse the draft Compact negotiated in 1974, contending that the levels of financial assistance offered were too low, but the drafters of the proposed Micronesian Constitution and the leadership of the COM have made it clear that the draft Compact must be amended to conform with the new Constitution. All things considered, it now appears that a Free Association arrangement acceptable to both sides cannot be negotiated unless the proposed Micronesian Constitution is rejected or is amended to accommodate the basic principles of the draft Compact.

Hence, the time has come to reconsider the several independence options described in the Second Study and several other possibilities. While the views of the Micronesian leaders on these options are not yet known in detail, it should be kept in mind that the JCFS was instructed by the COM in 1972 to negotiate an independence option and there is substantial sentiment in the five districts favoring some form of independence; in a sense the main issue is not whether to opt for independence but when and under what terms.

There is some evidence that when the Micronesians speak of independence they usually have in mind a status somewhat different from the generally accepted or classical meaning of this term. Their concept of independence embraces some of the main features of "free association", delegation of broad



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powers to another power in exchange for guarantees of continued financial assistance and security, etc. Most Micronesians, including their political leaders, have no desire to attain a status of unqualified independence if this were to jeopardize continued high levels of U.S. financial or economic assistance.

In contrast to the basis used in the previous study to evaluate the several status options, whether or not they contributed to the negotiations for a Compact of Free Association, the following analysis is keyed to fundamental U.S. interests and objectives in the region and on the probable reactions of Micronesian leaders and interested members of the U.N.

We have reviewed the four independence type options described in the previous study, a possible variant of the draft Compact, and several other possibilities. The value of each of these options must be judged mainly on its relationship to the interests and objectives cited above, in like manner, Micronesian views of their worth will depend ultimately on judgments stemming from their particular needs and interests or attitudes towards the U.S.A. While we assume the continued political unity of the Carolines and the Marshalls, each option is also examined from the standpoint of its effect on this objective. If despite our efforts one or more of the remaining districts breaks with the others, a new assessment will be required.

A. Unqualified Independence

Under this option the U.S. would inform the Micronesians that we perceive no purpose in pursuing negotiations for a Compact of Free Association, in light of the character of the proposed Constitution and world opinion on

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this issue. We would indicate that the only area open to negotiation would be the duration and elements of the period between now and the end of the Trusteeship and on the question of future assistance. The U.S. might indicate that our decision to stipulate this political solution in no way detracts from our continued interest in the security of the area and our continued resolve to meet all related commitments and to ensure that no other foreign power establishes military bases in this part of the Pacific.

The essential elements of this option would be:

- (1) It would be a unilateral and essentially non-negotiable offer;
- (2) Micronesia would attain full sovereignty at the end of the Trusteeship and would thus have full responsibilities for external as well as internal affairs;
- (3) It would reduce any possible leverage on future U.S. assistance to the single element of our continued need for the military facilities in the Marshalls;
- (4) No U.S. domestic programs or services would be offered post-Trusteeship; this includes the Postal Service, disaster relief, educational or health services;
- (5) While the new government of Micronesia would be eligible for U.S. foreign assistance, like any other independent state, we would warn them that any chance of it approximating current levels is precluded by a general shortage of assistance funds and the needs of others;
- (6) No mention would be made of the possible future need for any

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additional military facilities or rights, but the U.S. would refrain from any statements which might foreclose the possibility of obtaining such rights should the need arise;

(7) At an appropriate time, we could state that the U.S. regards the Kwajalein leases as valid and assumes that the new government of Micronesia will honor them.

Pro

-- Would be consistent with traditional U.S. views on the issue of independence and would satisfy U.S. political and legal obligations under all pertinent U.N. agreements;

-- Would contribute to U.S. position as anti-colonial power in the U.N. and ensure approval of the U.N. Security Council;

-- Would reduce to absolute minimum future U.S. financial obligations to Micronesia;

-- Would satisfy those in the U.S. who oppose continued close ties with Micronesia or who support its full independence, but would not necessarily be approved by the U.S. Congress.

Con

-- Would reduce our ability to ensure against contingencies and to deny access to the military forces of third powers;

-- Might cause greater political instability in Micronesia, resulting either in political fragmentation or a weak central authority unable to withstand the blandishments of other foreign powers;

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-- Might be misinterpreted by our friends in Asia as a sign of "neoisolationism" ^{or} ~~and~~ irresolution vis-a-vis our security commitments in the region;

-- Would almost certainly require the renegotiation of present leases, thus providing a ~~significant~~ financial lever to the Micronesians;

-- Would lead to new demands for a lengthened period of transition and significantly higher U.S. expenditures for basic infrastructure.

-- would exacerbate political disunity
B. Kwajalein-Denial Independence Option

To better protect U.S. security interests, and perhaps to render the independence option more credible to the Micronesians, who know from previous discussions of free association that the U.S. has some interests in the TTPI it considers irreducible, the U.S. might condition the unqualified independence option described above by:

(1) Stating its intention to retain Kwajalein, with termination and compensation as contracted under the current leases. As current leases expire they would be renegotiated individually.

(2) Stating that the strategic character of Micronesia will not change with independence, the U.S. would note that it would view as a potentially hostile act any military access to Micronesia by a third country and would act as necessary to protect its interests. The U.S. would note that it does not intend to compensate Micronesia financially for this U.S. imposed denial of military access by other countries.

With the exception of the two foregoing conditions, this option

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would be the same as the wholly unqualified version of independence.
-- ~~Would probably exacerbate political disunity.~~

Pro

-- Would meet two of the primary U.S. security objectives.

-- Would probable satisfy the Micronesian desire for genuine status alternatives, thus creating a promising atmosphere for long-term U.S.-Micronesian relations. However, a very small minority espousing absolute independence would insist that a qualified option cannot be considered a real independence alternative.

-- Would have a good probability, but marginally less than the unqualified independence option, of winning U.N. Security Council support for termination of the trusteeship, even should the Micronesians reject this option and elect in favor of a free association relationship.

Con

-- Unilateral U.S. declaration of its intention to enforce denial, if necessary, would present a potential issue which Micronesian radicals might rally around and could provoke a test of U.S. resolve.

-- Denial would depend on the U.S. ability and willingness to enforce this condition under circumstances that could be dangerous, or politically undesirable.

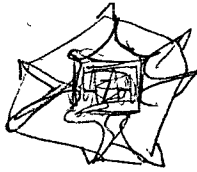
-- Would probable be seen by diehard independence advocates as not a true independence option.

-- Would carry the same political and security risks as the unqualified independence option, except the U.S. would have protected (retained)

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to some degree denial and base rights in Kwajalein.

-- would contribute to political disunity
C. Independence; Prenegotiated Defense Treaty Agreement

This option includes two interdependent parts: (a) Micronesian independence with Micronesia legally responsible for its defense, external and domestic affairs; and (b) simultaneous entry into force of a pre-negotiated U.S.-Micronesian mutual security treaty of specified duration, covering denial and U.S. basing and operations rights. (The U.S. would have no authority over Micronesia's foreign affairs.) This option would be similar to the relationship which would probable exist with Micronesia following any termination of a compact of free association, with survivability of U.S. defense rights. U.S. financial payments, reflecting the nature of the political relationship, would be less than under a compact of free association.

An alternative arrangement would be to present this treaty to the Micronesian electorate along with the proposed constitution and certain assurances regarding transitional measures.

Pro

-- Would legitimize and protect U.S. strategic interests - possibly firmer than previous independence options.

-- Could satisfy those Micronesians espousing independence; since it would presume Micronesian sovereignty in negotiations with the U.S.

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-- Might satisfy most of the U.N. as a legitimate expression of self-determination and might be more acceptable to the U.S. Congress than other options.

-- Would be less costly than Free Association or Territorial status.

-- Would contribute more to political unity than previous options.

Con

-- Would provide Micronesians with some financial leverage, though less than a Compact of Free Association.

-- While the United States might succeed in covering its fundamental defense interests in the treaty, this arrangement would be subject to risks and negative pressures similar to those experienced in agreements with other independent countries.

-- While the United States would be provided with more direct ties and leverage points than under the preceding options, it would have fewer than under free association. It would be more difficult than under free association to fashion a close, stable and permanent relationship which could buttress any political and security arrangements.

-- Might preclude endorsement of termination of the trusteeship by the U.N. Security Council if it appeared to be a precondition to independence.

D. Independence: Mutual Security and Economic Aid Agreements - signed by new Government and U.S. immediately after Independence

~~Variant One: Agreements Integral to Termination~~

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Pro

-- Removes any possibility that the Micronesians might ~~decline~~ ^{renege} ~~to enter into the agreements or seek immediate renegotiation of financial~~ ^{on grounds that they were pressured into signing treaty with US}

~~provisions:~~

-- Provides protection of U.S. security interests for the period of the mutual security agreement, presumably 15 years, and possible for an additional survival period.

-- Defines the U.S.-Micronesian relationship in a simpler and clearer way than free association and may thus facilitate good U.S.-Micronesian relations.

-- Easier for Congress to approve than free association, because it is a more familiar, less "neo-colonial", and possibly cheaper arrangement.

Con

-- Micronesian, Congressional, and U.N. critics might still attack the validity of the independence status, alleging that the tied agreements compromised the independence.

-- Would be more costly than unqualified independence or bilateral deal with Marshalls.

E. Deliberate U.S. pursuit of Micronesian fragmentation.

Pro

-- Could provide more assured access to Kwajalein and facilitate U.S. agreement for land options in Palau.

Con

-- Would make "denial" more difficult to achieve, since we would have to keep a greater number of less viable political entities happy.

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-- Would entail more sets of negotiations and settlements, annoying the Executive Branch, Congress, and the U.N.

-- Would renege on public U.S. statements favoring unity of the five districts.

F. Independence; Prenegotiated U.S. Control over Foreign and Defense Affairs

This alternative would clearly designate Micronesia a sovereign independent country. It would note full Micronesian authority over internal affairs but would entail some formula (probably a U.S.-Micronesian treaty) giving the U.S. effective authority over Micronesia defense and external relations, though probably not as expressly as in a compact of free association. Language similar to that in the India-Bhutan Treaty of 1949, under which Bhutan "agrees to be guided by the advice of India in foreign affairs" might be appropriate. While U.S. financial support would not be so generous as under a compact granting it unlimited authority in foreign affairs, U.S.-Micronesian ties would be sufficiently close that the U.S. would consider it its responsibility to provide Micronesia substantial economic assistance. Unlike a compact relationship, it would be difficult if not impossible to extend most U.S. domestic programs and services to Micronesia.

Pro

-- Would provide greater U.S. authority over both Micronesia's defense and foreign affairs than do previous four options.

-- Might facilitate early agreement on an agreement most nearly

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meeting U.S. security requirements sought through a compact of free association.

-- Provides some basis for maintaining in the U.N. that the objectives of the trusteeship agreement have been met.

Con

-- Could provide less stable U.S. authority over Micronesia's foreign affairs and defense than under a compact of free association, even though the treaty purported to guarantee identical U.S. interests.

-- Would be more costly than previous options.

-- Would not satisfy those in Micronesia who demand free choice between free association and full independence; extreme independence advocates might attempt to disrupt the resulting close U.S.-Micronesian relationship.

-- To the extent that there is a lack of clear definition of authority in defense and foreign affairs, there would exist grounds for continuing friction.

-- Would increase significantly chances of a Soviet or PRC veto in the U.N. Security Council of termination of the trusteeship agreement, and might remove any possibility of endorsement of termination by a majority of the Security Council.

-- While the United States would seek to include its fundamental defense objectives in the treaty, the Micronesians would be equal partners under the treaty and this arrangement would be subject to risks and negative pressures similar to those experienced elsewhere in the world.

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G. Modified Free Association - an alternative to the Draft Compact

This option would represent a compromise between the proposed constitution and the principal features of the draft compact negotiated in 1974 with the JCFS. Its acceptability would entail the willingness of the Micronesians either to modify certain sections of the proposed constitution or to postpone its full effect until full independence could be negotiated. Alternatively, it could be the produce of negotiations between a new Micronesian Government, formed after the adoption of the Constitution less those measures in conflict with the Trusteeship Agreement and with the U.S. maintaining ^{*certain specified*} ultimate responsibilities in the areas of foreign affairs and defense, and the U.S. The status agreement would then be put to the people in a yes-no plebiscite or as an alternative to full independence sometime prior to the end of 1978.

The main elements of this modified compact would be: full sovereignty to the new state of Micronesia except for certain well-defined authorities and responsibilities in areas considered important to the security interests of the U.S. plus an arbitration provision.

While U.S. security interests might be protected through such agreement, there is no assurance that the new sovereign Government of Micronesia would eschew actions contrary to U.S. interests or policies, e.g. it might agree to join a "nucleas free coalition" of regional states.

In any case, while the proposed constitution of Micronesia does not specifically preclude the delegation of powers we seek under the draft compact, acceptance of such broad delegations by the Micronesians would

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appear to be inconsistent with the main thrust of the constitution and recent statements of its supremacy over the draft compact and current land agreements with the U.S.

A decision is needed regarding the advisability of attempting to reach agreement on a new draft compact, more in line with the main provisions of the proposed constitution or, alternatively, to inform the leaders of the COM that the U.S. believes that no useful purpose is to be gained from such an attempt and that the time has come to negotiate an independence option - one which would satisfy the basic needs and desires of both sides. ~~We might add to this that in our view~~ ^T The Micronesians should then be asked to voice their preference between the draft compact and an independence option compatible with their proposed constitution. This plebiscite could be conducted simultaneously with the next COM election, and would serve to test the unity of the districts as well as the acceptability of the proposed constitution.

Pro

-- Might provide a greater degree of assurance that U.S. security interests will be protected, at least during the first 15-17 years of the Treaty.

-- Might facilitate the status negotiations by maintaining continuity with earlier negotiations while moving in direction favored by the COM.



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Con

-- Might be unacceptable to the U.S. Congress because of its high cost and complexities.

-- Might lead to an increase of U.S.-Micronesian friction, given divided responsibilities in foreign affairs and defense areas.

-- Would be less acceptable to the U.N. than the independence type option.

H. Territorial (Commonwealth?) Status

Although this status option was rejected by the COM during the initial rounds of the status negotiations - six years ago, it would be surprising if the Marianas Covenant has not stimulated renewed interest in it in the other districts, particularly among those in the Marshalls and Palau who fear the consequences of a U.S. withdrawal or political union with the other poorer districts

The widespread sentiment favoring the status quo, which is particularly strong in the outer islands and among the older and more conservative peoples of the five districts is perhaps indicative of the potential strength of this option if it were included in a plebiscite offering independence versus territorial status.

At this juncture there is really no way to measure accurately the relative strengths of those who favor a continued close association - *some form of*
Territorial status
~~Commonwealth~~, for example - with the U.S. as opposed to those who favor independence or a period of "free association" followed by full independence.



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The informal status referendum of July 1975 cannot be taken as a reliable indication of the probable outcome of a plebiscite in which the people were made to vote for only one of two or three status options.

The previous study recommended that the Commonwealth option should not be reintroduced into the status negotiations "at this time" but noted that it would be "appropriate to keep the Commonwealth option open against future negotiating contingencies."

This option would more fully satisfy all of the current negotiating objectives except for possibly two - the obtaining of the approval of the U.N. Security Council - we would doubtless be charged with "buying the vote", keeping U.S. "financial obligations...within reasonable bounds..."

In addition, strong elements in the U.S. Congress would probably oppose the grant of any kind of territorial status unless it were the overwhelming choice in all the districts, a very low probability occurrence.

There is an outside chance, however, that this option will become the "lesser of evils" once the Micronesians are persuaded that the U.S. does not intend to continue the Trusteeship indefinitely and the probable consequences of independence and political fragmentation are more fully understood.



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I. The following are presented as additional considerations.

1. Unincorporated Territorial Status. (American Samoa model)

The Samoan model would include such specific advantages as:

- U.S. National status vice U.S. Citizenship.
- Specific recognition of traditional customary rights and their supremacy over local matters.
- Specific extension of the U.S. Bill of Rights and Article IV, Section 3, Clause 2 (Other provisions of the U.S. Constitution to be applied of their own force on a case by case basis consistent with the status agreement).
- Local government under a local Constitution with elected local officials.
- Preferential trade and customs treatment.
- Restrictions against alienation of land to other than local residents.
- Agreement that international treaties will apply but that Micronesia will enact its own implementing legislation.
- Federal programs and federal laws will apply only as they apply to federal activities in Micronesia.
- Micronesians will be able to participate in U.S. delegations when international matters arise relating directly to Micronesia.
- Local laws may establish preferential employment for local residents.



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- No U.S. eminent domain except by first negotiating with local legislature and only to obtain minimum interest required for the project.

PRO

- Offers a model based on the current U.S. territorial system.
- ^{might be} Would gain acceptance ^{like it} in U.S. Congress.
- Offers protection to Micronesians against U.S. dominance of local affairs.
- Permits an interim status to enable the U.S. to improve the status climate in Micronesia for more favorable consideration at a later date.
- Permits U.S. to retain final authority over major aspects of importance to U.S. interests.
- Offers a model familiar to Micronesia.



CON

- U.N. ^{might} ~~may~~ oppose.
 - Micronesia may interpret this model as an indication U.S. will renegotiate Free Association model.
 - Micronesia may reject in favor of more complete autonomy.
2. Federated Micronesia in association with U.S.A. ala ^{License system} "Licentstein". ^{Fundamental} Authority with the U.S. ^{would be vested} common to all the districts ^{Apel} would include: common foreign affairs, trade and commerce, defense authority, and the right to local self-government. At the same time the U.S. would reach agreement with each district on specific rights and obligations common only to that district; e.g., foreign assistance, land use rights, status of U.S. citizens and military personnel, applicability of federal programs

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and immigration and travel.

PRO

- This concept would permit a continued U.S. presence and a close U.S.-Micronesia working relationship in areas fundamental to U.S. interest.
- It would also permit the U.S. to foster unity under an "umbrella" approach and yet permit each district to pursue its own particular interests.
- This is reflected in the draft Micronesian Constitution.
- Would enable U.S. to continue momentum in the Free Association status talks by redirecting the focus of the JCFS from a loose relationship in which the U.S. has the full burden and Micronesia has more autonomy into a relationship wherein the burdens and authorities are shared more equitably.
- Is a concept understood and desired by most Micronesians (e.g., loose but continued association with the U.S.A.)

CON

- Would foster looser relations with the U.S. than is currently held under Free Association.
- May not be acceptable to the U.S. Congress in light of prior stances that Micronesia should be independent.
- May be a prelude to, and foster, fragmentation.
- Does not fit any U.N. criteria for self-determination.

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