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EEArcher:6-28-74:kkc

POSITION PAPER ON TITLE XI

SUBJECT: TITLE XI: AMENDMENT AND CHANGE OF STATUS

You asked me to explore the basic policy issues involved in the change in 1102(b) and (c) recommended by Senator Sali, amending a provision so that termination will not be effective in a district where a 2/3 majority has voted against it in lieu of the simple majority as proposed by the JCFS last November.

SUMMARY AND RECOMMENDATION

The proposed change in Section 1102(b) and (c) reduces the impact of the "Yap Clause" which guarantees to each district the right to maintain its relationship with the United States should Micronesia decide to terminate the Free Association status. The proposed change is apparently an effort to ensure the continued unity of Micronesia in the event of unilateral termination of the Compact by raising the level of consensus required for fragmentation from a simple majority to 2/3 of the registered voters. If so this is essentially an internal matter in which we have no interest. However, considering the almost Byzantine quality of the political infighting within the Congress of Micronesia, the proposed change might very well represent a Machiavellian attempt to force the independence option by making the Free Association compact less palatable to Yap and the Marshalls because it may now push them into a permanent union with the other districts.

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Although the United States has no substantive interest in the proposed change we have an interest in getting the Compact approved. Therefore, tactically it would be prudent to oppose the change until we obtain the views of the JCFS, especially the Marshallese and Yapese delegates concerning how they view the effects of this change on getting the Compact approved by both the Congress and peoples of Micronesia.

1. PROPOSED CHANGE:

1102(b) "...THAT termination of the Compact shall not be applicable to any district of Micronesia in which a TWO-THIRDS majority of the voters have voted against termination".

1102(c) "...Any district in which two thirds majority of the voters,....." etc.

ISSUES:

a. This proposal would effectively force the several districts to remain together in the event of unilateral termination of the Compact thereby promoting unity for Micronesia.

b. The United States favors unity and self-determination and has no interest in what happens to the Compact as long as survivability of U.S. base rights is assured.

c. This section may not be acceptable to Yap and the Marshalls, and could prevent an otherwise satisfactory agreement.

BACKGROUND:

During the Fifth Round of negotiations, a delegation from Yap led by Senator John Mangefel approached Ambassador

Williams and expressed its concern over the strength of the independence coalition in the Congress of Micronesia. It requested that the Compact make provision for the continuation of an association with the United States for any district which wished it.

The United States delegation presented a first draft of this title to the JCFS last November which had most of the detailed language regarding termination procedures in Annex D. The JCFS countered with an even more complex, and from our point of view more desirable, procedure. We have incorporated almost all of the JCFS draft in Title XI. Moreover, we have made it clear that the Compact may not be unilaterally terminated unless provisions embodied in Section 1103, concerning the survivability of our military base rights remain in force and have thrown out a JCFS provision to allow for nullification of termination in the two year interim period. The idea that a majority or two-thirds vote of registered voters must either approve the compact or disapprove was originally proposed by the JCFS.

DISCUSSION

The JCFS is recommending a change in 1102(b) and (c) apparently and most likely in order to limit a procedure whereby the districts can elect a closer relationship with the United States if they prove unwilling to turn power over to a central Micronesian government. If this change is accepted, the new Government of Micronesia being assured of the support of all the districts can press for future conces-

sions from the U.S. holding over our heads the threat of unilateral termination of the Compact. Rejection of this change keeps open for the districts the possibility that they could select after fifteen years an even closer formula than "Free Association" and would not only keep commonwealth concept in play, but would also permit us to endorse that or our version of free association as tactics may dictate. Permitting the majority to decide the form of future association also reduces to some extent the inherent centrifugal tendencies of the compact in that the Central Government would not wish to attempt unilaterally to terminate the Free Association relationship at any time it is having difficulty with any of the districts as that district may choose to opt out by a simple majority vote.

SPECIAL CONSIDERATION

An important if Machiavellian consideration is that Yap wished the majority clause included in the compact in order to protect itself as the smallest district. It can be expected that the Marshall Islands and Palau would support this provision if only to prevent too much power from flowing to the central government. Inclusion of the two-thirds provision would have the effect of assuring for the central government that it will be talking for a united Micronesia in fifteen years and of telling the several districts in no uncertain terms that Micronesia is and will be a unit unless an overwhelming majority of the people in any district oppose it. The effect of such a revelation may be to force Yap and

the Marshalls to reconsider the concept of a "Free Association" under a strong central government supported by economic and military might of the United States and choose independence under terms which they can work out among themselves.

OPTIONS

1. Accept the Salii change

PROS

- a. We have no substantive interest in this issue as it concerns the internal power structure of a future Micronesian government. Our interests are embodied in Section 1103 which will survive no matter what happens to the central government of Micronesia.

- b. Acceptance would demonstrate that we do not intend to interfere in the internal structure of a future Micronesia.

- c. Given the changing American attitude toward supporting far-away peoples, the possibilities of a clean complete break with Micronesia in fifteen years would increase the chances of approval and acceptance by the American public.

CONS

- a. Maintaining the present majority clause would increase the chances for the survivability of the of the Compact beyond the fifteen year mutual consent period.

- b. It would also reaffirm our commitment to Yap to protect fully their rights of self-determination.

- c. It will make the entire Compact more palatable to those districts which, at present, would rather have

the status quo, and would not wish to be pushed permanently into either Free Association or Commonwealth.

2. Oppose the change on the grounds that for us it is a non-issue unless the change will help the JCFS to obtain approval of the Compact from the Congress and people of Micronesia.

PROS

a. We really don't have an interest in this issue but would like to know why the JCFS are proposing it.

b. It would maintain publicly our commitment to Yap and our interest in self-determination.

CONS

a. It will serve notice that the United States is interested in maintaining hegemony in Micronesia beyond the fifteen years of the mutual consent provision.

b. It would be easier in the future to deal with a strong friendly Micronesia than several bickering competing districts.

c. It would also be cheaper.

d. It would reinforce publicly our commitment to Micronesian unity.