



TRUST TERRITORY OF THE PACIFIC ISLANDS  
OFFICE OF THE HIGH COMMISSIONER  
SAIPAN, MARIANA ISLANDS 96950

CABLE ADDRESS  
HICOTT SAIPAN

AUG 23 RECD

01  
7,4

1977

The Honorable Bethwel Henry  
Speaker, House of Representatives  
Congress of Micronesia  
Kolonia, Ponape District 96943

Dear Mr. Speaker:

I am forwarding to you under cover of this letter draft legislation for consideration at the special session of the Congress of Micronesia scheduled to begin August 15, 1977 in Ponape. This bill would establish 200 mile fishery resource zones around the islands of the Trust Territory within which the competent Micronesian government authorities would exercise fishery resource jurisdiction to the extent recognized by international law.

This bill, with minor verbal and other additions to make it more complete and correct in form, is the product of a working group which met without commitment during the recently concluded US/Micronesia Round Table discussions on Guam. This working group, which included participants from the US, the Congress of Micronesia, and other delegations, deliberated on the subject of extended fisheries jurisdiction and developed language acceptable to the United States on the resource jurisdiction aspects of the legislation. All Micronesian participants seemed to hold the view that the substance of these particular provisions was acceptable to them. The draft also incorporates in many important respects the views of the various participants on other key issues, although there was not full agreement on all parts of the draft. It is fair to state, however, that compromises were made on most important issues, and even where compromise was not possible, delegations negotiated to the limits of their authority and identified approaches which could ultimately lead to accomodation.

The bill is divided into eleven sections. Section 1 states its purpose: to provide a means of promoting economic development and of managing and conserving the fishery resources of the Trust Territory, to declare a 200 nautical mile fishery resource jurisdiction; to exercise fishery

resource jurisdiction to the extent recognized by international law; and to require that foreign fishing for such fishery resources within the 200 mile fishery resource zone be allowed only by permits or other authorization.

Section 2 would create a procedure for establishment of the 200 mile fishery resource zone. It would allow a district, by legislation enacted pursuant to this draft legislation, to establish and exercise fishery resource jurisdiction within its own zone; or, in cases where a district does not take such action by June 30, 1978, it would automatically create a 200 nautical mile fishery resource zone in that district unless the district legislature took action to indicate that it did not wish the provisions of this draft legislation applied to it. The procedure envisaged in Section 2 seems to offer the best prospect for accommodation between the interests of the central authority and those of individual districts in autonomy. I urge that you consider this aspect of the legislation most carefully. The United States believes that this draft legislation, which is clearly of such importance to all of Micronesia, should represent a consensus of all important groups in the Trust Territory, and that the procedure envisaged in Section 2 represents a possible accommodation that will meet the various interests while still providing benefits to all.

Section 3 would provide that the fishery resource zone would extend from the outer edge of the present 12 mile fisheries zone out to a seaward boundary 200 nautical miles from the baselines from which the territorial sea is measured. The effect of this provision would be to create dual fisheries zones. The existing fisheries zone, which extends from 3-12 miles, would remain in place. The purpose of this provision is to preserve intact the existing juridical competence in the 3-12 mile zone, i.e., the same jurisdiction over fisheries that is exercised in the territorial sea. The same management authority would exercise jurisdiction in both zones.

Section 4 would provide that the exercise of fishery resource jurisdiction within the 12 mile fisheries zone and the 200 nautical mile fisheries resource zone must be consistent with that recognized by international law. It would also provide that the exercise of such jurisdiction must be in accordance with this bill, the Trust Territory laws, and Secretarial Order 2918, as amended. This Section represents an important accommodation between the views of the United States and the views of most Micronesians regarding jurisdictional competence over tuna. Although the United States cannot agree to an assertion of jurisdiction by the Micronesians which includes tuna, Section 4, as drafted, clearly incorporates both points of view and allows for further discussions on the practical aspects of the issue among the parties concerned. Section 4(2) further describes the relationship between the United States and the Micronesian authority exercising jurisdiction.

Section 5 describes the authorities of individual districts and would provide that each district shall establish procedures for the management and conservation of fisheries within the fisheries zone and fisheries resource zone. These procedures would include all appropriate administrative matters, and regulations for the management and conservation of the fishery resources, and would be established in consultation with the Micronesian Fishery Council established in Section 6. Section 5 further establishes important principles to be applied in setting forth and applying procedures for conservation and management of the fisheries.

Section 6 would create a Micronesian Fishery Council. Its functions would include: coordinating the management and conservation regulations of the various districts; cooperating with respect to the control of foreign fishing; coordinating the collection of scientific information; coordinating the setting of penalty provisions; and other appropriate purposes. Paragraph 6(7) would provide for the Council to act on the behalf of any district with regard to procedures envisaged under Section 5 when; (A) the Council is authorized by the district so to act, or; (B) if the district does not establish procedures before July 1, 1978. In this regard, the Council would perform only executive functions such as determining catch levels, collecting scientific data, issuing permits, collecting fees, etc. The Council itself could not impose penalties or perform unauthorized legislative functions, those tasks being reserved to the district legislatures or to the Congress of Micronesia.

Section 7 would provide for the promulgation of specific regulations. Regulations not applicable to foreign fishing would be adopted in accordance with procedures adopted by district legislatures. Those that would be applicable to foreign fishing would be transmitted to the High Commissioner for his review, and would go into effect unless the High Commissioner disapproved such regulations within 30 days. There was considerable discussion of this provision at the Guam meeting, and paragraph 7(b) represents an important understanding among the participants. It is of great importance to the United States that this provision remain unchanged.

Section 8 would provide that a violation of this law or a regulation promulgated or permit issued pursuant to this law would be subject to penalties prescribed in a district's legislation or in Section 107, Chapter 3, Title 19 of the Trust Territory Code.

Section 9 would provide that fishery resource zone boundaries between districts would be established by the Council in consultation with the districts concerned. It would also provide that the boundary of a fishery resource zone and a similar zone of another country, as well as other international agreements relating to fishery resources, would be conducted in accordance with Part II, Section 5 of Secretarial Order 2918 as amended. The United

States Government would thus negotiate on behalf of the Micronesian peoples. Like other sections of this act which described the relationship between the Micronesian authorities and the US, this section was fully explored in Guam and was considered to be acceptable to both sides. As regards the delimitation of boundaries between districts, the US considers this matter to be decided among the parties concerned, and as was stated at the Guam meeting would be pleased to provide technical assistance in this effort. It seemed to be the feeling of most participants at the Guam meeting that a delimitation between districts based on the principle of equidistance would be the most equitable method of division. The US would have no objection to such a procedure.

Another matter which was discussed at the Guam meeting was the question of establishing closing lines around the lagoons of the various Micronesian atolls. This would mean that the waters enclosed therein would be internal waters in a juridical sense. Several participants indicated the desirability of this action and expressed the view that at the special session the Congress of Micronesia might pass a joint resolution calling for United States assistance in this regard. I am pleased to state that the United States would welcome an opportunity to assist in the technical aspects of this effort and would welcome such a resolution.

Section 10 of the bill provides for a small initial appropriation to begin the work of the Micronesian Fishery Council, and Section 11 provides for its effective date. Section 11 also restates the understanding of all participants in the Guam meeting that the present bill is intended to deal with the question of marine resources only during the period of trusteeship, without prejudice to the marine resources aspects, which remain to be negotiated, of Micronesia future political status.

Mr. Speaker, I believe the attached draft legislation can be an important step forward, and I commend it to your most serious consideration. The Attorney General and the Department of State Liaison Officer for Micronesian Status Negotiations stand ready to assist appropriate committees of the Congress in their deliberations on this important piece of legislation.

Sincerely yours,

Adrian P. Winkel  
High Commissioner

Enclosures

bcc: Director, Public Affairs  
✓ Attorney General  
Legislative Counsel, COM  
Chief Clerk, House of Representatives

[DATE 8/15/77]

17  
7,4

RDD

SEVENTH CONGRESS OF MICRONESIA

S. B. NO. 7-114

FIRST SPECIAL SESSION, 1977

A BILL FOR AN ACT

To establish a fishery resource zone; to describe its boundaries; to provide for the exercise of fishery resource jurisdiction and for the management and conservation of fishery resources; to establish a Micronesian Fishery Council; to authorize regulations; to provide penalties; and for other purposes.

BE IT ENACTED BY THE CONGRESS OF MICRONESIA:

1           Section 1. Statement of Purpose.

2           (1) The living resources of the sea off the coasts of  
3           Micronesia are a finite but renewable part of the physical heritage  
4           of the peoples of Micronesia. As the Trust Territory is nearly  
5           devoid of any land-based resources, the sea provides its peoples  
6           with their only feasible means for achieving economic development  
7           and viability. The purpose of this act is to provide the means of  
8           promoting such economic development and of managing and conserving  
9           the vital fishery resources of the Trust Territory by declaring a  
10          200 nautical mile fishery resource jurisdiction.

11          (2) The peoples of Micronesia intend to establish 200 nautical  
12          mile fishery resource zone off the coasts of the islands of Micronesia  
13          within which they will exercise fishery resource jurisdiction over  
14          fishery resources to the extent recognized by international law.

15          (3) Foreign fishing within such fishery resource zones for  
16          such resources will be authorized only by applicable permits or  
17          other authorization issued by competent Micronesian government  
18          authorities.

19          Section 2. Establishment of the Fishery Resource Zone.

20          (1) In accordance with the following procedure there shall be

03-021077

1 established a fishery resource zone as described in Sections 3 and  
2 4 of this act.

3 (2) A district may by legislation establish and exercise  
4 fishery resource jurisdiction within its own fishery resource zone  
5 as described in Sections 3 and 4 of this act.

6 (3) In cases where a district does not take such action by  
7 June 30, 1978, there shall be automatically established effective  
8 July 1, 1978, a fishery resource zone for that district, unless  
9 such district by legislation takes action to indicate that it does  
10 not wish the provisions of this act applied.

11 Section 3. Description of Boundaries. The fishery resource zone  
12 has as its inner boundary the outer limit of the fisheries zone, as  
13 described by Section 253 of Title 19 of the Trust Territory Code,  
14 and as its seaward boundary a line drawn so that each point on the  
15 line is 200 nautical miles from the baselines from which the territorial  
16 sea is measured. The delimitation of the fishery zone between districts  
17 or with other countries shall be accomplished as set forth in Section 9  
18 of this act.

19 Section 4. Jurisdiction.

20 (1) The competent Micronesian government authorities which,  
21 in the case of a district that establishes its own fishery resource  
22 zone pursuant to Section 2(2) of this act, shall be the entity duly  
23 authorized by legislative enactment of that district, will exercise  
24 fishery resource jurisdiction within the fisheries zone and the  
25 fishery resource zone to the extent recognized by international law.

1           (2) The exercise of fishery resource jurisdiction by such  
2 authorities shall be consistent with this act, the Trust Territory  
3 laws, and Secretarial Order 2918, as amended.

4           Section 5. Procedures. Each district may by legislation establish  
5 procedures for the management and conservation of the fishery  
6 resources of its fisheries zone and fishery resource zone. Such  
7 procedures shall include the issuance of regulations concerning  
8 determination of appropriate catch levels, collection of scientific  
9 data, issuance of permits, collection of fees for fish caught, and  
10 administration matters necessary for the conservation and management  
11 of the fishery resources. Such procedures and regulations shall  
12 apply the following principles:

- 13           (i) conservation of the fishery resources;  
14           (ii) optimum utilization of the fishery resources; and  
15           (iii) the promotion of the economic well-being of the  
16 peoples of the Trust Territory.

17           Such procedures shall be established in consultation with the  
18 Micronesian Fishery Council established under Section 6 of this act  
19 taking into account the needs and interests of the Trust Territory  
20 as a whole.

21           Section 6. Creation of Micronesian Fishery Council.

22           (1) There is hereby created a Micronesian Fishery Council for  
23 the purpose of providing a means for coordinating the management and  
24 conservation regulations of the various districts, for cooperating with  
25 respect to the control of foreign fishing, for coordinating the



1 collection of scientific information, for coordinating the  
2 setting of penalty provisions and for other purposes.

3 (2) The Council shall consist of nine persons, one member to  
4 be appointed by the High Commissioner, two members to be appointed  
5 by the Presiding Officers of the Congress of Micronesia or any  
6 authorized joint committee thereof, six members, one from each  
7 administrative district, who shall be appointed by the respective  
8 district legislature, or any authorized committee thereof. The  
9 members shall serve for a term of three years. New appointments  
10 and appointment to fill in vacancies for a term of office shall be  
11 made in the same manner as original appointments.

12 (3) Any member may be removed from office by the respective  
13 appointing agency for incompetence, neglect of duty, or criminality.

14 (4) Members of the Council shall be paid at the rate of thirty  
15 dollars per day when actually performing Council business. If a  
16 member of the Council is concurrently employed in another post in  
17 the Government of the Trust Territory, he shall receive his regular  
18 salary during the period the Council is convened in lieu of thirty  
19 dollars per day. Members will be paid per diem and travel expenses  
20 incidental to travel required to fulfill their responsibilities under  
21 this act on the same basis as regular government employees.

22 (5) The High Commissioner shall appoint one member of the  
23 Council as acting Chairman, whose only function shall be to call the  
24 first meeting. At the first meeting of the Council the members shall  
25 proceed to elect a chairman by majority vote.

1           (6) The Council by an affirmative vote of a majority of the  
2 whole Council may adopt, amend, alter or repeal such bylaws for  
3 the Council as are not inconsistent with this act, providing for  
4 the management of the business of the Council, the regulation of its  
5 affairs, the organization, conduct and meetings of the Council, and  
6 any other matter not inconsistent with the purposes of the Council;  
7 PROVIDED, that the bylaws shall not be adopted, amended, altered  
8 or repealed at any meeting of the Council unless written notice of  
9 any proposed action to change the bylaws has been sent by certified  
10 mail to each member one month prior to such meeting.

11           (7) To the extent that a district does not establish procedures  
12 under Section 5 of this act, it may authorize the Council to act on  
13 its behalf on such matters. If a district does not take such action  
14 prior to July 1, 1978, the Council shall be deemed to be authorized  
15 by such district to act on its behalf.

16 Section 7. Regulations.

17           (1) Regulations not applicable to foreign fishing established  
18 pursuant to Sections 5 and 6 of this act shall become effective as  
19 provided for therein and shall have the full force and effect of law.

20           (2) Regulations applicable to foreign fishing established pursuant  
21 to Sections 5 and 6 of this act shall be transmitted to the High  
22 Commissioner, and unless disapproved within 30 days of receipt, shall  
23 have the full force and effect of law.

24           (3) Regulations promulgated by the competent governmental  
25 authorities under this act are expressly exempted from the requirements

1 set forth in the Administrative Procedure Act contained in Title 17  
2 of the Trust Territory Code. Each district which pursuant to  
3 Section 2(2) of this act establishes its own fishery resource zone  
4 shall adopt by legislation minimum guidelines prescribing the method  
5 by which regulations may be proposed and adopted; these guidelines  
6 shall insure wide dissemination of proposed regulations and afford  
7 the public a reasonable opportunity to present its views prior to  
8 the adoption of any regulation.

9 (4) For the purpose of this act, unless it is otherwise provided  
10 or the context requires a different construction, application, or  
11 meaning, "foreign fishing" means fishing by any person who is not a  
12 Trust Territory citizen or any company, corporation, or association  
13 in which a person not a Trust Territory citizen owns any interest.  
14 Section 8. Unlawful Acts. A violation of the provisions of this  
15 act or of regulations promulgated hereunder or of a permit issued  
16 pursuant to this act shall be subject to the penalties prescribed  
17 in Section 107 of Title 19, as amended, unless a district by  
18 legislation prescribes other penalties in which case any such violation  
19 shall be subject to the penalties so prescribed.

20 Section 9. Delimitations and Negotiations.

21 (1) The Council, in consultation with the districts concerned,  
22 shall delimit the fishery resource zone between districts.

23 (2) The delimitation of the Micronesian fishing resource zone  
24 where it overlaps a similar zone established by another country, the  
25 negotiation of international agreements relating to fishery resources,

1 and other foreign affairs aspects of the conservation and management  
2 of fishery resources, shall be conducted in accordance with Section  
3 5 of Part II of Secretarial Order 2918, as amended, in cooperation  
4 with a competent Micronesian entity, which, in the case of a district  
5 that establishes its own fishery resource zone pursuant to Section 2(2)  
6 of this act shall be the entity duly authorized by legislative enactment  
7 of that district.

8 Section 10. Costs of Administration.

9 (1) The sum of \$10,000.00 or so much thereof as may be necessary,  
10 is appropriated from the General Fund of the Congress of Micronesia for  
11 the operating and contingent expenses of the Micronesian Fishery Council  
12 for Congressional FY 1978.

13 (2) The sum appropriated by Section 10(1) of this act is hereby  
14 allotted to the Council which shall be responsible to the Congress of  
15 Micronesia for ensuring that these funds are used only for the purposes  
16 of the Council as provided in this act and that no obligations are  
17 incurred in excess of the sum appropriated. Any part of this  
18 appropriation not obligated as of March 31, 1978, shall revert to  
19 the General Fund of the Congress of Micronesia.

20 (3) There is hereby authorized to be appropriated from the  
21 General Fund of the Congress of Micronesia such amount of funds  
22 necessary to carry out the cost of administration of the Council.  
23 The Council shall, to the extent feasible, forecast the needed  
24 appropriations for the fiscal year and request the funds from the  
25 Congress of Micronesia. Nothing herein contained shall prohibit