

EXECUTIVE ORDER 94

Establishing an Interagency Committee on Palau Maritime Zone Determination and Boundary Delimitation.

WHEREAS, on December 2, 1978, the then High Commissioner Adrian P. Winkel approved Public Law No. 6-7-14, establishing Palau fishery zones as follows:

- la. “Territorial Sea”, three (3) nautical miles;
- 2b. “Exclusive Fishery Zone”, twelve (12) nautical miles; and
- 3b. “Extended Fishery Zone” two hundred (200) nautical miles: and

WHEREAS, said Public Law No. 6-7-14, as amended by Public Law No. 6-6S-8 and Public Law No. 7-1-21, also created the Palau Maritime Authority and assigned to it among others, the following duties, functions and powers:

- 1) To adopt regulations for the conservation, management and exploitation of all living resources in the fishery zones of Palau:
- 2) To participate in the formulation of the Republic of Palau maritime boundary delimitation;
- 3) To negotiate and conclude foreign fishing agreements and to issue foreign fishing permits pursuant thereto; and

WHEREAS, on August 14, 1985 in compliance with RPPL No. 2-3, provisions of Public Law No. 6-7-14, as amended, were incorporated into and compiled as Title 27 of Palau National Code (PNC), Chapter I: “Fishery Zones and Regulation of Foreign Fishing”, Sections 101 to 190; and

WHEREAS, 27 PNC 146 (P.L. No. 6-7-14, Section 9) on the question of maritime boundary delimitation provides:

- 1) “The (Palau Maritime) Authority, the United states Government and the Trust Territory Government shall cooperate in the extended fishery zone (sic) when it overlaps a zone of national jurisdiction established by another nation”.
- 2) “In the event a fishery zone (sic) of the Republic overlaps with that of another nation of the (former) Trust Territory, the Authority may by agreement with the appropriate agency of that nation resolve the conflicts in the respective fishery zones (sic)”; and

WHEREAS, Article I, Section 1 of the Constitution of the Republic of Palau, which took

effect on January 1, 1981, extends the jurisdiction and sovereignty of the Republic of Palau to two hundred (200) nautical miles from a straight archipelagic baseline, “. . . unless otherwise limited by international treaty obligations assumed by Palau”; and

WHEREAS, the United Nations Convention on Law of the Sea (UNCLOS) opened for signature and signed by 119 country delegations at Montego Bay, Jamaica on December 10, 1982, sets forth the following internationally recognized zones:

- 1) Territorial Sea, Twelve (12) nautical miles (Article 3);
- 2) Contiguous Zone twenty-four (24) nautical miles (Article 33);
- 3) Exclusive Economic Zone (EEZ), two hundred (200) nautical miles, (Article 57);
and

WHEREAS, Article 47 of said UNCLOS, provides that for a nation to qualify as an archipelagic state or be eligible to claim archipelagic baselines as the basis for measuring its zones, the area claimed must have between a 1 to 1 and 9 to 1 ration of the water area to the area of land; and

WHEREAS, designated representatives of the governments of the Republic of Palau and United States executed on January 10, 1986 the Compact of Free Association Between the United States and Palau providing in:

- 1) Title One, Article II, Section 24 that:

“(a) The Government of Palau has authority to conduct its foreign affairs relating to law of the sea and marine resources matters, including the harvesting, conservation, exploration or exploitation of living and non-living resources from the sea, seabed or subsoil to the full extent under international law.

“(b) The Government of the Republic of Palau has jurisdiction and sovereignty over its territory, including its land and internal waters, territorial seas, the airspace superjacent thereto only to the extent recognized under international law”; and

- 2) Title Two, Article I, Section 211(d)(e) that:

The Government of the United States shall provide to the Government of Palau on a grant basis:

(a) \$631,000 annually for fifteen years commencing on the effective date of the Compact to be divided and used for the purposes:

- (1) Surveillance and enforcement by Government of Palau of its maritime

zone;

(2) Health and medical programs, including medical referrals; and

(3) Scholarship funds to support Palauan students attending post-secondary institutions;

(b) The lump sum, one-time payment of \$666,800 for acquisition of equipment, supplies and services required to carry out maritime surveillance and law enforcement programs; and

WHEREAS, representatives of the governments of the Republic of Palau and the United States on January 10, 1986 signed the Subsidiary “Agreement Regarding the Jurisdiction and Sovereignty of the Republic of Palau over its Territory and the Living and the Non-Living Resources of the Sea” in which Palau agreed “. . . not to claim an archipelagic or a regime of archipelagic waters” (Article I, Section I), but also with both governments agreeing under Article VI that “Nothing in this Agreement is intended to or shall prejudice any treaty obligation assumed, or any rights, jurisdiction or authority gained or confirmed by the Government of the United States or the Government of the Republic of Palau in becoming a Contracting Party to the United Nations Convention on the Law of the Sea”; and

WHEREAS, on May 26, 1989, representatives of the governments of the Republic of Palau and the United States signed the “Agreement Concerning Special Programs Related to the Entry into Force of the Compact of Free Association . . .” mutually agreeing therein under Article VIII, paragraph 5 regarding maritime space jurisdiction as follows:

“The Government of the United States and the Government of Palau interpret the provisions of the Agreement Regarding the Jurisdiction and Sovereignty of the Republic of Palau over its Territory and the Living and Non-Living Resources of the Sea and referred to in Section 462(f) of the Compact as in no way preventing the Government of Palau from exercising its rights as to its continental shelf or from declaring an exclusive economic zone, in manners consistent with the Third United Nations Convention on the Law of the Sea and with the principles of international law”; and

WHEREAS, On August 1, 1989, “A Preliminary Action Plan for the Determination of Offshore Boundaries and Baseline Determination” for the Republic of Palau was submitted to and approved by the President; and

WHEREAS, said Action Plan calls for the establishment of an inter-agency committee to formulate goals, objectives and coordinate the implementation of the Plan;

NOW, THEREFORE, by virtue of the Authority vested in me under the Constitution and laws of the Republic of Palau, it is hereby ordered, directed and proclaimed that:

(1) An Interagency Committee on Palau Maritime Zone Determination and Boundary

Delimitation shall be formed consisting of representatives of the following governmental agencies involved in maritime matters:

- (a) Bureau of Foreign Affairs;
- (b) Bureau of Resources & Development;
- (c) Office of the Attorney General;
- (d) Palau Maritime Authority; and
- (e) Division of Lands and Surveys.

The United States Liaison Officer, or his successor and the field representative of the Office of Territorial and International Affairs, Department of Interior, shall be requested to serve as resources persons in an ex-officio capacity.

- (2) The Interagency Committee shall be charged with responsibility for the formulation, computation and determination of the maritime zones and boundary delimitation of the Republic of Palau. To this end, the Committee shall utilize as guideline for its work the August 1, 1989 "Preliminary Action Plan for the Determination of Offshore Boundaries and Baseline Determination" which is incorporated herein as an integral part of this Order. Moreover, the Committee is hereby authorized to seek, on behalf of the Government of the Republic of Palau, technical and other assistance from the U.S. Department of the Interior, the U.S. State Department or any appropriate federal agencies of the Government of the United States and any appropriate regional or international organizations, i.e. Forum Fisheries Agency, or foreign countries that may contribute to achievement of the Committee's goals and objectives.
- (3) The Committee shall submit at quarterly intervals, to the President of the Republic of Palau progress reports on its work, including its findings, recommendations or conclusions with respect to direction or steps it should take, and it shall continue in existence until it has accomplished its task and been duly released therefrom or until it is otherwise terminated or abolished by subsequent executive order or by law.
- (4) In carrying out this vital interagency function of the national government, the Committee members shall be entitled to use government offices, vehicles and mailing services, and while on the business of the Committee traveling overseas the members shall be allowed airfare and per diem allowances at the regular Republic of Palau rates.

IN WITNESS HEREOF, I have hereunto set my hand and affixed my official seal this 15th day of August, 1990, at the State of Koror, Republic of Palau.

Ngiratkel Etpison
President

Republic of Palau