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OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS
WASHINGTON, D.C. 20240

May 17, 1976

MEMORANDUM

To: General Brent Scowcroft
From: Ambassador F. Haydn Williams (HW)
Subject: Micronesian Status Negotiations

I. The Situation

- The leadership of the Congress of Micronesia (COM) and the Co-Chairmen of the Micronesian Joint Committee on Future Status (JCFS) are anxious to conclude the negotiations on a Compact of Free Association and have requested that talks be held to this end during the last week in May 1976.

- The driving force behind their desire for an early resumption of the negotiations is to forestall if possible the break-off of Palau and the Marshalls. The leadership now sees the Compact of Free Association with the United States as perhaps the best and last chance for Micronesian unity.

II. The Opportunity and the Risks

- Tactically we are in a good position. Their leadership wants an agreement and wants one in a hurry before their mandate runs out. (JCFS Charter expires on June 7.)

- Helping them hold Micronesia together also serves our negotiating objectives. A post-trusteeship United Carolines and Marshalls would better serve our national and international interests than a fragmented Micronesia. The Congress of the United States and the United Nations favor unity.

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- The attainment of unity however may not be possible. Palau and the Marshalls may not cooperate or even participate in further status talks with the other districts. The early resumption of the negotiations however would give the U.S. and the COM a chance to bring these two districts back into Free Association talks before they go past the point-of-no-return in their desire for separate status.

- There is always the risk in dealing with Micronesia that any agreement will come unravelled. Internal political and strong personal rivalries within the JCFS, the COM and between and within the individual districts could end with a repudiation of an agreed Compact. However, there seems to be a growing mood that time is running out for them and that if they blow this one, they may be faced with further disunity and the independence alternative which few if any of them want.

III. The Proposed Timetable (JCFS)

- The JCFS has been pressing for a firm commitment from the U.S. to meet in Micronesia toward the end of May.

- The JCFS has invited their Legal Counsel (Paul Warnke) to meet them in Saipan late this week.

- The JCFS has proposed a pre-final round of informal meetings between the heads of delegations for the week of May 24th on Guam.

- The UNTC meets in late June. Its President has urged the U.S. to hold talks prior to that date.



- The COM leadership hopes to place a signed Compact before the COM in July for approval.

- The Compact would then be presented to the people in a U.N. observed plebiscite in either November 1976 or January 1977 (Senator Johnston said last week that he wanted the Compact submitted to the Congress for approval before being submitted to the people. This may become an issue).

IV. The Status of the Compact of Free Association

- The present draft agreed to in October 1974 has been reviewed and approved by the Executive Departments concerned. It has also been discussed with members of the Congress in formal and informal sessions and hearings.

- As drafted it satisfied all of the basic U.S. negotiating objectives.

-- Foreign Affairs authority.

-- Defense: access, denial and survivability of U.S. security arrangements in event of termination.

- Draft Compact neither approved or disapproved by COM. Only instructions given to their negotiators was to "reopen talks and get more money".

- Talks in Saipan (April 1976) indicate that COM leadership now anxious to move ahead with minimum changes to 1974 draft including financial provisions (Their Legal Counsel suggesting only limited changes).



V. The Likely Issues

- The most important issue will probably center around three questions:

1. Micronesian authority over the marine resources of Micronesia.
2. Their right to object to the application of any international agreement or treaty which the U.S. is a party which would have a substantial impact on Micronesian marine resources.
3. Their right to negotiate and conclude in the name of Micronesia international agreements pertaining to their marine resources.

- Under the present Compact language (2) and (3) would not be permitted since full authority for foreign affairs is vested in the U.S. The question is should an exception be made to full U.S. authority for foreign affairs in the case of Micronesian marine resources and should the Compact delegate authority in this area to the future Government of Micronesia.

-- The proposed new language put forward by the JCFS includes the caveat that any future Micronesian agreement with respect to its ocean resources with any third party, would be subject to a U.S. review and could not conflict with the international commitments or basic security interests of the U.S.

- Success or failure in reaching agreement on the Compact will probably hinge on the resolution of these issues and the

willingness or unwillingness of the U.S. to make an exception to its full foreign affairs responsibility under the terms of the Compact. If there is no flexibility in the U.S. foreign affairs position, then as Paul Warnke said, "The upcoming talks will be an exercise in futility". I agree and the political consequences should be seriously considered in terms of short and long term U.S. Pacific interests.

- Other issues.

-- Title IV Finance (manageable within current and proposed instructions).

-- Compact and the Micronesian Constitution. There are some fundamental inconsistencies between the two documents. The COM leadership has said that the Compact will have priority. The ultimate decision will be made by the people.

V. The IAG Study and the Next Steps

- Parts of the study overtaken by developments in Micronesia.

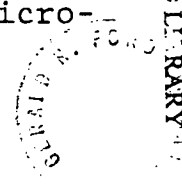
-- Conclusions remain valid.

-- Instructions as proposed by the Micronesian IAG satisfactory.

- Draft Compact fully compatible with study and new draft instructions except for constant dollar provision in Carmel Agreement (can be managed).

- The Independence option issue should not hold up effort to reach agreement on Compact. This option within the limits of my instructions has been offered and can be again as may

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be necessary. Question of plebiscite language including independence option can be decided later (State suggestion).

- Congressional consultations.

-- There will not be time for full consultation if JCFS schedule is to be met.

-- Alternatives have been discussed in previous meetings and hearings.

-- Interior Committee briefed on Free Association Compact during negotiations and on conclusion of October 1974 talks.

VI. The Need for Decisions on:

1. The foreign affairs issue.

-- Is Micronesia to be given control over its marine resources?

-- Should Micronesia be given the right to object to application of U.S. treaties to Micronesia that has a substantial impact on its marine resources?

-- Will Micronesia, be allowed to negotiate in its own name international agreements relating to its marine resources, with U.S. basic interests safeguarded by the language of the Compact?

3. Authorization to proceed with the talks leading to a pact of Free Association.

-- On the basis of my old instructions and as they may or may not be modified with respect to foreign affairs.

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VII. Conclusion.

- Despite the risks of possible failure, I recommend going forward with the May talks and granting Micronesia, with certain safeguards, an exception to full U.S. authority over foreign affairs as it applies to Micronesian marine resources. The defeat of Free Association over this foreign policy control issue could lead to the early break-up of Micronesia contrary to the wishes of the U.S. Congress and the U.N. An agreed compact on the other hand would protect our basic interests in the central Pacific for a minimum of most of the remainder of this century, and would at the same time satisfy our international commitments.

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