

## NATIONAL SECURITY COUNCIL

~~CONFIDENTIAL~~ GDSACTION

May 26, 1976

MEMORANDUM FOR BRENT SCOWCROFT

FROM: THOMAS J. BARNES *NOT SENT*

SUBJECT: Instructions to Ambassador Williams in His Current Negotiations on Micronesia

We have received a memorandum from the Chairman of the Under Secretaries Committee setting out recommendations for our negotiations on the status of the remaining five districts of the Trust Territory of the Pacific Islands (TTPI). The memorandum also conveys recommended new instructions to the President's Personal Representative for Micronesian Status Negotiations, Ambassador F. Haydn Williams. For reasons noted below, I do not believe we should send the memorandum forward to the President at this time and recommend that you send a letter to Williams authorizing his present negotiations under current instructions.

Williams' Proposal

Ambassador Williams believes that there is a new and unexpected opportunity to win agreement on a unified Free Association Compact with the remaining five districts of Micronesia. Because of unusual factors, Williams wants to push ahead immediately with the negotiations within a time frame which is highly unlikely to permit prior decision on the issues raised in the USC memorandum, or definitive agreement with the Micronesians.

In a May 17 memorandum (Tab B) Williams reported to you that the Micronesian leaders were anxious to forestall the possible breakoff of Palau and the Marshalls. (The Legislature of the Marshalls passed a May 11 resolution, that Williams intends to reject, calling for separate status negotiations with the United States or unnamed other powers.) Williams contends that the Micronesian leadership now sees the Compact of Free Association with the United States as perhaps the best and last chance for Micronesian unity.

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HR 1016199



A new Status Commission will replace the Joint Committee on Future Status (JCFS) on June 7. Although some of the members of the old JCFS will also be on the new one, Williams believes there is a critical necessity to exploit the favorable attitude of the present JCFS by pressing forward on a revised Compact for Free Association. He also has a personal compulsion to seek an early agreement with the Micronesians. He has told you that he plans to resign sometime in July. We expect that he has given a commitment to this effect to the Asia Foundation, whose Board of Directors would prefer that he devote full time to his original task.

### Micronesian Stance

Williams' talks in Saipan in April with the JCFS and more recently in Washington with Paul Warnke, the JCFS Legal Counsel, indicated that the Micronesians were prepared to move ahead on the basis of the 1974 draft Compact. They want only minimal changes in the financial provisions, but are seeking U. S. agreement to divest full authority and responsibility to them over marine resources in the oceans around Micronesia. In his memorandum to you, Williams urged that we make this concession to the Micronesians.

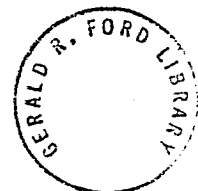
I emphasized to Williams that while the resurgent Micronesian interest in the Compact was encouraging, the question of authority over marine resources and the splitting up of foreign affairs responsibility were important questions. These questions require serious inter-agency review. Williams soon ran into a bureaucratic buzzsaw and backed off from his efforts to obtain immediate agreement on this point. Still, he has insisted on proceeding with his meetings in Saipan. ]

### Timetable

Williams has scheduled an informal meeting with the JCFS in Saipan this Friday, May 28, and he has asked for the inter-agency negotiating team to be present over the weekend so that if things work out, a formal negotiating session could begin on Monday, May 31.

### The USC Recommendation

The USC memorandum recommends that we authorize Williams to explore with the Micronesians the development of marine resources, U.S. - Micronesian consultative arrangements in the negotiation of international



agreements affecting these resources, and the achievement of economic benefit for Micronesia from these measures. This proposal would be consistent with Ambassador Williams' current instructions.

The proposed new instructions which the USC memorandum conveys go further in telling the Ambassador to make clear that he cannot offer the prospect of exclusive Micronesian authority and responsibility over marine resources. This question, however, is one that requires full IAG review and a more thorough hearing of inter-agency views. While I do not believe we should peremptorily rule out the concession on marine resources that Williams recommends we make, he certainly should not have the authority to commit the U. S. Government to accede to Micronesian desires at this moment on the issue.

The IAG review of our Micronesian negotiating position did not address the marine resources issue because the working group agreed that foreign affairs responsibility should not be split under the Free Association Compact. The focus on the marine resources issue began only last week. The USC, anxious to turn out its memorandum to the President before the meetings in Saipan, hastily cranked in a brief discussion of marine resources. Defense, Interior, and other concerned agencies have not adequately cleared this portion of the USC memorandum, which we have deliberately not attached because of its inadequacies.

Current Negotiations

While we proceed to examine the marine resources problem more thoroughly, and pending a Presidential decision on this and two other issues the USC memorandum poses, it would seem worthwhile to let Williams continue to explore the possibilities with the JCFS within strict guidelines. Since he cannot make the desired concession on marine resources, I am skeptical that Williams will find the JCFS willing to give way. Even if he achieves an agreement with the JCFS, the incoming Micronesian negotiating team or the Congress of Micronesia could object to it. Nevertheless, Williams' enthusiasm for one more try and his commitment to the JCFS for another meeting suggests he should at least hear the Micronesians out.

I have asked the USC to prepare a full review of the marine resources issue for insertion in the IAG study, and for inclusion of all concerned agency views and recommendations on the subject. Our immediate problem, pending adequate staff work leading to Presidential decisions on new instructions, is what conditions to impose on Williams' negotiations. I believe that we should lay down these conditions in a letter from you to Williams which authorizes him to continue the negotiations with the Micronesians within the parameters of his previous instructions, and which sets certain restrictions on the issues pending decision.

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I have prepared a letter (Tab A) to Williams for your signature that:

-- Authorizes him to continue to negotiate with the Micronesians under his current instructions pending Presidential decision on the issues the USC memorandum raises.

-- Directs him to explore U. S. -Micronesian consultative arrangements in the negotiation of international agreements affecting marine resources, and the achievement of economic benefits for Micronesia from these measures.

-- Instructs him to inform the Micronesians, if they raise the issue, that he is not authorized to agree to their request for responsibility and authority over marine resources, and that he must consult his government on these points.

Other Issues

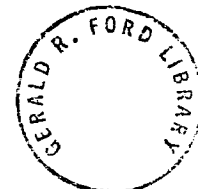
The Under Secretaries' memorandum also raises two other issues on which there are inter-agency disagreements: whether, for the record, we should lay the independence option on the table; and whether the U. S. financial assistance commitment should be in constant dollars. The letter I propose to Williams would also instruct him to make no commitment on these issues pending Presidential decision.

RECOMMENDATION:

That you sign the letter to Ambassador Williams at Tab A.

Concurrence:  
Denis Clift

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THE WHITE HOUSE

WASHINGTON

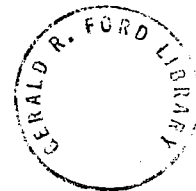
Dear Ambassador Williams:

I have received a May 24 memorandum from the Under Secretaries Committee forwarding its recommendations on U. S. policy towards the future status of Micronesia. I have also reviewed your May 17 memorandum. I note that you believe that there is a new and unexpected opportunity to achieve a Free Association Compact agreement with the Micronesian Joint Committee on Future Status (JCFS) provided we cede, with certain safeguards, full authority and responsibility to Micronesia over its marine resources.

*not be authorized any, therefore,*

Pending Presidential review of the Under Secretaries Committee's memorandum and recommendations, a U. S. commitment on marine resources would be premature. You should continue negotiations with the JCFS under your current instructions dated November 14, 1973. ~~You may nevertheless explore with Micronesian leaders their economic goals in the development of marine resources, including specific means of achieving these goals within the context of your basic instructions. You should attempt to limit these exploratory discussions to the development of marine resources, U. S. -Micronesian consultative arrangements in the negotiation of international agreements affecting these resources, and the achievement of economic benefits for Micronesia from these measures.~~ If the Micronesians press for unilateral or exclusive authority over their marine resources, you should inform them that your instructions do not authorize you to grant it, and that you must consult your government. ~~In any event, your discussions on the issue of marine resources should be exploratory, and you should make no commitments at this time.~~

Pending Presidential decision on the USC recommendations, you should not offer the independence option unless the JCFS raises it. In addition, you should make no commitment at this time on the issue of whether



U. S. financial assistance will be in constant dollar terms. If the Micronesians raise the constant dollar issue, you should inform them that there is no Executive Branch decision on this matter.

I wish you luck and progress in your current efforts.

Sincerely,

Brent Scowcroft

Honorable F. Haydn Williams  
The President's Personal Representative  
for Micronesian Status Negotiations  
The Old Executive Office Building  
Washington, D. C. 20506

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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)  
Subj: Micronesian Status Negotiations

I. The Situation

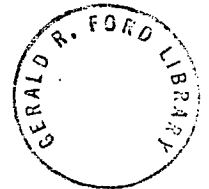
- The leadership of the Congress of Micronesia (COM) and the Co-Chairmen of the Micronesian Joint Committee on Future Status (JCFS) are anxious to conclude the negotiations on a Compact of Free Association and have requested that talks be held to this end during the last week in May 1976.

- 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.



- 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



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?

2. 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.



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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