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I-4105/67
28 March 1967

MEMORANDUM FOR MR. D. E. NUECHTERLEIN, ISA/FAR EAST
REGION

SUBJECT: Trust Territories of the Pacific

You have inquired as to the terms of the trusteeship agreement for the former Japanese mandated islands in connection with a proposal that certain fishing rights be given to the Japanese in the trust territories. A question has been raised whether the agreement would require most favored nation treatment for other nations if the Japanese were given special fishing rights in the territorial waters off the coasts of the islands.

The relevant provision of the trusteeship agreement is Article 8-1 which is quoted in full below:

"In discharging its obligations under Article 76d of the Charter, as defined by Article 83, paragraph 2, of the Charter, the Administering Authority, subject to the requirements of security and the obligation to promote the advancement of the inhabitants, shall accord to nationals of each Member of the United Nations and to companies and associations organized in conformity with the laws of such Members, treatment in the Trust Territory no less favourable than that accorded therein to nationals, companies and associations of any other United Nation except the Administering Authority."

Obviously, the above-quoted language is subject to two provisos, i. e., most favored nation treatment need not be given to other members of the United Nations if such treatment would be inconsistent with (1) the requirements of security and (2) the obligation to promote the advancement of the inhabitants of the trust territories. Thus, while it is true that the agreement requires most favored

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nation treatment for other members of the United Nations, it is equally true that under specified circumstances that treatment need not be accorded. Whether or not the security proviso is relevant in this case is a matter which I am unable to determine in the absence of having seen a statement of the facts or the JCS papers.

SIGNED

Leigh Ratiner
Office of Assistant General Counsel
International Affairs

cc: Master Chron
ISA R&C
Circulating
Mr. Niederlehner
Subj: ILP - Trust Territories

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