

DELEGATION OF MICRONESIA

(TRUST TERRITORY OF THE PACIFIC ISLANDS)

01
7,2

50, rue de Moillebeau
Case postale 235
1211 Genève 19
Tél. 34 23 50

Congress of Micronesia
Saipan
Mariana Islands 96950
Tel. 9741

April 23, 1975

The Honorable John R. Stevenson
Ambassador, Special Representative of
the President for the Law of the
Sea Conference
Third Conference, UNLOS
Geneva, Switzerland

Dear Ambassador Stevenson:

We have the honor to write to you jointly on behalf of the Micronesian Delegation to the Law of the Sea Conference and the Joint Committee on Future Status of the Congress of Micronesia. We address the US Government, through you, and request an answer which will be the answer of the US Government.

The Conference on the Law of the Sea, and the consideration of future status matters in Micronesia, have reached a point where answers are needed on several issues of fundamental importance to Micronesia.

We have discussed these matters in general terms previously, and you will understand that the same considerations that led us to request separate representation at the Conference so as to defend the resource interests of Micronesia apply to the exercise of the resource benefits arising from the economic zone and other features of the Convention under consideration at the Conference.

Accordingly, we would appreciate your support in achieving the following results, and we would appreciate the speediest possible answers to the following inquiries:

1. Will the US agree that the elected representatives of the Micronesian people, that is, the Congress of Micronesia, shall have the authority to exercise and dispose of the resource rights confirmed by or arising from the Convention, with respect to Micronesian territory?
2. Accordingly, will the US agree to support a provision in the Convention permitting UN trust territories to become parties to the Convention, and to support Micronesian access to the dispute settlement procedure to be estab-

03-022596

lished under the Convention, as well as to any other dispute settlement procedure which may be necessary to permit Micronesia to vindicate its rights under the Convention directly, on behalf of the inhabitants of Micronesia, and in the name of Micronesia?

3. Will the US agree that Micronesia represent itself in international negotiations respecting resource rights arising from this and other law of the sea conventions, including, for example, full participation as the voting representative for Micronesia in any existing or future regional and international fishery organizations, and in the negotiation and conclusion of bilateral and multilateral agreements implementing law of the sea conventions or making fishery and other resource arrangements on the basis of such conventions, international, or domestic law?
4. Will the US agree that if the privileges of Convention accession including access to dispute settlement machinery are made available to Micronesia solely on account of its current character as a UN trust territory, the lawful successor entity or entities shall continue to have such rights, and that such succession of rights shall be appropriately safeguarded, in the Convention if possible, and by agreement between the US and Micronesia in any event?

In our previous discussions, reference has been made to the status negotiations as bearing on these points. The political status agreements so far negotiated, however, are silent on all of these points, and do not purport to cover them explicitly. The representatives of the Congress of Micronesia in the status negotiations did explicitly state to Ambassador Williams that they regard the sea resources of the economic zone as internal resources of Micronesia, i.e., resources within the internal affairs jurisdiction of the government of Micronesia, and not a part of "foreign affairs."

Uncertainty arises because the existing draft documents confide foreign policy powers under future status arrangements to the United States, and because in other contexts the United States Government has taken the position in strong terms that foreign policy powers carry with them, as an incident of those

powers, control over the resources of the sea. Such a conclusion would appear quite unwarranted in the context of a trust territory, over which the US does not exercise sovereignty, or in the case of the Trusteeship Agreement, in which not "foreign policy" or foreign relations", but merely military security functions are entrusted to the trustee power. Such military security responsibilities would seem to bear no substantial relationship to the exercise of power over the sea resources of Micronesia. (It should be clearly stated and noted that we do not question or seek to diminish the military responsibilities and necessary powers arising therefrom granted to the administering authority under the UN Charter and the Trusteeship Agreement. Those responsibilities and powers are only in the smallest measure, however, related to the control of all of the resource interests and powers of Micronesia in its economic zone or archipelagic or inland waters).

When the Micronesian people are asked, in the near future, to give advice or make decisions regarding their future political status, they and the Congress of Micronesia will want a clear answer from this Delegation and from the Joint Committee on Future Status on whether the power to exercise fully all the rights in the economic zone do now, and will in the future, belong to Micronesia, or to the US. They will want to know who in fact will exercise those sea resource rights and powers, who will negotiate the relevant agreements with distant fishing states, who will represent Micronesia in international fishing organizations to determine the resource rights of Micronesia, who will issue the relevant conservation and management regulations, who will set and collect the appropriate license or other fees, and the like.

In our view, the answers to the above questions must clearly be: the elected representatives of the Micronesian people during the trusteeship, and the lawful government of Micronesia thereafter. The resource rights confirmed or created by the Law of the Sea Convention are rights of the inhabitants of Micronesia. The Trusteeship Agreement, far from contemplating the transfer of effective control of Micronesian resources to the administering authority, recognizes the responsibility of

the trustee power to preserve, protect, and enhance the resources of the inhabitants of Micronesia. To the extent that old resource interests are confirmed or new interests are created by the Convention, these are resource property interests of the inhabitants of Micronesia, to be managed by them like any other resource interests. It follows that to the extent any further action may be necessary to define and give definitive scope to these resource interests, such action is an incident of the ownership rights in the resources. The fact that dealing with foreigners are involved in such matters, and to that extent may involve "foreign relations" does not change the management and vindication of resource property rights into an incident of the military security responsibility of the administering authority.

Although we believe the above to be the answers to the questions raised we are required by our responsibilities to ascertain that the US Government shares and will continue to take the same view with respect to Micronesia, and to request the support of the US Government in achieving general recognition and implementation of these views.

We are available immediately to consider with you and your staff, and with other interested delegations, wording for the appropriate Convention articles which may best give effect to these purposes. It will in our opinion be possible to secure general support for a provision that a UN trust territory and a territory administered by the UN may be a party to the convention. A closely analogous precedent seems to exist, and in any event, we both hope for general support and are confident that especially with US support, such a provision can be approved at the Conference.

We are also available at the appropriate time, and once the basic issue is agreed, to consider with the US Government whether and how to seek to delimit and define our respective functions in exercising resource rights on the one hand, and military security responsibilities on the other, with reference to the Convention provisions.

Last, Mr. Ambassador, the Delegation to the Law of the Sea Conference would like to take this occasion to express to you

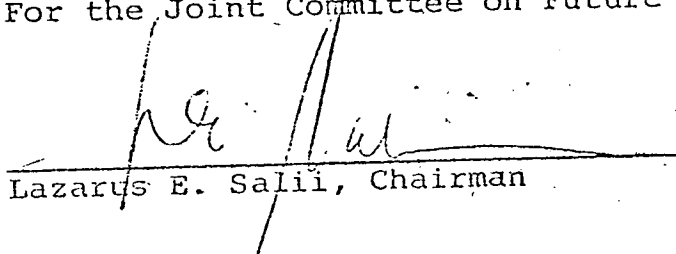
personally the high esteem of all members of the Delegation for yourself, and their keen regret at the news that you will not continue to lead the US Delegation after this session of the Conference. Our disagreement on substance in no way detracts from our high regard for you, or from our appreciation of the courtesy and consideration you personally have always shown us.

For the Micronesian Delegation to the
Law of the Sea Conference



Charles T. Donnich, Chairman

For the Joint Committee on Future Status



Lazarus E. Sali, Chairman