



TRUST TERRITORY OF THE PACIFIC ISLANDS  
OFFICE OF THE HIGH COMMISSIONER  
SAIPAN, CM 96950

CABLE ADDRESS:  
"NICOTT SAIPAN"

May 30, 1985

The Honorable Don Young  
House of Representatives  
2331 Rayburn Building  
Washington, D.C. 20515

Dear Don:

I regret that our schedules have prevented us from getting together "for a quiet time in your office" to discuss your concerns about the Administration's Compact of Free Association legislation. Since we talked, I have had a chance to review in detail the specific points that you appended to your April 29 letter to Max Friedersdorf. I'd like to address each of them briefly in writing in this letter in the hope that these views will serve to facilitate your meeting with Fred Zeder and his team to air your concerns fully and resolve them.

What follows then is each of the headings included in your overview memorandum followed by my understanding of the situation, the Administration's position, or both.

1. The Compact would create new and substantially more advantageous U.S. relationships with the freely associated states than those currently existing between the federal government and the U.S. territories.

The major advantage that the U.S. territories have that the freely associated states can never have, as long as they retain that status, is United States citizenship. As U.S. citizens, the residents of the U.S. territories have a full, and priority, call on the resources of the federal government and the federal government, in turn, has the fullest range of responsibilities to them. Thus, U.S. territorial status is expansive; the Compact of Free Association establishes limits on the responsibility of the federal government and on the ability of the freely associated state citizens to call on the federal government.

2. The FAS would offer better business tax breaks than the territories.

It may be that the FAS, through local legislation, will offer better tax incentives to business than the U.S. territories now do. It seems, though, that this is a matter the territories themselves could rectify. In the case of federal incentives, its important to remember how Compact Section 255 will operate. The

freely associated states start at the same basic point as the territories. If Congress makes any changes for the territories, the changed portions of the U.S. tax code will also cease to apply to the freely associated states. Section 255 provides that the U.S. and the FAS will work out alternate arrangements based on the benefits that had accrued to the FAS, not the benefits that had, or might have, accrued to the investing parties. Also, federal tax incentives to investment in the FAS expire at the end of fifteen years and, without express agreement of the United States, cannot be improved during that period.

3. The FAS would get territorial trade preferences but not have comparable costs of doing business.

The trade preferences that the Compact will extend to the FAS are precisely those which now apply to the United States territories and cannot be of higher quality or preference. In terms of such "doing business" expenses as are mentioned, neither American Samoa or the future U.S. territory of the Northern Mariana Islands are covered by the U.S. minimum wage and environmental regulations based on existing U.S. laws will extend to the governmental actions of the freely associated states.

4. The FAS would get increased federal assistance, whereas federal aid for the territories has been severely cut.

The amounts of grant assistance that will extend to the FAS under the Compact are, in the estimation of the Administration, less than what would be available were the Trusteeship Agreement to continue for another fifteen years. On a per capita basis, they are significantly less than the total federal contribution to any U.S. territory. Also, the freely associated states, by any statistical measure, are poorer than any U.S. territory by a minimum factor of five.

5. FAS citizens, including those originating in other countries, could migrate to the United States.

The Compact provides the FAS citizens with special rights to enter into and work in the United States. The Administration views this to be in our national interest in that the provision will serve to continue the orientation of the Micronesians to the United States. The Compact, however, does not confer citizenship rights on the FAS citizens. With respect to naturalized FAS citizens, FAS naturalization requirements are among the most stringent that we are aware of and the Compact adds a further five year residency requirement. The immigration provisions of the Compact do not, in the view of this Administration, subject this nation to the risk of back door entry of undesirables via the FAS.

6. The FAS could issue bonds not permitted in the states or territories. and (more)

7. The FAS could get aid from other nations but the U.S. territories cannot.

The reason for both of these is that the FAS will be self-governing and not able to procure revenue from the federal government beyond that specified in the Compact. They will thus have available to them alternate sources of raising revenue, as do other non-American areas. The U.S. territories have a full call on the resources of the federal government.

8. The FAS would provide a tax-haven for U.S. citizens.

Compact Section 254 was carefully reviewed by this Administration, including the Treasury Department, and we do not believe that it will give rise to a tax-haven situation. With respect to compliance, under U.S. tax laws, the individual must prove to the satisfaction of the IRS that he has a tax liability other than that prescribed by the Internal Revenue Code. Otherwise, he must pay U.S. taxes.

9. The FAS would gain exclusive control of the 200-mile economic zone which the U.S. denies to states and territories.

The Marshall Islands and the Federated States of Micronesia, the future FAS, now have control over their seas and derive all the economic benefit from the exploitation of its living and non-living resources. U.S. fishermen cannot now fish in the area without licenses granted by those governments. The Compact does not change this situation. The states and territories of the United States are part of a federal system. Congressional act stipulates that the resources of the sea surrounding the states and territories of the United States will accrue to all the people of the United States under the management of the federal government.

10. U.S. dollars and postal service will be used in the FAS without controls.

The U.S. Postal Service is now operating its programs in the Trust Territory in exactly the fashion in which it will operate after the Compact comes into effect. The necessary protections to the Postal Service and to the United States, with respect to the shipment of contraband, are set forth in the Compact's Federal Programs and Services Agreement and in the customs laws of the United States. With regard to U.S. dollars, the U.S. Secret Service has authority to act under 18 USC 3056 and Compact Sections 175 and 226 to deal with any attempt at counterfeiting in the FAS.

11. "Buy America" does not apply in the FAS.

"Buy America" restrictions do not apply now in the Trust Territory when the United States Government is administering

programs. The reason is that to include such a restriction would seriously devalue the assistance that Congress has provided. Thus, there is not a justification to apply in the future to the FAS what the U.S., during its period of administration, has been unwilling to apply. The People's Republic of China construction bid referred to occurred in the Northern Mariana Islands, now administered as a U.S. territory, where "Buy America" provisions do not apply.

12. The Compact would not be compatible with America's long-range strategic and international policy in the Pacific.

and

13. To create two politically immature, virtually bankrupt states with untested and uncertain security safeguards would detract from the strategic posture of the United States, especially in regard to the maintenance of air and sea lanes to Asian and Pacific allies.

and

14. At best, strategic denial of Micronesia would be based upon a legal concept and not upon moral or political commitments.

and

15. Insurgency is the greatest threat to the security of the Marshalls and the FSM. Under terms of the Compact, however, the U.S. may be precluded from a unilateral response.

I do not claim to be the individual in the Administration responsible for defense and security matters. But with respect to the above points, I just want to make two observations that I hope will help. First, I know that the terms of the Compact, and its subsidiary agreements, have been excruciatingly and carefully reviewed by our Defense Department including the uniformed military services. I also know from first hand experience that these persons have participated in the formulation of negotiating instructions for and participated directly in the Compact negotiations. I know them to be satisfied with the defense and security provisions of the Compact. Second, from my four years living in the Trust Territory, I do not believe that the security threats posited in your memorandum exist. I believe the peoples of the Trust Territory to be oriented to the United States and strongly desirous of retaining that orientation.

16. Kwajalein may be leased but might not be secure.

I think the situation at Ebeye, as I have testified before Congress on numerous occasions, is dramatically improved and bodes well for the future. The Government of the Marshall Islands has entered into a land-use agreement with the Kwajalein landowners under which those land-owners have court enforceable

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rights and will receive, including Interim Use Agreement funds, over \$430 million over the full U.S. use period for Kwajalein. I believe this is fair and provides a proper milieu for our continued activities at Kwajalein.

17. The Compact would not guarantee that the governments of the FAS would be either democratic in form or would respect basic human rights.

In the Compact, the United States and the freely associated states affirm their commitment to human rights and to the principles of fundamental freedoms for all. Further, the recognition by the the United States of the self-governing status of the freely associated states is premised upon the maintenance of constitutional governments which affirm those principles. This approach is consistent with United States practice internationally.

18. Under the nuclear claims settlement agreement (Section 177), the Compact would award more to the Government of the Marshalls for the espousal of all claims against the U.S. than it would award to all the legitimate claimants combined.

The table supplied in your memorandum seems to indicate differently. It shows that the "legitimate claimants" will receive \$183.75 million and that the Government of the Marshall Islands will receive \$86.25 million during the first fifteen years. Thus, the claimants, by these statistics, receive more than twice what the Government is shown to receive. However, of the Government funding, more than half, or \$45.75 million will go to a claims tribunal to be awarded to claimants who can prove damage to person or property from the testing program.

19. Under the Compact, health care delivery systems and education in the FAS would most likely degenerate.

I think that the hearings which Mr. Seiberling's subcommittee held on this subject indicate that this is not the case. Under the Compact, the FAS will have sufficient resources to continue every existing health care and education program, if that is their priority. I believe we will find that they will streamline and reorient their programs, allowing for less of a diversion of funds for administrative overhead and more funding for delivered services.

20. War claims would not be honored by the Compact.

Congress attached the contingency to future war claims payments that is mentioned in your memorandum. If it is the case that the Japanese contingency has been met, Congress can address itself to the situation. The Compact does not prejudice the Micronesian claims nor the ability of the Congress, if in the future, to provide additional funds to pay such claims.

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With respect to capitol construction, Congress has for several years rejected Administration requests for funding for this purpose. The Compact does not prevent this commitment from being funded. (Note: this issue has nothing to do with the war claims' issue above.)

21. The Compact would provide insufficient controls to supervise the expenditures of Compact funds.

The Compact provides for a U.S. audit of the use by the FAS of Compact funds which must be spent in accordance with development plans approved by the United States. The FAS must also provide annual financial reports to the United States. There would be annual appropriations hearings for the allocation of each year's Compact funds, including those covered by the full faith and credit pledge.

Don, I hope these comments help in your review and consideration of the Compact. I know that the President, as shown in his letter of transmittal, is strongly in favor of this Compact and I hope I and others in the Administration can help to resolve your concerns.

Sincerely yours,

*Janet McCoy*  
for Janet McCoy  
High Commissioner

P.S. Incidentally, I have just received the verbatim of the Russians' statement at the UNCTC and as usual I am so appalled by it -- but thought you might like to see it also.