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DEPARTMENT OF STATE
THE LEGAL ADVISER

TO: L - Mr. Carl Salans
FROM: L/UNA - Stephen M. Boyd
SUBJECT: Meaning of "Self-Government"

DEPARTMENT OF STATE A/CDC/MR	
REVIEWED BY <u>A. Reber</u>	DATE <u>1/3/85</u>
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1. Article 76(b) of the U.N. Charter provides that one of the basic objectives of the trusteeship system is:

"to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;"

Article 6(1) of the Trusteeship Agreement on the TTPI (TIAS 1665) sets forth the responsibility of the United States in discharging its obligations under Article 76(b) of the Charter in virtually identical terms. The United States cannot be said to have fulfilled its obligations under the Trusteeship Agreement, therefore, until the inhabitants of the TTPI achieve either "self-government" or independence.

2. Neither the negotiating history of the Trusteeship Agreement nor the domestic legislative history of the Agreement is instructive as to the meaning of "self-government". Since the Trusteeship Agreement entered into force on July 18, 1947, however, the term "self-government" has come to have a generally accepted meaning in the United Nations. Specifically in 1960 the General Assembly adopted a resolution (1541 (XV)) which approved certain principles concerning inter alia the three methods by which a non-self-governing territory could be said to have reached a full measure of self-government. One of the accepted methods is: "free association with an independent state".

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-2-

3. With respect to the "free association" form of self-government, the same General Assembly resolution approved the following principles: (a) it should result from the free, informed, and voluntary choice of the territory's peoples; (b) it should respect the individuality and cultural characteristics of the territory and its peoples; (c) it should be sufficiently flexible to provide for change through democratic and constitutional means; and (d) it should provide for the territory's peoples to determine their own internal constitution through democratic and constitutional means with appropriate consultations under the terms of the free association agreed upon.

4. Within the general principles set forth in the preceding paragraph, there would be considerable leeway to evolve appropriate institutions for the internal self-government of Micronesia in free association with the United States. First, there would have to be a written constitution, probably analogous to existing state constitutions, to establish the organs of local self-government to include an elected executive governor or council, a legislative branch, an independent judicial system and a bill of rights. The local government would have complete responsibility for such matters as local police power, education, zoning, and the regulation of local commerce. Undoubtedly, the local administration would need some revenue power.

5. An obvious source of guidance for the eventual relationship between Micronesia and the United States is the commonwealth status now enjoyed by Puerto Rico. Before achieving commonwealth status in 1952, Puerto Rico was considered a non-self-governing territory but has now been accepted by the United Nations as self-governing. Based on the Puerto Rican precedent, a commonwealth relationship could be arranged with the peoples of Micronesia consistent with the principles approved by the U.N. General Assembly. In particular it should be noted that these principles are broad enough to include a relationship which would fully protect the security interests of the United States and which would permit adequate fiscal supervision for any financial assistance rendered by the United States to Micronesia.

6. The exact form of internal self-government for Micronesia and the details of its association with the United States including such questions as citizenship and the application of federal law within Micronesia would have to

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SECRET

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SECRET

- 3 -

be worked out by a properly constituted body including representatives of the Administration, Congress and the peoples of the TTPI. There could be no valid objection from the United Nations to any form of local self-government and association with the United States which were freely chosen by the peoples of the TTPI as an alternative to complete independence and which were compatible with the U.N. approved principles outlined above. An essential element of such compatibility from the U.N. point of view would be an acceptable procedure for the people of Micronesia to amend their internal constitution and to express themselves under appropriate circumstances with respect to possible modification of the terms of association with the United States.

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