

AdeGraffenried:6-19-76:kkc

UNITED STATES/GOVERNMENT OF MICRONESIA AGREEMENT
REGARDING MICRONESIAN MARINE RESOURCES

1. Purpose.

The objective of the agreement would be to establish the basic authorities over Micronesian marine resources. Such authority would be divided between the Government of Micronesia and the United States within the basic parameters already established in the Compact. Micronesia would have authority and responsibility over its territorial waters and economic zone insofar as this authority related to the internal affairs of Micronesia. The United States would exercise authority for such zones as it relates to the conduct of Micronesian foreign affairs. The United States would permit Micronesia to exercise certain foreign affairs authorities, under the auspices of the U.S. Government, but short of any activity which could be interpreted as establishing Micronesia as a sovereign, international entity.

2. Need.

Political factors dictate early resolution of the Micronesian Law of the Sea issue. The United States and the Congress of Micronesia desire that the Compact of Free Association be finalized prior to the July session of the Congress of Micronesia to enable the Compact to be ratified before pressures for independence and fragmentation jeopardize the Free Association relationship and basic United States interests and objectives for Micronesia. Early resolution also removes Law of the Sea as an issue in the United Nations Trusteeship Council and the United Nations Law of the Sea Conference.

Time factors do not permit the ^{international resolution of} Law of the Sea issues to ~~be finalized as an integral part~~ ^{before completion} of the Compact under this scenario.

Both parties believe agreement on the fundamental ^{principle of Micronesia's} Law of the Sea ^{authority over its Marine Resources} authorities could be incorporated as a Section 605 of the Compact.

Detailed provisions on the implementation of these principles would be resolved in a separate protocol concluded after the Compact had been approved by the Congress of Micronesia's July session. This approach has the advantage of providing the recognition of basic Law of the Sea authority sought by the Micronesians but within the parameters needed by the U.S. under the foreign affairs relationship. It would defuse Law of the Sea as a major issue in the status negotiations, the United Nations Trusteeship Council meeting, and the United Nations Law of the Sea Conference. The disadvantage would be to focus attention on the protocol and may lead to a requirement that the protocol be negotiated prior to approval of the Congress of Micronesia and the United States Congress.

Alternatively, the Compact could set forth general agreement on the principles as a Section 605, with an annex incorporating the general outline of what would be addressed in a separate Law of the Sea protocol. This has the added advantages to the first option of providing reassurances to the Congress of Micronesia of the extent to which they may exercise their Law of the Sea rights. The U.S. Congress would also be cognizant of the parameters within which the Government of Micronesia Law of the Sea authority would operate and the specific protection of the United States interests by U.S. control over Micronesian Law of the Sea activities.

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UNITED STATES/MICRONESIAN MARINE RESOURCES PROTOCOL

OUTLINE

I. Purpose.

II. Micronesian Law of the Sea rights and responsibilities.

A. Basis for

1. Title I.

2. International law and applicable treaties.

3. Cross references (for consistency)

a. Section 605

b. Titles II and III.

III. Exercise of LOS Authorities

A. By GOM

1. Over internal affairs

a. laws/regulations

b. revenues

c. enforcement

d. Annex A rights

2. Affecting U.S.'s activities in Micronesia under

Compact (Title III).

3. Affecting U.S./Micronesian commerce (MFN).

4. Affecting U.S. foreign policy/national interests.

B. By U.S. Government

1. Application of Treaties (per Title V rights)

a. Micronesian right to consent to treaties directly affecting Micronesia's mineral/marine resources

b. Micronesia's right to participate as member of U.S. delegation in negotiation of those treaties

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noted in subparagraph a, above.

2. Negotiation of LOS treaties.

- a. In addition to duties set forth in Annex A, U.S. obligation to negotiate LOS treaties on behalf of GOM with obligation to obtain Micronesian consent before concluded and effected.
- b. Micronesia's right to participate in negotiation of treaties, under U.S. auspices, which GOM requests to negotiate.

IV. Development of Micronesian Resources

A. Joint Resources Council

1. Purpose
2. Membership/staff
3. Duties
4. Authorities.

B. Scientific/Technical Assistance

1. U.S. assistance
 - a. Grants
 - b. Loans
 - c. Expertise
2. Joint Scientific ventures
3. International and multilateral ventures.

C. GOM membership in U.S. regional Fisheries Councils

D. GOM eligibility for U.S. fisheries programs

V. Enforcement of LOS Laws.

VI. Dispute Settlements

VII. Severability and survivability Clause

A. Applies to all districts approving Compact.

B. Upon termination of Compact applies to those states retaining Free Association relationship.

VIII. Amendments to Protocol.

IX. Approval Procedure

A. By COM

B. By Secretary of State.

X. Effective Date Clause

XI. Signature Clause