

STATEMENT FROM THE MICRONESIAN
DELEGATION

MAY 8 1970

12
7,6,9

In the Opening Statement from the Micronesian Delegation which was presented on Monday, our delegation proposed that the deliberations and discussions during the current series of meetings not be centered upon an examination of any draft bill which has been prepared for possible introduction in the United States Congress, but instead recommended that the two delegations make a broad survey of the issues to be resolved before the Trusteeship Agreement and Trusteeship Status can be terminated, and of the procedures that could best be followed in order to resolve them. We have since received a Statement of Principles and a proposed bill from your delegation. Your submission of these documents does not change our original recommendation concerning the procedure to be followed in these discussions, and we now propose that we resume our discussions today by returning to the issues raised and procedures outlined in our Opening Statement. Before doing so, however, our delegation believes that it is imperative to make some general comments and observations concerning your submission. We believe that some of our comments and observations will point out the need for further discussion between our delegations on the basic issues to be resolved and procedures to be followed in terminating the Trusteeship Agreement and establishing a new relationship between the United States and Micronesia, before we center our discussions on the detailed provisions of a new relationship.

FREE ASSOCIATION

The concept of "free association", as it was used in the terms of reference of the Political Status Delegation, is not, we think a difficult or ambiguous one. When the Delegation was appointed, the Congress of

03- 034334

Micronesia had before it the Report of the Future Political Status Commission, in which the United Nations definition of the term was quoted. Congress was also acquainted with the usage of the term to describe actual relationships between certain West Indian and Pacific countries and their former administering authorities. The propositions regarding free association that were set out in the Micronesian Delegation's opening statement were all derived from this commonly accepted interpretation of the term,

These propositions were intended as guidelines for the establishment of a relationship of free association between the United States and Micronesia. They stated the minimum conditions that would need to be satisfied in the creation of such a relationship. Certain of them are satisfied - or, at least, not contradicted - in the proposals contained in the United States Delegation's Statement of principles and attached draft Constitutional Convention Bill. Others, however, are not satisfied.

We should like, first, to look at the United States proposals in relation to the series of "principles and legal rights" set out in Paragraph 6 of our statement. This included the principle:

"(a) That sovereignty in Micronesia resides in the people of Micronesia and its duly constituted government."

We do not believe that the United States proposals are consistent, in any meaningful sense, with this principle. It is stated that "Micronesia would become a part of the United States..." Moreover, the new status proposed for Micronesia would have its basis in a United States Act; and the United States would retain important legislative and executive powers in respect of Micronesia. In particular, it would possess the power of eminent domain.

You will be aware that in Micronesia - as throughout the Pacific Islands - control of the land lies at the very heart of social organization; it has been, indeed, a necessary condition for the survival of life itself. Recognition of Micronesian "sovereignty" - if the term itself can properly be used - without the power of eminent domain would seem a hollow mockery to the people of Micronesia.

Our Statement also required:

"(d) That free association should be in the form of a revocable compact terminable unilaterally by either party."

The United States proposals are in explicit contradiction of this principle.

Our second principle reads as follows:

"(b) That the people of Micronesia possess the right of self-determination and may therefore choose independence or self-government in free association with any nation or organization of nations."

The position of the United States proposals in regard to this principle is less simple. You do not, it seems, deny the right of the people of Micronesia "to choose independence or self-government in free association with any nation or organization of nations"; but you are not prepared to agree to free association with the United States.

Since free association is not envisaged by your proposals, it is perhaps not strictly necessary for me to discuss the conditions laid down in Paragraph 14 of our statement regarding the adoption of a Constitution. It was stated, however, on behalf of the United States Delegation that the procedure suggested in your proposals was generally in line with that embodied

in Paragraphs 13-15 of our statement (Second Alternative). It may therefore be useful if we make some comments. We stated that, if the procedure we have outlined in our Second Alternative should be followed, certain assurances must be given. The first of these was that:

"(a) The Constitution, as adopted by the Convention, would not be amended by the United States"

Your proposals, first, impose limitations on the freedom of the Convention to decide on the type of Constitution it thinks appropriate to Micronesia and, secondly, provide that the President of the United States shall refer back the Constitution agreed to by the Constitutional Convention if he finds it contains provisions "contrary to the provisions of this Act or the Constitution of the United States". Your proposals do not therefore accord, in effect or in spirit, with our condition (a). The assurances required under subparagraphs (b) and (c) - relating to the omission of any requirement of consistency with the Constitution of the United States - are similarly not met, on grounds to which I have already referred.

o-v
o-2

There are many other matters on which the United States Delegation's proposals fail to satisfy the criteria laid down in the Micronesian Delegation's opening statement. I think it is unnecessary, however, for the Micronesian Delegation to refer to them. We have already shown that the statement of principles and draft bill which you have presented to us do not provide for a form of free association between the United States and Micronesia. They do not therefore provide a political status which we are empowered to discuss.

o-f
o-1

TERMINATION OF TRUSTEESHIP AGREEMENT

A basic question raised by the proposed bill and Commonwealth Status is whether it is intended to terminate the Trusteeship Agreement and Trusteeship

Status. The proposed bill seems to attempt to establish a Commonwealth Status for Micronesia through the enactment of certain legislation in the United States Congress. The Authority of the United States to enact such legislation is derived from the Trusteeship Agreement. The wording of Section 311(a) of the proposed bill refers to "the islands formerly administered by the United States of America pursuant to a Trusteeship Agreement with the Security Council of the United Nations", which seems to assume that, through the terms of the bill or otherwise, the Trusteeship Agreement has somehow ceased to be in effect. In addition, the preamble of the bill states that the status established under the bill is "in the process of developing self-government", which seems to assume that a further evolution toward self-government or independence is contemplated, and not that a final self-governing status is established within the meaning of Article 6 of the Trusteeship Agreement. Thus, there seems to be some conflict or confusion as to whether the proposed Bill properly creates the authority for the various steps which must be taken before the Trusteeship Agreement ceases to be in force, or even whether it is intended to terminate the Trusteeship Agreement. We believe that this confusion might be resolved through a discussion of the issues and procedures to be followed in terminating the Trusteeship Agreement, and in establishing an association between the United States and Micronesia.

ROLE OF THE UNITED NATIONS

In addition, your Statement of Principles and proposed bill make no statement regarding the role and involvement of the United Nations in the termination of the Trusteeship Agreement and in the steps leading up to the termination. Since the Trusteeship Agreement cannot be terminated without the approval of the Security Council of the United Nations, our delegation believes that it is essential that the role and involvement of the United

034338

Nations in terminating the Trusteeship Agreement and in establishing a new status be discussed in our deliberations before the specific terms of any association are taken up.

In addition, the Micronesian Delegation believes it must point out the fact that your bill failed to include any provision that established the authority for the settlement of all claims between the Micronesian people and the United States as trustee and as successor to Japan as Mandator. We believe that this is an essential element in any proposed legislation, and we therefore insist that we discuss this general subject with the United States Delegation before we turn our deliberations to the terms of the relationship contemplated between the United States and Micronesia.

PROPOSALS FOR ACT OF SELF-DETERMINATION

We think we should also refer to the different approaches adopted towards the holding of ^A plebiscite (or referendum). The Micronesian Statement referred to the holding of a plebiscite under United Nations supervision. It was envisaged that this would be concerned with ascertaining the opinion of the people of Micronesia on two issues:

- (1) The Constitution of Micronesia and form of free association between Micronesia and the United States;
- (2) The termination of the Trusteeship Agreement.

It was further envisaged that the appropriate time for the holding of such a plebiscite would be after the Constitution had been adopted by the Constitutional Convention and after the proposed form of free association had been worked out in detail and agreed to by both parties. The people of Micronesia would thus vote in full knowledge of their political future.

The United States proposals provide for two referenda. The first of these would seek the opinion of the people of Micronesia on the Constitution Convention Bill. They would thus be voting at a time at which, though they would know the form of the proposed link between the United States and Micronesia, they would be in doubt as to the form of the future Constitution. If they supported the bill (which they would have to do in order to gain the right to participate in the making of the Constitution), they would, however, have committed themselves irrevocably to the United States proposal for association between our two countries.

The second referendum would be for the purpose of adopting the Constitution. A majority vote against the Constitution would not affect the powers of the United States in Micronesia; yet it would leave the people without a democratic system of government.

For these reasons, we are of the opinion that the proposal for two referenda fails to fulfill the purpose envisaged in our proposal for a single plebiscite under United Nations supervision.

CONCLUSION

The United States proposals fail, in all essential components, to conform with the "principles and legal rights" which our delegation insist must serve as "an essential - a non-negotiable - component" in any scheme of free association between the United States and Micronesia. We, therefore, interpret your proposal to be a rejection of our offer to enter into discussions of the issues to be resolved in the event Micronesia chooses to enter into free association with the United States. In fact, your proposed association is in most essential respects no different from the proposals which you submitted

UAV

...only for a status as an "incorporated territory" for Micronesia,
 ...request that you officially inform us whether or not this is
 ...final offer regarding our request for a free associated status, or
 ...the United States will be willing to reconsider entering into nego-
 ...for a free association with Micronesia.

If you are unable to consider entering into a free association with
Micronesia, our delegation shall report your submission to the Congress of
Micronesia with an indication that it fails to provide for status of free
association. In the meantime we shall, in accordance with our terms of
 ...reference, undertake an examination of the problems to be resolved in the
 event that Micronesia chooses to become an independent state.

Should your delegation be able to continue an examination of free associa-
 tion, rather than Commonwealth or unincorporated territory status, we believe
 that our discussions should return to examination of the principles and rights
which we insist are essential to a free association, to the practical impli-
 cations of those rights and principles, and to the procedural matters discussed
 in our opening statement.

Our delegation is confident that, with your cooperation, our discussions
 can continue to isolate the issues to be resolved in changing our present
 status; and to clear up any differences or misunderstandings we may have at
 the present time.