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MEMORANDUM FOR: Mr. James T. McIntyre

FROM: The Acting Secretary

The extremely difficult 11-year Micronesian status negotiations are at the point of successful resolution. Palau, faced with the selection of its first elected government on November 4, has given our negotiator a letter accepting our latest offer and committing its negotiators to initial the agreement. No significant issues remain with the Federated States of Micronesia (FSM) and its delegation arrives here October 27 empowered to initial. All issues have been resolved with the Marshall Islands save one, and its President and Foreign Secretary will arrive here early next week prepared to initial upon resolution of that remaining point.

The Marshallese are ready to accept the agreement with no other changes if we include \$7.1 million of the \$9 million per annum which we have agreed to pay for use of the Kwajalein Missile Range under the established inflation adjustment provision of the Compact of Free Association. The authority to do this was contained in the instructions previously issued to our chief negotiator, Ambassador Rosenblatt. He has not, however, heretofore felt the need

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to use this authority and the financial consequences of such use were therefore not figured into the projections of the total cost of the Compact which were laid before the President earlier this month.

The maximum possible additional cost during the first year of the Compact (projected FY 1982) would be \$497,000 - (\$4,970 million over the first four years). This would rise to no more than \$7.455 million in the fifteenth year (FY 1997) for a maximum above previous projections of \$59.6 million over the entire fifteen year term. However, since Ambassador Rosenblatt did not use \$21.25 million of the additional cash authority which the President authorized earlier this month, the maximum not covered by earlier projections is \$38.35 million over 15 years, heavily back-loaded.

Why did this issue not arise earlier? Ambassador Rosenblatt was able to come to agreement with the Marshallese alone last January without having to draw on his authority to inflation-adjust the Kwajalein payments. While agreeing, the Marshallese representatives complained at that time that the unadjusted amount came to over a third of their total, that most of the payments made to the other Micronesian entities were inflation adjusted, and that the landowners of Kwajalein, whose support is essential to the

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new Marshallese Government, would remain dissatisfied with "discrimination" against them. This summer, upon expiration of the one year interim agreement (covering use of Kwajalein in the pre-Compact period) between DOD and the Marshallese, the latter demanded an increase in annual payments from \$9 million to \$15 million. DOD turned them down in June and September negotiating sessions, and the talks for renewal of the interim agreement remained deadlocked as the political status negotiations resumed in Kona, Hawaii, early this month. The Marshallese came to Kona with a long list of demands, including removal of the \$9 million Compact "ceiling" for Kwajalein to clear the way for the landowners to press their \$15 million demand at the interim talks with DOD. All of these demands were rejected by Ambassador Rosenblatt, who left Kona after telling the Marshallese that he doubted their good faith and saw no basis for agreement in their proposals.

Continuing talks with the Washington lawyer (Richard Copaken) for the Marshalls on his return to Washington during the week of October 12, Ambassador Rosenblatt told Copaken that the USG would have to conclude that agreement on free association with the Marshalls was unattainable and that the Compact would have to be concluded with Palau and the Federated States of Micronesia (FSM) alone unless the Marshalls boiled their list of open issues down to the bedrock minimum.

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In response, the Marshalls representative produced a list which, in the estimation of the U. S. negotiating team, reflects the realistic pressures on the Marshallese Government. All of the issues in the lawyer's list other than Kwajalein were rapidly resolved, and the President of the Marshalls is arriving in Washington next week prepared to initial the now fully negotiated Compact upon resolution of the Kwajalein issue. The Marshallese Kwajalein position which emerged from this process abandons the \$15 million demand and returns to the January inflation adjustment position.

Ambassador Rosenblatt had, throughout this period, felt that it lay within his authority to agree to inflation adjustment when it seemed necessary and appropriate to do so, since such authority was, as aforesaid, conferred by his negotiating instructions (PD49 and sequels). He felt that granting this concession would be unwise so long as the Marshallese were pressing a series of unrealistic and unattainable demands. When, however, the Marshalls lawyer modified his list, as he finally did after Kona, Rosenblatt felt that the time had come to grant this concession as both rational and justifiable and the last piece in a settlement that would bring full agreement with all three Micronesian governments. Before doing so, however, he sought a supporting consensus of the major participants in the Micronesia

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Interagency Group. All agreed -- and continue to agree to the appropriateness of this move -- save OMB which pointed out that while he perhaps had the authority, the fact that he had not to date exercised it had produced a situation in which the financial projections previously given the President had not accounted for its possible use. His current exercise of the authority would therefore seem like a new and unauthorized additional commitment of funds.

All of the issues which have stood in the path of the successful completion of a Compact of Free Association for eleven years have now been resolved save this one. Two of the Micronesian negotiating commissions, including the Marshallese, are arriving in Washington this week to initial the Compact, and the third is giving us a letter accepting the Compact and agreeing to initial here on or about November 6. Since Rosenblatt held \$21.25 million of his authority in reserve an additional maximum of \$38.35 million over 15 years, backloaded, is required to meet this last issue with the Marshalls and thus complete the negotiation. I hope we can proceed along these lines and thus meet our public commitment in 1980.

If you agree that this offer can be extended, we will have an initialled Compact within a matter of two weeks.

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The remainder of the process, including signing, Congressional consultations, a final agreement on strategic denial, and the steering of the Compact through the U. N. Security Council, will remain to be carried out, but they will not require any additional requests of any sort for funding.

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