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DEPARTMENT OF STATE

Washington, D.C. 20520

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December 21, 1976

TO: Ambassador Philip W. Manhard  
U.S. Deputy Representative for  
Micronesian Status Negotiations

FROM: Lester E. Edmond  
Deputy Assistant Secretary  
Bureau of East Asian and Pacific Affairs

SUBJECT: Review of US Policy on Micronesia's Future Status

REFERENCE: Your Memorandum of November 30, 1976

Responding to the draft recommendations set forth at pages 8 and 9 of Part A of your draft review, the Department makes the following comments and recommendations:

We endorse the proposals that the US negotiator should make further efforts to complete negotiations for a Compact of Free Association in the near future, and that the US at present should continue to refuse to undertake separate status negotiations with any single district.

We recommend that in a negotiating session in the near future the US side should fully explore with the Micronesian side the marine resources proposals set forth in my November 5 memorandum to Mr. Poats, forwarded to you under cover of a November 10 memorandum from Mr. Poats (copy attached). Therefore recommendation 3 of your draft study should be redrafted in accordance with that guidance, which proposed authorizing the US negotiator to offer a negotiating package under which the US would be responsible for the negotiation on behalf of Micronesia all international agreements dealing with marine resources and would commit itself to "consider sympathetically" any Micronesian requests for the negotiation of such agreements. Until an explanation of these proposals has been conducted, we believe it would be premature to consider additional marine resources proposals such as that proposed as recommendation 4 of your draft study.

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For the present, a report to the President should be limited to the foregoing points. In addition, we believe that a further expansion of your study should be carried out urgently on an interagency basis with the

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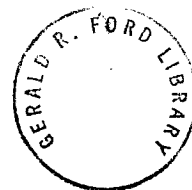
intention of forwarding to the Under Secretaries Committee by the end of January 1977 recommendations with regard to (a) preparations for the negotiating session now anticipated for March 1977, and (b) consideration of steps to be taken should the Micronesian negotiators at that session reject our marine resources proposals.

Preparations for the March Session. In order to maximize the effectiveness of the next negotiating session, we believe the following questions pertaining to political unity need to be addressed in the early weeks of 1977: Should the US side approach the Marshallese, Palauans, and Kusaieans in January or February in an effort to persuade them to participate on the Amaraich negotiating commission? Should such an approach include an indication that the Marshalls and Palau would get more US financial assistance in a politically-unified Micronesia than as politically separate entities? Should there be a simultaneous approach -- with parallel financial aid indications -- to the Amaraich group regarding the need to develop a looser confederation than that envisaged under the draft Constitution? If such effort evokes no response by March, should the US side talk with the Amaraich commission as constituted or first make additional efforts to secure participation by the absent districts? If the Micronesians accept our proposals at a spring negotiating session, would we move to a summer plebiscite on free association if the Marshalls, Palau and Kusaie had participated in the negotiations? If they had not?

Post-March alternatives. An unequivocal Micronesian rejection of the US marine resources offer, as recommended above and attractively fleshed out, would mean that free association as defined through five years of US-Micronesian negotiations -- i.e., entailing full US conduct of Micronesian foreign and defense relations -- was no longer a viable goal. Thus the US would have arrived at a major watershed in its Micronesia policy, and would be faced with the necessity of carefully examining the considerable array of conceivable post-Trusteeship political statuses which would remain, of varying degrees of desirability from a US viewpoint:

-- free association with US conduct of Micronesian defense affairs and of foreign affairs with the exception

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of certain marine resource matters. (Sweetners dealing with enforcement/surveillance<sup>1/</sup> and with military land lease renegotiation<sup>2/</sup> might be added);

-- free association in which the US would be responsible for Micronesian defense affairs but Micronesia would be responsible for all foreign affairs including marine resource matters;

-- free association which could be unilaterally terminated at any time, rather than not until 15 years after Trusteeship termination;

-- free association between the US and several different Micronesian political entities<sup>3/</sup>;

-- independence, whether of a politically unified or politically fragmented Micronesia, with a pre-negotiated mutual security treaty;

-- independence with a subsequently-negotiated mutual security treaty; and

-- independence with no mutual security treaty.

A central element in US thinking on Micronesia policy should now be that the passage of time during which the US and Micronesia continue to demonstrate an inability to reach full agreement increasingly frays Micronesian

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1/ In order to facilitate prospective discussion of your draft study's recommendation 4 or other enforcement/surveillance possibilities, we recommend you immediately ask the Coast Guard to develop an estimate of what a reasonable program for Micronesia might be expected to cost.

2/ To the extent that a lease renegotiation proposal would constitute a US acknowledgment that all provisions of the June 1976 initialed draft Compact of Free Association can be renegotiated, this concession would carry implications extending well beyond the Kwajalein land issue itself.

3/ In this connection we note that recommendation 5a of your draft study would in effect accede to the Marshallese and Palauan demands for separate negotiations. We question whether the proposed direct US intervention could succeed in resolving the complex interdistrict differences, and are doubtful that it would prove feasible to erect a multilateral "umbrella" agreement over a series of bilateral agreements.



confidence in the US and hence erodes the prospects of agreement on the closer forms of US-Micronesian political relationships. The events of recent weeks suggest that this process may be accelerating, and a Micronesian rejection of our proposals at the next negotiating round might be expected to produce a further acceleration of this tendency.

In consequence, it is strongly in the US interest to be able to move reasonably rapidly from one negotiating stage to the next, avoiding the long gaps between negotiations which have occurred in the past and aiming at full agreement with the Micronesian negotiators in 1977 if at all possible. To that end, the US side should not wait to see whether the March talks succeed before it considers such questions as the following, with which we will be faced if those talks fail:

-- What range of status options retain a prospect of attainment sufficiently high to merit serious consideration?

-- Which position within that range should be the US goal, and what strategy is best calculated to reach that goal?

-- Where are the trade-offs? e.g., do we abandon political unity to preserve free association, and if so when and how?

-- Where are the bargaining points? In what order should we offer any proposals on such matters as lease renegotiations, marine resources, enforcement/surveillance, or unilateral termination, and what commitments should be sought in return from the Micronesians on such subjects as the new Commission's endorsement of the provisions of the June 1976 draft Compact, or the Constitution?

The Department believes that the foregoing matters, dealing with the preparations for the next negotiating session and with the US's alternatives should the next session fail to achieve agreement, should be considered in an expansion of your draft study to be undertaken with interagency participation during January 1977.

Attachment: As stated

EA/ANP:RLWilliams:pp





DEPARTMENT OF STATE

Washington, D.C. 20520

NSC UNDER SECRETARIES COMMITTEE

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November 10, 1976

MEMORANDUM FOR: Ambassador Philip W. Manhard  
 U.S. Deputy Representative for  
 Micronesian Status Negotiations

SUBJECT: Micronesian Marine Resources:  
 US Negotiating Position

The attached memorandum from Mr. Edmond, dated November 5, may be drawn upon as an expression of the views of the Department of State in your drafting of a memorandum for the President as required by NSC instructions which are pending on this matter. The formal position of the Department, as well as others, will be expressed in comment on your draft memorandum setting forth requested negotiating instructions.

In order to allow ample time for Under Secretaries Committee level review by all departments and agencies concerned of the memorandum to be proposed by your task force, please provide me with a draft for circulation to the members of the USC by November 17.

*Rutherford M. Poats*  
 Rutherford M. Poats  
 Acting Staff Director

Attachment:

As stated

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DEPARTMENT OF STATE

Washington, D.C., 20520

November 5, 1976

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TO: Mr. Rutherford M. Poats  
Acting Staff Director  
NSC Under Secretaries Committee

FROM: Lester E. Edmond  
Department of State Member  
Interagency Group For Micronesian Status Negotiations

SUBJECT: Micronesian Status Negotiations: LOS and Related  
Foreign Relations Issues

REF: Your Memorandum of June 30, 1976

1. The Micronesian side has asked Ambassador Manhard for a negotiating session during the week of December 12, stipulating that a principal subject should be marine resources. The Department by this memorandum submits its recommendations with regard to a US position on marine resources. We have reviewed the draft marine resources study of June 1976. Although we do not endorse the background or analysis sections of the study, which in our view are inaccurate and biased in critical respects, we recommend that the US negotiators be authorized to make a proposal to the Micronesians aimed toward achievement of a solution based on Options I, II, or III of the draft study (the latter two with important modifications), but not Option IV. A solution based on Option II or Option III should protect US interests by retaining full US responsibility for Micronesian foreign affairs. At the same time, it would address Micronesian concerns by recognizing the right of the people (rather than the Government) of Micronesia to the beneficial interests derived from living and non-living marine resources in zones off the coast of Micronesia recognized by international law.

We would, however, recommend that any utilization of Option 2 or 3 authority be made subject to the following conditions:

-- prior US approval of exploitation arrangements should, in the wording of Option III, be made explicitly contingent on consideration of US defense and foreign policy interests and responsibilities, as well as international law and US commitments;

-- the US negotiators should propose, in both Options II and III, that a joint consultative body be established

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E.O. 12958, Sec. 3.5  
State Dept. Guidelines  
By H/R, NARA, Date 7/16/97

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to coordinate the exercise of control over, and to endeavor to resolve questions relating to, marine resources;

-- it should be made clear that the US is not recognizing the archipelago concept; and

-- Option III should be reworded so that the United States would be "responsible for the negotiation" on behalf of Micronesia of all international agreements relating predominantly or exclusively to marine resources and would "consider sympathetically" any requests of the Government of Micronesia for the negotiation of such agreements.

2. An Option IV solution could in our view lead to serious problems. For example, it could:

-- Insure friction between the US and Micronesia. Micronesia could negotiate independently with a foreign nation, taking its own positions, although prior US-Micronesian consultation would be required and conclusion of the agreement would be subject to US concurrence. In case of disagreement, the United States would be placed in a position of either acquiescing to an agreement which ran counter to our own policies, or vetoing (although our power in this regard is not clear in Option IV as worded) the agreement with resulting US-Micronesia friction.

-- Create serious potential problems between the US and foreign governments. If, after the US had signed the LOS treaty on their behalf and thus incurred responsibility, the Micronesians chose to implement the resource aspects of the Treaty in their area, they could establish regulations in an area of approximately three-and-one-half million square miles without US approval, but with the US being responsible and possibly subject to suit by foreign governments for Micronesian action. Even greater problems could be posed should the Micronesians fail to implement the Treaty.

-- Arguably be viewed by Puerto Rico and the US territories as setting a clear example, if not a precedent, for US acquiescence in similar 200-mile extensions of jurisdictional and negotiating rights for them which could be politically difficult to oppose.

-- Possibly prejudice the important US effort to achieve a resolution of the tuna issue with the Latin coastal nations of the Eastern Tropical Pacific.

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-- risk compromising strongly held US views in the LOS Conference, to which Option IV runs counter. Option IV endorses the transitional provision of the Revised Single Negotiating Text. That provision grants resource rights under the LOS Treaty to territories which have not achieved full independence and further states that such rights should be exercised by them for their own benefit. The United States has stated that inclusion of such a provision in the LOS Treaty would call into question whether the United States would ratify such a treaty. Moreover, Option IV implies that Micronesia would have access as a right to the LOS dispute settlement mechanism, an interpretation which we cannot support.

of Option IV

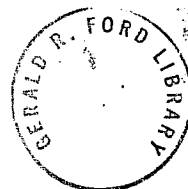
3. EA and S/P might recommend utilization/as a last resort if the marine resources issue were the only important obstacle in the way of a complete Compact of Free Association. At present, however, that is demonstrably not the case:

-- The Micronesian negotiating commission, in the public statement issued at the close of its just-concluded meeting, called into question at least three elements of the Compact which the US side had considered long resolved: the stipulation that unilateral termination of free association would not be permissible for 15 years; the understanding that leases on Kwajalein land should be renegotiated only as they expire, rather than at or before Trusteeship termination; and the vesting of sovereignty in the Micronesian people rather than in the Micronesian government.

-- The Micronesian negotiating commission also declared that at the proposed US-Micronesian December session it would not be prepared to discuss the Compact provision dealing with the internal allocation of US assistance funds (except for marine resources, the only "gap" in the Compact draft initialed last summer), indicating that this problem is considerably more difficult to resolve than may have appeared last summer.

-- Neither the Marshalls nor Palau participated in the Micronesian negotiating commission session, casting serious question on the rump commission's authority or ability to speak for the districts of greatest security interests to the US.

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4. We believe that a modified, and fleshed-out Option III may be negotiable and is consistent with US interests. A proposal structured along these lines should serve adequately to smoke out the Micronesian commission's real intentions with regard to the Compact of Free Association. During the four years of status negotiations with the old Micronesian commission, the completed Compact has repeatedly seemed almost within grasp, requiring agreement only on a single remaining subject -- be it defense land requirements, financial assistance, or marine resources. We do not yet know with much confidence whether the new status commission, with which the December meeting will be the first USG encounter, proposes to play the same game of escalating demands; whether the commission or certain of its members are seeking to scuttle free association in a way which will permit them publicly to place the onus on the US; or whether the commission genuinely seeks agreement on free association along the lines of the initialed Compact.

5. The Department is concerned that in recent months the marine resources question has tended to overshadow other serious problems confronting the status negotiations, and we have renewed an August request to OMSN to convene an interagency meeting or meetings to consider how best to achieve a realistic negotiating strategy. If, as seems to us nearly certain, further elaboration or a reassessment of the total US negotiating position seems in order following the December meeting, we would welcome a full review of the marine resources and other issues by the Interagency Group.

6. The Department in addition wishes to comment that it considers the marine resources study seriously defective in its treatment of the enforcement and surveillance of Micronesian waters. We believe that unless a section on this subject is added, the US negotiators would in all likelihood be forced to return to the President for additional instructions before serious US-Micronesian discussions could be pursued.

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OFFICE FOR MICRONESIAN STATUS NEGOTIATIONS

WASHINGTON, D.C. 20240

November 30, 1976

~~CONFIDENTIAL~~ (with Secret attachments)  
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To: Deputy Assistant Secretary Edmond-EA, State Department  
Deputy Assistant Secretary Abramowitz-DOD/ISA  
Director, Office of Territorial Affairs Zeder, Department  
of the Interior  
Assistant Attorney General, Scalia, Justice Department  
Assistant Director, Political/Military Affairs RADM Packer,  
J-5, JCS  
Associate Director Ogilvie, Office of Management and  
Budget  
Deputy Administrator Pollack, NOAA, Commerce Department  
Chief, Office of Public and International Affairs  
RADM Wallace, U.S.C.G.

From: Chairman, Interagency Group for Micronesian Status  
Negotiations

Subject: Review of U.S. Policy on Micronesia's Future Status

Reference: NCS-U/SM-86AD

Attached is a draft review of U.S. policy on Micronesia's  
future status prepared by this office in response to the  
memorandum of November 16 from the NSC Under Secretaries'  
Committee, which has been requested by the NSC to complete  
the review and submit it to the NSC by December 10, 1976.

In order to comply with the above request, I am obliged  
to ask that your views and comments on the attached draft be  
forwarded to me by December 7 for further coordination with  
the Under Secretaries' Committee. Your response as expedi-  
tiously as possible will be greatly appreciated.

*Philip W. Mañhard*  
Philip W. Mañhard

Attachment as stated

Info: William H. Gleysteen, Senior Staff  
Member, NSC  
Rutherford M. Poats, Acting Staff Director,  
Under Secretaries' Committee



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Authority Interior Dept Guidelines  
By HR DATE 9/16/99

~~CONFIDENTIAL~~ (with SECRET  
attachments)

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OMSN: 11-29-76

UNITED STATES POLICY TOWARD THE FUTURE  
POLITICAL STATUS OF MICRONESIA

- PART A. SUMMARY AND RECOMMENDATIONS
- PART B. MARINE RESOURCES, LOS AND RELATED ISSUES
- PART C. GENERAL REVIEW OF UNITED STATES POLICY  
TOWARD THE FUTURE POLITICAL STATUS OF  
MICRONESIA

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Acting Rep. for Micro. Status Neg.

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9/16/99

