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### the South Pacific Islands: Economic, Political and Legal Interactions

Vinson F. Jamir  
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THE SOUTH PACIFIC ISLANDS:  
ECONOMIC, POLITICAL, AND LEGAL INTERACTIONS

by

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B.A., The University of Florida, 1972

J.D., The University of Oklahoma, 1977

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of the  
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1983

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ECONOMIC, POLITICAL, AND LEGAL INTERACTIONS

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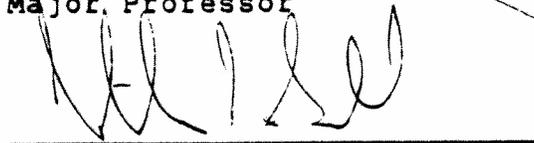
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I would like to acknowledge the patience and helpfulness of my wife. In addition to the usual vicissitudes of married student life, she endures the ongoing agony of watching her homeland torn by a revolution which bears greater horrors for some than for others. Recently her father died, and the family could not bury him because he is an "infidel," which in Iran means a member of the Baha'i religion. I never had the opportunity to talk with my father-in-law, or to mention how many of the islanders of the Pacific Ocean believe as he does, that mankind is one.

Credit is also due to two very mature pre-schoolers, who never could understand what daddy did in the library so late each night.

Gratitude goes also to the patient guidance of Professor Frederick Huszagh, who made this project possible.

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## INTRODUCTION

The Pacific Ocean occupies a third of the Earth's surface. The nations of Asia and the Americas washed by its waters possess over half of the world's human population, and their governments are interacting with increasing frequency and intensity. Consequently, the Pacific area is evolving into a geo-political region - a happening chronicled by the burgeoning literature of the "Pacific Basin." Japan's phenomenal post-war development has been a major stimulus of this new interest, but the economic and strategic importance of many other Asian countries is also a basic focus of the literature. In contrast, little note is made of the 20 island states and territories of Oceania dispersed over 25 million square miles of ocean space between Asia and the Americas. This aggregate of 10,000 islands with an area equivalent to that of Iran and a population of 5 million appears to be insignificant to the Pacific Basin's emergence as a rival to Europe and the North Atlantic community.

This thesis seeks to demonstrate that Oceania is strategically, socially and politically important to the development of the Pacific Basin and that historical facts clearly evidence this importance. The United States, an

undoubted principle in Pacific Basin affairs, has been extremely solicitous of Oceania. This deference is a clear illustration of the Oceania's long-term importance to the development of the larger Pacific Basin region.

A subsidiary objective of this thesis is to analyze the facts of the U.S.-Oceania relationship in the context of each side's evolving interests in order to develop several recommendations for future development of that relationship and of Oceania in the context of the Pacific Basin.

Chapter One provides a brief overview of all salient aspects of the United States presence in Oceania and adumbrates key sub-regional differences significant to policy issues facing not only the United States but the countries of Oceania.

Chapter Two traces the origin and evolution of the South Pacific treaty system from its post-World War II inception to the present, examines its impact in terms of inspiring indigenous island regionalism, and gauges the present level of American participation. Final assessments, dealing with the promotion of island regionalism as an overarching element of United States policy toward the region, are left to the concluding chapter.

Chapter Three reviews some of the territorial, diplomatic, political, cultural, military, and economic consequences flowing from the adoption by island states of 200-mile exclusive economic zones. Implementation of the

new economic zones has tremendously expanded the total area under exclusive control of island governments, thereby qualifying the concept of "micro-state," as well as enclosing great reaches of ocean space formerly regarded as free and open high seas, converting island nations from isolated localities to contiguous entities with overlapping maritime boundaries, and adding simultaneously to the resource wealth of island nations as well as to the burden of surveillance. American policy relating to fisheries for highly migratory species (tuna) in the western Pacific is gravely deficient from the viewpoint of island governments, and the assessments of the concluding chapter relate mostly to this important question.

Chapter Four surveys certain salient aspects of economic and political life for the nine independent states of the Pacific south of the equator. In all of the seven categories examined, but particularly in land-based resources, sub-regional differences are readily apparent. The coral atoll environment characteristic of Polynesia and Micronesia contrasts starkly with the much broader resource base of the larger Melanesian islands. All islands face transportation barriers that hinder economic development. Overlapping slightly with shipping costs is the problem of fuel supply and the extreme energy dependence of island nations. Aid grants are indispensable to development of alternative energy sources in Polynesia and Micronesia, while only the Melanesian states have sound pe-

troleum prospects. Overcrowding and urban drift are present throughout the islands are more severe in island states having the smallest land areas. Foreign aid is important to all the island states, and although hardly any of that aid comes directly from the United States, bilateral aid programs most vital to the island countries originate from U.S. allies. Island states trade most intensely with Australia and New Zealand, as well as the countries of the European Common Market, and important preferential trade arrangements with those trading partners contribute significantly to the health of the island economies. The conduct of foreign relations between and among the island states is remarkably informal, yet the constitutional history and diplomatic style of these nations reveal sub-regional contrasts which parallel those evident in all other aspects of island life. The combination of these factors present the United States with a unique international regional policy environment. Opportunities for increased U.S. influence within the region depend upon the sensitivity and alertness of American foreign policy makers. A quite modest expenditure of diplomatic and economic resources is required in order to respond to these opportunities, as is outlined in the concluding chapter.

Chapter Five reviews problems in current political status negotiations with Micronesian governments in the Trust Territory, summarizes economic conditions in the U.S. Pacific territories, and considers key aspects of nu-

clear policy which are important within the region. Each of these three areas is critical to the future of relations with Pacific island nations, and there is reason to wonder whether current policies are truly furthering vital interests of the United States in the region, as is outlined in Chapter Six.

CHAPTER ONE: AN OVERVIEW OF UNITED STATES RELATIONSHIPS  
WITH OCEANIA

United States interests in the Pacific islands derive firstly from its physical territorial presence which includes not only the State of Hawaii but also the territories of Guam and American Samoa and many individual islands such as Johnston, Midway, Palmyra, Wake, and Swains. In addition, there is the Trust Territory of the Pacific Islands, a United Nations strategic trust under which the United States acts as the sole administering authority of all Micronesian islands save only the independent states of Kiribati and Nauru. Except for Wake Island, claimed by the Marshall Islands, the United States has no sovereignty claims in Micronesia which are disputed. The key political issue facing the United States in Micronesia is the impending termination of the Trust Agreement between the United States Government and the Security Council of the United Nations consequent to the final and free choice by Micronesians of their own future political status. Self-determination issues of a slightly different nature arise also in Guam, which is undisputably American territory and geographically a part of Micronesia but not included in the Trust Territory.

The physical territorial presence of the United States does not extend to the Melanesian island region of the southwest Pacific, but American Samoa, south of the equator, lies in the heart of the Polynesian sub-region. Although the leaders of some of the island states regard the U.S. presence in Samoa as purely colonial, the American Samoans themselves are patriotically as loyal to the American flag as they are to their own island heritage. In addition, disputed sovereignty claims to several south Pacific atolls including Swains have occasioned negotiations with three independent island nations and one New Zealand island territory in the central south Pacific. In four separate treaties, the U.S. Government under both President Carter and President Reagan, surrendered sovereignty claims involving land areas minute by continental standards but absolutely essential to the territorial integrity of the island nations concerned. The treaties also recognized island claims to 200-mile exclusive economic zones, resolved overlapping zone boundaries in the vicinity of American Samoa, ensured access to fisheries, provided for vital strategic interests of the United States, and in general established friendly treaty relations with the island nations.

Treaty relations with the island governments in the Trust Territory are of a different nature. Upon final termination of the Trust Agreement between the United States and the Security Council of the United Nations,

four separate entities may emerge. The people of the Northern Mariana Islands in 1977 opted for political status as a commonwealth of the United States. The Covenant which embodies this special relationship is now domestic law in both the United States and the Northern Marianas, and the government there is now officially known as the Commonwealth of the Northern Marianas (CNMI). Citizens of CNMI will become citizens of the United States upon termination of the Trust Agreement. From the remaining districts of the Trust Territory, three other governments have been formed under locally drafted constitutions. The central and most populous districts of Yap, Truk, Ponape, and Kosrae have joined together as the Federated States of Micronesia, while Palau and the Marshall Islands, respectively the westernmost and easternmost of the island districts, have each chosen separate status. Future political status negotiations between the United States government and these three Micronesian governments have resulted in "compacts of free association" which will provide the legal basis for a unique relationship ensuring Micronesian autonomy in domestic and foreign affairs but reserving plenary defense rights and obligations in the United States.

Security interests of the United States in the Pacific islands derive not only from its physical territorial presence but also from the need to protect vital trade routes and strategic lines of communication which traverse

the region. Hostile forces stationed anywhere in Oceania could interdict the flow of Middle Eastern oil in mid-Pacific and cut off communications with Australia, New Zealand, and Asian allies. Hawaii could be directly threatened by hostile forces located in the territory of Kiribati (formerly Gilbert Islands) or of Tuvalu (formerly Ellice Islands). Hence the extreme desirability of the recently-negotiated treaties of friendship with these independent but miniscule island nations, which when ratified will require mutual consultations on strategic matters and allow the U.S. to veto military use of certain islands by third countries. Similarly, the overriding imperative in future status negotiations with the Micronesian governments of the Trust Territory is to deny the use of any of those islands to enemy forces. Furthermore, established bases and base rights under negotiation in the Trust Territory provide an important guarantee of western Pacific facilities for exclusive use by the United States in the event of the loss of bases in Japan or the Philippines. Remote Pacific island locations have in addition provided training grounds for intelligence and special forces personnel, and isolated islands serve as storage sites or potential storage sites for hazardous materials.

During the 12 years beginning in 1946, the United States conducted tests of nuclear weapons on two atolls in the Marshall Islands. Political repercussions resulting from the radioactive contamination of atolls and islanders

downrange from tests continue to the present and have complicated future status negotiations with Micronesian governments in the Trust Territory. Although only the government of France continues nuclear tests in the Pacific, it is the United States which is militarily disadvantaged by the keen nuclear allergy of Pacific island nations, some of which refuse to allow port calls by nuclearpowered vessels of any description. From the military and strategic perspective, it is important that no part of the Pacific be declared off limits to any part of the United States armed forces on antinuclear grounds or otherwise.

Since the early 1960's, nine island nations in the Pacific south of the equator have achieved political independence, and the fostering of friendly relations between each of them and America serves important global as well as regional interests of the United States. American embassies exist only in Suva, Fiji, and Port Moresby, Papua New Guinea. The other states are covered by multiple accreditation arrangements. Although the independent island countries are friendly toward the United States, there are occasional irritants.

The major irritant to date has been non-recognition by the United States of the right of any nation to regulate tuna fisheries beyond the limits of the territorial sea. Ironically, American Samoa has been agitating within the United States Government for just such tuna conservation authority in its own 200-mile zone. Tuna and related spe-

cies are the prime living marine resource of all Pacific island states and territories. Furthermore, the United States tuna fishing industry now is extending its activity from eastern to western Pacific waters. Seizures of tuna-boats from the west coast of the United States for violation of zones and licensing regulations in the western Pacific are on the increase.

As all of the Pacific island nations are micro-states, the area is altogether a contrast when compared with other developing regions. In order to promote economic growth, the United States officially encourages regionalism in the area. Yet closer analysis shows contrasts within the region as great as any without. Because of larger land areas and populations, the Melanesian states (Fiji, Papua New Guinea, Solomon Islands, Vanuatu) have realistic hopes of attaining economic independence sometime in the future. They currently offer the United States substantial trade and investment opportunities. The Micronesian and Polynesian island countries, on the other hand, are restricted to coral and sand, disaster vulnerability, crowding, and permanent economic dependence.

Intra-regional rivalries, based upon ethnic as well as economic differences, add another layer of complexity to United States policy toward the region. There are no U.S. bilateral aid programs in the region other than the Peace Corps. The Melanesian states, though less needy, take greater umbrage with the low level of U.S. aid to the en-

tire region, and they also suspect the U.S. of surreptitiously encouraging Micronesian and Polynesian subregional ambitions. The Micronesian and Polynesian governments, because of conservative values inculcated by a strong church influence, place greater relative emphasis upon the virtue of self-reliance, and view U.S. regional aid grants as primarily benefitting the Melanesian states. Nevertheless, it is in recognition of the susceptibility of Polynesian and Micronesian states to offers of aid from the Soviet Union that the United States instituted a small regional program in 1976. Even on this level, however, there are subregional contrasts. Whereas Western Samoa and Tonga dismissed Soviet aid offers, prime ministers of Vanuatu and the Solomon Islands seem to enjoy playing the "Soviet card" in order to attract Western aid and attention.

In addition, the United States must consider that its only direct institutional link to the entire Pacific island region is its membership in the South Pacific Commission, a system established after World War II by Allied governments in order to promote the social and economic growth of their Pacific island dependencies. As the decolonization process in the Pacific region grinds inexorably to completion, the South Pacific Commission system must necessarily change in ways never envisioned by the colonial powers over 30 years ago. The United Kingdom, formerly the dominant colonial power in the region, now

remains a part of the South Pacific Commission only by virtue of its last remaining colony in Oceania: tiny Pitcairn Island.

## CHAPTER TWO: THE UNITED STATES IN THE SOUTH PACIFIC COMMISSION

### A. Origin of the South Pacific System and Evolution to the Present

The initiative for the establishment of the South Pacific Commission emanated from Australia and New Zealand. The prime ministers of these two nations met in January 1944 and embodied their views in a document which appeared as the Australia-New Zealand Agreement and is informally referred to as the ANZAC Pact. Four clauses of the ANZAC Pact spoke to the need for those nations which administered Pacific island territories to form a regional commission to promote economic and social development of the islands for the islanders.<sup>1</sup> Serious international discussions on the idea could not be conducted until after the end of the Second World War. The South Seas [Commission] Conference, called by the governments of Australia and New Zealand, met in Canberra from January 28 through February 6, 1947 to formulate the basic structure of a regional commission for the Pacific.<sup>2</sup>

Delegates from six nations participated: Australia, France, the Netherlands, the United Kingdom, and the United States. Each of these nations administered one or more island territories in the Pacific Ocean area during

the years immediately following the end of the War. The ANZAC Pact called for a regional commission with oversight responsibilities concerning the administration of the island territories by the metropolitan nations. This proved unacceptable to the colonial governments, including the United States, which felt no desire to have a regional commission critique the manner in which they administered Pacific island territories and did not wish to be required to submit reports to a supra-national body. What emerged by the end of the South Seas [Commission] Conference was agreement on a regional commission which would be purely consultative and advisory in its functions.<sup>3</sup>

The participants were able to draft and sign the basic document in only ten days because of good advance preparation, because of an eagerness to compromise so as to be able to form the commission quickly, and because the general outline of the proposed commission followed that of the only precedent (the Caribbean Commission, of which four of the participants were members).<sup>4</sup>

No Pacific islanders attended these deliberations, nor did any of the delegations include officials directly involved in island territorial administration. The prime animating values of the participants were the twin ideals of trusteeship and regionalism as derived from Western historical experience. The actual operation of the organization was, however, less important to some than its mere establishment.<sup>5</sup>

Insofar as this was the case, the [South Pacific Commission] represented at its inception an aspect of Western diplomatic history and its subsequent development in a South Pacific cultural ecotone is a story divorced from that of its origins.<sup>6</sup>

The South Pacific Commission has experienced several metamorphoses in the past thirty-five years, some of which required formal amendments to its constitutive document and some of which amounted to significant changes in the way things were done within the terms of the original agreement.<sup>7</sup>

The South Pacific Commission must be thought of as a system. Within the system there are various organs, one of which is a formally constituted board called the Commission. The Commission of the South Pacific Commission -- composed of representatives appointed by participating governments -- was at first the decision making organ. It has since been partially merged with the South Pacific Conference of the South Pacific Commission -- an organ originally established "with advisory powers as a body auxiliary to the Commission."<sup>8</sup> Another advisory body auxiliary to the Commission was the Research Council, which has not convened since 1963.<sup>9</sup>

The Agreement Establishing the South Pacific Commission required the establishment of the South Pacific Conference

In order to associate with the work of the Commission representatives of the local inhabitants of, and of official and non-official institutions directly concerned with, the territories within the scope of the Commission...<sup>10</sup>

Mention was made of official and non-official institutions because the colonial powers anticipated many years would pass before each island territory would be able to send indigenous representatives fully capable of deliberating upon regional questions.<sup>11</sup>

The first session of the South Pacific Conference of the South Pacific Commission took place in Fiji in April 1950; the islanders participating expressed themselves effectively through the passage of forty-two resolutions on subjects of vital concern to them.<sup>12</sup> It became obvious at subsequent sessions that the islanders meant to make the South Pacific Commission system their own through vigorous utilization of the South Pacific Conference as an organ to influence the entire work program of the system. Furthermore, through formal and informal discussions at sessions of the South Pacific Conference there was born among the islanders a solidarity and sense of unity and

purpose that was unknown and impossible during colonial times.<sup>13</sup>

At first only colonial governments were represented on the Commission and their dependent island territories were directly represented only in the Conference. In 1964 a formal amendment to the Agreement Establishing the South Pacific Commission was adopted in order to allow newly independent island nations to formally accede to the Agreement as "participating governments" entitled to appoint representatives to the Commission.<sup>14</sup> The first island nation to take this step was Western Samoa. Nauru and Fiji followed suit, so that by 1971 there were three newly independent island states represented on the Commission.

Through a Memorandum of Understanding, the governments of Australia, Fiji, France, Nauru, New Zealand, the United Kingdom, the United States, and Western Samoa agreed unanimously in 1974 to practically merge the annual sessions of the Commission and the South Pacific Conference.<sup>15</sup>

Presentday reference to the South Pacific Conference therefore connotes the conclave of these two organs of the South Pacific Commission system, with the Commission appearing at conclave as the Committee of Representatives of Participating Governments, empowered to pass upon the total budget of the South Pacific Commission system.

Through a rules change agreed upon in 1976, the multiple voting procedure in the Committee of Representatives of

the Participating Governments was abolished, so that now the original signatories do not cast votes for themselves and for each of their island dependencies.<sup>16</sup> Each of the countries sitting on the Committee of Representatives of Participating Governments, whether original signatories or newly independent island states, now possesses one and only one vote.<sup>17</sup>

Both participating governments and non-self-governing territories have a voice and a vote in all the deliberations of the South Pacific Conference. The Committee of Representatives of Participating Governments approves the size of the budget, while the South Pacific Conference itemizes expenditures. Through a formal amendment to the Agreement Establishing the South Pacific Commission, the right of self-governing territories to accede to the original agreement as participating governments was established.<sup>18</sup> In October 1980, Niue and the Cook Islands, self-governing nations in "free association" with New Zealand, deposited their accessions to the original agreement and thereby became full members of the Commission entitled to sit on the Committee of Representatives of Participating Governments at sessions of the South Pacific Conference.<sup>19</sup>

At present, the membership of the Committee of Representatives of Participating Governments includes Australia, Cook Islands, Fiji, France, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tuvalu, the

United Kingdom, the United States, and Western Samoa. These thirteen governments hold positions simultaneously on the Commission of the South Pacific Commission system, which appears at sessions of the South Pacific Conference as the Committee of Representatives of Participating Governments.

Countries and territories in addition to the participating governments which are entitled to be represented at the South Pacific Conference sessions are: American Samoa, French Polynesia, Guam, Kiribati, New Caledonia, New Hebrides, Norfolk Island, Pitcairn Islands, Tokelau, Tonga, Wallis and Futuna Islands, and the new entities spun off from the U.S. Trust Territory of the Pacific Islands, namely the Republic of Belau, the Federated States of Micronesia, the Marshall Islands, and the Commonwealth of the Northern Mariana Islands.

The Netherlands and its New Guinea territory passed out of the scene permanently when in 1962 Indonesia achieved control over that territory and declined to occupy the position formerly held by the Netherlands within the South Pacific Commission system.

Tonga appears at sessions of the South Pacific Conference even though it has never been governed as a colony by any foreign power. Since Tonga lies within the geographic area of the South Pacific Commission, it was specially invited by the Commission to send delegates to the South Pacific Conference from the time of the first session of the

Conference in 1950. A rules change in 1971 eliminated the need for Tonga to be specially invited, and since that date Tonga participates in the South Pacific Conference as of right.<sup>20</sup>

The Gilbert Islands, independent since 1979 under the new name of Kiribati, and the New Hebrides, independent since 1980 under the new name of Vanuatu, have not formally acceded to the original Agreement as participating governments. These two nations did not lose their seats at South Pacific Conference sessions upon achieving full political independence. In view of the current mode of operation of the South Pacific Commission, such accession is not the significant step that it was twenty years ago.

The roster of independent and dependent island nations involved in the South Pacific Commission system establishes the geographic scope of the system. At its inception in 1948, all the island territories covered by the system were indeed in the Pacific Ocean south of the equator. The first formal amendment to the Agreement Establishing the South Pacific Commission was done in 1951 and placed the Micronesian islands of the U.S. Trust Territory of the Pacific Islands within the territorial scope of the system.<sup>21</sup> All of the Trust Territory islands and island groups lie north of the equator. The region thus defined by the territorial limits of the South Pacific Commission system encompasses three million square miles of ocean

space and a widely dispersed population of 4.5 million living on 10,000 islands.

The social, economic, and political ramifications of the South Pacific Commission system have been other than what the original signatories anticipated. Although at first the system stressed basic research, after the first decade of its operation the emphasis of the work program turned to the practical, problem-solving approach.<sup>22</sup> Health, economic development, and social development are the three broad fields in which projects have been carried out.<sup>23</sup>

The daily operations and finances of the South Pacific Commission system have come progressively within the grasp of islanders. Since 1969 the office of the Secretary-General of the South Pacific Commission has been occupied by islanders.<sup>24</sup> The 1983 assessed budget of the Commission is 367,229,800 CFP francs (equivalent to \$2,830,000), which represented an increase of 6.69 percent over the 1982 budget. Of the participating governments on the Commission, Australia provides a third of the total annual budget, New Zealand 18 percent, the U.S.A. 17 percent, France 14 percent, and the U.K. 12.3 percent. The independent and self-governing island nations on the Commission are each assessed less than one percent of the annual budget. Voluntary contributions from non-self-governing islands for 1983 amount to \$35,000; extra-budgetary contributions toward special programs are also made by the

governments of Australia, France, New Zealand and the U.S.<sup>25</sup>

#### B. Island Regionalism

The most important aspect of the work of the South Pacific Commission is the extent to which it has inculcated the ideal of regionalism among indigenous island peoples.

Almost alone the organization has succeeded in legitimizing the concept of regionalism among the indigenous island elites. The transfer of a basically European ideal to the islands was effected at a price not originally expected by the metropolitan powers which related the regional body. They were forced to make concessions to the norms and values of the non-European people of the region through the indigenization of the [South Pacific Commission's] sectors, structure, and ethos. Although the process of indigenization did not always proceed at a pace the island leaders would have desired, the incremental advances were sufficient to insure the continuance of the organization by accomodating at least the minimal aspirations of the various cultural traditions. As a result of the success of indigenization, the institution has been in

a position to ramify in its environment and so to give rise to other regional institutions which further support and intensify the sense of regional commonality among the island elites.<sup>26</sup>

The founders of the South Pacific Commission were of one mind that political discussions within the South Pacific Commission ought to be considered taboo. Hence, from the beginning, topics discussed at sessions of the South Pacific Conference excluded any topic deemed "political" by the participating governments. Even issues of human rights were considered too political to be allowed on the agenda. Only economic and social rights remained. Out of frustration at the failure of repeated attempts to politicize the system, the islanders undertook an initiative in 1970 to form a separate regional organization excluding the United States, the United Kingdom, and France but including Australia and New Zealand. Present at the first session of the South Pacific Forum during August 1971 were leaders of the Cook Islands, Fiji, Nauru, Tonga, and Western Samoa, meeting in Wellington with the prime minister of New Zealand and Australia's minister for external territories.<sup>27</sup>

At the second South Pacific Forum session in Canberra during February 1972, the permanent headquarters of the newly formed organization was fixed at Suva, Fiji. At the third South Pacific Forum session in Suva during September

1972, a permanent secretariat (called the South Pacific Bureau for Economic Cooperation) was established, with headquarters on the campus of the University of the South Pacific at Suva. The first director of the South Pacific Bureau for Economic Cooperation was from Tonga and the deputy-director appointed from New Zealand. At the fourth South Pacific Forum session held in Apia, Western Samoa during April 1973, each member country was for the first time represented by its head of government.<sup>28</sup> Although the South Pacific Forum itself has no written charter, the formal agreement which gives the South Pacific Bureau for Economic Cooperation (SPEC) its juridical personality was signed April 17, 1973 during the session of the South Pacific Forum held at Apia.<sup>29</sup> In 1974, SPEC absorbed the functions of its predecessor organization, the Pacific Island Producers Association, which the island nations had organized in 1968 as a means by which to gain bargaining leverage with larger nations over export prices for island produce.<sup>30</sup>

Sessions of the South Pacific Forum consist of gatherings of heads of government of member countries. Membership of the South Pacific Forum currently includes Australia, the Cook Islands, Fiji, Kiribati, Nauru, New Zealand, Niue, Papua New Guinea, Solomon Islands, Tonga, Tuvalu, Vanuatu, and Western Samoa.<sup>31</sup> The participants have the freedom to discuss purely political questions and political aspects of economic cooperation which does not

exist in the South Pacific Commission system. The urge to discuss regional political matters and the frustration of small island states with the cumbersome bureaucracy of the South Pacific Commission system combined to provide the impulse for the formation of the South Pacific Forum. However, it was clear to the island states by 1974 that technical details of projects, burdensome paperwork, and intra-organizational national rivalries were not faults uniquely attributable to organizations created by Western nations. The South Pacific Forum inevitably fell a prey to these same disunifying tendencies.<sup>32</sup> Moreover, as the work program of SPEC expanded, the members of the South Pacific Forum became concerned that duplication of effort between SPEC and the South Pacific Commission system might result in the wasting of scarce financial resources. A joint committee of the two bodies submitted a formal report on the possibility of a merger which was considered at the 1981 sessions of the South Pacific Conference. No direct action was taken and the matter was referred back for further study.<sup>33</sup>

Prospects for at least a partial merger of the two organizations look favorable at a time horizon of about 10 years, given that the nature and purpose of the two systems differ significantly.

The [South Pacific Commission] is a functional regional body while the [South Pacific Forum] is comprehensive.

and the [South Pacific Commission] embraces the whole of the South Pacific while the [South Pacific Forum] is sub-regional in scope. . . . The [South Pacific Forum] . . . can survive as a comprehensive body only if it remains subregional and the [South Pacific Commission] can remain regional only if it eschews politics.<sup>34</sup>

The winds of change are, however, producing an environment in which the survival of the South Pacific Commission is much less vulnerable to disruption due to an infection of politics. The barrier to political discussions has been raised entirely by the colonial powers as protection against any public criticism of the way in which they administer island dependencies. Now that the United States has granted a measure of self-government to all of its Micronesian territories, its opposition to political discussions within the South Pacific Commission system will be muted. The position of the United Kingdom has also changed, now that Pitcairn Island remains the only British dependency in the region. Domestic political changes within France have resulted in a greater receptivity on its part to the introduction of political questions into the agenda of the South Pacific Commission system.

Indeed, political issues were raised at the twentieth session of the South Pacific Conference held in Port

Moresby, Papua New Guinea during October 1980. In an opening speech, the Papua New Guinean foreign minister proposed that the time was ripe for a strong political alliance along the lines of such other regional organizations as the Organization of African Unity to be formed among South Pacific states, from which Australia, New Zealand, and other colonial powers would be excluded. Delegates attending the 1980 session of the South Pacific Conference were not prepared to respond to Papua New Guinea's proposal because it was completely new to them. Later reaction indicated several countries of the region valued Australian and New Zealand participation in regional affairs too highly to exclude them from a new organization, even if a new organization was to be formed. The wisdom of forming yet another organization was also doubted. The origin of the Papua New Guinea proposal is traceable to the influence of Mr. Paulias Matane, the new Papua New Guinean Secretary of Foreign Affairs and Trade who, upon returning from a tour of duty at the United Nations in August 1980, suggested to his government that island nations of the South Pacific were the only such group of developing countries who were not represented by such an organization at the United Nations.<sup>35</sup> Although unable to respond favorably to the suggestion for a regional political organization, conference participants did pass a formal resolution condemning the disposal of radioactive wastes in the Pacific Ocean. This was considered a polit-

ical issue by the delegates from France and the United States.<sup>36</sup>

The spirit of regionalism which animates discussions of merger between the South Pacific Commission system and the South Pacific Forum system also provides the impulse for discussions about a federation of South Pacific island nations. Four island groups which are formally still a part of the U.S. Trust Territory of the Pacific Islands have in fact formed a federation, called the Federated States of Micronesia, which is granted a measure of self-government by the United States under a constitution locally drafted and approved by local referendum. In 1978, the prime minister of Western Samoa suggested that Pacific nations south of the equator might achieve greater economies of scale through similar political integration efforts. To date, however, southern Pacific island countries have not opted for higher levels of economic or political integration among themselves. Integration in itself requires substantial resources, which the islands lack. Political unity is an important factor contributing to the success of South Pacific cooperative efforts and organizations, but there are limits on political resources as well. Member countries of the South Pacific Forum have differed sharply on issues of importance to them, and internal divisions tend to pit Melanesian against Polynesian countries. Examples of such issues are: whether or not non-island countries ought to be included in the member-

ship of a proposed regional fisheries agency, whether or not American Samoa ought to be considered for membership in the South Pacific Forum, whether the headquarters of South Pacific cooperative efforts and organizations should be centralized at one location (Fiji) or decentralized as much as possible.<sup>37</sup>

### C. American Participation

Over the years, the participation of the United States in the South Pacific Commission system has been very low key. Only one American has ever served as a Secretary-General, and few Americans have served on the staff of the secretariat below the level of Program Director. The low level of American involvement in the lower ranks of the secretariat derives from the small size of the staff, salaries which are low by American standards, and the disadvantages of life in Noumea, New Caledonia including inadequate housing, the dominance of French colonial culture, high living costs, and relative isolation.<sup>38</sup> Americans must also pay income tax on salaries received from the South Pacific Commission, although a 1980 accord between the United States and the South Pacific Commission provides that the South Pacific Commission will reimburse U.S. employees for taxes they pay to the U.S. government while working for the South Pacific Commission, in order to ensure that salaries of U.S. employees of the Commission system remain on a parity with those of other nation-

als not subject to similar double-taxation abroad.<sup>39</sup>

The United States Government is obligated by the accord to pay a "tax equalization charge as part of its annual payment to the [South Pacific Commission]" which will cover "actual reimbursements made by the [South Pacific Commission] to employees subject to U.S. income taxes."<sup>40</sup>

Island nations involved in the South Pacific Commission have long taken offense at the low level of support for the system by the United States.<sup>41</sup> The greatest offense has always been the low level of U.S. representation on the Commission of the South Pacific Commission, which contrasts starkly with the very high rank of the delegations sent by the island states.<sup>42</sup> The second offense has been the stinginess of the U.S. Congress in appropriating funds for support of the system since its creation, which is a function of the overall lack of importance assigned to the South Pacific region by the entire U.S. federal establishment. Although Pacific islanders are not vindictive individually, they possess national pride; and it would be less than human for them not to return the dual insult at some future time when circumstances give them greater importance in the eyes of American policy makers.

The instrumentality by which this assertion of the island nations' importance is conveyed in the future may will be the exclusive maritime zones which have already been proclaimed by the South Pacific island nations. If

the issue is set in terms of access to ocean space not only by fishing boats but also naval vessels and freighters, the "micro-states" of the Pacific region may yet command the full respect of the great powers, particularly if more favored routes become unavailable. It is the kind of demand at a time of crisis which may equalize relations between the great powers and the micro-states of the Pacific.

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## CHAPTER THREE: EXCLUSIVE ECONOMIC ZONES OF PACIFIC ISLAND NATIONS

### A. Expansion of National Jurisdiction

All the island nations of the Pacific, with the possible exception of Papua New Guinea, satisfy the prevalent notion of what constitutes a micro-state.<sup>1</sup> However, most of these nations benefit so dramatically from expanded maritime jurisdiction under new concepts of the evolving law of the sea that the status of micro-state must be carefully qualified. Tiny Tuvalu has a total land area of 7 nautical square miles, but its enactment of a 200-mile exclusive fisheries zone has enclosed an ocean area of 211,500 nautical square miles.<sup>2</sup> The Kingdom of Tonga possesses dry land area at low tide of about 203 nautical square miles, but its potential claim of a 200-mile zone would add 158,400 nautical square miles in ocean space to Tonga's area of exclusive national jurisdiction.<sup>3</sup> The self-governing Cook Islands have enacted a 200-miles exclusive economic zone which encloses 556,100 nautical square miles of ocean space.<sup>4</sup>

Of all the island states, the one to gain the least from expanded maritime jurisdiction is Western Samoa, which possesses a dry land area of 828 nautical square miles. Western Samoa's exclusive economic zone

encompasses 38,100 nautical square miles of ocean space.<sup>5</sup> Much more could have been claimed by Western Samoa, had it not had the misfortune of being near the island territories of other nations, including the United States (American Samoa). Western Samoa considers itself geographically disadvantaged in this regard, yet the area of its exclusive national jurisdiction has been increased by a factor of 46. This may be compared to the territorial jurisdiction of Tuvalu, which increases by a factor of 30,214 due to the enclosure of ocean space within an exclusive economic zone. Similarly, the self-governing Tokelau Islands instituted a 200-mile exclusive economic zone April 1, 1980 which increased the area of exclusive national jurisdiction by a factor of 30,433.<sup>6</sup>

#### B. Maritime Boundary Negotiations

Through the magic of modern law of the sea, all the island nations and territories of the southwest Pacific Ocean have become contiguous entities. Each island territory had to negotiate a common maritime boundary with at least one neighbor.<sup>7</sup> Five island nations and territories are geographically situated in such a way that negotiations are necessary in order to establish 75 percent or more of their maritime boundaries because of overlapping claims by neighbors. These are Western Samoa, American Samoa, Vanuatu (formerly New Hebrides), Papua New Guinea, Wallis and Futuna Islands, and Tokelau Islands.<sup>8</sup> In

most cases of overlapping maritime claims in the region, the solution was found in an application of the median line principle.

#### 1. Australia-Papua New Guinea

The most delicate boundary negotiations in the region were those between Australia and the independent state of Papua New Guinea concerning jurisdiction over fisheries, seabed resources, shipping and navigation in the Torres Strait. This international strait between Australia and Papua New Guinea was originally discovered in 1606 by Captain Lui Baez de Torres of Spain. At that early date, its navigation proved exceptionally dangerous. In modern times, the legal shoals and reefs to be navigated by negotiators were equally challenging.<sup>9</sup>

The legal regime established in the Torres Strait by the final agreement between Australia and Papua New Guinea offers a model for countries with similarly complex boundary issues to negotiate. Rather than treat the maritime boundary as a single issue, the two governments dealt separately and uniquely with five issues: (1) The traditional economic activities of indigenous Torres Strait islanders, (2) maritime jurisdiction, (3) sovereignty over islands, (4) fisheries, (5) and navigation.<sup>10</sup> Most remarkable in the negotiating process was the strong political will shown by both governments to resolve the most difficult issues amicably. The Australian foreign ministry was long

hindered in its negotiating options by constitutional prohibitions against the cession of Australian territory. This handicap was overcome through historical research which established that three small uninhabited islands off the coast of Papua New Guinea, formerly thought to be a part of Australia, had never belonged to Australia at all.<sup>11</sup> Article II, sub-paragraph 3(a) of the Torres Strait Treaty was therefore drawn in such a way as to explicitly recognize Papua New Guinean sovereignty over the islands of Kawa, Mata Kawa, and Kussa.<sup>12</sup>

The Torres Strait Treaty establishes a seabed boundary between Australia and Papua New Guinea which stretches for 1,200 nautical miles from the western maritime boundary between Australia and Indonesia to the triple juncture of the maritime claims of Australia, Papua New Guinea, and the Solomon Islands on the east.<sup>13</sup> The line is drawn in such a manner that Australia gives up 8,800 nautical square miles of seabed that it would have gotten had the line been drawn on the principle of equidistance between the Australian-owned islands in the Torres Strait and the Papua New Guinea base line.<sup>14</sup> This is compensated for by Papua New Guinea's recognition of Australian sovereignty over certain islands located on the Papua side of the basic seabed boundary.<sup>15</sup>

Article II, sub-paragraph 4(c) of the Torres Strait Treaty defines sovereignty over an island so recognized to include "the seabed beneath its territorial sea and the

subsoil thereof," while the width of the territorial sea of those islands is permanently fixed as three miles by paragraph 2 of Article III.<sup>16</sup> Any mineral deposits, including oil and gas, found straddling the seabed line will be jointly and cooperatively exploited.<sup>17</sup>

The unique feature of the Torres Strait Treaty is the "Protected Zone" established by Article X. Most articles of the Treaty relate in some way to the special Protected Zone, which constitutes an ocean area of 12,478 nautical square miles. The primary purpose of the zone is to protect indigenous rights to pursue traditional fishing activities in the Torres Strait.<sup>18</sup> Conservation of the marine environment is practically co-equal in importance, as exemplified in the ten-year ban on exploratory drilling for petroleum within the zone.<sup>19</sup> The regulation of commercial fisheries within the Protected Zone is complex.

## 2. U.S.-Cook Islands

A delimitation problem arose from the overlapping of maritime boundaries in areas previously considered to be free and open ocean because of the establishment of 200-mile maritime zones by the Cook Islands, by New Zealand for the Tokelau Islands, by Western Samoa, and by the United States for American Samoa. Of the mid-ocean maritime boundaries, those with the Cook Islands have been resolved by the Treaty on Friendship and Delimitation of the Maritime Boundary between the United States of America and

the Cook Islands, signed June 11, 1980 at Rarotonga.<sup>20</sup> Article I of the Treaty delimits the maritime boundary between the U.S. possession of American Samoa and the Cook Islands by geodetic coordinates. Article III represents an agreement by each party not to exercise or claim sovereign rights on the other's side of the boundary. Article IV enables each to observe the negotiated boundary and yet reserve its own position on law of the sea issues relating to the breadth of the territorial sea.

The Treaty notes that the United States has maintained claims to sovereignty over the islands of Pukapuka (Danger), Manhiki, Rakahanga, and Penrhyn.<sup>21</sup> These claims were considered historically weak. In ceding its sovereignty claims, the United States government agreed to the following wording of Article II:

The United States of America recognizes  
the sovereignty of the Cook Islands  
over the islands of Penrhyn, Pukapuka  
(Danger), Manhiki and Rakahanga.

The message from President Carter transmitting the Treaty to the U.S. Senate for ratification explained in part:

The Treaty satisfies the interest of  
the people of the Cook Islands that  
their claim to sovereignty over these  
four islands, inhabited by the citizens  
of the Cook Islands and represented in  
the legislative and administrative

branches of the Cook Islands Government, will not be encumbered by a conflicting and largely unsupported claim by the United States. . . . It furthers U.S. foreign policy interests in the area by establishing a basis for friendly relations with the Cook Islands and by furthering our interest in a peaceful, secure, and stable South Pacific.<sup>22</sup>

The most intriguing matter to be resolved in negotiations with the Cook Islands was whether it was competent under international law to enter into a treaty relationship. Although the Cook Islands are self-governing, the nation is tied to New Zealand by a "free association" relationship which means that it exercises its foreign affairs competence in conjunction with New Zealand.<sup>23</sup> The conclusion of the U.S. State Department was that only New Zealand could object to a treaty between the U.S. and the Cook Islands.<sup>24</sup> A diplomatic note from New Zealand indicated that that nation would raise no objection and would seek no role in the ratification process "other than perhaps as a channel through which the instruments of ratification might be conveyed."<sup>25</sup>

A separate exchange of diplomatic notes between the governments of the U.S. and the Cook Islands was sought in

order to assure that U.S. flag fishing vessels would continue to be permitted to apply for fishery licenses within the Cook Islands exclusive economic zone on a non-discriminatory basis.<sup>26</sup>

### 3. United States-Tokelau Islands

The Tokelau Islands, a non-self-governing dependency of New Zealand, are located northeast of American Samoa. The principle land areas are Atafu Atoll, Nukunono Atoll, and Fakaofu Atoll. These three, plus Swains Island, were claimed by the United States. Although Swains Island has been administered as part of American Samoa since 1925, the United States never permanently settled or exploited the other three islands. Great Britain annexed Atafu, Nukunono, and Fakofu in 1916 and later transferred legal sovereignty over the three atolls to New Zealand in 1948. The Tokelau Islands have a total land area of four square miles and a population in 1981 of 166 persons. New Zealand did not recognize the U.S. claim on the three atolls, and the Tokelau islanders themselves stated to the United Nations that they considered Swains Island to be historically, geographically, and culturally a part of their own group.

The Treaty between the United States of America and New Zealand on the Delimitation of the Maritime Boundary between Tokelau and the United States of America was signed on December 2, 1980 at Atafu by the U.S. ambassador

to New Zealand and by three Tokelau islanders authorized to act on behalf of the government of New Zealand.<sup>27</sup>

The document was done in triplicate in both the English and Tokelauan languages, with the English as the authentic text. Article I determines the negotiated boundary between American Samoa and the Tokelau Islands by geodetic lines. The new boundary is 318 nautical miles in length. At its eastern terminus is the tri-point of the common maritime boundaries between American Samoa, the Cook Islands, and the Tokelau Islands. At the western terminus is the tri-point of the common maritime boundaries shared by Western Samoa, American Samoa, and the Tokelau Islands. As in the case of the maritime boundary agreements with the Cook Islands and Western Samoa, the third article of the Treaty prohibits any exercise or claim of sovereignty by either party except on its own side of the negotiated boundary line. Article IV, likewise, preserves for both parties all options with regard to legal positions concerning the width of the territorial sea. Significantly, the maritime boundary agreed upon places Swains Island in the territory of American Samoa, while Article V is a concession by the U.S. that sovereignty over the Tokelau Islands resides in the people of those islands.<sup>28</sup>

In submitting the Treaty to the President, Secretary of State Alexander M. Haig, Jr. stated: "The islands have no appreciable strategic or economic value to the United States."<sup>29</sup>

In addition, a separate exchange of letters between the United States and New Zealand reassured the U.S. government of access to Tokelauan fisheries by American flag fishing vessels.<sup>30</sup>

In transmitting the Treaty to the U.S. Senate on March 25, 1981, President Reagan said:

The Treaty satisfies the interest of the peoples of Tokelau and New Zealand that the Tokelauan claim to sovereignty over three of these islands, inhabited by the natives of Tokelau and administered by New Zealand, will not be encumbered by a conflicting but inferior claim by the United States. The Treaty protects United States interests by confirming United States sovereignty over Swains Island, which had been claimed by Tokelau, and by securing a maritime boundary in accordance with equitable principles.<sup>31</sup>

#### 4. United States-Tuvalu

The Treaty of Friendship between the United States of America and Tuvalu was signed February 7, 1979 on Funafuti.<sup>32</sup> The purpose of the agreement with Tuvalu (for-

merly Ellice Islands) was to establish friendly relations with a newly independent island nation by relinquishing claims to sovereignty over four atolls including the seat of the national government at Funafuti. Maritime boundaries were not at issue, although access to fisheries constituted an important economic objective of the United States government. Funafuti Atoll, Nukufetau Atoll, and two others were discovered March 1819 by an American merchant vessel and mapped in 1840 and 1841 by the U.S. Navy exploratory expedition commanded by Captain Charles Wilkes. They were included in the Gilbert and Ellice Islands Colony established by Britain in 1916. No formal claim was made on the islands by the U.S. until 1939. Although the Gilbert Islands were occupied by the Japanese for a short time during the Second World War, American forces held the Ellice Islands until 1945. After the War, military bases built on Funafuti and Nukufetau by the United States were abandoned. In a referendum observed by a United Nations mission during 1975, the people of the Ellice Islands voted in favor of separation from the Gilbert Islands. The Gilbertese are Micronesian in culture, while the Ellice islanders are Polynesian. Tuvalu achieved full self-government May 9, 1978 and political independence occurred with much fanfare October 1, 1978. Eight of Tuvalu's nine coral atolls are permanently inhabited, and the population at independence was about 10,000.<sup>33</sup>

One of Tuvalu's key national assets is its Treaty of Friendship with the United States. The first article of the Treaty recognizes Tuvaluan sovereignty over islands discovered and formerly claimed by the United States. The third article provides for consultations between Tuvalu and the U.S. "during times of international crisis" regarding the use of Tuvaluan territory for military purposes by the U.S. or any other country. Article IV provides for mutual consultations and cooperation on fisheries. According to Article V, the duration of the Treaty is 10 years from the exchange of instruments of ratification, except that the U.S. relinquishes its sovereignty claims over four atolls in perpetuity.<sup>34</sup>

Secretary of State Cyrus Vance remarked in the letter by which he submitted the Treaty to President Carter: "To our knowledge the only resources in the area are the fisheries located offshore."<sup>35</sup> The fisheries within the maritime zone established by the government of Tuvalu help to supply canneries in American Samoa. Fisheries cooperation between American Samoa and Tuvalu is envisaged in the text of the Treaty. The chief justification given by President Carter for ratification of the Treaty in the letter by which he transmitted the agreement to the U.S. Senate was the beneficial impact which the agreement would have on the economy of American Samoa.<sup>36</sup>

## 5. United States-Kiribati

Kiribati (pronounced KI-ri-bass) territory consists of 33 islands and atolls spread over two million square miles of ocean in the vicinity of the intersection of the Equator and the International Dateline. Total dry land area is 264 square miles, and the population at independence was about 56,500. Over 90 percent of the population of Kiribati resides in the Gilbert Islands proper, which consists of 16 atolls situated slightly west of the International Dateline and strung from northwest to southeast over the Equator. The seat of the government and the main port is at Tarawa. In addition to the 16 islands of the Gilberts group, Kiribati sovereign territory includes 8 islands and atolls of the northern and southern Line Islands and 8 islands in the Phoenix group. All of these are low coral islands and atolls except for the thirty-third island which is different from the rest. Banabas (Ocean) Island lies west of the Gilberts and is actually closer to Nauru. Like Nauru, it is a solid upraised rock of phosphate. The Gilbert Islands achieved full self-government at the beginning of 1977, but political independence did not occur until July 12, 1979.<sup>37</sup>

On September 20, 1979 the Treaty of Friendship between the United States of America and the Republic of Kiribati was signed at Tarawa by President Ieremia Tabai and Mr. William Bodde of the U.,S. Department of State.<sup>38</sup> As in the case of treaties with Tokelau, Tuvalu, and the Cook

Islands, the key issues resolved were territorial claims. Article I of the Treaty consists of a recognition by the U.S. of Kiribati sovereignty over all of the Phoenix Islands, Christmas atoll in the Northern Line Islands, and five atolls in the Southern Line Islands. Between 1939 and 1979, the U.S. government had formally claimed sovereignty over Birnie, Enderbury, Canton (Abariringa), Manra (Sydney), McKean, Nikumaroro (Gardner), Orona (Hull), and Rawaki (Phoenix) in the Phoenix Islands; Kiritimati (Christmas) in the Northern Line Islands; and Malden, Starbuck, Caroline, Flint and Vostock in the Southern Line Islands. The U.S. had entered into a joint administration agreement with Great Britain in 1939 concerning Enderbury and Canton. A U.S. lease on the island of Orona (Hull) expired in 1980. The U.S. had constructed electronic tracking stations on Enderbury, Canton, and Orona, which were administered by the U.S. Air Force beginning in 1970, with annual compensation to the British government. The Air Force shut down the facilities and moved out a month or so before Kiribati independence. Regarding these three islands, Article III of the Treaty provides that use of U.S.-built facilities by Kiribati or any third party will be subject to agreement by the United States. Article VI envisions "joint utilization" of the facilities for the mutual benefit of both parties to the Treaty. Article II requires consultations between Kiribati and the U.S. prior to military use by any third party of any of the islands

formerly claimed by the United States. The duration of the Treaty is 10 years from the exchange of instruments of ratification, terminable thereafter upon 6 months notice by either party. As in the case of the agreement with Tuvalu, the main economic interest of the U.S. in Kiribati is in access to fisheries within the 200-mile fishing zone established by the government of Kiribati. Article IV of the Treaty and an Agreed Minute ensure non-discriminatory access to Kiribati fisheries by American flag fishing vessels and envisions consultation and cooperation on a broad range of fisheries issues, including the promotion of joint ventures beneficial to the development of the Kiribati national economy.<sup>39</sup>

#### 6. United States Territorial Cessions

Although the government of the United States considers the recently concluded treaties with Pacific island nations do indeed serve the foreign policy interests and goals of the United States, opposition to the explicit surrender of U.S. territorial claims arose in the course of hearings conducted by the U.S. Senate on the treaties.<sup>40</sup>

#### C. The Development of National Fisheries

##### 1. Port Moresby Declaration

The generating impulse for the extension of maritime jurisdiction by nations in the southwest Pacific Ocean

area proceeds from a "Declaration on the Law of the Sea and Regional Fisheries Agency" issued by the heads of state gathered at the eighth South Pacific Forum in Port Moresby in August 1977. The "Port Moresby Declaration," as it is called, urged member governments to establish extended fisheries zones by legislative and administrative action effective, if possible, no later than the end of March 1978.<sup>41</sup> The Declaration also called for discussions which would lead to the establishment of a regional fisheries agency designed to assist in the development of fish as a valuable resource of the island nations. The establishment of a regional fisheries agency resolved itself into a political issue.<sup>42</sup> The South Pacific Forum Fisheries Agency was established as an advisory body at a meeting of the heads of state of South Pacific Forum nations in Honiara, Solomon Islands on July 10, 1979.<sup>43</sup> The general purpose of the agency is to simply generate data upon which member nations may base management decisions relating to fisheries within their own jurisdiction.

## 2. Enforcement and Surveillance

Enforcement and surveillance of extended maritime zones is an aspect of their development which island nations can not delegate to others without considerable loss of autonomy. Nevertheless, island states generally lack equipment and trained personnel needed to patrol their own maritime zones. Australia and New Zealand officials

jointly toured nine Pacific island states in early 1980 to survey and discuss with governments the implementation of island state coastal surveillance policies and programs.<sup>44</sup> Prior to that visit, Australia had supplied maritime patrol aircraft to Indonesia and patrol boats to the Solomon Islands.<sup>45</sup>

### 3. Regional Community Option

Refusal by the United States government to sign the final treaty draft approved by the Third United Nations Conference on the Law of the Sea (UNCLOS III) may ironically serve the best interests of the American Pacific territories, including the Trust Territory (Micronesian) islands. Self-governing territories whose inhabitants have chosen some status short of absolute political independence are not particularly well served by the UNCLOS III treaty. Non-self-governing territories are only mentioned at all in a transitional provision of the UNCLOS III treaty, while self-governing territories in "free association" with a parent country are not mentioned at all. It is problematic whether any, all, or some of America's Pacific territories would be considered self-governing and eligible for autonomous participation in a legal regime founded upon the UNCLOS III treaty. The best course in the Pacific islands region is for the island nations to forge an international fisheries community, as suggested in 1977 by F. L. Ramp, which would include 200-

mile exclusive economic or fisheries zones but exclude internal, territorial, contiguous, or archipelagic seas from its jurisdiction.<sup>46</sup>

Although Ramp suggested that those Pacific territories which are obviously non-self-governing should be excluded from such a community, a better view would be to extend membership in some form to all island territories in the region. The proposed community would set fisheries policy, issue regional licenses, and assist states in the surveillance of communal fisheries zones. All foreign long range fishing interests and probably all industrialized nations, except possibly for New Zealand and Australia, would be excluded from full membership on the policy making body of such a community. Island nations in varying stages of self-governance could participate fully in policy formation if capable of determining their own fisheries policies in their own 200-mile zones without veto by any other country. The proposed community would set fisheries policy and issue regional licenses. Similar, weaker proposals have faltered recently due to disagreements among South Pacific nations about qualifications for membership and the question of admitting non-island nations to the organization.<sup>47</sup> In particular, member countries of the South Pacific Forum were sharply divided on membership issues in connection with the establishment of the South Pacific Forum Fisheries Agency, mentioned above. Although originally proposed as an agency with some policy making

powers, member countries could only agree upon the data gathering and statistics generating functions, so that the Fisheries Agency materialized as a purely advisory body.

#### 4. Exclusivity in a Cultural Context

The development of fisheries within extended maritime zones requires capital and technology not possessed by the small island states. Various forms of multilateral and bilateral aid projects are necessary to assist the poorer nations in the development of their fisheries resources.<sup>48</sup> Lacking capacity to optimally utilize their own fisheries resources, island states sell fishing licenses and assign catch quotas to foreign fishing vessels. The most valuable species for which quotas may be sold are the "highly migratory" species, meaning tuna.

Of all nations, only the United States does not in principle recognize the right of coastal and island states to regulate tuna fisheries within 200-mile zones. In this context, the cultural differences between eastern and western Pacific nations becomes relevant. In the eastern Pacific, Latin American nations have enforced tuna fishery authority over U.S. tuna fishermen who often share a common language and culture. Over time an informal network of acquaintances, business linkages and understandings has been built up which gives U.S. tuna fishing interests the ability to maintain a presence in spite of the exclusive maritime jurisdiction imposed by Chile, Peru, Ecuador, Co-

lombia, and Central American countries on their Pacific tuna fisheries. In the western Pacific, U.S. tuna fishermen have no such cultural affinity with island peoples and there is no informal network of business and friendship.<sup>49</sup> Nevertheless, U.S. tunaboat activity in the western Pacific has increased recently, with 25 vessels present in 1982 and over 30 planning to enter those waters in 1983. A study of tuna resources covering the area within the political jurisdiction of the South Pacific Commission put the resource estimate at a fantastic 10 million metric tons.<sup>50</sup> New equipment such as larger, lighter nets and advanced sonar sounding equipment have made most of the new operations profitable. The greater costs of fuel and food for the journeys farther from the U.S. Pacific coast are justified not by higher prices but rather by larger catches and negotiated entry and regional licensing arrangements far more hospitable than any available on the Latin American Pacific coast. In particular, confiscation by Mexican authorities of U.S. tunaboat nets, which run about \$300,000 apiece, has discouraged tuna fishing in Latin American Pacific waters.<sup>51</sup>

Even those nations with a long standing presence in the western Pacific have found themselves prohibited from fishing freely in favored fishing grounds. Japanese vessels used to fish in the Solomon Sea at will. That practice ended January 1, 1978 when the government of the Solomon Islands issued a proclamation extending fishery

limits out to 200 miles pursuant to 1977 legislation. Enforcement provisions in a 1972 ordinances relating to fisheries were made applicable to the expanded zone, meaning imprisonment is the penalty for any fisherman who obstructs an enforcement officer, fails to comply, fails to answer questions, or throws the illegal catch overboard to avoid seizure or detection.<sup>52</sup> Most importantly, the government sets quotas for foreign fishing and charges fees for the quota licenses to foreign companies and governments. In 1981, South Korean vessels caught 792 tons out of a quota set at 1,500 tons.<sup>53</sup>

Similarly, Western Samoa consolidated control over its offshore high seas fisheries resources through promulgation of the Exclusive Economic Zone Act of 1977, which extended national marine jurisdiction out to 200 miles from base lines set forth in the Territorial Sea Act of 1971. Under sections 4 and 5 of the 1977 Act, the government is empowered to license foreign fishing vessels and to insist upon the satisfaction of certain conditions by licensees. These include transfer of technology to Western Samoa and training of indigenous personnel. With the United States in mind, section 11(i) of the 1977 Act specifies that fishing for tuna ("highly migratory species") is subject to regulation.<sup>54</sup>

## 5. Trend toward Joint Venture Investment

Implementation of extended fisheries jurisdiction by Western Samoa and other countries in the South Pacific has increased impetus toward the formation of international joint ventures involving fisheries.<sup>55</sup> In May 1981, Japan agreed to provide the government of Western Samoa with an aid grant of \$3 million toward the construction of a fishing port complex under the nation's five year economic development program. The benefit to Japan for extending such aid will be continued access to Western Samoan fisheries.<sup>56</sup> Japanese companies followed a similar option in the Solomon Islands by entering into a joint venture with local fishing interests.<sup>57</sup> The joint venture, Solomon Taiyo Limited, has built its main fishing base and cannery at Tulagi and a second base at Noro, with processing (smoking) done at both locations. The government of the Solomon Islands owns 49 percent of the enterprise, which employs about a thousand islanders. The annual catch thus locally processed may reach 20 thousand tons.<sup>58</sup>

## 6. U.S. Fisheries Policy in the Pacific

American Samoa's cultural and geographic situation provides close ties to other, independent island nations of the South Pacific, particularly Western Samoa and the Cook Islands. Great sensitivity to the role of American Samoa in the politics of South Pacific regionalism is nec-

essary if the United States is to serve its own best interests in the region.<sup>59</sup>

The single most critical issue to consider in this connection is fisheries policy under the Magnuson Fisheries Conservation and Management Act (MFCMA).<sup>60</sup> Proposals have been made by the Western Pacific Fishery Management Council<sup>61</sup> that tuna and related species be included in the fishery conservation authority of the United States for the purpose of developing the fishing industry in those areas under U.S. jurisdiction in the western Pacific, including American Samoa.<sup>62</sup> An amendment to MFCMA would be required in order to implement such a policy.<sup>63</sup> The opposition of established tuna industry interests operating from the United States mainland, combined with official U.S. non-recognition of any other nation's high seas jurisdiction over highly migratory species, make it difficult to realize the aspirations of American island territories for development of their own fisheries.<sup>64</sup>

The inflexibility of the U.S. on tuna conservation policy, more than any other single issue, troubles relations with island nations in the South Pacific.<sup>65</sup> Some of the difficulties have extended even to newly self-governing islands within the U.S. Trust Territory. In July of 1979, a U.S. tuna seiner was seized by the island government of Palau, which is the westernmost district of the U.S. Trust Territory and now self-governing.

Unlike rather informal receptions the crews were used to getting in South and Central American ports, the crew of the Voyager was immediately and unceremoniously escorted off the boat and into jail.<sup>66</sup>

In territory not under the authority of the United States government, the situation is even tougher. In February 1982, the government of Papua New Guinea seized the 1400-ton tuna seiner Danica for fishing without a license within that nation's 200-mile zone. At first the government threatened to confiscate the boat, its equipment, and the tuna catch - all at a value of \$13 million. Negotiations on behalf of the American Tuna Association (ATA) by its president reduced the fine to \$280,000 and also provided for licensing at \$35 per net registered ton of ATA vessels operating in the Papua New Guinea zone. Although ATA President Augustus Felando remained adamantly opposed to any change in U.S. official policy on national jurisdiction over tuna and related species, he had no qualms against negotiating six agreements with political entities in the western Pacific. Among them are the newly self-governing island states of the U.S. Trust Territory which, like some other island countries in the region, have found it in their own interests to grant regional licenses to U.S. tuna fishermen.<sup>67</sup>

Negotiations on fishing rights within 200-mile zones have already been carried out between Japan and the governments of Palau, Federated States of Micronesia, and the Marshall Islands, each of which is a largely selfgoverning state within the U.S. Trust Territory. Negotiations between the Marshall Islands and Japan were conducted with the knowledge and approval of the High Commissioner of the U.S. Trust Territory government, the U.S. Department of State, and the U.S. Department of the Interior. A representative of the Department of State - an employee of the U.S. embassy in Tokyo - was present during all the talks. Communications from the Department of State to the Government of Japan regarding those negotiations were made through the Status Liaison Officer, its representative in Saipan. In spite of the careful supervision, one U.S. Congressman complained during oversight hearings: "If I read that fisheries compact correctly, the Japanese did them in, and apparently with the benign neglect of the U.S. government."<sup>68</sup>

The legislature of the Republic of Palau approved a fisheries agreement with Japan on October 2, 1981 which permitted Japanese vessels within Palau's 200-mile zone for fishing from December 1981 through March 1982, with possible extension to be renegotiated in the spring.<sup>69</sup>

Japan's negotiations with the Federated States of Micronesia to extend a private fisheries agreement broke off on December 10, 1981 because of widely differing ne-

gotiating positions. The government of the Federated States of Micronesia desired to double the lump sum annual Japanese fishing fee to over \$5 million while Japan wished to scrap the lump sum system and pay a tonnage fee per vessel.<sup>70</sup>

There is general consensus that the chief motivation for the adoption of 200-mile maritime zones by Pacific island nations is their desire to obtain control over the fisheries resources in their own region.<sup>71</sup> The gross proceeds of the Pacific islands tuna industry as of 1980 stood around \$6 million, but island nations hope to increase the annual catch of 250,000 tons by forty times and the gross proceeds to \$300 million by the end of the century. However, "A major impediment to such progress was considered to be the difficulty of detecting poaching in the region."<sup>72</sup> Given the importance of fisheries in the economic development of very small, very poor islands, it would seem highly desirable for the United States to be very sensitive to fisheries issues, particularly in connection with tuna and related species, in its relations with the island nations of the South Pacific, including those islands which remain under U.S. control.

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## CHAPTER FOUR: FOURTH WORLD<sup>1</sup> REALITIES AND ISLAND DEVELOPMENT

### A. Independence and Diplomatic Style

The first of the island territories of the South Pacific to achieve political independence was Western Samoa in 1962. Vanuatu (formerly New Hebrides), in 1980, was the ninth to achieve political independence. Upon achieving independence, Western Samoa did not immediately enter the arena of international politics. The Samoan leadership sought independence primarily for the purpose of ensuring complete autonomy in domestic affairs and not to meet the rest of the world. In fact, Western Samoa left the conduct of its diplomatic affairs mostly in the hands of the former administering authority, New Zealand.<sup>2</sup>

Western Samoa's example of a very low key approach to external relations and foreign policy was not followed by the South Pacific nations which subsequently attained independence. In particular, Fiji and Papua New Guinea have sought international leadership within the ranks of developing nations without, however, attaching themselves to the ideology of non-alignment.<sup>3</sup>

All the Melanesian states have attained United Nations membership. Of the Polynesian and Micronesian island nations of the South Pacific region, only Western Samoa

and Tonga have become United Nations members; but Samoan leaders did not finally seek membership for their country in the U.N. until 1976, which was 14 years after political independence. In contrast, Papua New Guinea, Solomon Islands, and Fiji sought and obtained U.N. membership each in the year of its independence. In September 1981, Vanuatu became the 155th member of the United Nations.<sup>4</sup> Although Tonga, out of necessity, ceded the conduct of its foreign affairs to Great Britain by a Treaty of Amity signed May 18, 1900, Tongans did not interpret this as a surrender of their sovereignty to the United Kingdom.<sup>5</sup> Therefore, when Tonga regained full control of its external relations, Tongans celebrated the event in August 1970 not as "independence" but as "re-entry into the Comity of Nations."<sup>6</sup>

Sovereign states as diminutive both in land area and in population as Kiribati, Nauru, and Tuvalu are not likely to seek U.N. membership even if, as in the case of Nauru, they can afford to pay the dues. The lowest membership assessment upon acceptance is one-tenth of one percent of the total budget of the United Nations. However, should these island nations seek U.N. membership, the issue of micro-state participation in the world's councils will be raised in a more forceful way than in the past. For if Nauru with a population of seven thousand, or Tuvalu with a population of 7,500 should be admitted to full U.N. membership, then who should be barred from full

membership? Admission of small sovereigns to the U.N. family as full members is opposed by those who see practical difficulties in the functioning of a world body as well as by those who see serious detriments to humanity generally from a proliferation of very small but fully sovereign states.<sup>7</sup> However, U.N. membership is regarded as "an important form of international certification" of national political sovereignty, even though "it is not doubted that small territories may be fully States in the sense of international law."<sup>8</sup>

In the South Pacific, the conduct of diplomatic relations is much less formal than elsewhere in the world. Particularly, the exchange of ambassadors is not considered to be the essential prerequisite to diplomatic discourse among the island states themselves. This is due not only to the economies which micro-states must observe in diplomatic activities as in all other spheres but more importantly to the keen interest which these states have in the affairs of their own region before the rest of the world.

This spirit of regional identification is so strong among the states now independent or self-governing that these countries have not felt the need to exchange missions with each other. Ministers in any South Pacific state are free to contact directly their counter-

parts in any other South Pacific state. Communications are not restricted to specialised channels but are as direct and as personal as possible. Face-to-face contacts are preferred and written messages generally spurned among the South Pacific officials who enjoy social exchanges and the spoken word. Thus, one might conclude either that these states do not have any diplomatic machinery inter se or that every politician and public servant is accredited to a fellow island state. Both observations would seem valid.<sup>9</sup>

Such a method of international interaction exists, one must add, without the formal underpinning of a legal arrangement specifying the nature of the "Pacific Way."<sup>10</sup>

This does not mean that the diplomatic motivations and styles of each of the nine South Pacific countries is the same. Indeed, Fiji has become the Geneva of the southern seas, while Tonga maintains only one mission abroad. Three nations have ambassadors stationed permanently at Apia, Western Samoa. These are Australia, the People's Republic of China, and New Zealand.<sup>11</sup> Following Vanuatu's entrance into the United Nations family, diplomatic relations were established with several nations. On

March 26, 1982 relations were established at the ambassadorial level with the People's Republic of China through an exchange of notes in which Vanuatu recognized the People's Republic of China as the sole legal government of China.<sup>12</sup> Prime Minister Walter Lini has not invited either the U.S. or the U.S.S.R. to open diplomatic missions in Vanuatu, and he has spoken of permitting Soviet military vessels to make friendship calls at Port Vila.<sup>13</sup>

Nauru, despite its independence, keeps a very low diplomatic profile, is not a member of the United Nations Organization, and has honorary consuls stationed in Hawaii, Guam, San Francisco, and Saipan, Commonwealth of the Northern Mariana Islands. The only government with permanent diplomatic representation resident in Nauru is Australia.<sup>14</sup>

Papua New Guinea's external relations are the most impressive aspect of its overall performance as a newly independent nation. The U.S., despite minimal trade and investment ties, maintains a full fledged embassy at Port Moresby. Direct aid, except in the form of a Peace Corps program, is absent. During 1980, the French and West German governments upgraded the level of their official representation in Port Moresby to full embassy status.<sup>15</sup>

During the visit of a senior politician from the People's Republic of China in 1980, the government of Papua New Guinea invited the People's Republic of China to establish an embassy at Port Moresby.<sup>16</sup> A similar invita

tion was not extended to the U.S.S.R., which has so far been able to station resident ambassadors in Fiji only.<sup>17</sup> Papua New Guinea has also become an ideological playground for competing North and South Korean representatives.<sup>18</sup>

#### B. Constitutional Development and Political Life

Another aspect of the movement of small territories toward independence is the proliferation of new national constitutions and a consequent enrichment of the study of comparative constitutional law. The constitutions drafted by new island states in the Pacific region give equal weight to unique aspects of indigenous culture and customary law and to conceptions of government gleaned from the practices of the former colonial authorities.<sup>19</sup> Only rarely, as in the case of the Marshall Islands, does an island nation adopt a form of government differing substantially from that of its administering authority.<sup>20</sup> The most ancient basic law document in the history of Pacific island nations is the Tongan constitution approved by King George Tupou I in 1875 which, with few amendments, is the basis of the modern law of Tonga.<sup>21</sup>

Political life is peaceful in Tonga. There are no political parties; legislators are elected as independents.<sup>22</sup> In Nauru, politics is dominated more by persons than by parties and is usually free of drama. The exception was a brief period in April 1978 when the country

had three presidents.<sup>23</sup> Similar parliamentary moves, complicated by a supreme court ruling on bribery under customary law, created a turmoil in Western Samoa politics in 1979.<sup>24</sup>

In terms of culture, the Samoans are truly the conservatives of the South Pacific. Some of the old ways were entrenched in the constitution of Western Samoa upon independence, such as the extension of the voting right to holders of matai titles of nobility rather than to all adult citizens. Samoan culture was uniquely equipped to survive the European cultural onslaught. Specifically, Samoans eschewed certain cultural traits which led to the downfall of other island cultures when confronted with Western ways: primogeniture, senior lines of descent, social stratification, and strong religious sanction for chieftanship.<sup>25</sup> Matai titles of nobility were never restricted to a small elite, nor were they hereditary. Noble blood of some degree is possessed by all Samoans; when an old chief dies the successor is elected by the clan. Since nearly every one has a chance to gain noble rank, disaffection with the system remains minimal.<sup>26</sup>

Prior to independence in 1978 the Solomon Islands was one of three countries which formed the British Western Pacific Territory. The other two besides the Solomon Islands were the Gilbert Islands (now Kiribati) and the Ellice Islands (now Tuvalu).<sup>27</sup> The constitutions of all three island states were "conferred" by the government of

the United Kingdom. All three constitutions provide for unicameral legislatures which operate, with some modifications, on the Westminster model. In all three countries, elections are held on the basis of universal suffrage. In all three cases the legislature is empowered to amend the constitution, but in the Solomon Islands a three-quarters majority is necessary for amendments touching individual rights and freedoms.<sup>28</sup>

Beginning in 1884, parts of Papua New Guinea were administered by German, British, Japanese, and Australian colonial authorities until independence was attained, September 16, 1975. Only after 1949 was the entire territory of Papua and New Guinea administered as a single unit, by Australia, as a United Nations Trust Territory.<sup>29</sup> As in most South Pacific nations, the transition from colonial status to political independence was achieved without violence and without ill-feeling toward the former administrative authority.<sup>30</sup>

However, to a degree not preceded by other former colonies and trust territories, Papua new Guineans meticulously severed all legal ties with Australia, the British Commonwealth, and even with the laws and ordinances enacted by the Papua New Guinean House of Assembly before the moment of independence. The basic strategy which was adopted to ensure complete autochthony was the creation of a total legal vacuum in Papua New Guinea at the instant preceding the effective date of the new Constitution.

The House of Assembly repealed all of its own enactments, as of that moment. The Australian Parliament also legislated that all of its real or potential claims to exercise sovereignty, sovereign or administrative rights over any part of Papua New Guinea would cease at the expiration of the day preceeding Independence Day for Papua New Guinea.<sup>31</sup>

Post-independence development of the Papua New Guinean legal system has been characterized by a struggle to incorporate customary law systems of tribal peoples into the constitutional framework of the modern state. Until 1980, all the justices of the national supreme court were expatriates, mostly from Australia, with a weakness for wholesale adoption of the English common law. Inter-tribal warfare remains a problem in rural areas where ancient tribal loyalties are now being mixed with modern partisan politics. In September 1981, police were obliged to use tear gas to disperse highlands tribesmen when bows and arrows were used to express differing viewpoints at a political rally. Reforms necessary to bring the criminal code more into line with traditional Melanesian concepts of criminal justice still await parliamentary consideration.<sup>32</sup>

The New Hebrides became the independent Republic of Vanuatu on July 30, 1980. ("Vanuatu" means "Our Land Forever.") For over 75 years it had been ruled jointly and severally by France and the United Kingdom as an interna-

tional "condominium."<sup>33</sup> Unlike eight other island groups in the region which achieved political independence during the 11960's and 1970's, Vanuatu's transition from colony to statehood was not a smooth and peaceful one.<sup>34</sup> French settlers resident in the islands and some French officials of the condominium administration fomented a separatist movement among French-speaking islanders who were opposed to the idea of independence under the leadership of the majority Vanuaaku Party.<sup>35</sup>

The constitutional drafting process was much complicated in the case of Vanuatu by the rushed schedule for the drafting of the basic document, as well as the confusion resulting from several decades of joint British and French administration.<sup>36</sup> The issue of land and property rights was the most difficult one to deal with in Vanuatu's transition from colonial status to independence. The Constitution of the Republic of Vanuatu provides that "All land in the Republic belongs to the indigenous custom owners and their descendants."<sup>37</sup> Restoration of indigenous land rights and the supremacy of customary land tenure are the aspirations which fueled the drive to independence in Vanuatu while simultaneously generating the frustrations of French plantation "owners" who had been exploiting islanders and their land for decades. Vanuatu's non-Melanesian landowners were converted to large leaseholders when the Constitution came into effect. The subsequent problem involves phased return of some of these

leased lands to indigenous Vanuatuans. About 214,000 hectares of land now leased to large landholders and plantation operators in Vanuatu will be returned to traditional clan ownership and control during the current decade.<sup>38</sup>

The land tenure situation in Fiji offers a useful contrast. Native Fijians constitute a minority of 44.4 percent of the population on their own island as of 1978.<sup>39</sup> However, because of the rigid protections afforded by Great Britain during the period of colonial rule, Fijians own most of the land in their islands. Indians, brought in as labor during colonial times, now constitute nearly half the total population. The rest are Europeans, Rotumans, other Pacific islanders, Chinese, and others in that order. The Indians produce nearly 90 percent of Fiji's sugar crop on land leased from Fijians and are also a dominant force in the business community. Racial antagonisms between Fijians and Indians persuade Great Britain to delay independence until communal tranquility was reestablished, in 1970. Otherwise, because of the general vitality of Fiji's economy and social structure, the country might have become independent before Western Samoa.<sup>40</sup>

Of the Indians who emigrated to Fiji between 1879 and 1916, about 83 percent were Hindus and 15 percent were Muslims.<sup>41</sup> The percentages remain very roughly the same within the Indian community on Fiji today. Although the Hindus and Muslims got along well at first, trouble devel-

oped in the period between the first and second World Wars, which led to the Indian Muslims requesting the colonial government for separate representation and separate political status apart from the rest of the Indian community. Such separatism has mellowed since independence in 1970, and Indian Muslims have won places in the government. Certain Muslim organizations, although a minority within a minority, agitate for a political status apart from other Indians on Fiji to the present.<sup>42</sup> Aside from complicating Fiji's political life, Muslim separatism in this nation makes much more notable the fact that, in a westward sweep across the Pacific Ocean, it is in Fiji rather than in the Philippines where a restive Muslim population is first encountered.<sup>43</sup>

Fijians do not confine their politics to only domestic matters. When Chilean President Pinochet stopped in Suva on the the first leg of what was to be a tour of the Pacific Basin, he was greeted by hostile demonstrators who disliked his politics. When President Marcos of the Philippines suddenly called off his meeting with Pinochet, the Chilean head of state returned home directly from Suva, thus aborting his forray into Pacific Basin politics.<sup>44</sup>

### C. Land-Based Resources

#### 1. Polynesia and Micronesia

Political independence may soon come to island states in addition to the nine which have already attained recog-

nitition, yet economic independence is a more distant goal which, for the poorest of the Pacific islands, seems unattainable. The Melanesian nations (Papua New Guinea, Solomon Islands, Fiji, Vanuatu) possess over 99 percent of the total land area of the nine nations and therefore more diversified resources, both human and natural. They are geographically nearer to Australia and the vibrant economies of east and southeastern Asia. The Polynesian (Western Samoa, Tonga, Tuvalu) and Micronesian (Kiribati, Nauru) states have smaller, less diversified land areas and smaller populations. Geographically they are widely scattered, and some are among the most isolated locations on Earth. Only Nauru possesses mineral wealth (phosphate) sufficient to take the fear out of its immediate economic future. Furthermore, the low-lying coral atoll, which is characteristic of the far-flung Micronesian and Polynesian island realms, provides a most challenging environment for plant and animal species, let alone human survival or economic prosperity.<sup>45</sup>

Two of the nine newly independent states of the South Pacific (Kiribati and Tuvalu) consist entirely of low-lying coral atolls; each atoll is a string of islets enclosing a lagoon whereon no point of land rises more than 25 feet above sea-level. Tuvalu possesses total land area of only 10 square miles. Other island groups, such as Tonga, Cook Islands, French Polynesia, Fiji, Vanuatu, New Caledonia, and others are a mixture of volcanic ("high")

islands, coral atolls, and uplifted coral islands. Agricultural development is limited by the small size of some of the islands and atolls, the mountainous nature of some of the larger volcanic islands, the susceptibility of most islands in the region to damage from tropical storms, and drought. Droughts are seasonal in most island groups, but in the central and eastern Pacific certain island groups receive too little rain during the annual rainy season to sustain annual crop production. Any islet less than eight to ten acres in total area and narrower than 350 feet at any point is not capable of cultivation because it lacks the ground water lens which is vital for food crops in sandy, coralline soil.<sup>46</sup> The highly porous nature of sand and coral prevents the formation of permanent rivers or streams even on relatively large coral islands such as Tongatapu in the Kingdom of Tonga, which is 30 miles wide and 7 miles long. Streams of freely running water are more common on volcanic islands having less porous topsoil.<sup>47</sup>

Tropical storms can destroy a low-lying coral island by inundating it, washing the topsoil away through wind and wave action, stripping away most of the protective and productive vegetation, and raising the salinity of the ground water too high for agricultural use for as long as 5 years. During the century 1875 to 1975, the Kingdom of Tonga experienced 28 hurricanes ("typhoons"). A 1961 typhoon destroyed half the houses, wiped out a banana crop

and so completely destroyed stands of fruitful coconut trees that over 2 years passed before another shipment of copra (dried coconut) could go out. Typhoon Juliette, in April 1973, left 10 percent of the population of Tonga homeless. During March 1982, Typhoon Isaac caused \$19 million of damage on Tonga, including destruction of 11 percent of the producing coconut trees and 90 percent of the bananas.<sup>48</sup>

Even the larger volcanic islands are vulnerable to the impact of typhoons, particularly along coastal areas which are heavily settled. The southeastern corner of Viti Levu in the Fiji Island group was struck by Cyclone Wally in April 1980. Suva, the capital city, is situated in this populous area which experienced damage from heavy rain and flooding. Relief missions from Australia and New Zealand were all the more burdensome because of the distances involved. Tents, medicine, and supplies had to be flown to Viti Levu, which is about 2,000 miles northeast of Sydney, Australia and 1,300 miles north of Auckland, New Zealand.<sup>49</sup>

If they are fortunate, islanders dwelling on small, remote coral atolls lying in the path of a tropic storm are evacuated before the storm arrives. Aside from the logistics of storm warnings, evacuation, and relief aid, there are also social impacts of disasters resulting from tropic storms. By the time of Typhoon Ann in December 1977, the government of the Kingdom of Tonga had the bu-

reaucratic expertise needed in order to prepare and submit detailed damage reports on the basis of which the country received emergency aid and disaster relief from 15 foreign governments and 7 non-governmental international organizations. Development bureaus within the governments of island states have become aware that disaster aid can be channeled into regular development programs. However, disaster aid can also increase vulnerability to disasters if physical structures inappropriate to the climate are built, if new programs accelerate undesirable demographic trends, if the planting of cash crops rather than food crops is encouraged, or if aid money introduces financial dependence into an otherwise self-sufficient indigenous economy. For good reason it has been said that "Natural disaster is the monitor of development."<sup>50</sup>

Nauru, an upraised coral island nation of eight square miles total land area, bears the distinction of being one of three great phosphatic rock islands in the Pacific Ocean. The other two are Ocean (Banaba) Island in Kiribati territory, and Makatea in French Polynesia. Balancing the national budget would be difficult; there are always more revenues than expenditures. Annual exports currently equal about 1.8 million metric tons of phosphate. In 1964, the U.N. Trusteeship Council proposed that the Nauruans, because their whole island will eventually be mined to sea level, consider taking up residence on Curtis Island, which belongs to Australia. Nauru declined to ac-

cept, because Australia could not constitutionally cede territory so as to guarantee Nauruan sovereignty. The next nation to offer the Nauruans an island to live on may be the Philippines.<sup>51</sup>

A study of seven island nations commissioned by the Asian Development Bank specifically concluded that economic growth was "impossible" for Kiribati - an island nation of 266 square miles total land area - and recommended that the government of Kiribati implement a policy of zero economic growth coupled with systematic emigration of young adults to countries offering employment opportunities. An example of the benefits of overseas employment to the home island economy is the instance of a group of young Kiribati men educated at a marine training school operating on the main island of Tarawa, who later found jobs with European shipping lines abroad and were able as a group to repatriate earnings of \$1 million annually. The major cash crop export of Kiribati is copra, which brings in about \$2.5 million annually, depending upon variable production due to sometimes irregular rainfall and even more variable price fluctuations in the regional copra market. Proceeds from phosphate mining on Banaba (Ocean) Island have dwindled to zero because of the exhaustion of the deposits, but interest income from a Revenue Equalisation Reserve are available to the government. Coconut replanting, fisheries development, and a future tourist industry are the chief hopes of Kiribati

economic planners. In the meantime, the nation remains heavily dependent upon economic aid from the United Kingdom, from fellow members of the British Commonwealth, and from other national and multilateral donors.<sup>52</sup>

Negotiations between Kiribati and the United Kingdom would have led to independence at an earlier date had the resistance of the Banaba Island people not presented difficult questions. Phosphate deposits of considerable value were discovered on Banaba (Ocean) Island in 1899. The British government acted favorably upon a petition from the Banabans by purchasing Rabi Island from the government of Fiji to be their new island home, but Japanese armed forces took the island before the Banabans could move. About 2,000 Banabans moved to Rabi Island after the end of the Second World War, and a plebiscite held in 1947 among those who made the move had the effect of binding them to Rabi Island as a permanent home 1,400 miles from their native island. In 1968, the Banabans began agitating for complete independence, and in 1971 the Banabans initiated court actions against the British government for underpayment of royalties and against the British Phosphate Commissioners for failure to replant the island after the cessation of mining activities. The action against the British government was dismissed in 1976, but a favorable judgment was rendered in the cause against the British Phosphate Commissioners. Further efforts were made to settle with the Banabans on financial matters and to nego-

tiate an amicable reconciliation to the government of the Gilbert Islands. When the Gilbert Islands achieved independence on July 12, 1979 as the Republic of Kiribati, Banaba Island became formally a part of the new nation without the consent of all the Banaban people.<sup>53</sup> Whereas 2,500 Banabans presently reside upon Rabi Island in Fijian territory, only a hundred or so live on their own native island.<sup>54</sup> Chapter IX of the Constitution of Kiribati, comprising sections 117 through 125, is entirely devoted to the issue of Banaba Island and the Banaban people.<sup>55</sup> The only parallel to this saga is to be found in the Marshall Islands group, where nuclear weapons tests irradiated islanders on certain atolls and rendered Bikini Atoll unsafe for human habitation.

In contrast to Nauru, Kiribati, Tonga and Tuvalu, Western Samoa has slightly more than a thousand square miles total land area, half of which is too rugged for agricultural use. Nevertheless, village agriculture devoted to subsistence crops renders the Samoans largely self-sufficient. Besides traditional crops such as taro, yams, and breadfruit, there is also a cattle and dairy industry. Export crops include cocoa, copra, and bananas. The Samoan islands have no known mineral deposits. Timber surpassed bananas as a foreign exchange earning export in 1979. Secondary industry includes the manufacture of furniture, clothing, ice cream, soap, and paint; the bottling of soft drinks; and the canning of fresh fruit. The

country maintains a balance of trade deficit with all major trading partners. In 1979 total exports were \$19.695 million and imports \$60.29 million.<sup>56</sup>

## 2. Melanesia

When speaking of the Melanesian states (Fiji, Vanuatu, Papua New Guinea, Solomon Islands), gloomy scenarios can be set aside and the "known and tried measures" of Third World development planning can be confidently applied.<sup>57</sup> In fact, the inclusion of Papua New Guinea in a discussion of South Pacific island state may be misleading, for its land area of over 180,000 square miles equals nearly 90 percent of the total land area of all nine newly independent states of the region. The Melanesian islands possess mineral wealth as well as good farm land, and this permits them to follow the standard method of diversifying their economies through a variety of ventures in industries such as beef, hydroelectric power, agriculture, shipping, timber, and mining.<sup>58</sup>

The 1976 census recorded 196,000 people in the Solomon Islands, an island country possessing over 11,000 square miles total land area. Most of those counted were Melanesian, and 90 percent of them lived in rural areas not tied to the cash economy. There are ten major islands and many small ones. The archipelago stretches 900 miles from Bougainville Island, which belongs to Papua New Guinea, southeastward across the Coral Sea to Isles Torres, which

is part of Vanuatu. Ninety percent of the islands are under forest, and the major industries are fish and timber processing.<sup>59</sup> The Solomon Islands also possess mineral wealth. About 25 million metric tons of high grade bauxite ore have been surveyed on Rennell Island, 150 miles south of Honiara.<sup>60</sup> Japan's International Cooperative Agency and Mitsui Mining are now examining the feasibility of mining the deposits.<sup>61</sup>

In 1977, the year preceeding independence, the Solomon Islands experienced a trade surplus of \$3.8 million. Principal exports, worth \$29.6 million, were copra, timber, fish, and palm oil. Japan took one-fourth of Solomon Islands exports and the United Kingdom 15 percent, whereas Australia supplied one-third of the country's imports. British aid to its former colony was set at \$43 million for the years 1978 through 1982. While Australia's 1977-1978 budget provided assistance of \$2 million to the newly independent nation.<sup>62</sup> In 1979, the Solomon Islands exported \$43.5 million worth of goods and imported \$53.3 million.<sup>63</sup> The country receives no direct aid from the United States.

Papua New Guinea's economic activities are undergoing gradual transformations. It is possible to divide the national economy of Papua New Guinea into five sectors.<sup>64</sup> About three-fourths of the population supports itself through subsistence farming and animal husbandry.<sup>65</sup> As the transactions taking place in the subsistence sector

are not monetary, it is difficult to estimate their contribution to the gross domestic product.<sup>66</sup> Exports of primary agricultural commodities represents about a third of the gross domestic product.<sup>67</sup> Mineral exports constitute a separate sector and, at present, consist of the production of copper and gold on Bougainville Island, where Bougainville Copper Ltd. operates Panguna - the world's fourth largest mine.<sup>68</sup> Secondary and tertiary industries combined contribute a third of the nation's gross domestic product.<sup>69</sup> The government bureaucracy is much too large for the size of the economy; it employs 40,000 in a population of 3 million.<sup>70</sup>

The government of Papua New Guinea is still dependent upon Australian aid for much of its revenue. Until 1980, such aid accounted for nearly a third of government revenue.<sup>71</sup> A new five-year aid agreement between Australia and Papua New Guinea, effective July 1, 1981 will reduce Australian aid by 5 percent each year, with allowances to be made for the rate of inflation in Australia.<sup>72</sup> Consequently, the Papua New Guinea government, which uses expenditure increases as a policy instrument to stimulate economic growth, will be able to increase spending only by 3 percent per year.<sup>73</sup> Expansion in government spending even at that modest rate is dependent, moreover, on improved prices for mineral and agricultural exports as well as the timely development of mineral and agricultural exports as well as the timely development of mineral re-

sources.<sup>74</sup> Fortunately, Australian aid, which will exceed \$1 billion over the next five years, is not tied to particular projects.<sup>75</sup> The flexibility which this gives to the government of Papua New Guinea in setting its plans and in dealing with development of 19 self-governing provinces is an inestimable benefit.<sup>76</sup> This is due to the fact that the nation's has a very small economy,<sup>77</sup> which is "wide open" and therefore vulnerable to variations in the terms of external trade.<sup>78</sup> The un-tied nature of the Australian aid imposes no restraints upon Papua New Guinea's foreign policy choices other than those which are inherent in any such donor-recipient relationship.<sup>79</sup> The small size of the nation's monetary sector, both absolutely and in relation to the rest of the domestic economy, simply magnifies the issues of growth, natural resource development, and external trade.<sup>80</sup>

The most troubled sector of the national economy is agriculture. More precisely, the production of agricultural export commodities has been discouraged by erratic price fluctuations on the international market. Internally, an equally discouraging factor is lack of certainty over land tenure.<sup>81</sup> There is also a lack of cooperation between central and provincial governments in the provision of agricultural extension services. Increasingly, the outcome of combined disincentives is a failure to replace aging trees on coffee, coconut, and cocoa planta-

tions, which portends unavoidable production declines in future years.<sup>82</sup>

Approximately 70 percent of the land area of Papua New Guinea is under forest. Major timber projects involving foreign capital are planned for Vanimo and Kupuluk. The exploitation of high quality ebony on Woodlark Island may generate export revenues and local employment, as well as a measure of controversy.<sup>83</sup>

The \$2 billion Ok Tedi mining project, located on Mount Fubilan in the Star Mountains of Western Province, should begin production of gold by 1984.<sup>84</sup> Both the government and the international consortium involved in the Ok Tedi project are eager that production and development proceed on schedule. However, the local land owners were able to stop construction temporarily in June 1981 by asserting that the central government had failed to keep a promise of substantial development aid to the region.<sup>85</sup> Similar problems beset the operation on Bougainville, where the provincial government and several local governments seek a larger share of the royalties and taxes paid to the central government by Bougainville Copper Limited.<sup>86</sup> The Ok Tedi project is also beset by a dispute between the central government and local groups in the project area who wish to break off from the rest of Western Province. The result of such a split would be a very rich province in the Northern Fly River area and a much poorer province further down river. Any delay in eventual

production caused by the various disputes would depress expectations of national economic growth during the current decade.<sup>87</sup>

Papua New Guinea government planners anticipated that mining activity would spearhead the nation's economic growth.<sup>88</sup> However, the boom which copper exports were expected to produce never materialized. During 1980, copper production (in concentrate form) at Bougainville fell by 14 percent, and gold production by 29 percent, because lower grades of ore were reached in mining operations.<sup>89</sup> At the same time, world copper prices fell, magnifying the impact of reduced production, while higher gold prices partially offset the decline in earnings.<sup>90</sup> The installation of new equipment at Bougainville will increase production capacity by as much as 10 percent by 1982. Other mining projects in early stages of exploration or development, at Frieda River in West Sepik Province and Porgera in Enga Province, offer hope for the national economy in the 1990's.<sup>91</sup>

#### D. Demographic Trends in the Islands

The ecological rigor of the islands goes far to explain a pronounced demographic trend of interior migration from the smaller "outer" islands to major islands and urban centers throughout the Pacific islands. Many of the island groups exhibit strong population concentrations on major islands and in major island urban centers. In 1977,

two-thirds of French Polynesia's 137,382 inhabitants were living on Tahiti, with the remainder scattered over 120 "outer islands." French Polynesia consists of over 400 widely scattered islands with a total land area of 1,553 square miles. Tahiti, however, has an area of only 402 square miles, and 54 percent of all the people in the territory were living in the capital city of Papeete on the northwest coast of Tahiti Nui (the larger portion of the two-lobed island). Similarly, Fiji consists of islands scattered over a section of ocean roughly 400 miles from north to south and an equal distance east and west, with a total dry land area of 7,095 square miles. In 1976, about 588,000 Fijians inhabited a hundred of those islands, with 75 percent residing on the largest, Viti Levu, which has an area of 4,010 square miles. Twenty percent of the total population of Fiji resided in the capital city of Suva. Likewise, the Kingdom of Tonga consists of 171 islands spread over 250,000 square miles of ocean, with a total dry land area of 272 square miles. In 1976 over 90,130 Tongans inhabited about 40 of those islands, with 61 percent living on the main island of Tongatapu, which has an area of 99 square miles. Twenty percent of the people lived in the capital city of Nuku'alofa.<sup>92</sup>

Population density figures for island nations which are based upon a simple division of total population by total land area must be considered as misleading. Many islanders, and particularly Micronesians and Polynesians

who in former centuries exemplified self-sufficiency and cultural adaptation to the rigors of island life, now flock to major islands and crowd into island urban centers where they can taste more of the life of the outside world.<sup>93</sup>

It has been suggested that island states are demographically more "modern" than continental states of the same size or of comparable economic productivity per inhabitant.<sup>94</sup> Yet the hypothesis does not hold true for the Pacific islands, where populations, particularly in Polynesian and Micronesian islands, are still growing too rapidly.<sup>95</sup>

Continued high rates of population growth threaten to undermine all hope for future economic growth in the islands. Population pressures are relieved in certain island groups by emigration to favored industrialized countries. Emigration by citizens of the Cook Islands actually caused a 4 percent annual decline in the population of the Cook Islands between 1971 and 1976. If emigration had continued at that rate, the Cook Islands would have been depopulated in only twenty years.<sup>96</sup> However, the emigration trend halted in 1977 when recession in New Zealand - the favored destination - caused job opportunities for islanders to decline precipitously.<sup>97</sup> Because of the opportunity for islanders to emigrate to New Zealand and elsewhere, urban crowding and the congregation of a high percentage of the population on the main island was par-

tially avoided in the Cook Islands. In 1976, about 52 percent of the 18,112 inhabitants lived on Rarotonga and 30 percent of the total resided in the capital city of Avarua. Rarotonga Island, with an area of 26 square miles, represents about 28 percent of the total land area of the Cook Islands. The self-governing Cook Islands consist of a hundred islands (about 14 of which are permanently settled) scattered over a million square miles of ocean.<sup>98</sup> If emigration ceases to be an option for the Cook Islands and other similarly situated groups of islands, urban crowding and population growth will weigh heavily upon plans for economic development.

It is the steady increase of pressure from rapidly expanding island populations, rather than any direct interference or intrusion by outsiders, which is causing the crisis in island cultures. Islanders, having already lost the inner substance of their ancient cultures, yet cling to outward forms. The most tangible and enduring of these forms are land tenure patterns, which are a sheer delight to anthropologists in search of the past but a curse to indigenous planners in search of an independent economic future. Island groups with small total land areas and poor crop environments have the most to fear from overcrowding, and those disadvantages are currently realized. Island states such as Tonga, restricted in total land area but blessed with some areas of fertile volcanic soils,

feel no population pressures on land use save those directly caused by traditional land tenure systems.<sup>99</sup>

#### E. Inter-island Shipping

The economic future of the Micronesian and Polynesian nations may turn upon the "sole deciding factor" of inter-island shipping.<sup>100</sup> Island states specializing in the export of coconuts and bananas and importing an increasing percentage of their food and other supplies from the rest of the world are at the mercy of the rising cost of bunker fuel for the freighters upon which these shipments are carried.

Sea transport costs represent a major element in the economies of the Pacific islands, but because of the inelasticity of demand for primary products the ocean freight rates are seldom passed on to the buyers of Pacific exports; they tend rather to be deducted from the returns to Pacific producers.<sup>101</sup>

Rising freight charges are the largest single component in the sharp increases in the overall consumer price indexes of island states. This is a form of externally generated inflation over which the island nations can exercise little control.

In simple terms, the local cost of imported goods equals world prices plus

freight, while export revenue equals world prices minus freight; this in turn inflates domestic prices and erodes foreign exchange earnings.<sup>102</sup>

As the costs of ocean shipping have risen, the continuity of shipping services to the islands has deteriorated.

Today, larger ships call only at one main port on an island country and less frequently at that. But domestic inter-island shipping has not supplied the feeder services either; they, too, have shrunk and charges have become onerous. When an archipelago measures 1,200 miles end-to-end (Cook Islands) or 1000 miles (Kiribati), the cost of transport has become daunting. It is therefore vital that, in any scheme to develop the economies of these sea-locked countries, shipping be built into the plans - especially the inter-island services. These latter are, after all, the marine counterpart of rural and feeder roads...<sup>103</sup>

In order to ensure some local control over shipping, the Cook Islands, Nauru, Tonga, and other island states decided to establish national shipping lines during the 1960's. A regional venture was formed by Nauru, Tonga,

Fiji, the Cook Islands, Western Samoa, Kiribati, New Zealand, and Papua New Guinea in 1978 under the auspices of the South Pacific Forum.<sup>104</sup> The Pacific Forum Line, after two full years of operation, was still dependent upon financial support from Australia and New Zealand in the form of international aid grants. The Pacific Forum Line lost several millions of dollars over the following three years, and Australia and New Zealand each agreed to pay half of the amount needed to keep the shipping line solvent.<sup>105</sup> Australia's continued support for the regional venture was reluctant; its aid grants to the shipping line came only after the exertion of political pressure at regional summit meetings of Commonwealth nations.<sup>106</sup> Furthermore, Australian aid to the shipping line was taken out of funds that had already been earmarked for other regional projects during 1982 and 1983.<sup>107</sup>

During the years 1973 through 1979, the colony of the New Hebrides (now the Republic of Vanuatu) maintained a consistently negative balance of trade.<sup>108</sup> The passage to political independence further disrupted the national economy. One of the first acts of the newly independent government of Vanuatu was the establishment of a new shipping registry. This action was designed to bolster the national economy. The Vanuatuan shipping registry tax is 25 cents per gross registered ton, which is lower than the tax previously assessed by Liberia.<sup>109</sup> The first vessel was registered under the flag of Vanuatu on May 29, 1981.

Government officials hope that within three years there will be five million tons of shipping registered under the flag of Vanuatu. Hopes are buoyed by the fact that Vanuatu will be the only nation in the Pacific operating an open shipping registry.<sup>110</sup>

Direct shipping is available between Papua New Guinea and the United States west coast, and this provides savings for those businesses which have become accustomed to selling and shipping through Australia.<sup>111</sup> Also, the U.S. Customs Service, as of April 3, 1981, no longer imposes special tonnage tax and light money upon Papua New Guinean vessels entering United States ports. The exemption is granted on the basis of reciprocal treatment by Papua New Guinea of U.S. flag vessels entering the ports of that country.<sup>112</sup>

#### F. Energy Resources of the Island Nations

It has been suggested that the ultimate solution to constantly escalating marine transport costs will be for Pacific islanders to return to the use of sail or sail-assisted craft in trade between islands.<sup>113</sup> The commercial feasibility of sail-assisted cargo ships has been investigated by the U.S. Maritime Administration.<sup>114</sup> Indeed, a failure to act upon this option would be folly, because the island states of the southern Pacific are situated at the furthest end of long, fragile fuel supply lines. Disruption of fuel supplies to major Pacific bun-

kering ports could effectively stop inter-island trade and travel. At the height of the Iranian revolution in mid-1979, oil companies warned several island governments to expect significant reductions in deliveries together with price increases.<sup>115</sup>

Since 1967, the cost of a barrel of diesel fuel has increased 850 percent, while fish prices have only increased by 400 percent, thus constricting the possibilities for growth in the one activity (fishing) essential to the economic self-sufficiency of most small islands. Diesel is used not only as fuel for fishing and general purpose vessels but also for electrical power generation. The search for alternative sources of electrical power is in full swing throughout the Pacific islands. Wind power, solar, and ocean thermal energy conversion (OTEC) alternatives have attracted the most attention. Nineteen Pacific island locations have potential for OTEC power generation, including Saipan and Guam where preliminary feasibility studies yielded positive results. A 100-kilowatt land-based OTEC pilot plant has been completed on the island of Nauru.<sup>116</sup> Although wind and solar alternatives seem obvious choices throughout the U.S. island territories, Department of Energy development grants in these locations have had only limited success.<sup>117</sup> The inability of island economies to bear the burden of petroleum fuel imports, combined with technical and financial inability to

install substitute power systems, has generated legislative initiatives and hearings in the U.S. Congress.<sup>118</sup>

Active exploration for petroleum in the islands has begun. Within the Micronesian realm, only the government of Palau, the westernmost island district in the U.S. Trust Territory, is exploring for hydrocarbons within its maritime boundaries.<sup>119</sup> Within the Polynesian realm, the government of the Kingdom of Tonga authorized seismic surveys which indicated prospects for offshore oil south of Tongatapu Island.<sup>120</sup> Within the Melanesian realm, the governments of Vanuatu and the Solomon Islands have yet to adopt petroleum exploration legislation which would enable the granting of concessions to interested international oil companies.<sup>121</sup> Most of the activity is in Fiji and Papua New Guinea.

By 1979 the government of Fiji had granted exploration licenses for all major prospective offshore blocks.<sup>122</sup> Incentive for an initial drilling program was generated by marine seismic surveys, gravity and magnetic measurements, and geochemical samplings on the seabed. The geochemical exploration revealed active oil and gas seeps.<sup>123</sup> In 1980 two offshore exploratory wells were drilled, neither of which yielded any trace of hydrocarbons.<sup>124</sup> In 1981, Bennet Petroleum Corporation acquired a 75 percent interest in Block D, which covers 2 million acres in an area over 100 miles from the location of previously drilled exploration wells. The Bennet exploration program calls for

\$8 million of exploration drilling and \$12 million for acreage acquisition, geophysical and seabed geochemical surveys.<sup>125</sup>

Exploration for oil in Papua New Guinea has historically been concentrated in the Papuan Basin, located west and northwest of Port Moresby, the capital. Since 1911, a total of 115 exploratory wells have been drilled.<sup>126</sup> No commercially exploitable hydrocarbons have yet been found, although natural gas resources do exist and have been estimated to be as large as 10 trillion cubic feet. The government has provided no special incentives for oil exploration, yet the prospects of petroleum have enticed international oil companies to take out concessions on 72,600 square kilometers, with 313 applications still pending.<sup>127</sup> In all cases, the government reserves the right to acquire a substantial equity interest in any operation which reaches the production stage.<sup>128</sup> While looking toward future petroleum exports as a potentially important source of foreign exchange, the government of Papua New Guinea rejects petroleum as the basis of the nation's domestic energy economy.<sup>129</sup> Various renewable energy resources are being developed so that by the end of the decade 30 percent of road and river transportation energy needs and 80 percent of industrial heat-raising requirements can be met with non-petroleum fuels.<sup>130</sup> Nevertheless, the government has undertaken a major petroleum exploration promotion program based upon a comprehensive

documentation of Papua New Guinea's petroleum potential which was completed with financial assistance from the World Bank.<sup>31</sup>

#### G. Aid, Trade and Investment in Pacific Island Economies

The newly independent island nations are in varying degrees dependent upon aid grants. Bilateral grants by Australia to independent and self-governing island groups are illustrative. Australia's aid commitments for fiscal years 1982 and 1983 totalled \$96.9 million in Australian currency, with \$30.5 million going to Fiji, \$15.2 million to Solomon Islands, \$12.5 million each to Tonga and to Vanuatu, \$14 million to Western Samoa, \$7 million to Kiribati, and smaller grants to Tuvalu, Niue, and the Cook Islands.<sup>132</sup> New Zealand in 1979 contributed \$34.69 million in U.S. currency to official development assistance for South Pacific nations. This amount constituted 74 percent of New Zealand's total bilateral assistance grants to developing countries.<sup>133</sup>

Bilateral aid to the island states from the U.S. Government hardly exists. The U.S. contribution to various regional institutions and A.I.D. projects in the South Pacific between 1977 and 1979 amounted to only \$3.3 million.<sup>134</sup>

Aid to the island states also comes through international financial institutions. By end 1979, total funds from the Asian Development Bank to Fiji amounted to \$29.9

million, while Kiribati had received \$1.75 million, Papua New Guinea \$77.89 million, Solomon Islands \$11.2 million, and Tonga \$4.37 million.<sup>135</sup> The Cook Islands became a member of the Asian Development Bank in 1979, and in 1980 this self-governing island group received \$1 million under a new category of multi-project loans. This was the first loan to the Cook Islands from any international financial institution, and it was the second loan from the Asian Development Bank under the new loan category. The new category of multi-project loan is designed to deliver aid to micro-states in diversified project packages scaled to the small size of "outer island" atolls and islets.<sup>136</sup>

Reports commissioned by the Asian Development Bank have noted that some of the island economies are so fragile that they are burdened by the paperwork, accounting, and feasibility study activities associated with an aid grant processed under the traditional rules. When the cost of preparing and submitting the paperwork associated with a loan from an international financial institution constitutes a burden, this is indeed a clear indicator that the country in question is a part of the "Fourth World."<sup>137</sup>

In addition to bilateral and multilateral aid, the island states of the southern Pacific Ocean region rely in varying degrees upon foreign private investment, which is encouraged by a variety of investment incentive legislation. Most of the newly independent island states attempt

to channel and stimulate economic growth through execution of multi-year development plans. Tonga and Fiji both have established national development banks. Most South Pacific island countries offer tax holidays of various kinds, as well as accelerated depreciation allowances, for approved direct investments from abroad in the form of new industries. Fiji has specifically provided grants and allowances for hotel developments approved by a central development ministry. Also, Fiji's minister of finance possesses discretion to grant accelerated depreciation for energy-saving alterations or replacements to buildings, machinery, and equipment, so long as the asset remains in the same business at least five years. A variety of export incentives are available. Fiji has established an industrial estate at Vatukoula, and Tonga makes sites available at reduced rentals in its small industries center on Tongatapu Island.<sup>138</sup>

Western Samoa seeks to promote its economic growth also by attracting industry and capital from abroad, through provision of certain incentive measures. Financial incentives involve loans from the Development Bank of Western Samoa. Certain tax exemptions are also offered. A five-year tax holiday is available to foreign investors establishing new enterprises involved in the processing of agricultural products, building factories, setting up hotels or other tourist facilities, or developing fisheries, forestry, research and development, or shipping. A

total income tax exemption applies to producers engaged in primary production until 1984. This program includes within its provisions the activities of farming, animal husbandry, local content handicrafts, and native fishing, but not forestry. Several incentive programs are connected with the Western Samoa Industrial Free Zone. Sites may be leased for up to 30 years, with renewals possible for 30 more years. Foreign enterprises setting up in the free zone may take advantage of accelerated depreciation rates on the plant they have constructed and may also obtain complete exemption from payment of import and export duties as well as from excise taxes on raw materials, machinery, production plant, equipment, and essential commercial vehicles.<sup>139</sup>

Currently the U.S. supplies about 5 percent of Papua New Guinea's imports and is a market for about 5 percent of the country's export sales.<sup>140</sup> American direct investment in Papua New Guinea is limited, although the Ok Tedi mining project contains 30 percent U.S. equity, and Starkist has begun construction of a fish cannery at Kavieng on New Ireland.<sup>141</sup> In early 1981, a trade and investment mission to Papua New Guinea involving two dozen American business executives was organized by the U.S. Overseas Private Investment Corporation. Investment climate and opportunities were adjudged to be excellent.<sup>142</sup> Most of Papua New Guinea's imports originate from Australia. However, the country's largest export

markets, most for minerals, are Japan and West Germany, with Australia and the U.S. falling far behind. Trade between Papua New Guinea and Australia became sufficiently intense by 1980 to precipitate the formation of a joint business committee by private business interests during November of that year.<sup>143</sup> Australian direct foreign investment in Papua New Guinea, however, has declined in recent years.<sup>144</sup>

Although in 1979 Papua New Guinea experienced a trade surplus and a balance of payments surplus, the balance of payments and the balance of merchandise trade both became negative in 1980.<sup>145</sup> During 1980, inflation rose by 2 percent to 11.8 percent - the first double digit inflation since independence. During the 1979-1980 fiscal year, gross domestic product declined nearly 2 percent. In its annual report, the Bank of Papua New Guinea (central bank) attacked government overspending, failure to "buy Papua New Guinea," hampering industry with unreasonable localization requirements, basing growth plans on faulty figures, and failure to obtain concessional international loans.<sup>146</sup> The central bank itself came under attack for raising interest rates. As of the end of 1980, the total external debt of the country was \$513 million, of which \$214 million was borrowed on non-concessional commercial terms. The debt-service ratio for 1980 was 6.8 percent, and was expected to rise to 7.7 percent in 1981. In August 1981, a syndicate of 19 international banks agreed to

loan \$100 million to Papua New Guinea for 10 years, at one half-percent over the London Interbank Offered Rate for the first six years and five-eighths percent over LIBOR for the remaining four years. This was Papua New Guinea's fourth foreign commercial loan since independence.<sup>147</sup>

Another factor which operates to bolster the economies of the newly independent island states is their previous status as colonies of Great Britain, which today entitles them to membership in the British Commonwealth. Tuvalu and Nauru, the smallest, are "special members" of the Commonwealth, not represented at Meetings of Commonwealth Heads of Government.<sup>148</sup>

More importantly, all the island states except Fiji and Papua New Guinea are classified as "least developed countries" under the generalized system of preferences granted to developing countries under the Second ACP-EEC Convention signed at Lome on October 31, 1979, known as Lome II, a trade preference and aid program established by the European Economic Community for the former Asian, Pacific, and Caribbean possessions of its member countries.<sup>149</sup> Fiji and Papua New Guinea, because of the greater size and vitality of their economies, qualify as less developed but not as "least developed" countries.

Fiji is the island state which in terms of value does the most trade with the United States and whose trade is the most diversified of all the island states.<sup>150</sup> In 1979, Fiji sent 15 percent (\$38.68 million) of its total

exports to the U.S. and took 5.6 percent (\$26.72 million) of its total imports from the United States. Fiji in 1979 sent 75.3 percent of its exports to industrialized countries and took 81 percent of its imports from the same source.<sup>151</sup> As an export partner, the U.S. came second only to Great Britain, while Fiji in 1979 drew more of its imports by value from Australia, New Zealand, Japan, and the United Kingdom (in that order) than from the United States.<sup>152</sup>

Fiji's primary exports, upon which the growth of the economy is somewhat dependent, is sugar. Sugar production rose to 473,000 metric tons in 1979, and export earnings climbed to \$123.6 million. The U.S. is now Fiji's largest customer for sugar, after the United Kingdom. In contrast, copra production exhibits serious decline due to failure to replace aged coconut trees.<sup>153</sup> Even so, coconut oil is Fiji's most valuable export after sugar (\$11.6 million in 1979). Fiji also exports canned fish, gold, timber, ginger, veneer sheets, biscuits, canned beef, and dessicated coconut.<sup>154</sup> Imports have risen faster (34.7% in 1979) than exports (27.2% in 1979), resulting in a merchandise trade deficit of \$221.06 million.<sup>155</sup> The rise in imports resulted largely from the increase of 53.2 percent in the fuel bill to \$72 million, and to the cost of equipment for large scale projects such as the hydroelectric plant at Monasavu. An attempt is be-

ing made by the Central Monetary Authority of Fiji to control imports through a "credit squeeze."<sup>156</sup>

By way of contrast, Tonga's imports in 1979 (mainly food and machinery) were valued at \$31.6 million and exports at \$7.2 million. By 1979, the importance of vanilla as a new export had risen to second place behind coconut products, followed by bananas in third place. Over half of the Tongan economy is based on agriculture. Handicrafts and light manufacturing contribute 2 percent only to the gross domestic product. Only 5.6 percent of Tonga's total trade is with the United States. Other members of the Commonwealth, such as Australia (23.5%) and New Zealand (40.3%) take the majority of Tonga's trade, with Japan and the rest of Asia accounting for 15.7 percent. Potential for economic diversification is to be found in forestry and fisheries.<sup>157</sup>

By 1979, Papua New Guinea represented Australia's thirteenth largest export market, its fourth largest market for manufactured products, and a substantial buyer of a wide variety of agricultural commodities such as rice, sugar, and tobacco. Since 1926, Australia has accorded special duty-free status for imports from Papua New Guinea. When Australia became a member of the General Agreement on Tariffs and Trade (GATT) after World War II, it sought and obtained waivers under GATT authority to continue duty-free status for imports from Papua New Guinea.<sup>158</sup>

The Agreement on Trade and Commercial Relations between the Governments of Australia and Papua New Guinea (PATCRA) was signed during November 1976 and came into force February 1, 1977.<sup>159</sup> Under its auspices, over 99 percent of imports from Papua New Guinea enter Australia free of any tariff.<sup>160</sup> PATCRA requires no reciprocal preferences on the part of Papua New Guinea toward imports from Australia. Rather, Australian exports to Papua New Guinea enjoy simple most-favored-nation treatment. The reason for the lack of reciprocity is recognition on the part of Australian negotiators that such arrangements would not promote economic and industrial development in the former trust territory. This lack of reciprocal trade preferences for Australian exports to Papua New Guinea under PATCRA raised serious questions as to whether it was indeed a free trade area agreement, as presented to the GATT in 1977.<sup>161</sup>

The report of the GATT working party of November 11, 1977 noted that the underlying purpose of the PATCRA arrangement was to promote the economic development of Papua New Guinea by continuing trade preferences historically accorded by Australia to imports from Papua New Guinea. Representatives of both Australia and Papua New Guinea were able to persuade a few members of the GATT panel that the legal requirements of GATT article XXIV regarding free trade areas had, indeed, been satisfied. But the GATT working party split on the point of legitimizing PATCRA,

concluding only that there was a difference of legal opinion coupled with a recognition of the laudable goals of the PATCRA arrangement. The governments of Papua New Guinea and Australia agreed to report to GATT concerning the operation of PATCRA on a strictly voluntary basis.<sup>162</sup> Scholarly comment upon this decision of the GATT take it for an example of how lenient the interpretation of GATT article XXIV had become by 1977.<sup>163</sup>

The policy of the government of Papua New Guinea is to promote foreign investment from as many different sources as is inherently compatible with the national economic development planning scheme. Business publications also are beginning to emphasize Papua New Guinea's resource potential and investment opportunity. Within the specific context of PATCRA, one publication suggests:

This treaty opens the way for Papua New Guinea to become a low-cost assembly area for manufactured goods to be exported to Australia duty-free. The only restriction is that at least 50% of the value of the final goods must emanate from Papua New Guinea or Australia.<sup>164</sup>

Such an assertion is not well founded. The PATCRA itself contains exceptions and safeguards, bolstered by consultation requirements, which authorize either party to take action protective of industries or industrial sectors en-

dangered by imports. This is the clear purpose and intent of Article XIV, which allows Papua New Guinea to initiate bilateral discussions in any case where Australian policy might affect an investment in Papua New Guinea intended to produce duty-free goods for the Australian market.<sup>165</sup>

The wiser course, in investment and in all other areas, is simply to approach the developing island nation, in this case Papua New Guinea, as a end in itself rather than as a stepping stone to some other market.

#### NOTES

1. The term "Fourth World" is used generally to refer to the poorest of the world's poor, although the emphasis is sometimes placed upon the state of disadvantaged sub-groups within developing countries, whose living standards because of some form of discrimination fall far below the national average for even the developing country in question. See, Ben Whittaker, editor, *The Fourth World: Victims of Group Oppression* (N.Y., Schocken Books, 1973). Such a phenomenon is not entirely absent from the Pacific island nations, but the cultures of Oceania generally provide all their members with a degree of economic and social security. Therefore the term Fourth World as used in this paper has reference only to the resource poverty of island states. Even from this perspective, typical analyses of countries afflicted with resource poverty simply do not address the problems of island countries.

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## CHAPTER FIVE: PACIFIC TERRITORIAL POLICY OF THE UNITED STATES

### A. Economic Conditions in U.S. Island Territories

United States policy towards its scattered territories took a step forward during 1980 with the transmittal to the Congress of President Carter's "Territorial Policy" message.<sup>1</sup> In order to partially respond to the benign neglect which has characterized territorial policy, the message proposed a new Assistant Secretary of the Interior for Territorial and International Affairs who would serve as a single contact within the federal agency assigned lead responsibility for relations with the territories.<sup>2</sup> However, the overarching dilemma of the territories is not access to the U.S. federal bureaucracy but rather a lack of economic vitality sufficient to support political aspirations toward increased self-government and self-sufficiency. President Carter's Territorial Policy message referred to several precipitating developments behind the new initiative, including ballooning deficits in Guam and the Virgin Islands budgets in spite of very substantial federal assistance, a marked decline in territorial income tax revenues as a percentage of gross territorial product, confusion and conflict in the application of various federal programs, decline in the ability of

territorial governments to provide essential services, and new social crises resulting from transition to a more "modern" life style.<sup>3</sup>

As of 1980, the income taxation systems of the Virgin Islands, Guam, and the Commonwealth of the Northern Marianas (CNMI) were mirrorimage systems enacted not by the territorial governments but by the U.S. Congress, applied to the territories through appropriate substitution of terms in the laws and regulations. Only American Samoa has been permitted to enact its own tax code, which it did in 1963 by simply adopting the existing income tax laws of the U.S. as its own, with the following important difference. American Samoan tax codes constitute a separate territorial income tax, which means that U.S. citizens resident in American Samoa file an American Samoan tax return and a U.S. tax return. U.S. citizens resident in the other territories need only file a tax return to the government of the territory. Avoidance of double taxation in the American Samoan situation is handled through a foreign tax credit in the U.S. return, as if the U.S. citizen were filing from a truly foreign country. U.S. residents of Guam, CNMI, and the Virgin Islands are not obligated to file U.S. income tax returns. The mirror system of income taxation in the territories has quite naturally been subjected to abuse on the part of U.S. citizens seeking to avoid taxes by establishing residence in a territory.

More significantly, the mirror taxation systems have failed the territories themselves on a number of important points. Because income levels and economic growth are both lower in the territories, income tax schedules written for the 50 states would fail to raise as much revenue in the territories even if enforced perfectly. Deficiencies in tax administration within territories, combined with tax rebate incentive programs, particularly in Guam, prevent the territories from raising even that smaller revenue which their economic situations would permit.<sup>4</sup>

Reagan Administration tax cuts impact U.S. territories more critically than most local economies in the 50 states. Special legislation has been proposed which would authorize the Secretary of the Interior to seek appropriations for offset grants to the Virgin Islands, Puerto Rico, Guam, American Samoa, CNMI, and the Trust Territory of the Pacific Islands.<sup>5</sup> However, it is not likely that the territorial governments will be given even a theoretical legislative opportunity to ask the federal government for grants to recover all revenues lost due to lowered taxes. In the first place, it is impossible to predict in advance what the revenue losses of the territories will be due to tax reductions enacted by the U.S. Congress in 1981. Income tax revenue losses for 1982 were estimated to reach \$9 million for Guam, \$12 million to \$14 million for the Virgin Islands, and around \$300,000 for American Samoa.<sup>6</sup>

Cuts in federal programs to the territories inflict yet further injury to the wellbeing of isolated island economies. The U.S. Department of the Interior estimated the size of the federal program cuts for fiscal year 1982 to be: \$12.6 million for the Virgin Islands, \$10 million for Guam, \$5.5 million for American Samoa, \$4 million for CNMI, and \$6.9 million for the Trust Territory of the Pacific Islands. No estimate has been made of the ability of the territories to recoup through local tax surcharge authority their total losses due to budget and tax cuts combined.<sup>7</sup>

Department of the Interior appropriation requests for fiscal year 1983 reflected altered priorities for the administration of territories.<sup>8</sup> Most significant in this regard is the fiscal year 1983 request of \$3,665,000 for Guam, which represents a decrease of \$7,821,000 from fiscal year 1982.<sup>9</sup> What Guam loses in this request is a chance for full funding of capital improvement construction projects. Instead, 75 percent funding for 4 projects was requested.<sup>10</sup> The appropriation requested by Department of the Interior for American Samoa for fiscal year 1983 was \$18,903,000 which was a decrease of \$4,405,000 over fiscal year 1982, also accounted for primarily by cuts in capital improvements.<sup>11</sup> The appropriations request for CNMI for fiscal year 1983 was \$28,143,000 overall, amounting to an increase of \$1,003,000 over fiscal year 1982.<sup>12</sup> But the only item in the appropriations

request for CNMI which kept the overall total from declining was \$4 million budgetted for a badly needed 74-bed replacement hospital on Saipan to serve the 17 thousand people of the Northern Mariana Islands. Construction is to begin March 1983, and completion is scheduled for March 1985 at a projected total cost of \$25.2 million.<sup>13</sup>

Without the hospital construction funds request, overall appropriations for CNMI for fiscal year 1983 would have been less than the fiscal 1982 appropriation.<sup>14</sup> The appropriation requested by Department of Interior for the Trust Territory of the Pacific Islands for fiscal 1983 was \$76,500,000 which is a decrease of \$657,000 from the preceding year.<sup>15</sup> The sum included \$500,000 for support of citizens of the Marshall Islands who were removed from Bikini Atoll in August 1978.<sup>16</sup> Although capital improvement funds were cut by a full 100 percent, the overall construction budget increased by \$7,800,000 in the request for fiscal 1983 to begin construction of national capitol buildings in the Republic of Palau, Federated States of Micronesia, and the Marshall Islands.<sup>17</sup> The national capitols are to replace the facilities of the Trust Territory government on Saipan, which continue to be the headquarters of the High Commissioner until the termination of the United Nations Trust Agreement.

Guam is geographically significant as the largest island situated in the Pacific between Japan, the Philippines, Papua New Guinea and Hawaii. Its land area of over

200 square miles is home to over 106,000 Guamanians. One-third of the island remains under U.S. military control. Progress toward self-government has been slow. The governor of Guam has been popularly elected only since 1970. A locally drafted constitution, designed to replace Guam's organic act of 1950, was defeated by 10,671 votes to 2,394 in a referendum in August 1979 in which only 47 percent of the island's registered voters participated.<sup>18</sup> A referendum on future status held January 30, 1982 drew voter participation of 38 percent in which 9,992 votes were cast, with the largest number (48.5%) expressing preference for commonwealth status, a quarter of those voting preferring statehood, and all other options drawing less than 4 percent of the tally.<sup>19</sup>

Guam's population growth rate is high, while economic growth is very slow. One of the most active sectors of the island's economy is the illegal traffic in drugs.<sup>20</sup> Otherwise, Guam's political and business leaders have for years been promoting the island as a natural headquarters location for companies doing business in Asia and as a suitable plant site for certain types of light manufacturing.<sup>21</sup> A wide range of tax abatement incentives is available to qualified businesses locating on the island.<sup>22</sup>

Guam's geographical location places it within 5 hours air travel time of most Asian capitals. Proximity to Asia - a factor equally attractive to both business and mili-

tary interests - also subjects Guam to economic competition with Asia. Rent for office space is far lower in Guam than in Hong Kong, but Guam's U.S. federal minimum wage standard prevents the growth of industries in which wage costs are critical, such as the restaurant and hotel business. The remedy for Guam's economic ills could be partially provided by legislative measures which would increase Guam's competitiveness with and access to Asian markets. One proposal, not yet embodied in proposed legislation, calls for a flat 16.5 percent corporate tax to replace the tax currently in force under U.S. federal regulations. That rate would place Guam fully on a par with Hong Kong.<sup>23</sup> Recently, Guam construction firms bidding on defense contracts were exempted from federal regulations requiring the purchase of workmen's compensation insurance over and above that required under local legislation.<sup>24</sup>

A bill (H.R. 1872) introduced by Guam's non-voting delegate to the U.S. Congress in 1981 would waive visa requirements for tourists and businessmen visiting Guam for no more than 15 days.<sup>25</sup> The bill is designed to enhance Guam's tourism industry, which is one of the island's few real growth opportunities. Otherwise, Guam's economic growth is seriously limited by infrastructural deficiencies, most of which are a result of U.S. federal government constraints. For example, land needed for construction of industrial parks is under U.S. Navy control, and

possibilities for Guam to capitalize upon its geographic potential as an Asian transshipment port are strictly prohibited by application of the Jones Act.<sup>26</sup>

#### B. Political Status Negotiations

Future political status negotiations with the island governments of the Trust Territory ground to a halt with the election of a new president in the U.S. in 1980. The Carter Administration had unfortunately promised the Micronesian governments that the United States would act by 1981 to terminate the United Nations Trusteeship under which it rules the islands of Micronesia. Announcement by the Reagan Administration of the resumption of negotiations did not come until September 24, 1981 after a six-month policy review.<sup>27</sup>

Significantly, the chairman of the interagency review team within the Executive Branch was James L. Buckley, Undersecretary of State for Security Assistance, Science and Technology, who also headed the U.S. delegation which met with representatives of Palua, the Marshall Islands, and Federated States of Micronesia in Hawaii October 3, 1981. Prompt termination of the United Nations Trusteeship was adopted as a goal of the Reagan Administration, but no specific date was set. A Compact of Free Association initiated by the three Micronesian governments and the U.S. in 1980 was not to be considered a complete document until all eleven subsidiary agreements were also finalized. The

U.S. position on political status remained unchanged. An official statement of policy reads:

The political status of free association is distinguishable both from independence and from an extension of United States sovereignty; under it, plenary defense rights and responsibilities would remain vested in the United States, and the Micronesian Governments would enjoy full internal self-government and substantial authority in foreign affairs.<sup>28</sup>

A point which continued to vex negotiators concerns the precise manner in which the finalized Compact of Free Association and its 11 subsidiary agreements will be approved and come into force.

The process envisions a plebiscite by the voters of Micronesia under U.N. observation, action by their governments in accordance with constitutional processes, and approval by both Houses of the United States Congress and enactment of the Compact into public law.<sup>29</sup>

The total population of the islands concerned is about 120,000. The distance from one end of the Trust Territory to the other is three thousand miles. Vast ocean spaces

are involved (3 million square miles) but only 700 square miles of dry land area.

Although still a part of the Trust Territory, the Northern Mariana Islands have separately completed status negotiations with the United States.

The Northern Mariana Islands... voted in 1975... to become a commonwealth of the United States. The Northern Marianas are now self-governing, but U.S. sovereignty will extend to those islands - and the islanders will become U.S. citizens - only when the Trusteeship Agreement is terminated.<sup>30</sup>

Even so, current affairs of the Commonwealth of the Northern Mariana Islands (CNMI) have become almost entirely a matter for U.S. domestic concern.

The Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America was approved by a plebiscite held in the Northern Mariana Islands June 1975 and was approved by the U.S. Congress and enacted as section 1 of Public Law 94-241 on March 24, 1976.<sup>31</sup> Article VII of the Covenant, sections 701 through 704, constitute the authorization under which annual appropriations of U.S. funds are now made to the CNMI government.<sup>32</sup> Significantly, it was not until after the enactment of the Covenant into law that CNMI drafted and adopted its own constitution, as provided for

in Article II of the Covenant. Although the Constitution of CNMI may be amended without approval of the U.S. government, section 202 of Article II of the Covenant does authorize U.S. courts or CNMI courts to pass upon the compatibility of the CNMI constitution with the Covenant itself and with the constitution, laws, and treaties of the United States as applicable to CNMI. Serious questions have been raised whether the Covenant and the negotiations which produced it will stand the test of international scrutiny when the time comes for the United States government to ask the United Nations Security Council to agree to the termination of the entire Trusteeship Agreement.<sup>33</sup>

Article VIII of the Covenant provides access by the U.S. to land in CNMI territory for military uses under a 50-year lease, renewable for an equally lengthy term. Construction of new facilities has yet to begin. Far more significant in its immediate impact upon economic and social life was the sudden availability to CNMI of scores of federal grant programs including food stamps. The government of CNMI simply did not have the manpower or the expertise to manage the newly available grant programs, and the social impact of welfare programs disrupted traditional social patterns.<sup>34</sup> The U.S. Comptroller General reported that the U.S. Government had failed to provide sufficient technical assistance to CNMI during the transition to self-government.<sup>35</sup> The result was poor account-

ing of federal money entering CNMI and difficulties of the CNMI government living within its means.

Although questions arising under the Covenant are troublesome, they are only slightly moreso than questions arising under the Constitution of CNMI, which was ratified during March 1977. Sociological and anthropological questions arise as to whether an Anglo-American criminal procedure and justice system are appropriate for a Micronesian culture.<sup>36</sup> Although the June 1975 plebiscite in CNMI approved permanent political union with the United States by a vote of 79 percent, latent cultural nationalism is continually surfacing in CNMI society. An example of this is the difficulty which federal welfare agencies initially had when instructing clients in the proper completion of various forms calling for applicants to indicate citizenship. CNMI applicants often insisted upon writing "Chamorro" in citizenship blocks even after being reminded that they were considered U.S. citizens for program purposes.<sup>37</sup>

Questions under the CNMI Constitution which ultimately require judicial resolution concern restraints on the alienation of land by persons of "Northern Marianas Descent," and non-proportional representation in the CNMI legislature.<sup>38</sup> To justify the problematic provisions on the basis of a unique cultural setting is essentially to beg the question of just how fully the U.S. Constitution applies in CNMI territory, which in turn depends upon an

analysis of just how fundamental are the rights abridged by the CNMI Constitution.<sup>39</sup>

Although similar constitutional questions do not arise in the remainder of the U.S. Trust Territory, neither can the United States government expect as enthusiastic an embracing of America as occurred in CNMI. Constitutional questions in the Republic of Palau, the Marshall Islands, and the Federated States of Micronesia (Truk, Yap, Kosrae, Ponape) can not be approached from the perspective of consistency with the U.S. Constitution. There has never been a serious suggestion, as in the case of CNMI, that the U.S. Constitution applies in full force throughout the remainder of the Trust Territory.

The primary concern of the United States in negotiating future political status agreements with the governments of Palau, Federated States of Micronesia (FSM), and the Marshall Islands is to secure its own vital strategic interests.<sup>40</sup>

The arrangement under which the U.S. administers the Trust Territory of the Pacific Islands is itself of a special class known as a "strategic trust." Article I of the 1947 Trusteeship Agreement between the U.S. and the U.N. Security Council reads:

The territory of the Pacific Islands, consisting of islands formerly held by Japan under mandate in accordance with Article 22 of the Covenant of the

League of Nations, is hereby designated as a strategic area and placed under the Trusteeship system established in the Charter of the United Nations. The Territory of the Pacific Islands is hereinafter referred to as the Trust Territory.<sup>41</sup>

The Trusteeship Agreement does not specify the manner of its termination. This is a matter to be taken up with the Security Council by the United States once future political status negotiations with the elected local governments of the Trust Territory have been completed. It is conceivable that a veto by the Soviet Union on the U.N. Security Council could make legal and proper termination of the Trusteeship Agreement impossible, although it is very difficult to know what possible benefit would accrue to the Soviet Union from such an action.

As a member of the U.N. Trusteeship Council, the Soviet Union's most pointed criticism of U.S. rule in Micronesia has centered upon American acceptance of separate governments for different island groups whose voters express a clear preference for separate status either as sovereign units or, in the case of CNMI, in political union with the United States. America has been blamed for breaking up the unity of the Micronesian islands and purposefully dividing the islands into pitifully small island governments for easier handling on security matters. The

truth of the matter is that Micronesia was never a political unity but rather an anthropological rubric attached by Europeans and Americans to far flung island groups for their own convenience of study and administration. Micronesians proved unable and unwilling to forge a political and cultural unity of their own through indigenous democratic interaction. Inter-island rivalries and nationalist aspirations led the Palauans and the Marshallese to break off from the other islands.<sup>42</sup>

The Compact of Free Association in its present form was initialed by representatives of the U.S., Palau, FSM, and the Marshall Islands in October and November 1980.<sup>43</sup> In addition to the Compact of Free Association, there will be no less than eleven subsidiary agreements, each of which survives according to its own terms independently of the Compact of Free Association. The complexities of the Compact and its subsidiary agreements in purely legal terms are further compounded by the unpredictability of the negotiations as well as the uncertainty of obtaining approval of finalized agreements from island electorates and the U.S. Congress.<sup>44</sup>

Much of the unpredictability of negotiations with the Micronesian governments has its ultimate explanation in the distrust of Micronesians for U.S. military strategic use plans for their islands. Only since the 1960's have Micronesians been made aware of the fact that legal remedies are available against U.S. military domination of

their islands.<sup>45</sup> Although islanders have not been completely averse to U.S. military presence, they have been keen to tightly control and contain military use within certain clear and absolute limitations.

Nothing could be more clear and more absolute than the prohibition in Article II of the Constitution of the Republic of Palau which requires a three-quarters affirmative vote of approval in a public referendum for any agreement between Palau and a foreign power "which authorizes use, testing, storage or disposal of nuclear, toxic chemical, gas or biological weapons intended for use in warfare."<sup>46</sup> This provision created difficulties in negotiations with the United States, which felt its strategic interests at stake. When the President's personal representative informed the Palauan legislature that their constitution would be suitable for independence but not for a status of "free association" under a compact with the United States, the result was a major crisis within Palau's very young political system.<sup>47</sup>

The Constitution of the Republic of Palau was never successfully amended so as to eliminate the anti-nuclear and harmful substances provision. Ultimately a semblance of political stability prevailed in Palau, a political compromise was reached with the U.S., and a government elected for the first time under the new constitution of Palau was empowered to initial the Compact of Free Associ-

ation and three subsidiary agreements with the U.S. in mid-November 1980.<sup>48</sup>

The Compact of Free Association and its three subsidiaries remain somewhat controversial in Palau. Simultaneously with the Reagan Administration's review of the status negotiations, the Executive Branch of the Government of Palau conducted its own review, which concluded:

President Remeliik agrees the Compact of Free Association and the three auxiliary agreements on maritime jurisdiction and sovereignty, harmful substances, and the U.S. military (land) use and operating rights... are complete and will not be reopened. ...

The President instructed the new Palau Negotiating Team to the resumed round of negotiations in Maui in October 1981 to continue where the now defunct Palau Commission on Status and Transition left off in 1980, and to complete the six remaining subsidiary agreements under the Compact of Association.<sup>49</sup>

The negotiations between the U.S. and the Federated States of Micronesia (FSM) center almost entirely on money matters. The island groups concerned - Ponape, Kosrae, Truk, Yap - are the most populous and the least developed of the Trust Territory. FSM negotiators were able to obtain the

largest economic assistance grants of all three Micronesian governments under the terms of Title II of the Compact of Free Association.<sup>50</sup> The failure of the U.S. to promote the economic development of the islands is most evident in FSM, where 60 percent of the incoming U.S. money is spent by the FSM governments upon themselves, leaving only 40 percent of scarce economic resources for development.<sup>51</sup> It is primarily in response to complaints about U.S. mal-administration in FSM that the United Nations Trusteeship Council dispatched a fact-finding mission to Micronesia in July 1982.<sup>52</sup>

Another example of the unpredictability of negotiations arises in the case of the Marshall Islands. Alone among the island nations of the Trust Territory, the Marshall Islands has within its boundaries an established U.S. military facility of the first order strategic significance. The Kwajalein Missile Test Range is situated downrange from the missile firing facility at Vandenberg Air Force Base, California. Testing on the MX missile system is to begin in 1983. In June 1982, several hundred Marshallese land owners protested U.S. restrictions on civilian access to the base by occupying a part of the island, suggesting that their rental income be doubled if the lease on the base was to be renewed at the end of September 1982. Soon thereafter, the U.S. government announced the cancellation of a plebiscite which it had informally agreed should take place August 17th. The U.S.

action prompted threats from the Marshall Islands Foreign Minister to shut down the Kwajalein base after October 1, 1982. Disagreements centered upon the wording of the choice to be put to Marshallese voters in a referendum, whether the choice should be limited only to free association with the U.S. or complete independence. U.S. authorities feared the government of the Marshall Islands had not made clear to its citizens the full meaning and consequences of the choice which they would face.<sup>53</sup> On October 20, 1982, the governments of the United States and the Marshall Islands were able to jointly announce a compromise agreement renewing the U.S. lease on the Kwajalein Missile Test Range for 30 years instead of 50, at an annual rental of \$9 million.<sup>54</sup> The plebiscite on future status may not take place until 1983.

The government of the Marshall Islands has the additional difficulty of having borrowed millions from non-U.S. sources to pay the expenses of its constitutional convention and to initiate badly needed capital improvement programs.<sup>55</sup> Since the Marshall islands are self-governing, there are no legal constraints upon its government to borrow from non-U.S. sources. By the same token, the U.S. Government has refused to accept any responsibility for debts contracted by the government of the Marshall Islands on its own authority. Annual appropriations by the U.S. Congress to the Marshall Islands budget are simply not available for repayment of foreign loans. Marshall

Islands debt service payments for 1983 amounted to \$2,706,000 which must somehow be paid from its own very limited resources.<sup>56</sup> Marshall Islands authorities undertook to borrow from non-U.S. sources with the seemingly reasonable expectation that the terms of the Compact of Free Association would become effective in 1981, thus making economic resources available which could be legally used to pay back foreign loans.

The Marshall Islands' unique constitutional system, a hybrid of the American and Westminster models of government, provides some advantage of internal cohesion in dealing with the United States.<sup>57</sup> If Marshall Islands independence were to be embodied in legislative acts, the only autonomous check or balance available under the Marshall Islands constitution would be a request by the council of traditional chiefs to reconsider, which would require formal override by the legislative body.<sup>58</sup> As the traditional chiefs are politically conservative in their inclinations, the influence which they can exert through normal social communications as well as through constitutional processes should help to stabilize the politics of the nation.

Should status negotiations proceed to final completion in spite of all mishaps and the Compact of Free Association plus its eleven auxiliary agreements become part of domestic law in both the United States as well as the islands of Micronesia, the last remaining step would be fav-

orable action by the United Nations Security Council, which is formally the other party to the Trusteeship Agreement. Although it has been suggested that the Soviet Union would be interested in blocking the termination of the Trusteeship, this might be far from true. Under the Compact of Free Association, each Micronesian government would have the explicit right to unilaterally terminate the Compact and choose complete political independence, while the Micronesian governments have no explicit right or ability to unilaterally choose independence so long as the Trusteeship Agreement remains in effect. So long as the Trusteeship remains in force, the Micronesian peoples are wards of the international community, although administered exclusively by the United States. The only member of the U.N. Security Council which would have a tangible interest in perpetuating the dependency status of the Micronesians under international law might be France, which has its own completely dependent territories in the Pacific south of the equator that are not only of high strategic value but also endowed with considerable natural resources.<sup>59</sup>

### C. Nuclear Issues in the Islands

Member countries of the South Pacific Forum in July 1975 issued a communique calling for the establishment of a nuclear-weapon-free zone in the South Pacific. This became an item on the agenda of the United Nations General

Assembly which, during its 30th session, passed a resolution which endorsed the concept of a nuclear-weapon-free zone in the South Pacific, invited the countries concerned to continue efforts towards that goal, expressed the hope that the nuclear powers would cooperate, and requested the U.N. Secretary-General to lend his assistance.<sup>60</sup>

Several events and trends explain why South Pacific nations felt keenly enough about establishing such a zone to bring it before the U.N. General Assembly in 1975. The first reason undoubtedly was (and is) the French nuclear tests conducted at Mururoa Atoll in French Polynesia. In the early 1970's, atmospheric tests became an "explosive" issue of sufficient magnitude to rouse the region's political leaders to international diplomatic and legal action.<sup>61</sup> French atmospheric tests ceased after 1974. A tropical storm in March 1974 scattered to other nations some of the debris caused by atmospheric tests conducted that year.<sup>62</sup> This fact was not publicly acknowledged by the government of France until December 17, 1981 in a statement submitted to the Australian Embassy in Paris.<sup>63</sup> French underground nuclear testing continued unabated until a change of government in France caused a temporary lull in the program during 1981. Word of resumption of testing brought inquiries in late 1981 from Australia concerning, among other things, contamination of ocean water from open fissures in Mururoa Atoll. The French reply acknowledged the existence of cracks in the

atoll but explained they were created not by nuclear explosions but by natural processes which had created cracks also on coral atolls where nuclear tests have not taken place. According to the government of France, explosions carried out on Mururoa occur at depths of 500 to 1,200 meters and have all been perfectly contained so that no radiation escapes whatsoever.<sup>64</sup> The justification for continuation of the French testing program in 1982 follows exactly the reasoning of previous governments:

France is deeply attached to the defence of peace by the organisation of collective security with respect for international law. On this basis, it participates in a defensive alliance system and it ensures its own security by the existence of a national nuclear force, the instrument of a strategy of dissuasion by the weak against the strong. This strategy, which safeguard's France's autonomy of decision, makes sense only if the nuclear force is maintained at such a level that dissuasion can be effective. That is why France undertakes underground nuclear tests: they are deliberately limited to the minimum strength necessary, and

they take place in safety conditions  
which are regularly checked....<sup>65</sup>

Such logic was lost on South Pacific nations in 1975 and is lost on them in 1982.

The second reason for the proposal of a nuclear-weapon-free zone in the South Pacific in 1975 concerns the composition of the sponsoring governments at the time. During the years 1972-1975, both Australia and New Zealand had labor governments which were bent upon establishing independent foreign policies. In both cases, independence was defined in terms of divergence from U.S. policy. The failure of the nations of the region to make any discernible progress toward establishing such a zone since 1976 may have to do with the fall of the labor governments in late 1975, the non-dramatic character of the French underground test program after 1974, and the lack of enthusiasm with which most of the nuclear powers responded to the idea of a zone in the South Pacific. China was the only nuclear power to vote in favor of the U.N. General Assembly resolution endorsing the concept. The United States, next to France, most keenly questions the wisdom of the proposal. In relation to Australia and New Zealand, the U.S. holds up mutual security treaty obligations as excluding the possibility of a zone in which nuclear weapons aboard cruisers and submarines could not make port calls. This position was pointedly raised by the U.S. to New Zealand during and after its sponsorship of specific

zone resolutions in the South Pacific Forum and the U.N. General Assembly. New Zealand has never fully been able to resolve the tension between its repugnance for nuclear weapons and its security treaty relations with the United States.<sup>66</sup> Since the fall of its labor government, Australia has swung toward a much closer security relationship with the U.S., even concluding a formal agreement with the U.S. in March 1981 which permits the staging of U.S. military flights through the Royal Australian Air Force Base at Darwin, Northern Territory.<sup>67</sup>

The original vision of a nuclear-weapon-free zone in the South Pacific, held by New Zealand's Prime Minister Norman Kirk, was inspired directly by the Latin American Treaty of Tlatelolco, as well as by the somewhat less relevant zones in Antarctica and Africa.<sup>68</sup> Future hopes for a nuclear-weapon-free zone in the South Pacific are founded upon two factors. Internally, the nations of the South Pacific are unanimous on the meaning of a "peaceful" nuclear explosion: No nuclear explosions are peaceful nuclear explosions. This point was not agreed upon in the Latin American context.<sup>69</sup> Externally, the South Pacific continues to be a relatively low priority of the nuclear powers in their struggle for parity and power. A nuclear-weapon-free zone, as in Latin America, could conceivably gain the support of the nuclear powers, if sufficient intra-regional leadership and cooperation could be mustered to overcome objections.<sup>70</sup> But no responsible ana-

lyst or decision maker could take the South Pacific for granted as a region of peace. Great power politics could destroy the tranquility of Oceania at some time in the future. Then, of course, it would be too late to seriously propose the exclusion of nuclear weapons from the region.<sup>72</sup>

In 1980 and 1981, the events which most aroused the nations of the South Pacific region related to the proposed dumping of radioactive wastes at sites in the Pacific Ocean. In these instances, attention is directed toward the fuel cycle for reactors used to generate electrical power and not to explosive devices. In the fall of 1978, an interagency committee in the U.S. Executive Branch began a preliminary study of possible sites for storage of spent nuclear fuel in the Pacific. The three sites chosen for closer study were Palmyra Atoll, Midway Island, and Wake Island. The results of preliminary study focussed attention upon Palmyra Atoll, a privately owned U.S. island located 1,000 miles south-southwest of Hawaii. The fact of preliminary investigations by the government along these lines became public knowledge through an article in the Washington Post in March 1979. But the article only mentioned Wake Island by name.<sup>73</sup> The U.S. Congress had not been informed of the plan, and the article was sufficient to set off a legislative chain reaction. Senate Bill No. 1119 was drafted shortly after the publication of the article, and hearings on the bill

were held in both houses during the first session of the Ninety-Sixth Congress.<sup>74</sup>

The hearings provided ready outlet for Pacific island politicians and their sympathizers to vocalize discontent with U.S. policy towards Micronesia and other island territories. In particular, doubts were expressed whether an "interim" storage facility might not turn out to be permanent, and whether a facility ostensibly to be made available to the Japanese and the Koreans might not in reality turn out to be used purely by the United States, thus neatly eliminating the need to search for sites in any of the 50 states.<sup>75</sup> Doubts along these lines were reinforced as the essential motivation behind the Executive Branch study became clear. It is the policy of the U.S. to try to persuade other nations not to reprocess nuclear fuel. A central storage facility for spent fuel and radioactive wastes could set the stage for a multilateral reprocessing facility which would guarantee the strictest control over weapons useable materials. This policy, however, was and is incompatible with that of the countries thought most likely to make use of a nuclear waste dump on a U.S. island. Japan and other nations would be pleased if the U.S. provided a dump in the Pacific, but the commitment demanded by the U.S. not to reprocess nuclear fuel domestically is considered too high a price to pay for the privilege.<sup>76</sup>

Meanwhile, separate status negotiations with the Micronesians in the U.S. Trust Territory were disrupted by the mere mention of Wake Island as a possible dump site. And the U.S. Congress remained suspicious of the Executive Branch penchant for secrecy in the whole matter. Senate Bill No. 1119 became law as Section 605 of Public Law 96-205. It requires explicit Congressional approval for the transportation or storage of spent fuel or radioactive wastes on any territory or possession of the United States.<sup>77</sup>

The legislative history clearly indicates the chief motivation for Section 605 is a Congressional desire to be kept completely informed of Executive Branch plans, creating by legislation a legal duty to inform the Congress of plans for nuclear waste storage where no such duty had previously existed.<sup>78</sup> In addition to inter-branch suspicion, the legislative history just as clearly indicates Congressional awareness and solicitude towards the sensitivities of an emerging Pacific Community on nuclear issues:

Among the legacies of the American and French nuclear test programs in the Pacific are a fear of even the presence of nuclear-powered vessels, much less the storage of nuclear wastes on some 'inhabited' island, and a general distrust of the intentions of the nuclear

powers in the area. The French nuclear tests at Mururoa and Hao atolls have resulted in continued angry reactions both locally and among the representatives of the South Pacific Conference. In October 1978 a church-sponsored conference in Ponape, in the trust territory, brought together representatives from around the Pacific to discuss nuclear issues and to call for a nuclear-free Pacific. There is little differentiation within the Pacific community between nuclear weapons, nuclear wastes, and nuclear-powered vessels. Several Pacific ports are closed to nuclear-powered vessels and the United States has even had difficulty in scheduling port visits in New Zealand and Australia, ANZUS allies in the Pacific. The situation in the American-owned areas is compounded by the continuing unresolved situations of the peoples of Bikini and Enewetak Atolls.<sup>79</sup>

Bikini Atoll is situated in the north of the Marshall Islands group, which constitutes a part of the U.S. Trust Territory of the Pacific Islands. In January 1946 it was

selected by the U.S. government as a site for the testing of nuclear weapons. The Bikinians then numbered 167, but in 1981 the group in exile had grown to over 900. On March 7, 1946 all Bikinians were removed to uninhabited Rongerik Atoll 140 miles to the east. Two months later, the U.S. Navy denied a formal request by the Bikinians that they be permitted to return to their own atoll. Whereas Bikini's 36 islets provided a land area of 2.3 square miles, the total dry land area of Rongerik's 17 coral islets only amounted to 0.63 square miles. Rongerik was traditionally uninhabited precisely because of meager resources. Bikinians could not grow enough food to support themselves. In March 1948, they were moved to Kwajalein Atoll, and later they accepted to resettle "temporarily" on Kili Island. The Marshall Islands consist of 34 islands and atolls, of which 29 are coral reef atolls which enclose lagoons and 5 are single coral islands without lagoons. Kili Island possesses no lagoon. Furthermore, its shape and orientation parallel to the prevailing winds deprives it of a leeward side on which ships could anchor during the windy season November through May. And although the soil of Kili Island is fertile, the total land area of 230 acres is only one-sixth of the land area of Bikini Atoll. During the 12-year period following the evacuation of Bikini Atoll, the United States detonated 23 nuclear devices. The 1954 "Bravo Shot" test of a fusion device caused sorrow later to Bikinians when they saw that

four of the 36 islets which composed their atoll had been vaporized. Radioactive fallout from Bravo Shot did indeed contaminate Marshallese residing on Rongelap Atoll and Utirik Atoll, where the debris fell out of the sky like snow. The Bikinians saw their hearthland desolated and its substance consumed. But for Bikinians, false hope was added to desolation. Resettlement of Bikini was halted, and in 1978 the atoll was re-evacuated after tests proved a 75 percent increase of cesium-137 in the bodies of resettled Bikinians had resulted after only one year of eating locally grown radioactive food and drinking radioactive water. As it is now thought that Bikini Atoll will remain uninhabitable for a century, the problem remains of finding a more or less permanent abode for the dispossessed. Frustrated by the insensitivity of the U.S. government to every aspect of the case save that of unfavorable international publicity, the Bikinians have initiated law suits in federal courts and petitions before the United Nations Trusteeship Council in order to catalyze the resolution of longstanding grievances.<sup>80</sup>

Although less publicized than Bikini, the case of Enewetak Atoll merits similar attention on historic grounds. During the 12 years of nuclear testing, 43 devices were detonated on Enewetak. Together with the Bikini tests, this brings the total to 66. The distinction between Bikini and Enewetak is that on Enewetak the nuclear tests were conducted on land rather than in the

water of the lagoon. At Bikini all tests were in the lagoon. In both cases, the largest islet is found in the south of the atoll, where least contamination took place. The same numbers of people were involved on both atolls, and their fishing and food habits are the same. Enewetak, unlike Bikini, has high levels of plutonium in the soil. Also, unlike Bikini, it has proven possible to rehabilitate Enewetak Atoll so that the original occupants were able to begin resettlement during 1980. Only 30 out of the 40 islets of the atoll are inhabitable even after a clean-up program which cost U.S. taxpayers \$100 million, and one of the islets (Runit) remains off-limits due to high radiation levels. In April 1981, a plebiscite organized by Micronesian Legal Services Corporation resulted in a secret ballot vote of 93 percent of the 700 adults resident on Enewetak in favor of continuing under the U.S. trusteeship. People of Enewetak, like the Bikinians, lack faith in the ability and willingness of their own national government to act in their best interests. The result of the Legal Services plebiscite was incorporated in a petition submitted by Legal Services attorneys on behalf of the people of Enewetak to the U.N. Trusteeship Council on May 22, 1981. The intention is clear. The people of Enewetak do not wish to become part of an independent Marshall Islands and therefore oppose the termination of the U.N. trusteeship unless and until the United States ful-

fills all of its obligations to the people of the islands under the original mandate.<sup>81</sup>

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## CHAPTER SIX: CONCLUSIONS AND RECOMMENDATIONS

The Pacific island states and territories, despite small size and limited resources, are of considerable importance to the United States. The penalty for insensitivity toward and neglect of island nations and their needs could be disastrous. Loss of good faith and friendship with island countries could convert the South Pacific, heretofore an "American lake," into a region of great power rivalry at our back door. Far more tragic, however, would be the loss of any of the islands, especially those currently under U.S. control, to those ideals of constitutional government, freedom of conscience, and enterprise which constitute the essence of the American cultural frontier throughout the Pacific today.

This thesis highlights America's institutional, political, and economic involvement in the Pacific island region. Broader comparative issues such as the cultural role of the United States in the area have been passed over in favor of a description of the various resources, both tangible and intangible, at the disposal of island peoples in their relations with the United States.

The only other power in the Pacific island region with which current U.S. policies could usefully be compared and contrasted would be France, which not only controls much

of Polynesia but, unlike the U.S., does possess a physical territorial presence (New Caledonia) in the more volatile Melanesian subregion. As the seat of the South Pacific Commission system is at Noumea, the capital of New Caledonia, this salient aspect of the French colonial presence is continually forced upon the consciousness of all the island governments. Because the U.S. islands seem to be much further along in their political development and approach to independence than the Pacific overseas territories of France, the U.S. is assured a consistent "second worst" rating by island politicians who view regional affairs mostly in terms of the process of decolonization. However, there are difficulties with such comparisons. Except in a very limited sense, the influence of the United States in the Pacific will not be increased by the greater unpopularity of an ally. Moreover, it is clearly not in the interests of the U.S. to do anything which would foment political turmoil in any part of the Pacific islands region, especially a part of the region controlled by an ally. The situation in New Caledonia, where the government of President Mitterrand is attempting to introduce reforms, is currently quite delicate not only because of the bitterness engendered by the minority status of the indigenous Melanesians on their own islands but also because of independence fervor emanating from other politically independent Melanesian states.<sup>1</sup> In contrast to the peoples of Micronesia, who may complain directly to

the U.N. Trusteeship Council concerning alleged failures of the U.S. to fulfill trusteeship obligations, the indigenous inhabitants of French overseas territories in the Pacific have no recourse for complaint outside the government except the international press, to which the French government has always been relatively impervious.

It is against this background that current proposals for the reform of the South Pacific Commission system must be viewed. Although the South Pacific Commission (SPC) is the only direct institutional link which the United States has to the Pacific islands region, it is also the only organization which links all islands of the Pacific together regardless of political status. The South Pacific Forum offers no direct representation to dependent island territories, and Australia and New Zealand are the only industrialized nations with membership in the Forum. Budgetary constraints are a principle motive behind suggestions for a merger between the SPC system and the Forum's social and economic organ - the South Pacific Bureau for Economic Cooperation (SPEC). In this context, all that could be agreed upon at the 22nd South Pacific Conference during October 1982 was a continued effort on the part of the SPC Secretary-General and the SPEC to eliminate duplication of effort in their respective work programs as well as to achieve greater internal economies.<sup>2</sup>

Political considerations, however, render the merger of the SPC system and the South Pacific Forum SPEC structure a very delicate issue. Up until 1982, the island nation most ardently supporting the idea was Papua New Guinea, and that in itself presented difficulties. The tendency of the government of Prime Minister Julius Chan was to push for an exclusive political grouping of developing island nations which could represent the Pacific region in the United Nations in the same way as the Organization of African Unity represented developing African nations. While acknowledging the desirability of such an organization in principle, other island governments were not prepared to support the initiative of the Chan government. Whether Prime Minister Somare will continue the quest for such a political grouping of Pacific island states remains to be seen.

Any scheme for the reorganization of the SPC system so as to incorporate aspects of the South Pacific Forum SPEC structure implicitly challenges the ban on political questions which has been a part of the SPC since its establishment. A merger plan which can successfully resolve this issue has yet to be unveiled. The root of the question lies in the dependent political status of some of the islands, most notably those under the control of the United States and of France. So far as the independent island governments are concerned, the issue is a pragmatic rather than a theoretical one. The Cook Islands and Niue,

both of which exercise autonomous self-government as states in "free association" with New Zealand, participate as full members of the South Pacific Forum despite their lack of absolute political sovereignty.

If negotiations between the United States and the Micronesian governments result in the conclusion of "free association" compacts acceptable to both sides, the last remaining step after ratification of those compacts and their enactment into domestic law will be the formal initiative by the U.S. in the U.N. Security Council to terminate the Trust Agreement. Following the termination of the Trust Agreement, the Micronesian governments of Palau, the Federated States of Micronesia, the the Marshall Islands will become full members of the South Pacific Forum. The vast colonial presence of the U.S. in the Pacific will shrink to Guam and American Samoa, both of which could choose a similar status or complete independence at some time in the future.

Barring a major setback, the time for the termination of the Trust Agreement will come in the middle of the current decade. This event will leave France the last remaining colonial power in the Pacific, and the decolonization process will thereafter focus upon New Caledonia and French Polynesia - both important territories in their own right. Upon the manner in which France responds to this pressure will hinge the immediate fate of the SPC system. For with all major island territories acting within their

own region as political sovereigns, there will no longer be any necessity to maintain the SPC in its present form. The South Pacific Forum will become the most broadly representative regional organization. Should the policies of the colonial powers which founded the SPC system prove displeasing to Forum countries, those nations could all withdraw from SPC and transfer those resources over for the use of the Forum/SPEC structure. That would of course destroy the unity of the region, and there is the complicating factor of the present membership of Australia and New Zealand in both organizations. If forced to choose, it is quite likely that Australia and New Zealand would abandon the SPC system in favor of the greater political utility of the Forum. However, the only even which could conceivably precipitate such a cataclysm would be a complete refusal by France to adjust its policies toward New Caledonia and French Polynesia in the face of active indigenous independence movements in either territory. The United States, like France and the United Kingdom, does not face a choice of membership in the SPC or the Forum. The SPC is the only formerly link of the U.S. dot the Pacific islands region. The United Kingdom, however, has a formal tie to island nations that are members of the Commonwealth. Therefore the U.K. has less to lose than either the U.S. or France from a radical change in regional organizational structures.

The political isolation of France in the Pacific islands region would only serve to introduce instability into a relatively tranquil region of considerable strategic value to the United States. The only feasible means by which the U.S. could divert such an undesirable trend is to strive to maintain the viability of the SPC system, through nothing more or less than its own participation and support for institutional reforms. Through upgraded representation, slightly increased funding, improvement of staff and higher rank of delegations, the U.S. can further its own and its allies' best interests and enhance its own role in the Pacific Basin.

In this connection, it can be pointed out that President Reagan's address to the 22nd South Pacific Conference via satellite was an example of the many ways in which the SPC system can be bolstered at minimal cost. It is important that the U.S. be able to continue to rely upon the SPC system as an institutional link to the entire region in the present decade and beyond. This goal cannot be achieved if the system itself becomes moribund. In order to keep the SPC system viable over the long term, the U.S. must support the inclusion of political questions on the agenda of the South Pacific Conference. This, in turn, will open the way for the ultimate reincorporation of the Forum/SPEC structure into a reformed and re-vivified SPC, maintain the unity of the region, retain the formal structural link of the U.S. to the entire region, and preserve

the political peace through avoiding the isolation of France within the region.

The strengthening of bilateral relations with Pacific island nations is a parallel and equally important challenge facing the U.S. in the region. The ratification of the four treaties discussed in Chapter Three would be a most efficacious and symbolically significant step in the right direction. The surrender of sovereignty claims over infinitesimal islands which constitute the integral territory of Tuvalu and Kiribati would seem to be a small price to pay for the friendship of these strategically located island nations. In both cases, treaty terms ensure mutual consultations on strategic military questions and provide for denial of base rights to hostile forces. Maritime boundary negotiations with New Zealand in the Tokelau Islands treaty resulted in formal recognition of the U.S. claim to Swains Island, on behalf of American Samoa. While only the Tokelau Islands and the Cook Islands treaties resolved disputed maritime boundaries in the strict sense, all four treaties recognized 200-miles exclusive economic zones as implemented by the island nations. Although the negotiating task was much simpler than the Torres Strait negotiations between Papua New Guinea and Australia, the consequences of a failure to ratify those four treaties to the U.S. role in the Pacific Basin region would be extremely damaging not only in loss of good will but perhaps even in the strategic military sense as well.

Although recognition of 200-mile exclusive economic zones is part and parcel of the ratification of the four Pacific island treaties, the broader issues revolving around the management of resources within zones implemented by island nations throughout the Pacific present the United States with policy questions equally as critical to the future of its influence in the Pacific Basin region as to bilateral relations with particular states. National development of marine living resources, including surveillance and enforcement capabilities, should be encouraged by the U.S. throughout the Pacific islands region despite the possible military naval implications for the simple reason that these developing states have little else in the way of resources which can be developed. The promotion of joint venture fisheries investments can and should be more vigorously pursued, both as a general matter of principle relating to private sector initiative and as an article under each of the four Pacific island treaties. The mechanism by which this might be most efficiently achieved would be the assignment of fisheries attaches within the U.S. Department of Agriculture to specific island nations within each major subregion.

None of these measures will address the most burning issue in Pacific islands economic development, which concerns the right of island states to control highly migratory species (tuna) within nationally implemented 200-mile exclusive economic or fishery zones. Official U.S. policy

does not currently recognize that right, and this non-recognition is a source of great difficulty in relations with many countries for which fisheries resources are important economically. As already noted, the relative importance of fisheries resources in the Pacific islands region far exceeds its importance in any other region. Failure to accommodate such critical interests on the part of friendly nations in the long run would be extremely damaging to the U.S. not only in loss of good will but perhaps even in the national security sense as well. If this issue continues to rankle, there is nothing to prevent island states from turning to our adversaries for assistance in bolstering their surveillance and enforcement capabilities.

Of course, if the U.S. Executive Branch had a free hand in designing policies which would accommodate Pacific island interests, it is unlikely that the right of island nations to regulate tuna as well as other marine living resources within 200-mile maritime zones would remain unrecognized. This has been carefully explained to foreign governments, and the level of political understanding is high enough to prevent major diplomatic crises in the short run. It is the long term impact of a policy mandated by the U.S. Congress under pressure from special economic interests which disadvantages U.S. foreign policy in the Pacific Basin region. Island states are sufficiently familiar with the workings of the U.S. federal government to know the limited value to them of expres-

sions of interest and sympathy conveyed from the Executive Branch. Island leaders press for changes in the very legislation which limits the action of the U.S. Executive. Two avenues should be pursued by the U.S. Executive simultaneously and vigorously in order to forestall future crisis. The most demanding but also most beneficial course is to actively support any amendment to U.S. fisheries legislation which would broaden the latitude of the Executive in negotiations with foreign nations concerning management of highly migratory species. The Executive should also actively encourage Pacific island nations to agree upon comprehensive regional conservation measures which would meet with approval in the U.S. Congress. Quite naturally there are risks inherent in both approaches. The key to overcoming those risks can only be found in a close coordination of domestic and foreign policy initiatives relating to fisheries and marine conservation, driven by a keen overall appreciation of the strategic worth of the entire region to the people of the United States.

While the ultimate resolution of the tuna fisheries issue is held in abeyance by the lobbying strength of the domestic tuna industry, the U.S. has other means of promoting economic development in the islands. The idea often put forward is that if the island nations could evolve more complementary trade among themselves, their economies would diversify and specialize so as to transform the re-

gion into a viable trading bloc in its own right. There are a number of reasons why this is not happening in the present. Current intra-regional trade among the Pacific islands included in the South Pacific Commission system only amounts to 1 percent of the total trade of those islands and only 2 percent of the total exports of the SPC region.<sup>3</sup> Not only do island nations all produce similar commodities both for local consumption and for export, but the price of commodities produced within the island region is often higher than those produced outside the islands, while imports most in demand are not produced within the region at all and have to be purchased from non-island sources. As pointed out in Chapter Four, transportation costs seriously hinder domestic commerce between constituent islands of each country in the SPC region. In international commerce, transportation costs impose even heavier burdens and oblige island states to trade mostly with industrialized nations that are either physically nearer or offer preferential aid and trade arrangements.

Critical to the future of intra-regional trade in the Pacific islands are those "important historical, political and trade ties, which link most of the island countries more to the metropolitan countries than to each other."<sup>4</sup> The U.S. government has at its disposal a trade tool which can provide incentive for island nations to rise above the legacy of the colonial past and begin to forge a more dynamic intra-regional economy. Under the

generalized system of preferences, "single-country status" can be accorded to developing nations that have joined together for the purpose of economic integration. So far, the only developing nation groups which have single-country status under the GSP tariff system of the U.S. are the Group of Cartagena (ANCOM or Andean Common Market) and ASEAN (Association of South-East Asian Nations), each consisting of five developing nations located on opposite shores of the Pacific Ocean.<sup>5</sup> The status of "single-country" is not extended unilaterally; an organized group of developing nations must acknowledge the offer and accept it before the lower tariff duties are implemented for goods imported into the United States customs region. The major benefit, and also the major incentive, of single-country status concerns the relaxation of the local content rule to the level of 35 percent for eligible goods produced from materials in any of the nations of the economic integration organization. Goods which would benefit from single-country status need not be currently exported or even produced within any of the nations concerned. It is possible for product lines and even entire sectors to spring up in response to a preferential trade arrangement.

In this connection it must be noted that the Pacific islands region is already saturated with preferential trade arrangements with respect to traditional agricultural commodities. The arrangements currently in force

serve only to reinforce the outward-looking orientations of the colonial past. The value of an arrangement such as the granting of single-country status under a generalized system of tariff preferences is that it would stimulate inward-looking trade and private investment within an organized community of developing island nations. The practical problem is to identify product lines and sectors which could possibly benefit from such an arrangement. Calculations of feasibility must proceed from a sub-regional standpoint in order to be at all realistic, with the inherent risk that the Micronesian and Polynesian subregions will be left out for the time being. On the other hand, it is much easier to imagine successful economic integration taking place in the Melanesian subregion because of the larger population and land area resources. Another plus for Melanesian development is the proximity of those island nations to the Australian market and to the nations of ASEAN (Indonesia, Malaysia, the Philippines, Singapore and Thailand), which have already begun to function together as an economic integration group. However, the same factors which are conducive to economic integration policies for the Melanesian states are also liabilities. Melanesia, which includes the states and territories of Fiji, New Caledonia, Papua New Guinea, the Solomon Islands, and Vanuatu (formerly New Hebrides), is a politically more turbulent region and a more likely target for superpower competition, and geographically proximate to

southeast Asian trouble spots. Political instability deriving an impulse from southeast Asia could be communicated to Melanesia directly across the land border shared by Papua New Guinea and Indonesia on the island of New Guinea. These factors, in combination with the involvement of France in its overseas territory of New Caledonia, indicate that U.S. policy makers face a broader range of issues in promoting regionalism in the Melanesian context. Although possibly disruptive to the political harmony of the entire Pacific islands region, the notion of a Melanesian Common Market makes much better economic sense than proposals for economic integration which include the resource poor Micronesian and Polynesian islands.

So long as the Micronesian governments of the Trust Territory remain solidly within the economic orbit of the U.S., there is little point in seriously suggesting their inclusion in a Pacific island economic integration organization. At present a major impediment to development within the Micronesian subregion is the sad economic condition of islands under U.S. control but without a direct voice in the budget process of the U.S. government. My personal observations in 1977 and 1978 confirmed that even basic services such as hospitals are of amazingly low caliber for what one would expect in territories dependent upon appropriations by the U.S. Congress. At present it is unlikely that the setbacks resulting from decades of neglect, combined with reductions in grants, programs,

taxes and budget allocations can be reversed. Under the compacts of free association recently negotiated, each Micronesian government would have 15 years of guaranteed allocations in particular sectors. With assurance of funding over a decade and a half, and fewer strings attached to those funds, it is quite possible that Micronesian economic planners will be able to build a foundation for growth which will eventually render those islands fit for partnership in a broader Pacific islands economic community for the future.

It is assumed that only after a decade or two of healthy development in "free association" with the U.S. would the Micronesian governments be set for a move toward full political independence. In the meantime, the political status of free association presents challenges and opportunities to both the U.S. and the Micronesian governments. The first of these is achieving international recognition of the special relationship. Once the compacts of free association are adopted, ratified, enacted into law and proclaimed by each of the governments concerned the question of the status of those agreements under municipal law will have been settled. International recognition will thereafter be critical only to the formal termination of the Trust Agreement by vote within the U.N. Security Council.

It has already been suggested that only two members of the Security Council could conceivably have an interest in

blocking the formal termination of the Trust Agreement. However, since it might prove extremely unpopular among Micronesians, it seems unlikely that either France or the U.S.S.R. would seriously contemplate such action affecting a region in which both are actively striving to maintain influence. A failure of the Security Council to terminate the Trust Agreement would not prevent the General Assembly from passing its own resolution recognizing that valid acts of self-determination had occurred and relieving the United States of any further reporting obligations under Article 73 of the Charter. The passage of such a resolution, regardless of events within the Security Council, would provide an important measure of international recognition.

The U.N. General Assembly recognizes generally three avenues by which non-self-governing territories may achieve a full measure of self-government. Besides the obvious choices of complete independence or of integration with another independent state, there is the option of "free association with an independent State."<sup>6</sup> The first Pacific island territory to achieve recognition by the General Assembly as a fully self-governing unity in "free association" with an independent state was the Cook Islands in 1965. Another New Zealand territory, the island of Niue, achieved similar status in 1974. These two successful instances of international recognition, compared to rejection by the General Assembly of a free asso-

ciation arrangement for the British territories in the Caribbean in 1967, provide general guidelines on which to predict acceptance or rejection of a free association arrangement by the General Assembly. As stated by James Crawford, these are:

(1) The association must be freely chosen by the inhabitants of the territory. (2) The terms of association must be clearly and fully set down, in a form binding on the parties. (3) The associated territory must have substantial powers of internal self-government. (4) The reserved powers of the state accepting the regime of association (which will usually be those of foreign affairs and defence) should not involve substantial discretions to intervene in the internal affairs of the Associated States. (5) There must be a procedure for termination of the association which should be: (a) at least as easily available to the Associated State as to the government of the metropolitan State; (b) capable of being regarded as a continued expression of the right to self-determination of the people of the Associated State.<sup>7</sup>

It is for the Micronesian governments, as well as the U.S. government, to assert that each general requirement has been satisfied and to meet specific objects from the international community. The compacts and associated agreements to be finally approved, ratified, enacted and proclaimed by each of the governments concerned do indeed contain procedures for termination of the special relationship upon due notice by either party, for further acts of self-determination, and for continued self-government by the Micronesians. The most sensitive point, not only in the case of Micronesia but in all instances of free association, concerns the reservation to the metropolitan government (in this case the U.S.) of plenary powers of defense and foreign relations. The degree to which the exercise of those reserved powers could interfere in the internal affairs of island peoples is difficult to determine in advance, and the Micronesians have been alert to the issue during negotiations concerning existing military bases (Marshall Islands) and future base rights (Palau).

In particular, the presence or testing of nuclear materials in any form is something the Micronesians wish to avoid in their territories. For failure of adequate assurances and guarantees, the free association arrangements as negotiated may not be ratified and enacted, or if enacted may prove not to be durable. Such political realities represent an important qualification on the strategic value of the islands to the United States. It is paradox-

ical that the strategic factor which is so important to the U.S. could ultimately undermine the arrangement that is fundamentally designed to assure continued military access to the islands by the U.S..

The real hope of the free association compacts between the U.S. and the Micronesian governments is that the desirable precedents of the Cook Islands and Niue will be continued. The movement toward association as a viable form of full self-government is of prime importance both globally and to the Pacific islands region. Crawford states: "Association represents one of the more significant possibilities for the future, especially in the case of islands and archipelagoes too small to be economically and politically stable states."<sup>8</sup> Microstates and small island territories dot the major oceans of the globe. However, it is only in the Pacific that a sufficient number of small island states and territories exist in a dispersed pattern so as to create an actual mid-ocean international region distinguished by an emergent regional political system. The Cook Islands and Niue participate in regional activities as if independent and are treated as sovereigns despite their associated status. Similar regional recognition for the Micronesian governments following upon the full ratification and enactment of the compacts of free association with the U.S. would greatly increase the viability of the emerging Pacific island regional political system.

The assumption upon which free association arrangements are based is that economic development will proceed more rapidly than under full independence because of the greater concentration of resources on development in the absence of the need to develop defense and foreign policy establishments. The truth of this assumption depends upon the precise nature of the association arrangement and its relative stability over time. The value of successful economic development in the islands should be weighed by the U.S. government against the strategic utility of the islands in order to arrive at a more balanced policy toward the entire Pacific islands region.

In closing it would be appropriate to point out that although many of the Pacific islands mentioned in this paper experienced the full destructive impact of the Second World War, no effort to restore the islands and to reconstruct their pre-War economies comparable to the reconstruction of Europe has yet been undertaken by the United States or its Pacific allies. Consequently many of the islands, particularly in the Micronesian region, still show obvious structural scars such as bomb craters and ruined (Japanese) structures which are all the more regrettable in view of the extremely limited total land areas upon which economic recovery and reconstruction must be based. The government of the United States stands to reap the bitter fruit of over 35 years of neglect if current policies are not corrected or reversed. The entire

concept of "benign" neglect becomes a slur when confronted with the stark realities of precious acres which can not be farmed because of bomb craters and unexploded WW II ordnance, poor inter-island transportation and communication, lamentable health care facilities, deficient diets, overcrowding and population growth rates between 3.5 and 4 percent per year. In the face of not-so-benign neglect we find island cultures struggling to preserve their languages and customs, staunchly supporting religious and political freedoms at home and extending the hand of peace and friendship across the Ocean which for centuries was theirs alone to fish and sail upon. The specific policy recommendations reviewed in this conclusion are perhaps no so important as the attitudinal modifications required for their proper implementation. It is not suggested that charity is the consideration upon which the U.S. must pay considerable heed to Oceania. The world of today is not so secure that the friendship of the weakest of nations should be cultivated condescendingly. Oceania is a critical component in the evolution of the entire Pacific Basin region, whether considered from the economic or the strategic point of view. Prudence dictates a thoughtful, sincere, and responsive solicitude for the wellbeing of the governments of the Pacific islands on the part of the government and people of the United States.

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