DEPARTMENT OF STATE
Washington, D.C. 20520

NSC UNDER SECRETARIES COMMITTEE

CONFIDENTIAL
NSC-U/N-188

January 18, 1977

TO: The Deputy Secretary of Defense
The Assistant to the President for National Security Affairs
The Director of Central Intelligence
The Chairman of the Joint Chiefs of Staff
The Deputy Attorney General
The Under Secretary of the Interior
The Under Secretary of Commerce
The Deputy Secretary of Transportation
The Director, Office of Management and Budget
Ambassador Philip W. Manhard, Office for Micronesian Status Negotiations

SUBJECT: Negotiations on the Future Status of the Micronesian Islands

The Chairman has forwarded the attached memorandum to Brent Scowcroft concerning the negotiations on the future status of the Micronesian Islands. A copy is provided for your guidance. The attachments to the memorandum have already been forwarded to the members of the Inter-Agency Group and therefore are not included here.

Rutherford Poats

Rutherford M. Poats
Acting Staff Director

Attachment:

As stated

CONFIDENTIAL
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SECRETARY OF STATE
WASHINGTON

NSC UNDER SECRETARIES COMMITTEE

CONFIDENTIAL
SECRET ATTACHMENTS

Dist made as attachment to NSC-U/N 188

January 18, 1977

MEMORANDUM FOR MR. BRENT SCOWCROFT
THE WHITE HOUSE

Subject: Negotiations on the Future Status of the Micronesian Islands

The new Administration will be required to make early decisions establishing negotiating instructions and plans for the resumption of talks with representatives of the Micronesian Islands on the future political status of this UN Trust Territory.

The Under Secretaries Committee has not completed the policy review requested by the NSC staff on November 15. In order to facilitate completion of the review and determination of negotiating instructions, I am transmitting to you and to the interested departments and agencies papers reflecting the current state of interagency consultation on the key issues.

There is agreement at the Inter-Agency Group level (task force level) that the United States should make a further effort to achieve a compact of free association with a unified Micronesia, according self-government but with retention by the United States of responsibility for Micronesia's foreign relations and defense for a period of at least 15 years after the present target date of 1981 for termination of the UN Trusteeship, as provided for by the 1973 and 1974 Presidential instructions. The keys to achievement of this objective appear to be mutually satisfactory resolution of two major issues:

1) Separatist tendencies in the Marshall and Palau Islands, based largely on fears that their present and prospective economic advantages will be diluted by joining the less advantaged Carolines in a single state sharing US financial subsidies. Means of reversing these tendencies and encouraging adherence to a single compact of free association must be examined and authorized for discussion with Micronesian representatives.

2) Micronesian demands for control over marine resources in an extensive economic zone extending 200 miles off their coasts, including the right to conclude bilateral and multilateral treaties regulating access to these resources -- a significant exception to US control over Micronesian foreign relations.

The Inter-Agency Group has delineated options for resolving the marine resources issue, including concessions suggested by some agencies which would substantially dilute US control over this important feature of Micronesia's foreign relations.

The Inter-Agency Group has considered without full agreement or review at the Under Secretaries Committee level a set of proposals dealing with US military lease terms, fisheries surveillance and enforcement, and other financial measures intended to induce adherence by all Micronesian districts to a single compact of free association. Decisions on some or all of these elements of a negotiating strategy may be judged necessary before the resumption of talks with the designated Micronesian status commission or exploratory discussions with representatives of the Marshalls and Palaus.

Charles W. Robinson
Chairman

Attachments:

As stated

O[illegible]N STATUS NEGOTIATIONS
[illegible]ON, D.C. 20240

January 10, 1977

SECRET

SECRET

MEMORANDUM FOR:

CHAIRMAN, UNDER SECRETARIES COMMITTEE

From: Chairman, Interagency Group for Micronesian Status Negotiations

Subject: Review of U.S. Policy on Micronesia's Future Status

Ref: NSC-U/SM-86AD

Attached is the draft review of U.S. policy on Micronesia's future status revised in light of comments received from members of the IAG including the Departments of Defense (ISA & JCS), Interior, Justice and Commerce, as well as the Coast Guard. In the absence of any written comments to date by OMB, it is assumed that OMB has no serious objections to this paper. Interior supports the draft except for recommendation 3 which is inconsistent with current Interior Under Secretarial guidance which calls for a greater grant of marine resources authority to Micronesian than Positions II or III in this paper. Interior hopes to seek reassessment of this issue at the Under Secretarial level.

The State Department in its comments disagrees with some of the key recommendations, requests major revisions and extensive additions to the review and raises many questions regarding alternative U.S. policies, strategies and tactics beyond the scope of the present draft policy review. The other members of the IAG, however, support the premise on which this paper is based, i.e., that only if further efforts to negotiate a status of free association fail, should another strategy be considered in depth and recommendations made thereon in light of such negotiating experience.

The clearly divergent views of the State Department cannot be reconciled with those of the other departments concerned at the IAG level. Therefore, the attached draft review, with the State

[illegible] BY Philip W. Manhard
Acting Representative

[illegible] E.O. 11652
[illegible] AUTOMATICALLY DOWNGRADED
[illegible] 2 YEAR INTERVALS
DECLASSIFIED ON 31 DEC 85

SECRET

SECRET

Department's dissenting comments, is hereby forwarded with the recommendation that this review be further considered by the Under Secretaries Committee at as early a date as possible.

Philip W. Manhard

Attachments:
as indicated

cc:
William H. Gleysteen, Senior Staff Member, NSC
Deputy Assistant Secretary Edmond-EA, State
Deputy Assistant Secretary Abramowitz-DOD/ISA
Assistant Attorney General Scalia, Justice
Assistant Director, Political/Military Affairs, BGEN Sennewald, J-5, JCS
Associate Director Ogilvie, Office of Management and Budget
Deputy Administrator Pollack, NOAA, Commerce
Chief, Office of Public and International Affairs RADM Wallace, U.S. Coast Guard

...MICRONESIAN STATUS NEGOTIATIONS
...ON, D.C. 20240

January 10, 1977

SECRET

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Philip W. Manhard
Acting Representative

SECRET

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Philip W. Manhard

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as indicated

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William H. Gleysteen, Senior Staff Member, NSC
Deputy Assistant Secretary Edmond-EA, State
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Assistant Attorney General Scalia, Justice
Assistant Director, Political/Military Affairs, BGEN Sennewald, J-5, JCS
Associate Director Ogilvie, Office of Management and Budget
Deputy Administrator Pollack, NOAA, Commerce
Chief, Office of Public and International Affairs RADM Wallace, U.S. Coast Guard

SECRET

DEPARTMENT OF STATE

Washington, D.C. 20520

December 21, 1976

TO: Ambassador Philip W. Manhard
U.S. Deputy Representative for
Micronesian Status Negotiations

FROM: Lester E. Edmond
Deputy Assistant Secretary
Bureau of East Asian and Pacific Affairs

SUBJECT: Review of US Policy on Micronesia's Future Status

REFERENCE: Your Memorandum of November 30, 1976

Responding to the draft recommendations set forth at pages 8 and 9 of Part A of your draft review, the Department makes the following comments and recommendations:

We endorse the proposals that the US negotiator should make further efforts to complete negotiations for a Compact of Free Association in the near future, and that the US at present should continue to refuse to undertake separate status negotiations with any single district.

We recommend that in a negotiating session in the near future the US side should fully explore with the Micronesian side the marine resources proposals set forth in my November 5 memorandum to Mr. Poats, forwarded to you under cover of a November 10 memorandum from Mr. Poats (copy attached). Therefore recommendation 3 of your draft study should be redrafted in accordance with that guidance, which proposed authorizing the US negotiator to offer a negotiating package under which the US would be responsible for the negotiation on behalf of Micronesia all international agreements dealing with marine resources and would commit itself to "consider sympathetically" any Micronesian requests for the negotiation of such agreements. Until an explanation of these proposals has been conducted, we believe it would be premature to consider additional marine resources proposals such as that proposed as recommendation4 of your draft study.

For the present, a report to the President should be limited to the foregoing points. In addition, we believe that a further expansion of your study should be carried out urgently on an interagency basis with the

intention of forwarding to the Under Secretaries Committee by the end of January 1977 recommendations with regard to (a) preparations for the negotiating session now anticipated for March 1977, and (b) consideration of steps to be taken should the Micronesian negotiators at that session reject our marine resources proposals.

Preparations for the March Session. In order to maximize the effectiveness of the next negotiating session, we believe the following questions pertaining to political unity need to be addressed in the early weeks of 1977: Should the US side approach the Marshallese, Palauans, and Kusaieans in January or February in an effort to persuade them to participate on the Amaraich negotiating commission? Should such an approach include an indication that the Marshalls and Palau would get more US financial assistance in a politically-unified Micronesia than as politically separate entities? Should there be a simultaneous approach -- with parallel financial aid indications -- to the Amaraich group regarding the need to develop a looser confederation than that envisaged under the draft Constitution? If such effort evokes no response by March, should the US side talk with the Amaraich commission as constituted or first make additional efforts to secure participation by the absent districts? If the Micronesians accept our proposals at a spring negotiating session, would we move to a summer plebiscite on free association if the Marshalls, Palau and Kusaie had participated in the negotiations? If they had not?

Post-March alternatives. An unequivocal Micronesian rejection of the US marine resources offer, as recommended above and attractively fleshed out, would mean that free association as defined through five years of US-Micronesian negotiations -- i.e., entailing full US conduct of Micronesian foreign and defense relations -- was no longer a viable goal. Thus the US would have arrived at a major watershed in its Micronesia policy, and would be faced with the necessity of carefully examining the considerable array of conceivable post-Trusteeship political statuses which would remain, of varying degrees of desirability from a US viewpoint:

-- free association with US conduct of Micronesian defense affairs and of foreign affairs with the exception

of c[illegible]rce matters. (Sweetners dealing with enforcement/surveillance 1/ and with military land lease renegotiation 2/ might be added);

-- free association in which the US would be responsible for Micronesian defense affairs but Micronesia would be responsible for all foreign affairs including marine resource matters;

-- free association which could be unilaterally terminated at any time, rather than not until 15 years after Trusteeship termination;

-- free association between the US and several different Micronesian political entities 3/;

-- independence, whether of a politically unified or politically fragmented Micronesia, with a pre-negotiated mutual security treaty;

-- independence with a subsequently-negotiated mutual security treaty; and

-- independence with no mutual security treaty.

A central element in US thinking on Micronesia policy should now be that the passage of time during which the US and Micronesia continue to demonstrate an inability to reach full agreement increasingly frays Micronesian

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1/ In order to facilitate prospective discussion of your draft study's recommendation 4 or other enforcement/ surveillance possibilities, we recommend you immediately ask the Coast Guard to develop an estimate of what a reasonable program for Micronesia might be expected to cost

2/ To the extent that a lease renegotiation proposal would constitute a US acknowledgment that all provisions of the June 1976 initialed draft Compact of Free Association can be renegotiated, this concession would carry implications extending well beyond the Kwajalein land issue itself.

3/ In this connection we note that recommendation 5a of your draft study would in effect accede to the Marshallese and Palauan demands for separate negotiatons. We question whether the proposed direct US intervention could succeed in resolving the complex interdistrict differences, and are doubtful that it would proved feasible to erect a multilateral "umbrella" agreement over a series of bilateral agreements.

confidence in the US and hence erodes the prospects of agreement on the closer forms of US-Micronesian political relationships. The events of recent weeks suggest that this process may be accelerating, and a Micronesian rejection of our proposals at the next negotiating round might be expected to produce a further acceleration of this tendency.

In consequence, it is strongly in the US interest to be able to move reasonably rapidly from one negotiating stage to the next, avoiding the long gaps between negotiations which have occured in the past and aiming at full agreement with the Micronesian negotiators in 1977 if at all possible. To that end, the US side should not wait to see whether the March talks succeed before it considers such questions as the following, with which we will be faced if those talks fail:

-- What range of status options retain a prospect of attainment sufficiently high to merit serious consideration?

-- Which position within that range should be the US goal, and what strategy is best calculated to reach that goal?

-- Where are the trade-offs? e.g., do we abandon political unity to preserve free association, and if so when and how?

-- Where are the bargaining points? In what order should we offer any proposals on such matters as lease renegotiations, marine resources, enforcement/surveillance, or unilateral termination, and what commitments should be sought in return from the Micronesians on such subjects as the new Commission's endorsement of the provisions of the June 1976 draft Compact, or the Constitution?

The Department believes that the foregoing matters, dealing with the preparations for the next negotiating session and with the US's alternatives should the next session fail to achieve agreement, should be considered in an expansion of your draft study to be undertaken with interagency participation during January 1977.

Attachment: As stated

EA/ANP:RLWilliams:pp

DEPARTMENT OF STATE
Washington, D.C. 20520

NSC UNDER SECRETARIES COMMITTEE

SECRET

November 10, 1976

MEMORANDUM FOR: Ambassador Philip W. Manhard
U.S. Deputy Representative for
Micronesian Status Negotiations

SUBJECT: Micronesian Marine Resources:
US Negotiating Position

The attached memorandum from Mr. Edmond, dated November 5, may be drawn upon as an expression of the views of the Department of State in your drafting of a memorandum for the President as required by NSC instructions which are pending on this matter. The formal position of the Department, as well as others, will be expressed in comment on your draft memorandum setting forth requested negotiating instructions.

In order to allow ample time for Under Secretaries Committee level review by all departments and agencies concerned of the memorandum to be proposed by your task force, please provide me with a draft for circulation to the members of the USC by November 17.

Rutherford M. Poats
Acting Staff Director

Attachment:

As stated

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GDS

November 5, 1976

SECRET

TO: Mr. Rutherford M. Poats
Acting Staff Director
NSC Under Secretaries Committee

FROM: Lester E. Edmond
Department of State Member
Interagency Group For Micronesian Status Negotiations

SUBJECT: Micronesian Status Negotiations: LOS and Related Foreign Relations Issues

REF: Your Memorandum of June 30, 1976

1. The Micronesian side has asked Ambassador Manhard for a negotiating session during the week of December 12, stipulating that a principal subject should be marine resources. The Department by this memorandum submits its recommendations with regard to a US position on marine resources. We have reviewed the draft marine resources study of June 1976. Although we do not endorse the background or analysis sections of the study, which in our view are inaccurate and biased in critical respects, we recommend that the US negotiators be authorized to make a proposal to the Micronesians aimed toward achievement of a solution based on Options I, II, or III of the draft study (the latter two with important modifications), but not Option IV. A solution based on Option II or Option III should protect US interests by retaining full US responsibility for Micronesian foreign affairs. At the same time, it would address Micronesian concerns by recognizing the right of the people (rather than the Government) of Micronesia to the beneficial interests derived from living and non-living marine resources in zones off the coast of Micronesia recognized by international law.

We would, however, recommend that any utilization of Option 2 or 3 authority be made subject to the following conditions:

-- prior US approval of exploitation arrangements should, in the wording of Option III, be made explicitly contingent on consideration of US defense and foreign policy interests and responsibilities, as well as international law and US commitments;

-- the US negotiators should propose, in both Options II and III, that a joint consultative body be established

to coordinate the exercise of control over, and to endeavor to resolve questions relating to, marine resources;

-- it should be made clear that the US is not recognizing the archipelago concept; and

-- Option III should be reworded so that the United States would be "responsible for the negotiation" on behalf of Micronesia of all international agreements relating predominantly or exclusively to marine resources and would "consider sympathetically" any requests of the Government of Micronesia for the negotiation of such agreements.

2. An Option IV solution could in our view lead to serious problems. For example, it could:

-- Insure friction between the US and Micronesia. Micronesia could negotiate independently with a foreign nation, taking its own positions, although prior US-Micronesian consultation would be required and conclusion of the agreement would be subject to US concurrence. In case of disagreement, the United States would be placed in a position of either acquiescing to an agreement which ran counter to our own policies, or vetoing (although our power in this regard is not clear in Option IV as worded) the agreement with resulting US-Micronesia friction.

-- Create serious potential problems between the US and foreign governments. If, after the US had signed the LOS treaty on their behalf and thus incurred responsibility, the Micronesians chose to implement the resource aspects of the Treaty in their area, they could establish regulations in an area of approximately three-and-one-half million square miles without US approval, but with the US being responsible and possibly subject to suit by foreign governments for Micronesian action. Even greater problems could be posed should the Micronesians fail to implement the Treaty.

-- Arguably be viewed by Puerto Rico and the US territories as setting a clear example, if not a precedent, for US acquiescence in similar 200-mile extensions of jurisdictional and negotiating rights for them which could be politically difficult to oppose.

-- Possibly prejudice the important US effort to achieve a resolution of the tuna issue with the Latin coastal nations of the Eastern Tropical Pacific.

-- risk compromising strongly held US views in the LOS Conference, to which Option IV runs counter. Option IV endorses the transitional provision of the Revised Single Negotiating Text. That provision grants resource rights under the LOS Treaty to territories which have not achieved full independence and further states that such rights should be exercised by them for their own benefit. The United States has stated that inclusion of such a provision in the LOS Treaty would call into question whether the United States would ratify such a treaty. Moreover, Option IV implies that Micronesia would have access as a right to the LOS dispute settlement mechanism, an interpretation which we cannot support.

3. EA and S/P might recommend utilization of Option IV as a last resort if the marine resources issue were the only important obstacle in the way of a complete Compact of Free Association. At present, however, that is demonstrably not the case:

-- The Micronesian negotiating commission, in the public statement issued at the close of its just-concluded meeting, called into question at least three elements of the Compact which the US side had considered long resolved: the stipulation that unilateral termination of free association would not be permissible for 15 years; the understanding that leases on Kwajalein land should be renegotiated only as they expire, rather than at or before Trusteeship termination; and the vesting of sovereignty in the Micronesian people rather than in the Micronesian government.

-- The Micronesian negotiating commission also declared that at the proposed US-Micronesian December session it would not be prepared to discuss the Compact provision dealing with the internal allocation of US assistance funds (except for marine resources, the only "gap" in the Compact draft initialed last summer), indicating that this problem is considerably more difficult to resolve than may have appeared last summer.

-- Neither the Marshalls nor Palau participated in the Micronesian negotiating commission session, casting serious question on the rump commission's authority or ability to speak for the districts of greatest security interests to the US.

4. We believe that a modified and fleshed-out Option III may be negotiable and is consistent with US interests. A proposal structured along these lines should serve adequately to smoke out the Micronesian commision's real intentions with regard to the Compact of Free Association. During the four years of status negotiations with the old Micronesian commission, the completed Compact has repeatedly seemed almost within grasp, requiring agreement only on a single remaining subject -- be it defense land requirements, financial assistance, or marine resources. We do not yet know with much confidence whether the new status commission, with which the December meeting will be the first USG encounter, proposes to play the same game of escalating demands; whether the commission or certain of its members are seeking to scuttle free association in a way which will permit them publicly to place the onus on the US; or whether the commission genuinely seeks agreement on free association along the lines of the initialed Compact.

5. The Department is concerned that in recent months the marine resources question has tended to overshadow other serious problems confronting the status negotiations, and we have renewed an August request to OMSN to convene an interagency meeting or meetings to consider how best to achieve a realistic negotiating strategy. If, as seems to us nearly certain, further elaboration or a reassessment of the total US negotiating position seems in order following the December meeting, we would welcome a full review of the marine resources and other issues by the Interagency Group.

6. The Department in addition wishes to comment that it considers th marine resources study seriously defective in its treatment of the enforcement and surveillance of Micronesian waters. We believe that unless a section on this subject is added, the US negotiators would in all likelihood be forced to return to the President for additional instructions before serious US-Micronesian discussions could be pursued.

SECRET

January 7, 1977

UNITED STATES POLICY TOWARD THE FUTURE POLITICAL STATUS OF MICRONESIA

PART A. SUMMARY AND RECOMMENDATIONS

PART B. MARINE RESOURCES, LOS AND RELATED ISSUES

PART C. GENERAL REVIEW OF UNITED STATES POLICY TOWARD THE FUTURE POLITICAL STATUS OF MICRONESIA

CLASSIFIED BY Philip W. Manhard
Acting Rep. for Micro. Status Neg.
[illegible] DECLASSIFIED
[illegible] ON 31 DEC 84

SECRET

January 7, 1977

MEMORANDUM FOR THE SPECIAL ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS

Subject: United States Policy on the Future Status of Micronesia

PART A. Summary and Recommendations

For more than seven years the United States has attempted to negotiate an agreement for a new political status for Micronesia and thus terminate the last U.N. Trusteeship, now widely considered to be a political anachronism after nearly thirty years of U.S. control. While a separate agreement was reached and approved earlier this year for the Mariana Islands to become a Territory of the United States, full implementation of that agreement was made dependent upon a final resolution of the future status of the rest of the districts of the Trust Territory, negotiations for which have yet to succeed.

U.S. policy objectives in these negotiations have been, first, to assure strategic denial of all Micronesia to any potential adversary and to preserve U.S. military base and land use requirements (mainly the Kwajalein Missile Range in the Marshalls and certain options in Palau); second, to seek a close and enduring political relationship between the U.S. and Micronesia; and third, to continue to provide sufficient financial assistance to Micronesia to underpin a close political and military relationship in the future and to help Micronesia gradually become more self-sufficient economically, although its dependence on outside economic support will be inevitable for a long time to come.

Early in the negotiations the U.S. offered first, territorial or commonwealth status, which the Congress of Micronesia rejected and requested instead negotiations for a Compact of Free Association. Negotiations for that purpose (minus the Marianas since 1972) have continued for six years without final agreement. Respecting the principle of self-determination, the United States has never refused to negotiate for a status of independence, but the Micronesian side has so far shied away from pursuing that solution, apparently out of a principal desire for undiminished continued access to U.S. financial support. If the Micronesians, despite the long standing COM commitment to free association, should evince an intention to negotiate for independence, further study and instructions for the U.S. negotiator would be required.

Last year, however, the Micronesians produced a draft Constitution, which provides for complete indpendence and a relatively strong central government. This has had schizophrenic results among Micronesians and in their attitude toward the U.S.: On one hand the draft constitution has demonstrated a growing desire among many elected leaders to seek independence as a premise for a close relationship with the U.S., partly as a better basis on which to gain leverage with the U.S., as shown by their current attempts to subordinate a status of free association (as exemplified by the Compact) to a status of political independence (as exemplified by the Constitution). On the other hand that draft constitution has challenged deep traditional and historical differences and rivalries between and within the districts, stimulated separatist tendencies, and aroused such internal opposition that the constitution as drafted will probably fail of popular approval which it requires be given by at least four of the six districts. The United States is thus presented, for the time being but perhaps not for very long, with a situation where a majority of the people in most or all of the districts would opt for free association rather than independence and for maximum district autonomy rather than a strong central government. At the same time the U.S. is faced with a situation where some of those nationalistic leaders with whom the U.S. has perforce been negotiating prefer independence to free association and seek to delay or prevent a popular plebiscite on a Compact of Free Association. Other leaders would prefer free association but only under a treaty relationship between an independent Micronesia and the United States.

From a U.S. point of view the spectrum of future status options as they range from U.S. territory or commonwealth to free association to independence represents a decending order of military/strategic desirability and an ascending order of political desirability. The extension of U.S. sovereignty over Micronesia as a U.S. territory or commonwealth would provide the most reliable guarantee for strategic denial and preservation of the U.S. military presence in Micronesia. Such extension of U.S. sovereignty would, however, run counter to expressed Micronesian rejection of such a status and expose the U.S. to severe criticism in the U.N. and the world for failing to uphold the principle of self-determination and the U.S. responsibility under the Trusteeship Agreement to work for self-government or independence for its

trusteeship. An independence solution would, however, pose the greatest risk to our strategic denial objective and the continued protection of the U.S. military requirements in Micronesia, but would satisfy those in the U.N. and elsewhere who champion freedom for all colonies and dependencies as well as satisfy those in the U.S. Congress who oppose acquisition of additional, and in this case, a financially burdensome territory. Furthermore, in considering an independence option, the U.S. would presumably have to try to conclude a pre-negotiated security treaty with Micronesia in order to preserve our military interests; however, there can be no absolute assurance that such a treaty would in the end be honored by a legally independent government of Micronesia. Moreover, "independence with strings" in the form of a pre-negotiated treaty would still be subject to criticism by at least the more extreme anti-colonialists of the third world.

The concept of free association offers certain advantages not available in either of the foregoing options. First, in the form in which it has been negotiated so far, it would provide adequate assurances for U.S. strategic interests and defense requirements. Second, it would provide for full internal self-government, and match as best we can presently determine, majority popular preference in Micronesia. Third, it would allow for unilateral termination (albeit after fifteen years) which satisfies the U.N. definition of free association. Fourth, it would provide Micronesia and the U.S. with an evolutionary period of trial and test before the Micronesians would have to make a final irrevocable decision on their future status, which they appear to be reluctant to do at this stage.

There are several reasons for urgency in being able to move ahead with the status negotiations. Foremost is the Micronesian position on marine resources and law of the sea issues, strongly reaffirmed in the declaration issued at the conclusion of the Micronesian Law of the Sea Conference on November 25, and declaring full support for the Micronesian position at the U.N. LOS Conference. A second reason for early resumption of talks after a six-month hiatus is found in the process of fragmentation which, despite some election setbacks in the Marshalls, is continuing in that district and accelerating in Palau in the wake of their September referendum for separate talks with the U.S. Additionally, the forthcoming regular session of the Congress of Micronesia, scheduled to convene on January 10, is expected to take up

PART C

GENERAL REVIEW OF UNITED STATES POLICY TOWARD THE FUTURE POLITICAL STATUS OF MICRONESIA

Table of Contents

ANNEXES

PART C

GENERAL REVIEW OF UNITED STATES POLICY TOWARD THE FUTURE POLITICAL STATUS OF MICRONESIA

I. Background

This study deals with the question of the future political status of the Caroline and Marshall Islands. These two widely spread island groups, commonly known as Micronesia, constitute, along with the Northern Mariana Islands, the political entity of the Trust Territory of the Pacific Islands (TTPI). Micronesia is the last remaining United Nations Trust Territory. The United States administers the TTPI as a "strategic trusteeship" under the authority of the 1947 Trusteeship Agreement between the U.S. and the United Nations Security Council. (See Annex A for map).

The terms of the Trusteeship Agreement obligate the U.S. to "promote the inhabitants of the Trust Territory toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned". The agreement does not specify a time deadline for achievement of the political development goal nor for termination of the trusteeship.

The U.S. Government has been negotiating the future political status of Micronesia with representatives of the Congress of Micronesia (COM) since 1969. Representatives of the Carolines and the Marshalls rejected an offer of Commonwealth (U.S. territorial) status in 1969, insisting on a future self-governing

political relationship with the U.S. which they termed "Free Association". This future political status goal has remained the stated preferred status objective of the Congress of Micronesia.

Since 1971 the political status negotiations have been conducted on behalf of the USG by the President's Personal Representative for Micronesian Status Negotiations, reporting to the President through the National Security Council and on behalf of the Carolines and Marshalls by the Congress of Micronesia's authorized representatives. It has been three years since the approval of the last comprehensive Under Secretaries Committee (USC) study concerning the Micronesian status negotiations, which served as the basis for the latest negotiating instructions to the President's Personal Representative for the negotiations. (See Annex B for current negotiating instructions based on the 1973 USC Study).

In 1972 negotiations with representatives of the Northern Mariana Islands were opened on a basis separate from those being conducted with the Congress of Micronesia in light of the long-standing desire of the people of the Northern Mariana Islands to become American citizens and have their islands be a permanent self-governing member of the American political family. These separate negotiations led to an agreement with the Northern Marianas by which those islands will, following termination of the trusteeship, become a self-governing territory of the U.S. That agreement, the Commonwealth Covenant, was overwhelmingly approved by the people of the Northern Marianas in a U.N. observed

legislation that will almost surely put the U.S. in an awkward position with regard to consideration of Micronesian jurisdiction over marine resources. Although Marshallese and Palauan representatives will probably attend the COM session, they will be looking for ways to put pressure on the COM and indirectly on the U.S. to support their agitation for separatism, possibly including a threat of future secession from the Congress. Micronesia's increasing involvement in the international arena and its frustration at continuing U.S. delay in dealing with the marine resources issue is risking the souring of relations between us to an extent that increasingly threatens the establishment of a climate of confidence and respect which are essential to a meaningful relationship of free association.

Therefore, we conclude that it is in the best U.S. interest at this stage to make a further effort without delay to complete and have approved by both sides a Compact of Free Associaton essentially along the lines negotiated to date. To do so, however, will require solutions to two difficult, complex problems:

1. Marine Resources: The Micronesians clearly consider this their most important economic resource with the greatest potential for eventual economic viability. They are determined to seek the broadest possible control over their marine resources of all kinds as a means to gain the maximum benefits therefrom. To accomplish this in our bilateral Compact negotiations they have sought to be allowed to negotiate independently with foreign countries, to sign in their own name international agreements on this subject and to have direct access to international dispute settlement machinery for this purpose. To date the U.S. has not agreed to these demands because we prefer not to dilute our foreign affairs authority under the Compact and because we have feared such concessions to Micronesia might make our problems on this score with territories under U.S. sovereignty, especially Puerto Rico, more difficult and set an undesirable precedent in the Law of the Sea Conference for non-recognized entities. Meanwhile, the Micronesians have claimed, and we have admitted, a conflict of interest on this issue in the law of the sea context. We have allowed Micronesia to have separate observer status at the LOS Conference and thus direct access to all its machinery and its participants. At the same time we have so far declined in the Compact negotiations to go beyond the position that the benefits from Micronesian marine resources (still undefined) should accrue to the people of

Micronesia. This falls so far short of the Micronesian position that this issue remains unresolved in the Compact. Unless the U.S. is willing to recognize the crucial and fundamental difference between the U.S. legal relationship to Micronesia under the present Trusteeship Agreement, as well as a future free association agreement, and our relationship with territories under U.S. sovereignty including Puerto Rico, there is little chance that negotiations for a Compact of Free Association can succeed. Therefore, if the U.S. wishes to avoid pushing the Micronesians to seek independence as the only solution to this problem from their point of view, the U.S. will be obliged to make concessions on this issue.

2. Political Fragmentation: Particularly in the last six months the United States has come under increasing pressure from leaders in Palau and the Marshalls to agree to separate negotiations. In the case of Palau this move has been motivated primarily by the possibility that a "super port" complex for oil transshipment, storage and refining may be located there by a Japanese-Iranian consortium, by a presumed Japanese insistence that a potential $300 million investment be protected by a stable U.S.-Palauan relationship, and by Palauan fears that potential superport revenues would be jeopardized by a strong central government dominated by the larger districts. There are other factors which exacerbate this problem in Palau revolving around cultural, financial, administrative and political concerns. Hence, the Palauans' opposition to the proposed draft Constitution, their push for separation from the rest of Micronesia, and their pressure for a close but separate association with the U.S.

In the case of the Marshalls, there is a long history of confrontation with the Congress of Micronesia over sharing the revenues generated primarily from U.S. activities related to the Kwajalein Missile Range. Influential Marshallese leaders oppose the draft Micronesian Constitution, want the Marshalls to be, first, independent of the other districts and ultimately independent of the U.S., after a relatively short period of U.S. "stewardship". Their first objective in seeking separate negotiations with the U.S. is to induce the U.S. to pay a far higher price for the alleged "strategic value" of the Marshalls and for the leases for the missile range where the U.S. has invested nearly $750 million but has paid only $750 thousand for the primary KMR lease for a period of 99 years.

Throughout the negotiations to date, the U.S. has maintained the position that the future government of Micronesia

should honor current military leases and land use agreements. Most Marshallese leaders have never accepted this position and continue to press for renegotiation of current leases, particularly those granting the U.S. "indefinite use". The COM negotiators have also consistently opposed the continuation of indefinite use leases in the Compact.

There are a number of leases and land use agreements related to the Kwajalein Missile Range; some are for specific periods of time (99 yrs and 25 yrs) while others (approximating 77 acres) are for in indefinite period of time. In all cases, compensation was paid in a lump-sum for the duration of the lease or agreement. However, the Marshallese receive $704,000 annually in compensation for dislocation agreements applicable to the mid-atoll corridor. The Marshallese view these agreements as being grossly undervalued in relation to their duration. Land use agreements providing for indefinite tenure have become anachronistic and this legal principle is under challenge in Trust Territory courts.

Roi Namur island, a key element in the Kwajalein Missile Range, has been used by the U.S. since the end of World War II. In 1960 the Trust Territory Government in an agreement with the U.S. Navy granted the U.S. use and occupancy rights for an indefinite period on the assumption that the island was public land. In 1963, Roi Namur landowners filed a claim alleging private ownership of the island. Protracted negotiations to settle the Roi Namur lease failed and in April 1975 a suit was filed against the U.S. Government in the U.S. Court of Claims to recover for an alleged uncompensated taking of Roi Namur. On December 15, 1976 the Court decided the suit was barred because the six-year statute of limitations which applies to all claims in the court has expired. The judgment of the Court in regard to the suit does not settle the problem of Roi Namur. Roi Namur will continue to be a contentious issue between the U.S. and the people of the Marshall Islands until some agreement on the land lease issue is reached.

Current instructions authorize the U.S. negotiator, in close consultation with the Departments of Defense and Interior, to renegotiate the leases, should the issue become critical to the successful conclusion of the negotiations on free association. It is becoming more and more evident that this might indeed be the case.

If the U.S. should accede to the demands for separate negotiations from the Palauans and the Marshallese, the likelihood of further fragmentation by the other districts would be strong and would probably increase the possibility that at least the leaders of Truk, the most populous district, would seek independence more seriously and attempt to play off the U.S. against other potentially interested powers, including even the U.S.S.R. Meanwhile, the U.N. Trusteeship Council has consistently inveighed against any further fragmentation of the Trust Territory beyond the separate arrangement for the Marianas, and key U.S. Congressional leaders have taken the same position.

If the U.S. wishes to continue to preserve some form of unity in Micronesia for the sake of the U.S. objectives described above, which we consider still valid, the U.S. will have to cope realistically with the causes of separatism.

The U.S. would have to take cognizance of the underlying causes and try to deal with them as effectively as possible. Although the Compact as negotiated to date treats the future government of Micronesia under free association as an internal Micronesian matter, the U.S. would presumably have to take steps to explore the feasibility of a confederation concept wherein the central regime would have only limited powers restricted mainly to essential common services and powers with a maximum degree of local autonomy reserved for each of the districts. This would be consistent with moves already made by the Trust Territory Administration in the direction of decentralization and Micronization and could be seen as responsive to the expressed concerns of most of the districts themselves for greater control over their own affairs. However, it may not prove to be sufficient merely to discuss this concept with the Micronesians in the context of negotiations for the Compact. It would probably be more attractive and persuasive to Micronesians in all districts if further steps were accelerated by the U.S. in the near future to modify the present Micronesian governmental structure as well as the U.S. administration in that direction. Such tangible steps would help to convince the Micronesians of our seriousness and thus give them more confidence that such a limited form of unity could and would be implemented under a Compact of Free Association.

In pursuing the negotiations we must look at political leverages that might be applied. In any event, a major effort is required to insure that all U.S. federal programs and financial commitments are coordinated within the executive branch in a way that would not hinder but rather enhance the U.S. negotiating objectives.

We can give no complete assurance that even if the premises and recommendations contained herein are accepted, the U.S. negotiator will in the end be able to obtain Micronesian acceptance, with reliable support from all the districts, for a Compact of Free Association. Despite his best efforts with maximum reasonable flexibility in his negotiating instructions, the Micronesian negotiators may still hold out for more concessions on the subject of marine resources and related LOS matters than the U.S. is willing to offer. Even if the U.S. moves towards the concept of Micronesian confederation with much greater autonomy for the districts, the Marshallese and Palauans may still refuse to participate with other districts in further negotiations and hold out stubbornly for separate negotiations with the U.S.

If those developments should occur despite the best efforts by the U.S. in the next stage of negotiations, the U.S. will inevitably be faced with harder decisions involving eventual fragmentation and independence for all or part of Micronesia. We believe, however, that a further serious effort should be made to complete the Compact of Free Association along the lines recommended herein, and only if those efforts fail, should new recommendations be made to the President for further policy decisions in the light of that negotiating experience.

Recommendations:

1. That the U.S. negotiator make further efforts to complete negotiations for a Compact of Free Association.

2. Regarding the marine resources/law of the sea issue, that the U.S. accept the premise that the U.S. legal relationship to Micronesia, now under the Trusteeship Agreement or later under free association, is and would be fundamentally different from the U.S. relationship to territories under U.S. sovereignty, and therefore that the U.S. would be justified in reaching agreement with Micronesia which need not be considered a precedent for U.S. territories, such as Puerto Rico, on this subject.

3. That the U.S. negotiator be authorized to seek agreement on the marine resources issue on the basis of Position II (Part B, pp. 14, 15), and only if that effort should fail, to seek agreement on the basis of part, or if necessary all, of Position III (Part B, pp. 15, 16). The negotiator will inform NSC at such time as it becomes necessary, in his view, to move beyond Position II.

4. That the U.S. negotiator be authorized to offer up to $5 million annually, on a matching basis with Micronesian funding from potential foreign fishing fees, to support a fishery surveillance/enforcement program, such offer to be contingent upon completion and approval of the free association agreement by the people of Micronesia and the U.S. Congress and implementable after that approval during the period of transition to the new status.

5. That the U.S. continue to refuse to undertake separate status negotiations with any single district except that if the next negotiating effort shows that Palau and/or the Marshalls are continuing to boycott the Micronesian negotiating group and to refuse to be bound by its negotiations, the U.S. negotiator be authorized to:

a. Propose simultaneous talks directly with each district for the purpose of reaching bilateral agreements with each district for Compacts of Free Association, contingent upon each district accepting an overall "umbrella" free association agreement between the U.S. and a "confederation" of Micronesia on matters of common interest to the U.S. and Micronesia as a whole, the latter agreement to apply to all districts.

b. Propose that revenues generated locally within each district be retained by that district to the maximum extent.

c. Offer, in close coordination with the Departments of Defense and Interior to include within the Compact of Free Association provisions to:

(1) Settle the long-standing Roi Namur land issue.

(2) Reduce tenure of existing long term and "indefinite use" military land leases for the sole purpose of providing an agreed specific tenure or duration for those leases, no shorter than the first fifteen years of the Compact with provision for right of renewal.

(3) Provide additional compensation as appropriate for the Military land leases and agreements in the Kwajalein Atoll, provided that the added cost of any further compensation paid would be held within the currently authorized ceiling for total financial assistance under free association. This offer would be made only if the above proposals (para. 5.a. through 5.c.(2)) have proven to be insufficient to gain Marshallese acceptance of a free association arrangement under some form of unity and the broader issue of renegotiation of current leases in the Kwajalein Atoll has become critical to the success of the negotiations.

6.. That the amounts specified in any political status agreement for Micronesia or for districts of Micronesia be specified in static amounts not automatically revised for the changing value of the U.S. dollar. In this regard the language of Section 405(b) of the June 2 draft Compact, which provides for periodic review, but does not require compulsory adjustment, is acceptable.

PART B MARINE RESOURCES, LOS AND RELATED ISSUES

The Problem

The remaining substantive issue to be negotiated between the U.S. and Micronesia in the nearly-completed Compact of Free Association concerns the question of authority and control over Micronesian waters and ocean resources. (The term "Micronesian waters" as used hereafter refers to a territorial sea and economic zone of Micronesia as may be defined by international agreement.) The new Micronesian Commission on Future Political Status and Transition (CFPST) seems to be prepared to move ahead to complete the status negotiations and has proposed to the U.S. negotiator that informal talks be held in early December toward that end, specifically naming the issue of marine resources for discussion. This issue, including the matter of patrolling Micronesian waters, was not considered at the time of the 1973 USC Study and the issuance of the current negotiating instructions. The U.S. cannot resume negotiations until instructions have been approved on the relevant issues presented in this paper.

Discussion

1. The Micronesian View

The series of informal and formal talks last spring with the Micronesian Joint Committee on Future Status and other Micronesian leaders and the strong stance taken subsequently by the Micronesians at the LOS Conference have underlined the critical importance which they

attach to having authority to control commercial activities in their territorial seas and in an exclusive economic zone. Marine resources off the coasts of Micronesia offer one of the few potentials for meaningful economic development and this fact has prompted the Micronesians to request the United States to recognize their special need to preserve and control the development and exploitation of their ocean resources for their own benefit.

The Micronesians have taken the position that the question of Micronesian ocean resources is an internal matter recognized as such by the Trusteeship Agreement, and that therefore the future Government of Micronesia has a right to exercise jurisdiction and authority over the living and non-living seabed and subsoil resources in a territorial sea and an adjacent exclusive economic zone to the full extent that such rights are or may be recognized by international law or by international treaties or agreements. These concepts are now embodied in the Micronesian draft Constitution. Micronesians see a fundamental conflict of interest between themselves as a coastal state wishing to protect tuna resources within Micronesian waters and the U.S. as predominantly a distant fishing state which regards tuna as a migratory fish exploitable wherever found. They believe their interests cannot be adequately protected by the U.S. because of this conflict unless special provisions are made in the Compact. They believe specifically that an exception should be made to U.S. authority over foreign affairs to enable Micronesia to represent its own marine resource interests internationally. The Micronesians

have agreed, however, that such authority should not infringe upon necessary U.S. Government powers and responsibilities in the field of defense, or of foreign affairs generally.

The minimum Micronesian requirement for completion of the Compact may be an acknowledgement by the United States of Micronesian jurisdiction over Micronesian waters to the same extent that any such authority is or may be established for coastal States by international law or treaty or agreement. Compromises may then be possible in the other technical areas of contention regarding the foreign affairs aspect of the problem.

2. The U.S. View

The U.S. position has been that control over Micronesian waters is an external matter. Accordingly the U.S. under current provisions of the Compact granting the U.S. full foreign affairs authority for Micronesia, would hold full authority and responsibility for Micronesian ocean resources and Law of the Sea matters for the duration of the Free Association relationship. The CFPST was, however, informed by the U.S. in a letter from the U.S. negotiator on October 17, 1976 that:

> "The United States shares the desire of the people of Micronesia that Micronesia progress toward economic self-reliance; further the United States is prepared to negotiate on the basis that the benefits derived from exploitation of the living and non-living resources off the coasts of Micronesia accrue to the people of Micronesia. Enunciation of this principle in the compact would have to be in accordance with international law and subject to international agreements now or hereafter applicable and compatible with the provisions of Titles II and III of the Compact."

The letter envisaged the possibility of an agreement on LOS

principles in section 605 of the Compact with detailed arrangements to be contained in a separate annex as a means to complete the status negotiations.

3. International Considerations

In regard to foreign affairs authorities, and in particular to jurisdictional matters relating to Micronesian marine resources, there is a clear difference between the three status options considered in the Interagency Study. In the case of Commonwealth where the U.S. would be sovereign over Micronesia the U.S. would have complete control and conduct of all foreign affairs matters relating to Micronesia. By extension, the U.S. would also have full responsibility for the protection and preservation of all marine resources off the coasts of Micronesia, including the surveillance of Micronesian waters as well as the enforcement of the various resource rights applicable. In the case of Independence with a mutual security treaty, the Government of Micronesia would have complete control and conduct of all foreign affairs matters relating to Micronesia. By extension Micronesia, not the U.S., would also have full responsibility, operationally as well as financially, for the protection and preservation of Micronesian marine resources. In both cases the matter of negotiating with the Micronesians on the issue of Micronesian Law of the Sea and Marine Resources becomes moot.

However, the Free Association relationship raises the questions of which government will control and conduct which aspects of Micronesian Law of the Sea and Marine Resources jurisdictional matters. Under this

status relationship jurisdictional questions should be resolved in a manner that meets legitimate Micronesian interests while reducing natural friction points between Micronesia and the U.S., yet preserving ultimate U.S. control over any actions which might impinge detrimentally on basic U.S. security interests or international obligations. It is in the U.S. interests that Micronesian Law of the Sea and Marine Resources matters be resolved within the initialled Compact rather than within the independence framework embodied within the draft Constitution or within the framework of the UN LOS Conference.

Micronesia now has an "official observer" status at the Law of the Sea Conference and has participated actively in the Caracas, Geneva and New York sessions. It has formally petitioned the Conference for signatory status which could be granted by a majority vote of the Conference perhaps even over the objections of the United States. The U.S. has taken the view that only States may become signatories. Whether or not Micronesia becomes a signatory, current language of Article 136 of the Revised Single Negotiating text of the draft Law of the Sea Convention would, regardless of the terms of the Compact of Free Association, vest in Micronesia during its status as a non-self-governing trusteeship certain important Law of the Sea rights beyond those which the U.S. is currently willing to grant to Micronesia under a Free Association status.

A number of additional issues continue to separate Micronesia and the United States at the Law of the Sea Conference and remain to be resolved. These include not only Micronesia's desire to sign the Law

of the Sea Convention in its own name, but also Micronesia's support for Article 136 which among other things would vest ocean resource rights in the inhabitants of dependent territories and possessions (including U.S. territories), and Micronesia's desire to have access to the LOS dispute settlement mechanisms of the Convention. The United States has informed the Micronesians of U.S. opposition to their positions on these issues.

With the Micronesians having already been given with U.S. concurrence their own voice at the Law of the Sea Conference, and with strong indications that, under Third World sponsorship, they would be given the right to sign an eventual Convention in their own name, it would be extremely difficult to persuade them to pull back from their present stance. An attempt on our part to do so at the next Law of the Sea session without resolving Micronesian concerns in a bilateral context could prove abortive and counter productive to U.S./Micronesian relations. The United States may have an increasingly serious problem in the United Nations generally if it is not possible to achieve an early resolution of the future status questions, including control of marine resources.

4. U.S. Domestic Considerations

a. U.S. Commercial Interests

There are no known exploitable mineral or petroleum resources within the Micronesian waters. There are known quantities of marine resources, primarily tuna, which are significantly underfished. At the present time, U.S. commercial fishing interests are interested in increasing their activities in the waters off the Mariana Islands but

have only limited interests in Micronesia (the Caroline and Marshall Islands).

Under the present Trusteeship and the current U.S. approved foreign investment policies of the Trust Territory Government, United States commercial interests concerned with the exploration and exploitation of Micronesian ocean resources do not enjoy preferential treatment over other foreign commercial interests. U.S. commercial interests likewise would not enjoy preferential treatment under the Compact unless otherwise provided for. The Compact does, however, provide for most favored nation treatment in terms of trade between Micronesia and the United States.

Retention by the United States of foreign affairs control over Micronesian marine resources under Free Association would enable the United States to assure protection for U.S. commercial activities vis-a-vis non-Micronesian firms, whose proposed commercial activities conflict with basic U.S. foreign policy or security interests. This would also be true if Micronesians were granted appropriate juisdiction and control over Micronesian waters pursuant to the provisions of the Compact and applicable international law.

United States maritime economic interests might be further protected by specifically providing for most favored nation treatment for the exploration and exploitation of Micronesia's ocean resources. The United States could additionally seek to obtain preferential economic access to Micronesian ocean resources in the Compact or in a separate protocol in return for consideration by the United States of preferential

trade treatment for Micronesian goods, including tuna products.

If the United States exercises jurisdiction over an exclusive economic zone off the coast of Micronesia, the tuna question (whether regulated by the coastal state or regulated by international agreement), would be resolved to the United States' advantage although Micronesians would still have the freedom of entering into commercial agreements (including tuna) with private foreign enterprises for operation within their territorial area as long as there was no conflict with basis U.S. security interests and international obligations.

b. Enforcement (Surveillance and Regulation) in the Coastal Waters of Micronesia.

Micronesian negotiators have asked for the services of the U.S. Coast Guard to protect local resources against illegal exploitation. To date, the United States has not made any commitment with respect to surveillance or enforcement but has suggested that such services are cost-prohibitive if provided along Micronesian guidelines (strict enforcement of the territorial sea and fishing zones in each district). In the post-trusteeship period, the Government of Micronesia will have full responsibility for and authority over its "internal affairs". Presumably this could include control and enforcement of Micronesian laws in territorial waters. The Government of Micronesia would, under the Compact, be required to enact domestic legislation that is consistent with and that may be appropriate or required to enforce or implement those treaties and international agreements (including law of the sea) applicable

to Micronesia.

In view of the prospect that under a Free Association relationship the U.S. may well have to accept--for other concessions on the Micronesian side--certain financial obligations for the surveillance and enforcement of Micronesian waters (albeit economic zone vice territorial sea), the U.S. negotiator should be granted a certain amount of financial flexibility if required during the course of the negotiations on Micronesian marine resources.

The financial cost of surveillance and enforcement need not be exhorbitant. Formulas are available for low cost programs designed to assist the districts in attaining a local maritime law enforcement capability to patrol local waters. Such formulas could be initially financed through limited grants or loans, through technical assistance, and through scholarship programs. After the programs are commenced the revenues from the licensing of exploration and exploitation rights could be utilized to pay for the surveillance and enforcement program and to repay any "seed money" advanced by the U.S. The carrying out of surveillance and enforcement activities in waters off the coasts of Micronesia would certainly serve U.S. security interests as well as Micronesian interests.

In 1974 the closeness of the Free Association relationship--and the greater protection of U.S. security interests--was determined to be worth a level of $60 million per year to the United States. In view of the inflation since 1974 such a political relationship could well be

considered as worth $78.6 million per year to the U.S. This figure would compare with the $64-74 million which the U.S. will be spending in Micronesia in Fiscal Year 1980 according to current projections.

It is therefore believed that the U.S. negotiator should be authorized to commit up to a maximum of $ 5 million per year for purposes of surveillance and enforcement of Micronesian marine resources if necessary to reach agreement on the overall issue of Law of the Sea and Marine Resources.

5. U.S. Foreign Policy Considerations

a. Foreign Affairs Authority

Although Title II of the Compact as initialled provides that the United States Government shall have "full responsibility for and authority over the foreign affairs of Micronesia". the Government of Micronesia has proposed that it be given primary jurisdiction and authority over marine resources in and beyond its territorial sea as may be defined by international agreement subject only to the protection of basic U.S. security interests as provided for in Title III of the Compact. In the exercise of such authority, the Government of Micronesia seeks to negotiate and sign treaties and international agreements in its own name, to participate as a full member in international organizations and conferences, to have access to all dispute settlement procedures with foreign nations as provided for in the Law of the Sea Convention (including access to the International Court of Justice), and to decide in its own right whether to recognize and apply the provisions of treaties and international

agreements having a substantial impact on Micronesian marine resources.

These Micronesian proposals raise important foreign policy issues. Permitting the Government of Micronesia to exercise what amounts to a broad range of attributes and powers of a fully independent nation even within a limited and prescribed area of activity, would be inconsistent with the principle of full United States foreign affairs authority under the terms of the Compact. This could exacerbate rather than minimize the practical friction points in United States-Micronesian relations under a free association arrangement. Full United States authority in this area, however, could on the other hand, engender continuous friction between ourselves and the Micronesians and this in turn could have a harmful effect on the entire relationship.

Issues relating to Micronesian marine resources will continue to be, as they are now, of the greatest interest to the Micronesians; they also promise to be the focal point of any foreign affairs activity involving Micronesia. Deleting this area from the scope of U.S. authority could enhance the possibility of conflict between the United States and foreign countries over Micronesian actions which might be in conflict with U.S. policies or other international obligations, although the potential for disputes would be existent even if the United States had full authority over Micronesia's marine resources. Foreign nations may well seek to hold the United States liable (financially or otherwise) for Micronesian actions within Micronesian waters, notwithstanding the language of the Compact. However, the United States, under the terms of the Compact will

also be liable diplomatically for Micronesian actions within the land areas of Micronesia and, by logical extension, within their territorial sea.

b. Diplomatic Responsibility

It must be presumed and accepted that the United States will be viewed as the residually responsible party in any international dispute over Law of the Sea matters between Micronesia and a third country because of the ultimate U.S. responsibility for the foreign affairs of Micronesia. This would be true whether or not Micronesia would have enforcement responsibilities. For example, Micronesian confiscation of a foreign flag fishing boat could result in third country appeals to the United States Government for redress or even outright diplomatic protest. This risk and other possible international complications, such as diplomatic problems if Micronesian waters become a major poaching area for other nations, are inherent in the free association relationship. These disadvantages must be weighed against the political and security advantages which would accrue to the United States under the Compact of Free Association.

6. The Position-by-Position Approach

The following positions are incremental and incorporate the provisions of each preceding position. The negotiator, in his descretion after strong testing of each incremental position, may move beyond the Current Position to additional positions, or any part thereof, to obtain agreement on the marine resource issue.

Current Position.

Recognize that the benefits derived from the exploitation of the living and non-living resources off the coasts of Micronesia accrue to the people of Micronesia. Reject Micronesian requests for full jurisdictional rights over a territorial and economic zone, including other requests vesting independent legal authority over such areas with the Government of Micronesia. U.S. enforcement services would be provided on a case by case basis but the U.S. would hold full enforcement responsibility and authority. This position has been presented to the Micronesian negotiators and rejected by them as inadequate.

Position I.

Agree to recognize a territorial sea and economic zone off the coasts of Micronesia as may be defined by international law but limit the exercise of jurisdiction and enforcement surveillance by the Government of Micronesia over a territorial sea to matters not in conflict with international law or with the rights and authorities of the United States under the Compact (Titles II and III). The U.S. would agree to provide limited surveillance services for enforcing laws within the territorial zone. The United States would agree to exercise authority and hold enforcement responsibility over the economic zone for the benefit of the people of Micronesia. The U.S. could agree to provide such assistance to Micronesia for the conservation, protection and exploitation of resources off the coasts of Micronesia as may be agreed to by the United States and Micronesia. Reject all Micronesian requests for full jurisdiction and authority over living and non-living resources off the coasts of

Micronesia, including requests for the right to veto all international treaties, to negotiate government to government agreements affecting resources within the waters off the coasts of Micronesia, to be members of international conferences and organizations (unless permitted under Annex A of the Compact) and to have access to international LOS dispute settlement machinery.

Position II.

(Agreement upon any provision of this position is conditioned upon the following action by the Government of Micronesia:

--agree to establish a joint consultative body to coordinate control over, and endeavor to resolve questions relating to, marine resources.

-- withdraw support for transition provisions of LOS Revised Single Negotiating Text.

-- agree not to seek separate signatory status to LOS Convention.

-- not discriminate against U.S. maritime interests.)

-- agreement in principle that the Compact would prevail over any inconsistencies in any Micronesian constitution during the life of the Compact.

Recognize that Micronesia will hold authority over an exclusive economic zone, as well as jurisdiction over a territorial sea, as may be defined by international law--but limit the exercise of such authority

to those matters not in conflict with international law or the rights and authorities of the United States under the Compact (Titles II and III). The U.S. would provide such conservation and protection services as may be negotiated, but the U.S. would retain ultimate enforcement authority over the economic zone by virtue of Title II of the Compact. Agree to negotiate, at the request of the Government of Micronesia but in the name of the United States, government to government agreements relating predominantly or exclusively to resources in the waters off the coasts of Micronesia provided such agreements do not conflict with the international commitments of the United States. Agree to obtain the consent of the Government of Micronesia to such agreements prior to conclusion and signing of the agreements by the United States.

Position III.

(This final position is to be taken only as a last resort to gain Micronesian agreement to an overall Compact of Free Association and would be conditional upon approval by the COM of the Compact as completed.) This position includes all features and conditions of Position II with the following modifications:

Agree to represent Micronesia in any international dispute other than in disputes between the United States and Micronesia involving the resources off the coasts of Micronesia.

Permit Micronesia to negotiate bilateral and regional inter-governmental agreements relating to marine resources in its own name. However, any such agreement shall be conditional on prior U.S./Micronesian consultation and on U.S. concurrence prior to Micronesian signature in order to assure that such terms are consistent with U.S. international obligations and national security

Require that both the United States and Micronesia will sign such agreements.

Agree that Micronesia may represent itself in regional and international conferences and organizations relating to the resources in the waters off the coasts of Micronesia.

Recommendations

In order to secure an overall agreement with the Micronesians on law of the sea matters, the negotiator should be permitted to move through Position II as the negotiating situation develops, testing strongly each incremental position in order to reach agreement at the highest possible level of the position spectrum. Utilization of the final position (Position III) in concluding the marine resources issue should be directly linked to final resolution by the Micronesians of how U.S. grant funds will be distributed to the districts, and to their agreement to sign the Compact and secure its approval by the Congress of Micronesia. It is arguable that the final position goes beyond the concept of Free Association which both parties have been negotiating; however, the authorities granted to Micronesia under Position III are limited, specific exceptions to U.S. foreign affairs authority under the Compact and yet permit the U.S. to retain substantial influence and control over Micronesian activities in these areas. It is also arguable that Position III would create many friction points between Micronesia and the United States; however, failure to resolve the marine resource issue by failing to accommodate to some of the Micronesians' major interests essentially means failure to reach agreement on a Free Association relationship. The consequence would be that Micronesia could become more hostile to U.S. interests and could

seek to obtain full independence and full control over foreign affairs and marine resources, and severely limit U.S. defense activities in Micronesia. Such a consequence would mean that all Micronesian activities would be free from U.S. control, and any conflict in interests would be resolvable only by mutual agreement of the parties in bilateral negotiations. Negotiations under such circumstances would be far more complex and difficult for the U.S. if Micronesian/U.S. relations had become strained as a result of a failure in the status negotiations.

plebiscite and approved by the U.S. Government in March 1976 (Public Law 94-241). The Northern Marianas are now administered by the U.S. separately from the other districts of the TTPI and are no longer represented in the Congress of Micronesia.

Eight formal negotiating rounds and several Heads of Delegations meetings have been conducted since 1969 in a protracted effort to resolve the many complex issues involved in the Micronesian political status matter. On June 2, 1976, at the last formal round, a Compact of Free Association was initialled ad referendum by Ambassador F. Haydn Williams, the President's former Personal Representative, and the COM's Joint Committee on Future Status (JCFS). (See Annex C for a copy of the initialled Compact)

The initialled Compact of Free Association is based on the concept that the future self-governing Micronesia would have full control over its internal affairs while the U.S. while not possessing any sovereignty over Micronesia would have responsibility for Micronesia's foreign and defense affairs. Under Free Association, Micronesians would not become U.S. citizens. The terms of the initialled Compact meet U.S. interests and objectives and reflect agreement reached with the JCFS on all issues except that of control over Micronesian marine resources and how U.S. grant funds would be allocated between the island districts.

However, a new Micronesian negotiating body, the COM's Commission on Future Political Status and Transition (CFPST), which replaced the JCFS in June 1976, has yet to endorse the initialled Compact, stating that it is not bound by the agreements reached

the U[illegible] predecessor. No formal negotiations have yet taken place with the CFPST although it has requested a December 1976 meeting of Heads of Delegations to consider the questions of marine resources and the incompatibilities between the Compact and a draft Micronesian Constitution.

The successful conclusion of the negotiations on the Free Association status agreement is endangered by various factors which are addressed in this study. These factors are, primarily, the rapidly increasing problem of fragmentation of the various districts comprising the Carolines and the Marshalls in light of movements toward separation from the other islands by two districts, Palau and the Marshalls; the question of whether the Compact or the draft Micronesian Constitution should be the supreme document governing the status relationship; and the question of control over marine resources.

II. U.S. Interests, Requirements and Negotiating Objectives

A. Strategic Interests/Requirements

U.S. interests and objectives in the Carolines and the Marshalls derive mainly from our broad interests as a Pacific nation in the Far East and East Asia. In this regard, the first and most fundamental interest is the security of the U.S. A strong defense depends on the forward mobility and readiness of U.S. forces and this, in turn, depends on an appropriate base structure--one which must be capable of being expanded in the event of greatly increased tensions or hostilities. It is important to note that the balance of power we seek in the Pacific

is di[illegible] perceptions of U.S. credibility; therefore we have a fundamental interest in maintaining confidence in a continuing U.S. role and presence in the area. Conversely, it is to the U.S. interest to prevent or inhibit, if we can, any significant extension of the power of influence of potentially hostile nations.

The strategic value of the TTPI to the U.S. will not end with the termination of the Trusteeship Agreement, regardless of what form the resulting Micronesian political structure will take. There are a number of reasons for our regarding these islands as of "strategic importance". Among these are their location, proximity to Guam, the Northern Marianas, Hawaii (which are part of the U.S.) and important trade routes (U.S. trade with Asia was valued at $46 billion last year); the many uncertainties confronting our continued tenure and operating rights in areas closer to the mainland of Asia, especially the Philippines; the future need for training and logistical facilities in the area, especially in light of possible reductions in such facilities in the Philippines, Japan, Taiwan and Korea; the potential risks or threats which would arise from the presence of the military forces of unfriendly powers on one or several of these islands; the increasing attention of the Soviet Union and PRC in the South Pacific; and the need to meet contingencies in East Asia or the Indian Ocean.

Specifically:

1. U.S. national interests require the continuing ability to deny access to Micronesia by foreign powers for military pur-

poses. In unfriendly hands t[illegible] of Micronesia could serve as missile, air and naval bases and constitute a grave threat to U.S. control of sea and air routes and communications in the Central Pacific, as well as to U.S. territory--including in particular, Hawaii, Guam, the Northern Mariana Islands, Wake, Midway and Johnston Island.

2. The U.S. also requires for the foreseeable future continued, unfettered access to the military facilities on Kwajalein atoll; the Kwajalein Missile Range complex is a vital element of critically important R&D programs. It is the only area under American control where both offensive and defensive strategic missile weapon systems can be tested, exercised in a realistic environment, and recovered. The U.S. Government and defense contractors have invested $750 million in this installation. Alternative sites and facilities equal to Kwajalein would be extremely difficult to find and costly to construct.

3. U.S. interests, commitments and objectives elsewhere in the Pacific and Asia require an ability to project and support military power throughout the Western Pacific. Additional restrictions on operations from U.S. bases elsewhere in Asia indicate the need for basing options in Micronesia. Today, our forward deployments and our ability to respond to contingencies are heavily dependent upon bases and stockpiles located in Korea, Japan, the Philippines and Taiwan. From a long-range perspective, it would be dangerous to assume that we are going to maintain all of these foreign bases, with the same rights we have today. In

these countries, the [illegible] seem likely to reduce the number of bases a[illegible] support our forward deployments during peacetime and the flexibility to support contingency operations from these bases. This problem cannot be dismissed with the simple statement "no bases-no commitment" because the loss of base and operating rights is apt to evolve gradually over a period of ten to fifteen years; and our need for the type of support provided by these bases usually goes beyond defense of a host country. For these reasons, it is important to obtain for contingency purposes certain land options and base rights in the Western Carolines (Palau).

Over the long term the flexibility and continuity of our defense posture in the region will depend increasingly upon Guam, the Northern Marianas and the Western Carolines (Palau). To some extent, the uncertainties we face in the Western Pacific are hedged by our bases on Guam and the 18,182 acres of land which are authorized to be leased in the Northern Marianas. We cannot, however, expect the Guam-Tinian complex of support facilities and training areas to support all the requirements we may face in the future as a result of our security interests in East Asia, the various contingencies which might arise, the long-term consolidation and reduction of bases in Korea, Japan, the Philippines, and Taiwan, and the constraints Congress may place on our management of war reserve materiel. Together with the Marianas, Palau in the Western Carolines continues to be important as a long-range limited alternative to bases elsewhere in the Western Pacific.

The strategic importance of Palau, like Guam and the Northern Marianas, stems from the fact that it is much closer to Asia than Hawaii or the Continental United States. The distance from a logistic support base in Palau to any point in the East Asian littoral would be one-third or less the distance from a comparable facility in Hawaii. Outside of the Northern Marianas, Palau is the only group of islands in the western fringe of Micronesia where land is potentially available for U.S. defense purposes with the possibile exception of Ulithi (Yap).

The area sought at Malakal Harbor, Palau, is 40 acres of submerged land. The amount of land desired on the nearby island of Babelthuap for exclusive use is 2,000 acres which is very small compared with the total size of that island (128.5 square miles of dry land or approximately 93,000 acres). The 40 acres of land at Malakal Harbor and the 2,000 acres on the island of Babelthuap could be used to store petroleum and ammunition required to support our forces in peacetime and during any contingency which might threaten our interests in Asia. The size of Babelthuap also makes it highly suitable for large scale military maneuvers of a type which could not be conducted at Tinian. Therefore, land option rights to non-exclusive use of 30,000 acres on Babelthuap are desired by the Marine Corps.

Relating our land requirements to political status options, the importance of Kwajalein warrants an extremely close political relationship with the people of the Marshall Islands. In Palau the land options which are desired would provide a valuable hedge

against the uncertainties [illegible] by giving the U.S. a long-range limited alternative to bases elsewhere in the Western Pacific. However, the land options desired in Palau are not sufficiently vital at this time to drive the course of the negotiations in terms of the extent of financial assistance or the acceptance of a separate political arrangement with Palau.

Our willingness to accept restrictions on the use of land for military purposes will depend on the nature of the relationship established with the people of Micronesia. We should not accept restrictions on our defense rights under a commonwealth arrangement or under any other relationship which makes the U.S. solely responsible for the defense of Micronesia. On the other hand, we would not be able to insist upon unrestricted use under a treaty relationship wherein our interests and responsibilities are more specifically defined.

In summary, there is no distinct relationship between the land we seek to retain in the Marshalls and the Palau land options. The former is related to on-going programs which are vital to the research, development, test and evaluation of strategic offensive and defensive missile systems. The latter is related more to land and facilities which may be required to support conventional forces deployed to the Western Pacific or Indian Ocean in the years ahead and the uncertainties surrounding our tenure and operating rights at bases elsewhere in the region. Our interest in Kwajalein is such that we should not accept restrictions on the use of facilities in the Marshall Islands. In Palau, we probably could accept some restrictions without undue risk to

the readiness or deterrent capa[illegible] deployed forces, if a combination of other factors leads us to establish a treaty relationship with this part of Micronesia. The basing options in Palau should be protected by firm political arrangements covering a sufficient period of time to justify any future construction of facilities and related operations costs. However, if the political and financial costs of obtaining Palau land options becomes too high, it would be necessary to review this requirement. Overall, the continued ability to deny the entire Micronesian area to foreign powers for military purposes is a firm U.S. national interest requirement, even more so than in the past in light of our growing interest in trade with Asia, the recently established Soviet political presence in the South Pacific, and the increased capability of the Soviet Pacific Fleet to interdict our lines of communication.

In addition to the above requirements, the U.S. should retain continuing rights to occasional or emergency use of all harbors, waters and airfields throughout Micronesia as well as continuing rights to existing Coast Guard facilities (particularly the Loran-C Station located on Yap).

B. Political

The USG has a vested interest in a stable, friendly and peaceful Micronesia, no matter what form its new political status may take. A continuing close, flexible and amicable relationship with these islands (possessing a minimum of built-in "friction points") could serve and protect U.S. interests elsewhere in the Pacific, while also promoting stability within the Micronesian area. Loss of effective U.S. influence over Micronesia and hostility toward the U.S. on the part of Micronesian authorities could reduce the ability of the U.S. to serve its broader interests in the Western Pacific, particularly if the U.S. also lost its existing key bases in that area. A political vacuum coupled with

Micronesian political instability could conceivably tempt adventurism from potential U.S. adversaries who may seek military access to Micronesia.

The manner in which we approach termination of the Trusteeship Agreement will be watched closely by the other Pacific powers, particularly Japan, our most important ally in Asia and a nation that depends heavily upon the U.S. security umbrella. Recently, the Japanese have expressed concern that a divided Micronesia may emerge in the not-too-distant future, as opposed to a coherent, non-hostile entity which we and they hope for. They believe that long-term stability in Micronesia will be unlikely without a firm lead by the USG. Thus, what we do in Micronesia cannot be viewed apart from our interest in a close relationship with Japan and the role they expect of us in the Pacific.

Under both the U.N. Charter and the Trusteeship Agreement, the U.S. has a definite obligation to foster political development in Micronesia "toward self-government or independence as may be appropriate to the particular circumstances of the trust territory and its peoples and the freely expressed wishes of the peoples concerned..." (Article 6 of the Trusteeship Agreement with the U.N. Security Council). Any failure to discharge that obligation could have a highly adverse political impact not only in the U.N., but also throughout Micronesia.

America's traditional active support for the exercise of self-determination by others is a significant facet of the U.S.

international position and [illegible] becomes increasingly important in light of the TTPI being the last remaining territory under the U.N. trusteeship system. In dealing with Micronesia it is in the national interest to act consistently with this tradition unless overriding national security considerations preclude such action. Accordingly, the ultimate determination of the future political status of Micronesia must be decided by the people of Micronesia in a political act of self-determination. The U.S. in no way intends to force the people into a future political status which they do not expressly desire.

The longer the TTPI remains under Trusteeship Council scrutiny, the more the USG will need to defend its administration of the territory. The UNTC, and other UN organs; e.g., the Committee of 24, would in all likelihood increasingly tend to attack the U.S. on: (a) excessive delay in effecting termination, and (b) U.S. efforts to preempt or discourage the acceptability to Micronesians of an independence option. The Trusteeship Council has desired more information with regard to the political status negotiations, goals, and intent. The 1976 Trusteeship Council Visiting Mission report and the subsequent Trusteeship Council report to the Security Council on the TTPI stated that, while it does not presume to recommend a future political status for Micronesia, it notes that the status incorporated in the initialled Compact of Free Association is "not inconsistent with the principles of the trusteeship system". The Trusteeship Council has continually urged the unity of the Caro-

line and Marshall Islands political status and has accepted the target date of 1981 for termination of the trusteeship.

The USG is on record before the Trusteeship Council as (a) favoring the unity of the Marshalls and Carolines; (b) intending to seek termination of the Trusteeship for all districts of the TTPI simultaneously (Marianas, Carolines and Marshalls); (c) intending "to seek" United Nations Trusteeship Council and Security Council approval for the termination of the Trusteeship Agreement; and (d) endorsing the Micronesian (JCFS) proposed target date of 1981 for termination of the Trusteeship Agreement.

The USG has not, however, committed itself to the obtainment of the approval of any U.N. body for the termination of the trusteeship. Since the TTPI is classified as a "strategic trusteeship", the Security Council rather than the General Assembly is the overseeing body in the United Nations. The Security Council has delegated the routine business concerning the TTPI to the Trusteeship Council. In view of the composition of the Security Council and the veto power of the Soviet Union and the PRC in that body, a future political status for Micronesia which provides for the continuation of U.S. security interests, particularly if it is not outright and absolute independence, may well meet opposition among the membership of the Security Council. In such a case, acceptance of a requirement of Security Council approval for termination of the Trusteeship Agreement could result in seeing the freely expressed desires of the Micronesians and their right of self-determination thwarted by big-power or third-world politics.

If the USG were to p[illegible]unilaterally that its obligations under the Trusteeship Agreement were fulfilled, and to assert that the Trusteeship Agreement was therefore terminated, then the U.S. could expect some international condemnation. In the ten previous cases of trusteeship termination, the administering authorities sought and received U.N. General Assembly approval before termination. The USG supported the ICJ's 1950 advisory opinion that the South African mandate over Namibia had not lapsed just because one party, South Africa, said the conditions of the agreement were fulfilled.

In all foreseeable cases the U.S. would be in a better political and legal position having sought Security Council approval of termination of the trusteeship even if we failed to obtain it. Therefore, it is best to avoid actions now which would preclude the possibility of seeking such approval. It will be especially important to have attempted to satisfy U.N. termination procedures and therefore to maximize the prospects of at least obtaining majority support within the Security Council for termination of the trusteeship. There is no question but that with such support the U.S. will be on far firmer ground should it become necessary to terminate U.S. obligations under the Trusteeship Agreement without the formal approval of the Security Council.

As a practical matter it seems certain that United Nations Security Council approval of (or even majority support for) termination of the Trusteeship Agreement will require that representa-

tives of UNTC observe the act of self-determination (plebiscite). Politically, the inclusion of an independence option on the plebiscite ballot would be desirable to enhance the chance of obtaining Security Council support for termination. From the standpoint of maximizing the achievement of our preferred status relationship and obtaining the best protection of our security interests, an independence option on the plebiscite ballot may be detrimental. In any event, no U.S. commitment beyond existing statements should be made either toward a commitment to obtain Security Council or Trusteeship Council approval for termination or in the opposite direction toward any USG action which would preclude the possibility of seeking such approval. The question concerning what options would be on the plebiscite ballot and the determination of USG policy in regard to U.N. participation in the termination of the Trusteeship Agreement can be deferred until resolution of the status negotiations or other circumstances require that a policy decision be made.

C. Economic

The Trust Territory is and will be for the foreseeable future an economic burden to the U.S. Except for U.S. support Micronesia currently has a subsistence type economy, relying primarily on family garden projects, fishing and increasingly on imported foodstuffs. No major exploitable mineral resources either on land or the seabed have been found to date. The only economic resource of any possible or potential economic benefit is that of the marine resources (fish) off the coasts of Micronesia. Therefore, the U.S. has no significant economic interests in these islands.

In terms of U.S. economic interests--as opposed to foreign affairs jurisdictional interests--the U.S. has no legal claim to Micronesian marine resources under the Trusteeship Agreement (in fact it is obligated to preserve them for the inhabitants of the territory) and does not covet them for the future. Accordingly the USG recently informed the new Micronesian Status Commission that the U.S. is prepared to negotiate on the basis that the benefits derived from exploitation of the living and non-living resources off the coasts of Micronesia accrue to the people of Micronesia. The matter of the control over Micronesian marine resources is addressed elsewhere.

It would be consistent with U.S. interest in establishing a stable, enduring relationship with Micronesia that the U.S. should provide continued economic support appropriate to the character of the future relationship and at a level which will assure a progressively more self-sufficient economy. It would be detrimental to U.S. political and strategic interests to permit the Micronesian economy to collapse, with the resultant social and political disruption.

Stated another way, there are at present no American economic interests justifying a continuing close U.S. relationship with Micronesia, but there are significant political and strategic reasons for the U.S. to provide economic assistance to Micronesia and to try to build a reasonable level of economic self-sufficiency. Certainly the fact that Micronesia expects considerable economic benefit from any future association with the U.S. provides a lever to achieve a preferred status arrangement.

III. Major Issues and Pr

A. Political Fragmentation

One of the major problems in the negotiations is that of possible political fragmentation among the remaining districts of the Trust Territory.

Political unity in Micronesia is and has been an artificial creation of the Spanish, German, Japanese and American external administering authorities. The ethnic, historical, linguistic, and cultural differences among the districts comprising the Carolines and the Marshalls contribute to local residents identifying with ethnic and district rather than Micronesian-wide perspectives. Citizens of the Trust Territory think of themselves as Palauans, or Ponapeans, or Marshallese rather than as Micronesians. Each major cultural group holds pride in its own group and displays openly resentment and antagonism toward other groups.

The territory-wide legislature, the Congress of Micronesia, was created by the U.S. in 1965 with the hope that it would foster a feeling of Micronesian unity and a willingness to sacrifice for the "common good". Unfortunately, the members of the Congress of Micronesia have not been successful in accommodating their personal and/or district interests with more widely based interests affecting Micronesia as a whole. This failure, combined with the failure of any Micronesian to develop a territory-wide political leadership posture, has enhanced centrifugal forces tending to fragment the territory.

There is also little doubt that the success of the Marianas initiative for a separate political status has strengthened separatist movements in the other districts, despite U.S. stress on the uniqueness of the Marianas case for a separate status agreement and our official statements favoring the continued political unity of the Carolines and the Marshalls.

The increasing tendencies for fragmentation are most evident in the Western and Eastern most districts, Palau and the Marshalls. Successful separatist moves by Palau and the Marshalls could well result in total fragmentation of the Micronesian districts. The four remaining districts might combine to seek some form of association with the U.S. or conceivably each might try to go its separate independent ways. If such occurs, it is possible that Ponape and Kusaie districts might seek to align themselves with the Marshall Islands and the Republic of Nauru in a central Pacific Island Federation associated loosely with the United States. Yap Island District would most likely seek a separate free association status relationship with the U.S. Truk would perhaps seek total independence with the attendant possibility that the Trukese leadership might look toward other nations, such as the Soviet Union, for economic assistance.

Fragmentation would, therefore, present the U.S. with a situation requiring the negotiation of several status agreements in an attempt to meet our fundamental national security objectives. Several key members of the U.S. Congress have indicated

that separate status agreements with the various districts of the Carolines and the Marshalls would be unacceptable to the U.S. Congress. Some members of the U.S. Congress may not be opposed to separate arrangements with one or more districts. Additionally, if Micronesia fragments the USG would be subject to serious criticism for what would be termed a divide-and-rule policy by some members of the U.S. Congress and the United Nations

Palau

In Palau, the desire for separatism stems in part from the wealth seen as accruing to Palau should plans for a local oil storage/superport involving both Iranian and Japanese interests become a reality. The Palauans, convinced of their own superiority, tend to be scornful of their fellow Micronesians and they do not want to share potential superport revenues with the other districts or be dominated by a central Micronesian government controlled by the more populous district of Truk.

On May 19, 1976, the Palau Political Status Commission sent a letter to the President's Personal Representative for Micronesian Status Negotiations requesting a formal dialogue between Palau and the U.S. to consider a future political status agreement, "similar in nature to that of the Northern Mariana Islands". The Palau Political Status Commission has stated that this language does not mean that they propose a political relationship that is identical to the Marianas Commonwealth Covenant, in that they do not desire U.S. sovereignty or U.S. citizenship, but rather prefer a close and enduring relationship with the U.S. along the lines of the draft Compact of Free Association but

separate from the other districts. In this regard, the promoters of the superport concept have let it be known to the Palauans that a close political relationship with the U.S. would be necessary to insure the political and security stability necessary to attract the requisite amounts of foreign investment called for in their concept.

The Palau Political Status Commission has additionally made it clear that the draft Micronesian Constitution will not be accepted in the Palau District and that it would be a waste of time, money, and effort to even conduct a referendum on the draft Constitution in that district.

In June 1976, the Palau Political Status Commission appeared before the U.N. Trusteeship Council and petitioned for its approval of separate negotiations with the U.S. The Trusteeship Council rejected this plea for separatism, continuing to support unity. The Palau Political Status Commission then pleaded its case with Representative Phillip Burton, Chairman of the House Sub-Committee on Territorial and Insular Affairs. The Commission claims that Congressman Burton pledged his assistance and support if the results of the then forthcoming referendum showed that the people of Palau desired separate negotiations.

On September 24, 1976, a referendum was conducted in Palau on the question: "With respect to the future political status for Palau District, the Palau District shall negotiate separately and apart from the rest of Micronesia with the United States of America. (Yes or No)". The USG made clear in advance

it would not give official recog[illegible] referendum and no USG or UN observers were sent to Palau for it. With a light turn-out of about 50% of eligible voters, 87.7% of those voting voted for separate negotiations. The results were transmitted by the Palauans to the Trusteeship Council. The light turnout in the voting is significant, indicating that many supporters of Micronesian unity may have stayed away from the polls and used that method to register their disapproval of separate status. It has been claimed by local supporters of the referendum that there was also confusion about polling times and it has been asserted that government and other employees did not have an opportunity to vote.

The Palauans may coordinate their efforts with the Marshallese separatists, and may perhaps exert pressures for fragmentation on the COM during the next session which will convene in early January, 1977. The Palauan delegation walked out of the Congress of Micronesia during its July session when the matter of the future location of the capital of Micronesia came to a vote.

The August 1976 Situation Report of the Palau Political Status Commission states, "In essence the attitude of the people of Palau has changed dramatically towards the Congress of Micronesia because of inability or lack of desire to include the unique political, social, and economic interests of Palau in the Micronesian draft constitution and its status negotiations with the United States of America. At the outset of the Congress of Micronesia there was a general feeling of positive expectation; however, over an agonizing period of unresponsiveness, this feeling has transformed into one of distrust and frustration" (sic). The Palauans have thus far refused to participate in the work of the new Commission on Future Political Status and Transition, although they have named representatives.

The Palauan leader[illegible] be brought to a position of acquiescence in some form of loose association with the other districts if the U.S. holds firmly to the policy of unity and the other Micronesian districts are agreeable to the loose form of "confederation". In 1974 the Palau Legislature adopted a resolution endorsing a platform of insisting on a loose federation of the districts of Micronesia. That resolution states "...that the people of Palau cannot and shall not accept any other form of political unity in Micronesia other than a unity based on the terms and principles of a loose federation of states where the central government shall have authority and supremacy over specific territorial and international matters while the district governments shall have prerogative over all domestic matters."

It is noteworthy that the Micronesian Constitutional Convention (CONCON) failed to meet many of the "non-negotiable" demands of the Palauan delegation, instead drafting a Constitution which would, from the Palauan point of view, provide the central government with far too much authority over district affairs. The Palauan Delegates to the CONCON signed the draft Constitution but have since repudiated their action.

The Marshalls

In the Marshalls district, the fragmentation problem is equally serious and perhaps more directly threatening to U.S. interests. The Marshallese have a long history of confrontation with the Congress of Micronesia over sharing of revenues generated primarily from USG activities associated with the Kwajalein Missile Range. A strong element in the rich and powerful Marshallese

traditional leadership rejected the draft Micronesian Constitution, wants the Marshalls to be self-governing and independent of the other districts of Micronesia, and ultimately independent of the U.S. as well.

This political faction in the Marshalls, which controls the district legislature, urged the boycott of the election of delegates to the Micronesian Constitutional Convention. The district legislature also created a Marshallese Political Status Commission (MPSC) which pleaded before the U.N. Trusteeship Council in June, 1976, for separate status. The Marshalls Political Status Commission submitted an interim report to the district legislature in April, 1976, which urges rejection of the draft Micronesian Constitution, separation from the other districts and a future political status of some form of free association with the United States leading to eventual independence. The MPSC has been secretly financed by the Republic of Nauru.

These separatist leaders in the Marshalls foresee a period of U.S. "stewardship" over certain of their external affairs during a transition period leading to full independence. A working position paper for separate negotiations now being discussed by the Marshalls Political Status Commission states that during this transition period, "the Marshalls would assume control over each external area of concern, such as marine resources, defense treaties, etc., so that after a gradual progression, the Marshalls would become fully independent, probably at a point between 1985 and 1988, or about ten years from now".

According to this working paper, the United States would, pursuant to a treaty, be permitted to use the facilities in the Marshalls by providing compensation at going world rates for use of military bases. This would, according to the working paper amount to no less than $20 million per year plus assistance for developing an extensive infrastructure for the Marshalls which could bring the total cost to the U.S. up to $100 million per year. The paper also states that before proceeding to the resolution of future relations between the U.S. and the Marshalls, the resolution of past problems associated with USG use of Bikini and Eniwetok for nuclear testing and land use compensation should be discussed.

In the period since the new Commission on Future Political Status and Transition was created, the Marshallese have refused to name representatives to that Commission. The new Micronesian Commission is therefore lacking participation by both Palau and the Marshalls.

There does exist, however, a strong minority in the Marshalls, composed of the less traditional elements which reject the separatist moves of the authoritarian traditional leadership and support Micronesian unity under the concept of Free Association with the U.S. The November, 1976, Congress of Micronesia and local legislature elections in the Marshalls were encouraging for this faction, with "unity" advocates unseating several separatist incumbents. In addition, the Marshallese who initialled the draft Compact of Free Association on June 2, 1976, won reelection

to the Congress of Micronesi

U.S. Interests

Faced with strong Micronesian tendencies toward political fragmentation, the U.S. has potentially conflicting interests.

On the one hand, we would prefer not to abandon the policy favoring the political unity of the Marshalls and the Carolines. Also, there is considerable merit in avoiding multiple status negotiations. In this regard, it would be far easier to win Congressional and U.N. approval for a political status based on unity rather than fragmentation.

The U.S. strategic interest in denying Micronesia to the military forces of political adversaries would probably be more safely assured if there were one political entity because several entities increase the prospects of political instability and third power adventurism.

Fragmentation would also present the U.S. with a situation requiring the negotiation of several status agreements, including agreements with Truk, Ponape and Yap where we have no specific military land requirements. We would be faced with the unenviable choice either of continuing indefinitely to give them substantial financial assistance or risking the chance of their falling under the influence of an unfriendly power.

Lastly, we have long asserted publicly that we favor Micronesian unity; to reverse that position too facilely would open us to charges of bad faith--that with the Marianas safely split away, we then turned to disintegrating the rest of the Trust Territory.

In the other hand, Micronesian cultural impulses are so strong that it is entirely possible--some would say highly probable--that even a determined U.S. effort on behalf of Micronesian unity will fail. Should some form of unity be imposed by the USG against the willingness of the Micronesians to support unity, its eventual collapse would have a detrimental impact on U.S. political/security interests. Also, rigid adherence to an unrealistic unity policy, some would argue, risks alienating the people of the Marshalls and Palau, the very two districts where the U.S. has specific military interests.

In summary, it is believed that it remains in the long term best interest of the United States, as well as of Micronesia, to preserve a realistic, although perhaps limited, form of unity while being flexible as regards the extent of autonomy for each of the districts. Therefore, to cope effectively with the growing agitation for separation, the U.S. should attempt to complete the negotiations rapidly on a single political status arrangement covering all the districts.

Continued negotiation by the U.S. with the new Micronesian Status Commission (CFPST) without active representation of the Marshalls and Palau may prove, however, to be ineffective because as long as the Commission lacks such representation, it may not be a valid interlocutor which would negotiate a status applicable to all the districts. Should the U.S. and the CFPST reach agreement, it might possibly be repudiated by the Palauans and Marshallese who might argue they were not a party to it. Yet, a U.S. refusal to deal with the Commission pending participation

by all districts would sta[illegible]cions and grant leverage to Marshallese and Palauan separatists.

. The Commission appears desirous of being able to report substantively on current U.S. positions and on future prospects for the status negotiations to the COM which offers a forum for discussion of outstanding status issues among representatives of all the districts. It is therefore in the U.S. interest to convey U.S. positions on remaining status questions to the new Commission as soon as possible and preferably before the next session of the COM convenes in early January, 1977. The major outstanding issue is that of marine resources, which is central to the interests of all the districts. This subject could be used to induce the Marshalls and Palau to become involved in the Commission's work toward a status solution applicable to all the districts of Micronesia.

One possible solution to the Micronesian unity question might be to obtain Micronesian acceptance of a loose form of unity, providing maximum autonomy to the various districts under an "umbrella" association with the United States. A loose "confederation" of the districts could be structuredaround common and essential services required by all districts, e.g., transportation, communications, .education, legal affairs and resource protection and development. The feasibility and practicality of this concept could be demonstrated to the Micronesians during the remaining years of the trusteeship by restructuring the trust territory administrative government and through continued decentralization and reduction in size of the Trust Territory central government.

Constitution vs. C[illegible]

A Micronesian Const[illegible]onal Convention, conducted during 1975, resulted in a draft constitution for a future Federated States of Micronesia. The draft Constitution provides that the future Government of Micronesia would first attain the full attributes of a sovereign state and then enter into a free association relationship with the U.S., under a treaty relationship, by delegating certain authorities to the U.S.

The approach to a free association relationship with the U.S. resulting from the draft Micronesian Constitution would: one, dilute U.S. foreign affairs authority over Micronesia and call into question whether the U.S. could protect its interests and meets its international commitments in the Western Pacific without raising fundamental conflicts between the U.S. and Micronesia (e.g., by precluding the U.S. from asserting its authority to require Micronesia to conform its activities to U.S. policies and security interests); and two, empower Micronesia as a fully sovereign state to withdraw its delegation of authorities and terminate the Free Association relationship at any time, thus raising serious obstacles to long term policy planning in the Western Pacific. In effect, it would provide for Micronesian independence under the guise of free association.

Such a concept of "free association" differs radically from the U.S. concept as expressed in the initialled Compact of

Free Association. Under the initi[illegible], internal sovereignty would be held by Micronesia while the United States would hold foreign affairs and defense authority as if it were sovereign. The powers of the U.S. would derive directly from the people's sovereign act of self-determination, not from any delegation of powers by a Micronesian Government. Under the initialled Compact's concept, the Constitution and laws of Micronesia could not infringe upon the responsibilities and rights vested in the Government of the United States as a result of the approval of the Compact by the people of Micronesia, and by the Government of the United States. There is an additional problem in that the draft Constitution may not provide the appropriate powers to the central government necessary for the fulfillment of its obligations that it would assume under the Compact.

Recent evidence suggests that the draft Constitution will most likely not obtain referendum approval in the requisite number of districts to become adopted. There are varying degrees of opposition to the Constitution in all of the districts. There is as yet no set date for such a referendum on the Constitution. Indeed, the supporters of the draft Constitution appear reluctant to recommend a referendum date to the High Commissioner because of the likelihood of its defeat.

The opposition to the draft Constitution revolves around the separatist tendencies. The attitude and actions of the Palauan and Marshallese leaders in respect to the Constitution Convention and the draft Constitution have already been mentioned. Their main objection is that the draft Constitution does not provide for sufficient local autonomy. Added to this opposition is the potential reaction in Kusaie, which will become a separate

district in January, 1977 [illegible] close ties with the Marshalls and because of its desire to maintain its established religion (and therefore opposition to the Constitution's freedom of religion clause), Kusaie may also reject the Constitution. There are even signs of some opposition to provisions of the Constitution among some leaders of Truk and Ponape. By its own terms, the draft Constitution could not take effect if three or more districts reject it.

The existing COM legislation establishing the new Commission (CFPST) instructs the Commission to make the Compact of Free Association conform to the draft Micronesian Constitution. This mandate, if strictly carried out, would have the effect of making the future relationship with the U.S. a treaty relationship between two independent states, no matter by what term the relationship was called. The new Commission, as stated earlier, has maintained that it is not bound by the agreements of its predecessor and desires to discuss with the U.S. the inconsistencies between the initialled Compact of Free Association and the draft Micronesian Constitution. The new Commission has also resurrected--whether on a serious basis or for tactical advantage only is not yet known--a number of once resolved issues such as renegotiation of "indefinite" land use agreements for Kwajalein Missile Range, unilateral termination of the Compact by Micronesia at any time, and the right of a district that disapproves the Compact in the status plebiscite to negotiate separately with the U.S.

Both sides agree that the documents, as currently drafted, contain mutually inconsistent and incompatible provisions. There is a possibility that the next session of the Congress of Micronesia may modify the current instructions to the CFPST to provide more flexibility which could resolve the inconsistencies in favor of the U.S. concept of free association. There are also indications that a face-saving arrangement could be obtained through agreement on the mechanism of a "standby" clause attached to the Constitution which would, in effect, give the Compact primacy during its existence (at least fifteen years).

Another method of inducing a resolution of the Compact/Constitution problem would be by conducting an offical conceptual plebiscite throughout Micronesia. Through such a plebiscite, the people of Micronesia would exercise their sovereign right of self-determination by choosing between Free Association as defined by the initialled Compact and independence with a security arrangement with the U.S. The results of such a plebiscite would provide the mandate to the Micronesian political status negotiators as well as U.S. negotiators.

In view of the known opposition to the draft Constitution, it might be advantageous to hold a referendum on the Constitution as soon as possible in that a defeat of the Constitution would obviate the Compact/Constitution problem. However, if the Constitution were unexpectedly approved, the problem would be exacerbated.

IV. Finance

A. The Micronesian Economy

After twenty-nine years of United States Administration, Micronesia is still years and many dollars away from economic

self-sufficiency or the th[illegible]-sustained growth. Local capital formation is almost negligible and foreign investment disappointing. While many consider the latter to be an acceptable catalyst to future economic growth in Micronesia, it is becoming increasingly clear that private American investment will likely never grow to the extent that its proportionate yield will be able to fill the local savings gap. Japanese investment, the other hoped for alternative, is today stifled due to the reluctance of generally conservative Japanese firms to invest in a Micronesia, the future political status of which is uncertain.

Micronesia today has one of the lowest personal income tax rates in the world--a flat 3% on wages and salaries. The additional 1% on gross business receipts adds almost as much to annual revenues. Revenues from these sources and incidentals such as import and export tariffs, are estimated at $8.6 million for FY 1977.

Exports of goods and services from Micronesia are currently estimated at $18 million. This figure is offset, however, by private consumption in the agricultural sector (subsistence) of approximately $3.5 million and fees accruing to airlines in the Trust Territory totalling over $6 million. What essentially remains as marketable exports are copra (almost $3 million) and tourism (about $5 million). The copra figure is misleading since local prices are stabilized through infusion of Congress of Micronesia revenues. The figure for tourism is questionable in that a not inconsiderable percentage of tourism revenue flows out of Micronesia to investors and promoters.

Essentially then, [illegible] annual U.S. grant subsidy of close to $80,000,000 plus some $10,000,000 worth of U.S. federal programs now operating in Micronesia, the local economy is able to generate about $15 million from local taxes and export earnings. The operations budget of the Trust Territory Government (including the districts) is now $51.9 million for FY 1977 (See Annex D for TTPI budget figures).

Even disregarding a post-trusteeship public facilities construction program, it is clear that Micronesia cannot support the size and type government is now has. A UNDP economic planning program in the Trust Territory, based on surveys by a number of functional "experts", has produced an "economic indicative plan" which has recommended to the Micronesians drastic reforms of their economic system if they are to become less dependent on U.S. or foreign assistance.

In FY-76 implementation of a $145 million, in constant dollars, five year capital improvement program for all of the districts (including the Northern Marianas) was begun. This level of capital improvement program was agreed to with the Micronesian negotiators in 1974 on the condition that the Compact of Free Association was accepted by Micronesia. This CIP program could be reduced, delayed, or suspended if the new Micronesian Commission proves to be headed toward independence and away from free association; although, a strong case can be made that the program should be completed in any event given its salutory effect on economic development in Micronesia and its terminable nature.

B. Concept of U.S. Financial Assistance

The 1973 study and the initialled Compact framed the U.S. Government's conceptual approach to its future financial assis-

[illegible] to a post-trusteeshi[illegible]y. The basic tenets were that (a) U.S. assistance should be looked at as a lump-sum, thereby refuting the Micronesian concept that the U.S. should be willing to pay a bonus in order to secure its defense interests; (b) the U.S., consistent with (a) above and in order to demonstrate its belief in Micronesian self-government, should not attempt to specify the ways in which monies were to be spent except as agreed to in the negotiations; (c) some provision should be made for accountability of funds (this seems to be solved in the initialled Compact through provision for GAO audit); and (d) if at all possible, some provision should be made to equalize the distribution of the funds throughout Micronesia. The underlying, controlling concept in the U.S. approach to this problem has been that the level of total annual assistance is directly linked to the closeness of the political relationship, as well as to the need.

C. Free Association

The current negotiating instructions provide for a maximum level of grant assistance, including all U.S. federal programs, of $60 million per year. The initialled Compact of Free Association provides financial assistance from the U.S. at slightly declining levels starting at a level very near to the authorized negotiating limit. The Micronesian negotiating body which initialled the Compact was quite satisfied with those levels of financial assistance. The new Commission has not indicated any dissatisfaction with the financial levels, but rather has reacted worriedly to suggestions from the U.S. negotiator that those levels might not be as firm as the Micronesians would like

...nk. It may, however, ...ly for the U.S. to provide some additional financial assistance for the surveillance and enforcement of Micronesian waters as discussed in the LOS section of this paper.

D. Independence

If, however, it is decided that a treaty relationship (independence) should be offered as an alternative status option the U.S. negotiator should indicate our willingness to extend a yearly subsidy of no more than $30 million, for the duration of the treaty or for the first fifteen years at which time it would be reviewed. This figure would include any amounts for Micronesia as a whole for military land leases or options and could entail stipulations calculated to discourage secessionist tendencies. For example, if a district realizes that it would receive a greater quantity of U.S. economic assistance as its share of an aid package to a united Micronesia than it would under a separate relationship with the U.S., that district might be encouraged to remain in some form of unity with the others. It is therefore believed that each district's proportionate share of the U.S. economic assistance to a united Micronesia should be greater than what any one district might receive in economic assistance from the U.S. in a separate relationship.

Under the independence option Micronesia would bear full responsibility for the surveillance and enforcement of the waters off the coasts of Micronesia and no provision need be made for

tional U.S. financial for such purposes.

E. Commonwealth

If a Commonwealth relationship is proposed, the U.S. would be under considerable pressure to offer economic assistance terms to Micronesia as generous as those contained in the Marianas Commonwealth arrangement. On a per capita basis (which is not a good comparison), this would mean upwards of $100 million annually for seven years plus a very wide range of federal grant, loan and entitlement programs, including full U.S. financial and operational responsibility for surveillance and enforcement of Micronesian waters.

With regard to accountability, the U.S. position should be dictated by the political relationship. Clearly, a relationship of territorial status such as Commonwealth will involve an audit function much akin to what presently exists on Guam. Free Association and Independence will involve periodic audit by the GAO. This will likely be a requirement imposed by the U.S. Congress

V. Congressional Aspects

Some members of the United States Congress will oppose any status agreement or agreements negotiated with the leaders of the Marshall Islands and the Caroline Islands that provides for less than full independence. On the other hand, other members will oppose any agreement which recognizes Micronesian independence. It should be possible to reduce opposition through advance consultation with both Houses of Congress. Based on Executive Branch instructions concerning which one or several of the negotiating options to pursue, the

President's Personal Repre[illegible]eek an opportunity to brief selected members of relevant Committees of both Houses. For example, the precedent established by the Senate granting jurisdiction to the Armed Services Committee and Foreign Relations Committee during hearings on the Marianas Covenant would require that these two committees, in addition to the Committee on Interior and Insular Affairs, be briefed.

Experience with the Marianas Covenant suggests that Congressional concern will center on cost, protection of defense interests and reluctance to take on new national obligations. There will be substantial reluctance to agree to termination of the Trusteeship on terms that would require sustained financial support levels equal to or greater than current outlays in the TTPI and it will be virtually impossible to obtain Congressional approval of an agreement without firm assurances from DOD that United States security interests have been met. Acceptability of the arrangement to the United Nations may be especially important to some influential members but would not appear to be important to the Congress as a whole so long as the agreement has the active support of the Executive Branch and the Micronesian leadership of the Trust Territory.

Each of the three status possibilities--Commonwealth, Free Association or Independence with a prenegotiated mutual security

treaty--would be controversial.

Some members of Congress would almost certainly oppose Commonwealth for the Marshalls and the Carolines. It is likely that they would gain more support for their position than they were able to produce in opposition to the Marianas Covenant, but it is not at all clear that they would be able to kill such an agreement if the cost were not substantially in excess of current expenditures. It is likely that there might be some support for Commonwealth depending on whether the costs were perceived to be reasonable, particularly in view of the Marianas precedent.

Free Association would probably more easily attract a majority in either house because of the history of consultations with the Congress on the concept of Free Association.

Independence would probably be supported by those members of the Congress who opposed the Marianas Covenant and would probably be the preferred alternative of some members of the Senate Foreign Relations Committee, but it would encounter substantial opposition from others such as members of the Armed Services Committee.

Many key members of Congress would almost certainly oppose a situation resulting from fragmentation, i.e., several separate political status agreements with various Micronesian entities. The Congress will be extremely reluctant to accede to what may be considered "untidy and messy" arrangements for an area they regard as one geographic entity inhabited by so few people. If as a result of further political status negotiations, the U.S. cannot persuade the Micronesians to maintain some form of unity, it is possible that at least some Congressmen who have opposed fragmentation could be persuaded to accept the inevitability of acceding to some form of separate status arrangements. There will also be Congressional interest in termination provisions and survivability of defense arrangements as discussed below.

In summary, it will be essential to remain in contact with the appropriate Congressional Committees to keep interested members apprised of the course the Administration proposes to take in negotiations with the new Micronesian political status commission.

VI. Status Options

The following three status options should be considered: (1) Commonwealth status; (2) Independence with a pre-negotiated mutual defense treaty; and (3) Free Association based on the concept embodied in the initialled Compact.

As stated earlier, it is considered in the best long term interests of the U.S., as well as of Micronesia, to continue some form of Micronesian unity, however restricted it might be in terms of protecting the districts' autonomous interests. Since time appears to be on the side of the separatist advocates, it behooves the U.S. to move as rapidly as possible to conclude political status negotiations on a document (and status) which would apply to all of the districts. Any delay in the negotiations or a moratorium on them should therefore be regarded as a tactic rather than an option. If the Independence Option is selected, however, it may be necessary to have a longer period of trusteeship which would allow the Micronesians time to form a stable government under their own constitution. In that event a delay in political status negotiations would be advantageous. However, any significant delay in termination of the trusteeship would cause political frustration in the Northern Marianas because of concommitant delay in their attainment of full Commonwealth status. The question of timing in regard to termination of the trusteeship is discussed further below.

It should be noted that under the status options of free

association or independence on the various issues will not constitute legal precedents for extending similar treatment to offshore U.S. territories.

Micronesia is not now, under the Trusteeship Agreement, a territory or possession of the U.S. American sovereignty does not apply to Micronesia, but the United States has definite legal and moral obligations, both to the Micronesians and to the United Nations, under the Trusteeship Agreement. Under either a Compact of Free Association or under a pre-negotiated defense relationship with the U.S., Micronesia will not be under U.S. sovereignty. Only under the status of Commonwealth would U.S. sovereignty be extended over Micronesia, as in the case of the Northern Marianas.

Therefore, Micronesia cannot now, under the Trusteeship Agreement nor under a Compact of Free Association be equated with, for example, Puerto Rico, because in neither case is it or would it be a territory under U.S. sovereignty. Unless this fundamental and crucial distinction is clearly recognized by the U.S. there is little prospect of pursuing negotiations for a Compact of Free Association with any chance of success.

Territorial Status - A Micronesian Commonwealth

This status option would be similar to the status agreement with the Northern Mariana Islands--Commonwealth. Commonwealth status was rejected by the leaders of the COM during the initial rounds of status negotiations seven years ago and still does not enjoy wide support in Micronesia even with the Northern Marianas example so close at hand. If pitted directly against an independence option in a plebiscite, Commonwealth would command support only if the attendant financial

levels were starkly contrasted. However, it is very unlikely that Commonwealth could win over Free Association as described in the initialled Compact.

A Commonwealth option would more fully satisfy most of the currently listed negotiating objectives except possibly for keeping U.S. financial obligations within reasonable bounds. However, it could make more difficult obtaining Security Council approval for termination.

Executive Branch testimony before Congress in support of the Marianas Covenant clearly implied that a less close relationship with the Marshalls and Carolines is foreseen. Accordingly, it is believed that if this option is selected as one which would best further basic U.S. interests in the area, it should not be tabled in the status negotiations until after full consultation with Congressional leaders plus a clear indication of substantial sentiment favoring this option among the local leaders in the Carolines and the Marshalls.

PROS

-- Would best secure U.S. defense interests in Micronesia.
-- Would impose political unity thereby preserving it.
-- Would ensure uncontested U.S. control over Micronesia's foreign affairs.
-- Might be acceptable to a majority in the Micronesian districts once the full implications of independence were registered and if free association were ruled out

-- alternative.

-- Would signal U.S. resolve to maintain its role as a Pacific power for the indefinite future.

CONS

-- Would be more costly than other options.

-- Would be less likely than other options to be approved by the U.N. Security Council.

-- Would not be acceptable to those Micronesians who support the Micronesian draft Constitution.

-- It would be more difficult to explain to Congress that it is in the U.S. national interest to enter into permanent association with the rest of Micronesia than it was with the Northern Marianas in view of the latter's proximity to Guam.

-- Even if the Marshalls and Carolines produced a majority vote in favor of a Commonwealth relationship with the U.S. the absence of a long history indicating overwhelming popular support for permanent association with the U.S. would lessen its chances of Congressional approval.

-- The inherent requirement of a strong central government would lead some districts to reject Commonwealth.

-- In contrast to the Northern Marianas, it is possible that most of the districts might not easily assimilate into the U.S. political system.

dependence with Pre-Negotiated Mutual Defense Treaty

Although the 1973 USC Study explored several "independence tions", it is believed that only one deserves serious consider-

ation at this time because [illegible] political attitudes and the above cited U.S. interests and objectives. This option would include two main features or inter-dependent parts: (a) Micronesian independence, full sovereignty, with the new Micronesian state legally responsible for its defense, external and domestic affairs, and (b) simultaneous entry into force of a pre-negotiated United States-Micronesian mutual security treaty of a specified duration covering denial and U.S. basing and operational rights as well as guarantees re future financial assistance possibly provided for under a separate treaty. It would be similar to the state-to-state relationship which would come into force following any termination (after a minimum of fifteen years) of a Compact of Free Association.

U.S. financial payments or subsidies could be significantly less than under either Commonwealth or Free Association. The U.S. could insist on the inclusion in the teaty of a fragmentation-survivability clause for U.S. base rights, similar to the survivability clause for United Kingdom base rights in their agreement with the Federation of the West Indies.

This or any other independence option would present major problems for U.S. security interests because its value and life-expectancy are only as good as the political strength and good will of the post-Trusteeship Micronesian Government. Given the lack of political unity among the districts and the serious weaknesses and uncertain fate of the draft Constitution, there is concern that a treaty arrangement would pose too many unacceptable risks to the long-term security interests of the U.S. in Micronesia.

From a national security perspective, the independence option is the least desirable of the three alternatives considered and should be presented to the people of Micronesia only if there is clear and convincing evidence that they will not accept either commonwealth status or free association.

There is also concern that the U.S. could not negotiate a treaty with the Micronesian Commission on Future Political Status and Transition with the requisite confidence that any agreed treaty would be fully respected by the future Government of Micronesia. This situation suggests that any formal negotiations on the independence option, if it is selected, be postponed until such time as the Micronesians establish a demonstrably stable central government.

On the other hand, this assessment of the independence option may not be totally valid for the following reasons:

(a) The draft Constitution is not the only basis on which Micronesian independence could be achieved. The draft Constitution in fact faces such opposition and possesses such fundamental flaws as to make its adoption as written very unlikely. A revised Micronesian Constitution could include those changes which the U.S. might require to ensure protection of U.S. military interests pursuant to a treaty relationship.

(b) While acknowledging that a degree of risk inevitably exists that a future Micronesian government might repudiate any

U.S.-Micronesian relations [illegible] association or mutual security treaty, this risk would not be significantly larger in negotiations with the Commission on Future Political Status and Transition than it would be with other representatives of an entity which is not sovereign but is about to be sovereign. In addition to the good faith we would expect from officials of any new Micronesian Government, any such Government would realize that it could not survive without the economic assistance which would be an integral aspect of any treaty or treaties negotiated.

(c) The proposal that if the independence option is selected, negotiations should be postponed until the Micronesians establish a stable central government may not lead to such a government but rather to one of two undesirable outcomes. The likelier outcome would be that increasingly assertive district pressures for separate status negotiations would become harder and harder to reject, so that the U.S. would in effect passively acquiesce in Micronesian fragmentation. Less likely but also undesirable, the proposal could lead to a maintenance of the status quo into the indefinite future, since there is no likelihood that the Micronesians left to their own devices will generate the stable central government which we would wait for.

PROS

-- Would provide technically and legally for the basic U.S. security desiderata--base rights and denial.

-- Would avoid the frictions associated with the conduct of foreign affairs under Free Association. The U.S. would not have any responsibility for Micronesian foreign affairs

under this option.

-- Would call for less financial assistance.

-- The U.S. would not have any financial obligation in respect to protecting and preserving Micronesia's marine resources.

-- Might be more acceptable to the political leaders in Micronesia.

-- Would be more acceptable to the U.N. Security Council.

CONS

-- Would be more restrictive in case of emergency than Commonwealth, i.e., would preclude or inhibit expansion of U.S. military rights or operations.

-- Could be more vulnerable to political instability.

-- Might be interpreted by some as a weakening of U.S. resolve to remain a major Pacific power.

Free Association

This option, based on the initialled Compact of Free Association, would be contingent on the Micronesians being prepared to modify fundamentally, perhaps by a "standby clause", or reject the draft Constitution.

Under this status option, the people of Micronesia by a sovereign act of self-determination would assign certain rights and responsibilities to the Government of the United States (foreign affairs and defense) and other rights and responsibilities to the Government of Micronesia (internal affairs). No Micronesian Constitution or law could infringe upon those rights assigned

Government of Micronesia) conflicts or is likely to conflict with the exercise of responsibilities assumed by the U.S. under this Compact, or its international obligations or basic security interests, the Government of Micronesia will refrain from or promptly discontinue such activity."

If this option--Free Association--is designated as the preferred one, it is assumed that ways will be found to preserve some degree of unity among the districts such as providing for greater district autonomy and to resolve the inconsistencies between the initialled Compact and the draft Constitution in favor of the U.S. concept of Free Association.

This status option has the best chance of being adopted by the majority of the people of Micronesia. All of the districts have indicated that they desire some form of Free Association relationship with the U.S. The main problem is that some of the districts desire their own individual Free Association relationship with the U.S. rather than be internally associated with the other districts. As discussed before, the U.S. could take the lead in the instigation of a loose association of the districts which would provide for maximum local autonomy while containing them under one "umbrella" political status document. "Unity" may be defined in many ways, some of which do not require a strong central government.

PROS

-- Would better ensure U.S. security interests than a treaty relationship with a sovereign state, especially one which

may be weak and politically unstable.

-- Might be more conducive to political unity than independence.

-- Would be less expensive to U.S. than Commonwealth.

-- Would facilitate the status negotiations; could be based upon an already initialled text.

CONS

-- Might lead to heightened friction, especially in the field of foreign affairs, and early denunciation by the Micronesians.

-- Would be more expensive than independence, even if we somehow could avoid any operational or financial responsibility to patrol Micronesian waters.

-- Would be less acceptable to the U.N. Security Council than independence.

-- Might be more difficult to negotiate unless Micronesians amend the legal mandate to the new Commission to provide more flexibility to resolve the inconsistencies between the initialled Compact and the draft Constitution in favor of the U.S. concept of Free Association.

Termination Date

The U.S. has stated publicly that it aims toward termination in 1980 or 1981. The U.S. agreed to the Micronesian (JCFS) request that the target date for termination be 1980-1981 because of the importance the Micronesians attached to an orderly transition and the completion of an accelerated capital improvement program.

Under certain circumstances, earlier termination of the Trusteeship Agreement could yield the following advantages: lower overall financial costs; facilitate Congressional approval; and the carry-over of parts of the U.S.-financed capital improvements program into the post-trusteeship period thereby providing a potential incentive for maintaining political unity through a critical period. Moreover, it would advance the date of commonwealth status for the Northern Mariana Islands. However, any advance of the target date is probably unrealistic from the viewpoint of completing the negotiations and providing for a smooth transition into a new status. A public announcement of an earlier target date for termination could prove embarrassing since we could not be sure that we could conclude the negotiations in an expeditious manner. A radically earlier date would also be strongly opposed by many Micronesians. However, many other Micronesian leaders want to end the drift and move ahead as rapidly as possible on the determination of their political future.

Since early termination of the Trusteeship Agreement is not a primary or secondary U.S. objective, the U.S. can remain deliberately vague on this issue until the future course of our negotiations with Micronesia becomes clear. On balance, it would be best for the U.S. to adhere to the

current policy statement; i.e., that it is the intention of the U.S. to terminate the Trusteeship by the end of 1981--that 1981 is the target date for termination--and that this be reinforced at every appropriate opportunity. Such reinforcement would have the merit of setting a psychological time limit on the status negotiations while maintaining some degree of flexibility in case circumstances require a later termination.

VII. Termination Provisions and Survivability of Defense Arrangements

Under any of the political status options which have been addressed in this study, we can expect the United States Congress (particularly the Armed Services Committee) to take a very strong interest in the following issues:

a. The legal and administrative framework which will govern the retention and acquisition of land for defense purposes and the tenure which will apply to such land.

b. The amount to be paid for military rights in Micronesia and how this relates to the total amount of financial assistance which will be provided to them.

c. Various details applicable to the future status of our forces and the nature of our operating rights in Micronesia.

The foregoing interests will require the prenegotiation of issues related to the broad nature of our defense relationship and, in the case of free association or independence, the status of our forces. If the political relationship stipulates termination provisions, there also must be provisions to ensure the

survivability of defense arrangements.

The secession issue poses potential problems. Under a treaty relationship a U.S. Government commitment to intervene with military forces as necessary to protect the political integrity of the new Federation should be avoided. Also, there is the potential of political fragmentation after the Trusteeship has been terminated and the new political relationship begun. There is therefore the need to ensure that our defense rights would survive in this event.

The survivability of our defense rights also will be affected by the political mandate possessed by negotiators on the Micronesian side. On the one hand, the U.S. cannot conduct negotiations on an independence option with the status commission with confidence that we will have a satisfactory treaty relationship with the future Government of Micronesia. On the other hand, it would be very risky to proceed toward Micronesian independence without preliminary agreement on the broad nature and details of rights needed to protect U.S. defense interests. This gives rise to a dilemma, which is presented primarily by the independence option, and which argues for a delay in the political status negotiations if the independence option is accepted until such time as the Micronesians have had an opportunity to form a representative and stable government at the federal level.

VIII. Transition

The interest of the United States in the transition of the Trust Territory of the Pacific Islands from its present political status to a future negotiated status is in seeing that the politi-

cal and economic components of the change invest the Micronesians with a positive residual attitude toward the United States. The policies which the United States should attempt to pursue in connection with the transition are those policies which will, in concert with Micronesian desires, effectuate a governmental and social infrastructure which can be managed within the means the Micronesians will have available, promote some form of post-Trusteeship unity, and which will fulfill the development obligations undertaken by the United States in the Trusteeship Agreement. These aspects of transition have remained substantially the same from the United States point of view since 1973, when the previous study concerning Micronesia's future political status was transmitted to the President.

The intervening years have, however, necessitated some changes in what can be defined as the program components of transition. The former study identified the major component of transition as the movement of the capital of Micronesia away from its Saipan setting to a new location of Micronesian choosing (Ponape). The President's Personal Representative has since been authorized to commit up to $25 million in direct U.S. aid to this project along with an additional $10 million matched on a two for one basis with local contributions. This authorization should be retained.

Since the new COM negotiating Commission has responsibility to consider transition measure, the subject of transition should be made a part of the negotiations as fully as possible once their direction again becomes clear. The U.S. should then consider establishing a joint transition group which will, with the Micro-

nesians, make recommendations as to (1) the implementation of a revised Micronesian Constitution prior to the termination of the Trusteeship; (2) changes in Trust Territory law and provision for the carry-over of same into the new Micronesian government; (3) adjustments in U.S. administration policy in light of a political status agreement (to include such matters as decentralization, pre-termination budgets, expanded authority for the Congress of Micronesia, and foreign relations); and (4) specific provisions for the new capital of Micronesia.

The following new program components of transition are designed with a view toward complete transition by the end of 1981, the target date for termination of the Trusteeship Agreement, so that a smooth and orderly transition may occur to the post-Trusteeship status:

1. The putting in place of an infrastructure which will provide the basic services for an acceptable post-termination Micronesian standard of living. The United States agreed in 1974 to contribute $145 million spread over five years for this purpose. This amount has been reduced to approximately $130 million to reflect the administrative separation of the Northern Mariana Islands.

2. The decentralization of the Trust Territory headquarters government. This proposal is the result of the report of Director of Territorial Affairs to the Jackson Oversight Committee on the Management of Public Programs in the TTPI. The concept of the proposal is to shift program management responsibility and capability to the district level. Certain functions of the Trust Territory Government will be relocated to districts

where natural and human endowments are most suitable. The headquarters will be trimmed in size so that the Micronesians can assume most functions and responsibilities at the central level when the Trusteeship Agreement is terminated. This program can be tailored to demonstrate to the Micronesians that maximum local autonomy within a loose association is possible and in their best interests.

3. During the transition period U.S. policies regarding foreign--particularly Japanese--investment in and development assistance to Micronesia should be tailored to create as beneficial a post-trusteeship investment environment as possible. However, appropriate adjustment of transition policies cannot be undertaken until it is determined which future political status is foreseen for Micronesia.

4. During the transition process, the U.S. will actively work to achieve a program of economic development in Micronesia which is designed to expand the private sector and increase the base for local revenue generation. Components of this include foreign and U.S. investment, identification of industrial potential and revised legal codes for zoning.

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