



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 12 1976 3C

August 6, 1976

MEMORANDUM FOR: HONORABLE CHARLES W. ROBINSON
CHAIRMAN OF THE UNDER SECRETARIES
COMMITTEE

FROM: DONALD G. OGILVIE
ACTING DIRECTOR

SUBJECT: Micronesia Status Negotiations: Law
of the Sea and Related Foreign Rela-
tions Issues

A draft memorandum to the President from the Under Secretaries Committee regarding new instructions to U.S. Micronesian negotiators on Law of the Sea matters has been circulated for comment. At the time that the draft memorandum was originally circulated, the issue of U.S. or Micronesian control over Micronesian marine resources appeared to be the final point of contention in the negotiations to determine the future status between the U.S. and the Trust Territory.

Recent events, however, have raised serious questions about the viability of the Draft Compact which was initialed in Saipan in June. If negotiations are, in fact, to proceed with a new Micronesian negotiating team with its own new set of rules, perhaps the U.S. should re-think its entire position on future status relationships. Further, negotiations are still continuing on general Law of the Sea matters in New York.

On the Other hand, if negotiations are to continue on the Draft Compact and Law of the Sea questions need to be addressed in order to proceed, OMB wishes to state its position on the draft Under Secretaries paper.

~~SECRET~~

GDS

HR
9/16/99



Photocopy from Gerald R. Ford Library

The draft memorandum outlines and makes recommendations on four optional positions which the U.S. might take in its negotiations with the Micronesians. OMB is in disagreement with the conclusions and recommendations which are made in the draft memorandum.

Negotiating Options

The four negotiating options outlined in the memorandum are as follows:

Option 1

- Hold to the original U.S. position that control of Micronesian waters is an external matter and that since the U.S., under the Draft Compact of Free Association, is to be fully responsible for Micronesian foreign affairs it must also have full responsibility for Micronesian marine resources and Law of the Sea matters.

Option 2

- Reject Micronesia's claim for full authority and sole responsibility in and beyond the territorial sea as may be defined by international agreement. Recognize its beneficial interests in an exclusive economic zone as defined by international agreement, but disallow its participation in international activities relating to marine matters.

Option 3

- Recognize Micronesia's marine resources rights and all beneficial interests within its territorial sea as well as those to be derived from an exclusive economic zone to the full extent that such rights are or may be recognized internationally. Recognize Micronesia's right to conserve, manage and administer the commercial exploration, exploitation and development of marine resources subject to prior U.S.



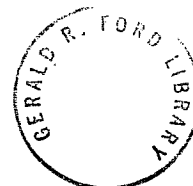
approval where measures imposed by Micronesia apply to any foreign government. Negotiate all government-to-government agreements for Micronesia which relate to its marine resources.

Option 4

- In addition to option 3, make any of all of the following concessions:
 - Permit Micronesia to negotiate bilaterally in regional and intergovernmental agreements with prior consultation and concurrence by the U.S.
 - Do not make Micronesia's rights to conserve, manage and administer marine resources subject to prior U.S. approval.
 - Recognize Micronesia's jurisdiction within an exclusive economic zone.
 - Permit Micronesia to represent itself in international conferences and organizations.

The U.S. offer of option 3 or 4 shall be contingent on Micronesia's acceptance of the following:

- Micronesia's recognition that jurisdiction and authority over territorial and marine resources are concomitant with responsibility for enforcement and surveillance. (Under options 1 and 2 the U.S. would be required to provide enforcement and surveillance within the economic zone which would be a cost factor although specific estimates are not given.)
- Micronesians must withdraw their support of the Transitional Provisions of the draft LOS convention and must agree not to seek separate signatory status.
- The Micronesians shall take no actions which conflict or might conflict with basic U.S. security interests or international obligations.



- Micronesia will not discriminate against U.S. maritime interests.

The draft memorandum concludes that option 1 is not viable; that option 2 might be used as an initial U.S. position with option 3 as the preferred position. Option 4 is considered to be of last resort.

OMB Position

We do not feel that the U.S. negotiating team should be given instructions on the Micronesian marine resources issue at this time. If instructions based on the draft Under Secretaries paper were to be given, however, it would be our position that option 1 should be adhered to if at all possible. If option 1 is not viable as the draft memorandum suggests, then we feel that option 2 is the preferred position; option 3 in our opinion contains the maximum concessions that the U.S. should make on this issue. Option 4 should not be considered at all.

If the U.S. should bargain away to the Micronesians total control of an economic zone which may be recognized by international treaty, it would be

- creating the possibility of international conflict since foreign interest in Micronesia is likely to concentrate upon its marine resources;
- depriving itself of any benefits whatsoever which might accrue from mineral resources which might be found within the seabed within the economic zone; and
- opening itself up to similar demands for total economic zone control by U.S. territories. Puerto Rico is already making a strong bid for such exclusive rights. Giving in to the Micronesian claim at this time would weaken our negotiating position with Puerto Rico considerably.

Photocopy from Gerald R. Ford Library

