

HENRY M. JACKSON, WASH., CHAIRMAN
FRANK CHURCH, IDAHO
J. BENNETT JOHNSTON, LA.
DALE BUMPERS, ARK.
WENDELL H. FORD, KY.
JOHN A. DURKIN, N.J.
HOWARD M. METZENBAUM, OHIO
SPARK M. MATSUNAGA, HAWAII
JOHN MELCHER, MONT.
PAUL E. TROTTAS, MASS.
BILL BRADLEY, N.J.

MARK O. HATFIELD, OREG.
JAMES A. MC CLURE, IDAHO
LOWELL P. WEICKER, JR., CONN.
PETE V. DOMENICI, N. MEX.
TED STEVENS, ALASKA
HENRY SELLMON, OKLA.
MALCOLM WALLOP, WYO.

United States Senate

COMMITTEE ON
ENERGY AND NATURAL RESOURCES

WASHINGTON, D.C. 20510

February 5, 1980

DANIEL A. DREYFUS, STAFF DIRECTOR
D. MICHAEL HARVEY, CHIEF COUNSEL
STEVEN G. HICKOK, STAFF DIRECTOR FOR THE MINORITY

MEMORANDUM

TO: Henry M. Jackson, Chairman and
Members, Committee on Energy and Natural Resources

FROM: James P. Beirne, Counsel

RE: Micronesian Status Negotiations

During the period January 6-14, 1980, U.S. and Micronesian negotiators met in Kona, Hawaii to attempt to conclude negotiations for the future status of the Trust Territory of the Pacific Islands. Both the government of the Marshall Islands and the government of the Federated States of Micronesia (representing the states of Kosrae, Ponape, Truk, and Yap) were represented by future political status commissions. The government of Palau sent observers from the 7th Legislature, but were not represented by a formal negotiating team due to internal political problems in Palau. As anticipated, the negotiations concluded with the initialing of a Compact of Free Association between the Marshall Islands government and the government of the United States. The representatives from the Federated States of Micronesia (FSM) expressed satisfaction with the final agreement but could not initial the agreement until the final terms have been cleared with the individual states.

The Committee should be aware that for all practical purposes, a final status agreement has been achieved.

Attached for your information and review are copies of the Compact of Free Association and the statements of the President of the Marshall Islands, Amata Kabua, and Ambassador Peter Rosenblatt at the initialing ceremonies.

There have been several changes in the text of the Compact from the draft which was transmitted to you on November 28, 1979. As the staff memorandum of November 28 noted, the major issues which were resolved at Kona were the level of Federal assistance, cost indexing for that assistance, and the extension of Federal

programs. In addition several substantive problems arose and were resolved during the Kona round. A description of the more significant differences follows:

- A new provision was inserted in the preamble indicating that the internal form of the governments of the individual states have been developed in accordance with Article 76 of the U.N. Charter.
- In Section 121(b)(1) additional detail was added with respect to Micronesian control over the development and exploitation of living and non-living resources from the sea, seabed, or subsoil to the full extent recognized under international law was inserted.
- In Sections 144 and 153 provision was made to permit U.S. citizens to hold offices of trust within the individual states without risking loss of citizenship or becoming subject to criminal sanctions for representing foreign governments
- Section 161 and 314 provide more detail on the application of Federal environmental laws to U.S. activities post trusteeship, and to the ability of the President to exempt any activities from the application of environmental laws when he determines it to be in the paramount interest of the government of the United States to do so. Section 314 deals specifically with limitations on the U.S. use of nuclear or toxic chemical and biological material.
- Title 2 spells out specific levels of U.S. financial assistance to the three Micronesian entities. While the levels set forth in Section 211, 213, and 216 are generally consistent with present levels of funding, the Committee should note that Section 217 provides that the levels are to be adjusted annually by two-thirds of the percentage change in the gross national product implicit price deflator or seven percent, whichever is less. In addition, the United States agreed in Section 211(c) for additional authorizations and appropriations if indicated in annual reports prepared by the governments of the individual states.

- Section 213 provides an annual payment of \$9 million for use of the Kwajalein missile range.
- Section 212 provides an as yet unspecified commitment by the United States to complete a list of capital infrastructure projects which will be set forth in a separate agreement. (The Committee should note that the position of the United States is that the financial assistance is merely authorized. Although it represents a commitment by the Executive Branch to seek appropriations, it is not accompanied by a pledge of full faith and credit as was done for the government of the Northern Mariana Islands in the Covenant to Establish a Commonwealth of the Northern Mariana Islands.)
- The Compact provides in Section 221(b) for the extension, by mutual agreement, of Federal programs in education and health areas.
- Section 254 provides a general formula for the taxation of non-source income of residents, generally in accordance with current territorial policy, and an exemption from Federal income tax liability to the extent of such taxation.
- Section 353 provides that although the U.S. may exercise defense and national security rights within the free associated states, the United States may not join any free associated state in a declaration of war without the consent of such state.

Although several significant problems remain to be resolved, it is unlikely that significant alterations will be made in the Compact prior to its being formally approved by the Micronesian States. One significant problem which remains, however, is the position of the new Palauan government with respect to the Compact. A major issue for the Palauans and the United States is the existence in the Palauan constitution of an absolute ban on the presence of nuclear materials even for transit. If the provision remains in effect, the national security provisions of the Compact will be rendered ineffective, except for the denial provisions, since the prohibition would bar the transit of nuclear powered vessels.

If you have any questions concerning the agreement or the negotiations, I would be happy to arrange a briefing for you by Ambassador Peter Rosenblatt, U.S. negotiator, or provide any additional information.

STATEMENT OF THE HONORABLE AMATA KABUA,
PRESIDENT OF THE MARSHALL ISLANDS ON
THE INITIALING OF A COMPACT OF
FREE ASSOCIATION WITH THE
GOVERNMENT OF THE UNITED STATES

January 14, 1980

MR. AMBASSADOR:

FOR THE MARSHALLESE PEOPLE HEAVY RAINS MEAN THAT THE GODS ARE SHOWING THEIR SPECIAL INTEREST AND CONCERN. DURING THIS PAST WEEK IN KONA, WE HAVE BEEN ESPECIALLY HONORED AND BLESSED. NOW WITH THE STROKE OF OUR PENS THIS MORNING WE WILL FIX FINALLY AND DEFINITELY THE TERMS OF A UNIQUE POLITICAL RELATIONSHIP BETWEEN THE GOVERNMENT OF THE MARSHALL ISLANDS AND THE GOVERNMENT OF THE UNITED STATES. TOGETHER AND WITH DIVINE GUIDANCE, WE HAVE FASHIONED A UNIQUE FORM OF FREE AND VOLUNTARY ASSOCIATION THAT RESPECTS AND REFLECTS THE ASPIRATIONS OF THE GOOD PEOPLE OF THE UNITED STATES AS WELL AS OF THE MARSHALLESE PEOPLE FOR A DIGNIFIED, JUST, AND CLOSE RELATIONSHIP.

OUR DREAM OF SELF-GOVERNMENT AND YOUR GOVERNMENT'S NEED TO ASSURE ITS LONG TERM DEFENSE INTERESTS ARE BOTH SERVED. OUR CAPACITY TO CONDUCT OUR FOREIGN AFFAIRS IN OUR OWN NAME AND RIGHT IS FULLY RECOGNIZED. SO, TOO, IS YOUR GOVERNMENT'S FULL DEFENSE AUTHORITY AND RESPONSIBILITY FOR A FIXED TERM OF FIFTEEN YEARS. LIKewise WE HAVE AGREED TO A REALISTIC APPROACH IN OUR DETERMINATION TO ACHIEVE ECONOMIC

SELF-SUFFICIENCY WITHIN THE FIFTEEN YEAR TERM OF GRANT AND FEDERAL PROGRAM ASSISTANCE YOUR GOVERNMENT HAS GENEROUSLY OFFERED. CONSULTATION IS THE KEYSTONE OF OUR NEW RELATIONSHIP AND THESE NEGOTIATIONS HAVE DEMONSTRATED THAT WITH GOODWILL, OPEN MINDS AND MUTUAL CONSIDERATION WE CAN AND WILL OVERCOME ANY PROBLEMS THAT MAY ARISE IN THE COURSE OF OUR FREE ASSOCIATION.

PETER, I WANT TO THANK YOU AND YOUR SPLENDID STAFF AS WELL AS THE ENTIRE UNITED STATES NEGOTIATING TEAM FOR YOUR DEDICATED EFFORTS WITHOUT WHICH THIS EXTRAORDINARY MOMENT OF HISTORY COULD NOT HAVE COME ABOUT. YOU ARE A CREDIT TO THE PRESIDENT AND NATION YOU SO ABLY SERVE. I ALSO WANT TO EXPRESS MY DEEP APPRECIATION THROUGH YOU TO PRESIDENT CARTER WHOM YOU REPRESENT PERSONNALLY. HIS LEADERSHIP AND YOURS HAVE BROUGHT US THROUGH MANY BLESSED STORMS.

NOW ON BEHALF OF THE GOVERNMENT OF THE MARSHALL ISLANDS AND THE MARSHALLESE PEOPLE, I AM HAPPY AND PROUD TO INITIAL THE COMPACT OF FREE ASSOCIATION.

JANUARY 14, 1980

STATEMENT
BY
AMBASSADOR PETER R. ROSENBLATT
THE PRESIDENT'S PERSONAL REPRESENTATIVE
FOR MICRONESIAN STATUS NEGOTIATIONS

PRESIDENT KABUA, EMLAIN KABUA, LADIES AND GENTLEMEN:

ON BEHALF OF PRESIDENT CARTER, HIS ENTIRE ADMINISTRATION AND THE UNITED STATES GOVERNMENT I CONGRATULATE YOU, SIR, AND THE GOVERNMENT AND PEOPLE OF THE MARSHALL ISLANDS.

WE HAVE GATHERED HERE TO MARK THE SUCCESSFUL CONCLUSION OF A PROCESS, THE MICRONESIAN POLITICAL STATUS NEGOTIATIONS. WE RECORD, ALSO, ANOTHER MOMENTOUS STEP, AFTER THE ESTABLISHMENT OF CONSTITUTIONAL GOVERNMENT, TOWARD THE ENDING OF THE TRUSTEESHIP AND, INDEED, OF CENTURIES OF FOREIGN CONTROL OF THE MARSHALL ISLANDS AND ALL OF MICRONESIA.

THE NEGOTIATIONS WHICH WE CONCLUDE HAVE EXTENDED BACK, ONE WAY OR ANOTHER, OVER ELEVEN YEARS. WE SHOULD NOTE HERE THE DEBT WE OWE TO THE ABLE AND DEDICATED MICRONESIAN AND AMERICAN NEGOTIATORS, FROM THE EARLIER PERIOD OF THESE TALKS, PARTICULARLY LAZARUS SALII OF THE CONGRESS OF MICRONESIA'S JOINT COMMITTEE ON FUTURE STATUS AND MY DISTINGUISHED PREDECESSOR, AMBASSADOR F. HAYDN WILLIAMS, WHO HAS CONTINUED THROUGHOUT THE LATEST PHASE OF THE NEGOTIATIONS TO GIVE ME HIS ENCOURAGEMENT AND SUPPORT. THEIR IMMAGINATIVE AND GROUND-BREAKING WORK ESTABLISHED THE FUNDAMENTAL BASIS UPON WHICH WE HAVE BUILT.

BUT IT IS THE LAST TWO YEARS' WORK, IN WHICH THE MARSHALL ISLANDS HAS BEEN SEPARATELY REPRESENTED BY ITS OWN COMMISSIONS, AND NOW GOVERNMENT, MR. PRESIDENT, WHICH HAS PRODUCED THIS DOCUMENT AND YOUR INITIALS ON IT! THE EXTRAORDINARY LEADERSHIP WHICH YOU, YOUR ABLE FOREIGN SECRETARY AND VICE CHAIRMAN TONY DE BRUM, AND THE OTHER MEMBERS OF THE MARSHALL ISLANDS POLITICAL STATUS COMMISSION HAVE GIVEN THE MARSHALL ISLANDS HAVE BROUGHT US TO THIS HAPPY DAY.

WITH THE COMPLETION OF THE NEGOTIATIONS AND AGREEMENT ON THE TERMS OF A NEW RELATIONSHIP OF FREE ASSOCIATION WE CELEBRATE A NEW BEGINNING AS WELL AS THE ENDING OF A LONG PROCESS AND AN OLD STATUS. FOR WHAT WE HAVE HERE CRAFTED STANDS AS A SINGULAR ACCOMPLISHMENT OF THE UNITED STATES AND OF ITS FRIENDS IN THE MARSHALL ISLANDS, THE FEDERATED STATES OF MICRONESIA AND PALAU. NOWHERE ELSE IN WORLD HISTORY HAS SUCH A RELATIONSHIP AS THIS EVER EXISTED. BUT WE HAVE JOINTLY DECIDED NOT TO BE BOUND BY THE RIGID CONFINES OF THE USUAL STATUS CHOICES AND HAVE EVOLVED A UNIQUE ALTERNATIVE WHICH SUITS OUR NEEDS AND CIRCUMSTANCES PRECISELY. IT IS A PIONEERING EFFORT IN EVERY SENSE OF THAT WORD. WE HAVE HAD NO PRECEDENTS UPON WHICH TO BASE OUR WORK--ONLY THE KNOWLEDGE THAT THE INTERNATIONAL COMMUNITY RECOGNIZES THE THEORETICAL EXISTENCE OF SUCH A THING AS FREE ASSOCIATION EVEN THOUGH IT HAS NOT BEEN DEFINED. DEFINING IT TO SUIT OURSELVES IS WHAT THESE NEGOTIATIONS HAVE BEEN ABOUT.

AND SO NOW WE EMBARK ON THE NEXT PHASE OF OUR EFFORTS. MUCH REMAINS TO BE DONE BEFORE THE TRUSTEESHIP CAN BE CONCLUDED AND WE LOOK FORWARD TO THE DAY, WHICH I AM SURE IS NEAR, WHEN OUR INITIALS WILL BE JOINED, ON THIS SAME DOCUMENT, BY THOSE OF THE FEDERATED STATES OF MICRONESIA AND PALAU.

AT A CEREMONY WORKING THE CONCLUSION OF SO MANY MONTHS OF CONCENTRATED EFFORT, MR. PRESIDENT, I BELIEVE MYSELF ENTITLED TO TAKE JUST A MOMENT FOR AN ENTIRELY PERSONAL NOTE. OUR ABILITY TO ANNOUNCE THE SUCCESSFUL COMPLETION OF THESE NEGOTIATIONS TO THE WORLD IS ATTRIBUTABLE TO THE JOINT EFFORT OF LITERALLY HUNDREDS OF MEN AND WOMEN IN THE UNITED STATES GOVERNMENT AND IN THOSE OF THE TRUST TERRITORY. BUT NO ONE HAS PLAYED A MORE CRUCIAL ROLE THAN YOU, AMATA. YOUR WISE AND SEASONED LEADERSHIP AND YOUR ABILITY ALWAYS TO LOOK BEYOND THE INDIVIDUAL PROBLEMS WHICH SOMETIMES SEEMED ABOUT TO BLOCK OUR PROGRESS TO THE OVERALL VALUES AT STAKE IN THE NEGOTIATIONS, FURNISHED THE DECISIVE CATALYST OF OUR SUCCESS. I THEREFORE TAKE THIS OPPORTUNITY TO CONGRATULATE YOU, PERSONALLY, ON YOUR INDISPENSIBLE PART IN PRODUCING THIS DOCUMENT. THE UNITED STATES, THE OTHER PARTIES TO OUR NEGOTIATIONS, AND THE MARSHALLESE PEOPLE ARE IN YOUR DEBT.

THANK YOU.

KONA, HAWAII