



To Jeff E

THE PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS
WASHINGTON, D.C. 20240

November 21, 1979

MEMORANDUM TO MEMBERS OF THE MICRONESIA INTERAGENCY GROUP

FROM: Peter R. Rosenblatt

As I advised you at the November 13 IAG meeting, James T. Stovall III, counsel for the FSM Government (CFPST) and Richard D. Copaken, counsel for the Marshall Islands Government (MIPSC) met with their principals in Honolulu, Hawaii, November 14-17, 1979. The FSM was represented by Director of External Affairs and CFPST Chairman Andon Amaraich and Political Status Committee Chairman Senator Bailey Olter, plus staff. Foreign Affairs Secretary Anton deBrum represented the MIG.

In summary, counsel reported that their clients were encouraged by the progress on the Compact made to date and believed that a Compact should be initialled at the next plenary if the remaining issues can be resolved beforehand. Stovall noted that Amaraich, to the surprise of Stovall and the other FSM representatives, no longer believes that the subsidiary agreements need to be completed prior to initialling.

Regarding substantive issues, counsel identified ten "major" unresolved areas on which the POLSTACOMS believed both sides should focus their negotiating efforts:

1. The USG language on environmental court access (and a determination by the USG that environmental court access shall be coterminous with its defense authority).
2. Resolution of the inflation adjustment issue.
3. USG reaction to the MIPSC hazardous substance language (Section 134 of the Compact).
4. Resolution of USG tax treatment of the F.A.S.
5. Resolution of the tariff treatment issue.

6. USG reaction to MIPSC communications proposal (Section 132 of the Compact).

7. Exemption of F.A.S. representatives from the Foreign Agents Registration Act proposal (Section 153 of the Compact).

8. USG recognition of the ability of the governments of the F.A.S. to have a constabulary force for maritime law enforcement.*

9. U.S. views on what rights, beyond those of transit, it would have in Micronesian waters beyond the territorial sea, but within a 200-mile economic zone.*

10. FSM proposal that federal programs in the area of health and education be continued at their present level up to and after termination of the trusteeship.*

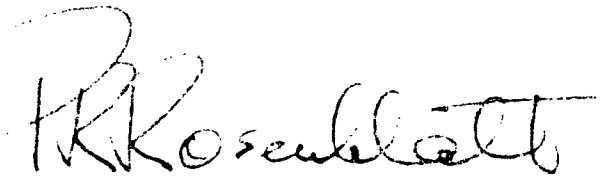
Counsel also indicated that on November 26 they would review with OMSN a list of "minor" language changes to the Compact sections which counsel had previously negotiated on an ad referendum basis with the U. S. A partial listing given to us thus far by counsel is attached.

Regarding procedural issues, Stovall stated that the FSM representatives would meet with the full CFPST and representatives of the FSM in December. He indicated that January 7-12 would be a suitable time for a plenary; however, his clients were concerned that the postponement of the December meeting not result in any relaxation of USG efforts to make an initialling possible and that the FSM would be prepared to engage the U. S. in a "mini-conference" in December to assure continued progress toward that end.

Copaken stated that his clients strongly preferred a December signing, with or without the participation of the other POLSTACOMS. President Kabua has pledged to the Marshallese people that he would either initial in December or look for an alternative status arrangement. Copaken noted, however, that if the Marshalls

*New item

Government could successfully schedule a government-to-government negotiation with the Japanese government in December on the issue of fishing rights, Kabua would have a face-saving way to delay initialling until but not later than January 7.



Distribution:

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ATTACHMENT

Copaken indicated that he and Stovall agreed on the following language changes to the Compact:

1. Preamble. Copaken indicated the necessity for several minor language changes to facilitate their acceptance in the ITU and other international organizations, e.g., last paragraph 4th line from bottom insert words "the freely associated states of" in place of "the governments of."

2. Section 141. *Section 141(a) line 5 between "January 1, 1979," and "any person" add "and their lineal descendents." The MIPSC will provide a legal paper on this subject.

3. Section 211 (a) (2). Delete the word "annually" in line 10.

4. Section 221 (c) and (d). MIPSC desires FAA safety program but not CAB.

5. Section 222. Language requires modification to make it clear that USG programs or services will not be forced on a government terminating relationship, e.g., last 3 lines would read "unless their modification is provided by mutual agreement or termination is requested by their respective recipient governments."

6. Section 231. Insert reference to Section 213 as last sentence.

7. Section 342. The POLSTACOMS request a USG affirmative undertaking to place one qualified student in the U. S. Coast Guard Academy and one in the U. S. Merchant Marine Academy.

8. Section 412. CFPST will fall off its request for ***Section 412 with the following modifications to the last sentence of ***Section 412: "This Compact shall be entered into by any of the three voting jurisdictions in which a majority of the valid ballots cast in the plebiscite favor such action."

9. Section 452 (b) (3). Delete reference to Section 414 of Title IV; insert in chapeau clause between words "of this Compact" and "and thereafter," "which shall remain unaffected by such termination."

10. Section 453 (a) (2). Same as 9 above.

11. **Section 161/**Section 161. U. S. proposal to place savings clause language on the record is unacceptable.

12. Section 461 (c). Add following clause after last word: "as now are hereafter recognized under international law."

13. Section 461 (d). Modify definition of "government of the Marshall Islands" as follows: "The government of the sovereign country of the Marshall Islands established by the constitution of the Marshall Islands including all the political subdivisions and entities comprising that government."

14. Section 461 (f). To definition of "habitual residence" add following clause at end of last word: "provided, however, that for Section 341 this term shall not apply to residents or full-time students in the United States."