

Authority E.O. 12958
By AB NARA Date 1/19/05ACTION

November 25, 1969

MEMORANDUM FOR DR. KISSINGER

FROM: John H. Holdridge

SUBJECT: Meeting on Micronesia

You are scheduled to meet with Secretaries Rogers, Laird and Hickel at 3:00 p.m., November 26, to discuss US policy in the negotiations with the Micronesians.

Interior has provided a briefing book (Tab I) setting forth:

- the proposed agenda for the meeting
- a review of the October negotiations (Tab A)
- the Micronesian submission on a future relationship (Tab B)
- Interior's defense of its proposal on land (Tab C)
- draft "Constitutional Convention Bill" (Tab D).

Presumably armed with the policy you evolve, Assistant Secretary of Interior Loesch plans to visit Micronesia in early December to pursue informal negotiations. The Congress of Micronesia will be in session briefly beginning on January 12. Sometime after that, Secretary Hickel plans to go to Saipan to pursue formal negotiations with the delegation from the Congress of Micronesia.

There will be four principal issues before you on Wednesday:

I. The Land Issue:

The Micronesians want to preserve their identity, and control over their land is the key demand they make. Their October negotiating proposal would have all US-controlled land revert to them, and would deny the right

Authority E.O. 12958
 By AB NARA Date 1/19/05

-2-

of eminent domain to the US. (Their land proposal is contained in the first two pages of Tab B. Their position on the general form of "permanent association" with the US is contained in the remainder of Tab B. Their proposal makes clear that they see "permanent association" as an extraordinarily loose relationship, with Micronesians enjoying most of the advantages of association with the US, but with the US possessing only a very limited and partial right to act for Micronesia in defense and foreign affairs).

Interior offered the Micronesian negotiators a private deal in October, promising Hickel's support to the Micronesian land position in return for their agreement to accept "permanent association". Interior claims that the Micronesian negotiators orally accepted the deal, but their "agreement" is meaningless, since

- "permanent association" was not spelled out, and the Micronesian version of such association would be utterly unacceptable to the US.
- they have no power to bind the Congress of Micronesia.
- there is no precise formulation of the "agreement".

Secretaries Rogers and Laird called for the present meeting because they objected to Hickel's negotiating tactic, and Defense particularly objects to a deal which would jeopardize its ability to retain or obtain land.

The Immediate Issues: What proposal do we now offer the Micronesians on land? Hickel will seek your endorsement of his position. Laird will argue for the previous agreed US position (pp. 27-32, Tab D). Rogers will probably support him, though State's principal concern is that we resist the related Micronesian claim to territorial seas which is incompatible with our views.

(The "agreed US position" provides that the USG may retain or acquire lands needed for public purposes by payment of fair market value. All requests for such land are submitted to the Congress of Micronesia. In case of difference between the USG and the Congress of Micronesia, the issue is referred to Micronesian courts, with right of appeal to the US District Court of Appeals. Otherwise, land may not be alienated to non-Micronesian residents except by express authority of a special Micronesian commission.)

Authority E.O. 12958
 By AB NARA Date 1/19/05

-3-

Recommended Position:

1. That we stay with the previous agreed US position (pp. 27-32, Tab D) for these reasons:

-- a precipitate collapse on this issue would encourage the Micronesians to take a tougher position as to the meaning of "permanent association".

-- the previous agreed position provided extensive protection against arbitrary condemnation by the US, although we retain the right of eminent domain.

-- acceptance of the Micronesian position would jeopardize our ability to maintain military bases in Micronesia.

-- the Micronesians never were given our original proposal in detail.

2. That Secretary Hickel in the negotiations at Saipan this coming winter be authorized to ask the Micronesians to suggest compromise language which would protect our basic interests, in the likely event that they reject the US position. (At the working level, draft language has been prepared -- Tab II -- which would protect the Defense Department's access to its already extensive holdings, but would provide the Micronesians assurance against the future exercise of eminent domain. Defense is probably not ready to buy such a compromise yet, but it would probably come around if the alternative were a breakdown in negotiations.)

II. The "Organic Act" vs. the "Constitutional Convention" Route:

In August, the Under Secretaries agreed to a draft Organic Act (Tab III), which was to be further negotiated with the Micronesians, but which was not to be drafted by them. This has never been formally presented to the Micronesians, apparently by accident.

The Interagency Working Group has agreed that, particularly if we stand firm on the land issue, we should now offer the Micronesians something more than the Organic Act. An alternative Act is at Tab D which provides for a Constitutional Convention in Micronesia. Hopefully, the Constitutional Convention would come up with language closely paralleling the Organic Act, since very rigid instructions are set forth as to what the Constitution may contain.

Authority E.O. 12958
 By AB NARA Date 1/19/05

-4-

The Immediate Issue: Does Loesch offer the original agreed Organic Act to the Micronesians on his forthcoming trip, or does he offer the revised proposal for the "Constitutional Convention" route at Tab D?

Recommended Position:

1. That Assistant Secretary Loesch table the agreed Organic Act, and that Micronesian comments be elicited so as to prepare the negotiating scenario for Secretary Hickel.

2. That Secretary Hickel be authorized to table the "Constitutional Convention" draft if significant pressure is seen to exist in Micronesia for a Constitutional Convention, and if the Micronesians are willing to trade this for other issues.

Reasons:

-- we should at least try out the Under Secretaries' draft before abandoning it.

-- a Constitutional Convention will not be easily managed and may come up with language we do not like, no matter what the legal terms of its convocation.

-- this is a trading point which we should not give away in advance, but on which we can afford to yield if it is important to the Micronesians.

III. Elective vs. Appointive Chief Executive:

The present draft of the "Constitutional Convention" act contains two sets of alternative language on the chief executive, one providing that he be appointed by the President for ten years (pp. 12-18, Tab D), the other providing for his election forthwith, but setting up a "President's Representative in Micronesia" and a veto power over Micronesian actions (pp. 24-26, Tab D).

State thinks that an appointive chief executive would cause us trouble in the UN in terminating our mandate. (We could, however, keep the mandate until the shift was made several years hence to an elected executive.) Interior argues that the US Congress would be unlikely to buy a constitution

Authority E.O. 12958
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with an elected executive (this has not been checked out). Neither draft will satisfy all the players. Moreover, the Micronesians themselves have not shown much interest in this matter.

We should, in conscience, expect to move Micronesia to self-government as soon as possible. There is probably no harm in offering them both alternatives, and letting them choose. In that case, they probably would opt for the elected executive and then start trying to whittle away the powers given the President's Representative in the present draft.

An alternative route would be to offer an appointive Governor, but leaving blank the place in the draft which provides for the date of a shift to an elective Governor. This would clearly signal our willingness to negotiate this point. Moreover, our critics in the UN, as well as the Micronesians themselves, will be looking at this draft. We provide a smaller target with such a draft than we do with either of the others. (The provision in the "immediate election version" for the President's Representative clearly circumscribes the Governor's authority and is strongly reminiscent of a technique used by the British colonials in India and Malaya.)

The Immediate Issues: Rogers will argue strongly for offering the Micronesians both alternatives or the elected Governor alternative alone. Laird and Hickel will go for offering both alternatives.

Recommended Position: That you point out the advantages of going with the vague formulation (providing for an appointive Governor for a period to be negotiated with the Micronesians), but that you accede to offering the two alternatives if the Secretaries are in agreement. (This may turn out to be a useful bargaining point to yield up.)

IV. Timing of the Negotiations:

Hickel has tended to let the timing slip, though it is agreed at the working level that Loesch should go immediately to keep the Micronesians thinking in negotiating terms, and that Hickel should call for another round of negotiations in January.

Recommended Position: That you press Hickel to keep the Micronesians to as tight a negotiating schedule as possible.

Authority E.O. 12958
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One General Observation: It is clear that the Micronesians are fairly sophisticated and they are learning fast. (They are getting much unhelpful advice from a Constitutional lawyer at Cornell.) They are banking heavily that they can get "permanent association" pretty much on their terms, by waving the specter of opting for independence. Our present task is to get them negotiating seriously on meaningful terms for association, and it is for this reason that I have suggested a certain deliberation in trying to meet their terms on land, etc.

If we continue to find them unyielding, it may become necessary to set in motion some threats of our own. Two examples which come to mind are these:

- a. We could make clear that we would not acquiesce in any motion for independence which permitted any foreign country to establish a military presence. (By removing military bases as a potential source of revenue, we could make independence seem less attractive. If it came to such a choice, such a position would protect one of our two principal interests in the area.)
- b. We could offer a plebiscite on a district-by-district basis. (The Marianas, which are the most important islands to us, would probably opt for association with us. Historically, there is justification for letting the districts decide individually, and the Micronesian negotiators are highly sensitive to this possibility.)

The time has not yet come for such moves.