

DEPARTMENT OF STATE  
THE LEGAL ADVISER

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OSD - Mr. Benjamin Forman

Ben:

Here are copies of the most recent correspondence between Mr. Katzenbach and Mr. Luce regarding the Trust Territory problem. You will see that there is a legal issue regarding the requirement for self-governing status on which Interior implies that Defense agrees with its view. We would hope that this is not the case and that Defense would agree with us that action to make the trust territory a non-self-governing territory of the United States would not be consistent with our obligations under the Trusteeship Agreement.

CFS

Carl F. Salans  
Deputy Legal Adviser

DEPARTMENT OF STATE A/CDC/MR

REVIEWED BY J. FALDMAN DATE 1/8/86

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DRAFT MEMORANDUM

IO:UNP:WFEaton:jpc

TO: Members of the Senior Departmental Group

SUBJECT: Future of the Trust Territory of the Pacific Islands  
PROPOSAL

That you agree on the following course of action regarding the future of the Trust Territory of the Pacific Islands: Senior officers of the Departments of State, Interior and Defense should hold urgent consultations with key Congressional leaders in order to explain US policy aims regarding the Trust Territory and the constraints which limit our flexibility in implementing these aims. Unless these consultations reveal Congressional hostility to the Administration's viewpoint, the President should establish a Commission with significant Congressional participation which would make specific recommendations to the President and the Congress for an accelerated program of self-government in the Trust Territories leading to a plebiscite not later than June 30, 1972 in which the inhabitants of the Trust Territory would choose between independence and some form of self-government in association with the US.

DISCUSSION

Unlike the Territories of Guam and Samoa, American US sovereignty does not extend to the Trust Territory which we administer under authority of our 1947 Trusteeship Agreement with the United Nations Security Council. The Joint Chiefs of Staff has stated that "continued

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exclusive" US jurisdiction over the TTPI is essential to US strategic posture and security in the Pacific. US policy since NSAM 145 of April 1962 has accordingly been to bring the Trust Territory into a new and lasting relationship with the US. This requires that we terminate as rapidly as possible the Trusteeship Agreement and extend our sovereignty over the territory. The USG can terminate the Trusteeship Agreement by offering the inhabitants of the Trust Territory only two choices; independence and some form of self-government in association with the US. Article 6 of the Trusteeship Agreement states in part that the United States as Administering Authority "shall promote the development of the inhabitants of the Trust Territory toward self-government or independence as may be appropriate to the particular circumstances of the Trust Territory and its peoples and the freely expressed wishes of the peoples concerned". Under Executive Order No. 11021 of May 7, 1962, the Secretary of State has sole responsibility for interpreting the rights and obligations of the United States arising out of the Trusteeship Agreement.

Pressures for active consideration of the political future of the Trust Territory have built up both in the Congress of Micronesia and the US Congress. The Congress of Micronesia adopted a resolution in 1966 petitioning the President to "establish a Commission to consult the people of Micronesia to

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ascertain their wishes and views, and to study and critically access the political alternatives open to Micronesia." The reservoir of good will toward the US present today in Micronesia may well dry up should we postpone indefinitely a decision on the future political status of the territory. There are at present several bills pending in the US Congress concerning the future of the Trust Territory, and we believe an early initiative is necessary to ensure responsible consideration of the problem.

The only feasible way to achieve our objective of terminating the trusteeship status of the territory would be through a program of accelerated political development leading to an act of self-determination in which the Micronesians would choose between independence and some form of self-government in continuing association with the United States. By standards we ourselves have helped establish, self-government in the pre-plebiscite period would require an elected <sup>chief</sup>~~chief~~ executive. There would however be ample flexibility to include necessary safeguards for such matters as foreign affairs, defense needs and Congressional control of Federal funds spent in the area. A system of providing US advisors to the various branches of the Micronesian Government could be instituted if necessary. Moreover, a transitional period would provide sufficient time for political preparations to be made in US

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territories such as American Samoa in order to prevent the Trust Territory from moving more quickly along the path toward self-government than US territories.

The Departments of State, Interior and Defense agree that the President should establish a commission with substantial Congressional representation which would study and assess all factors bearing upon the future of the Trust Territory and consult as appropriate with representatives of the Micronesian people. The commission would submit recommendations to the President and the Congress on the best means to provide for such a degree of self-government as will permit the Micronesian people to freely express their wishes as soon as possible and not later than June 30, 1972, on the future status of the Trust Territory.

The three Executive Departments have differing views on the type of recommendations they wish the proposed commission to make. The Department of Defense apparently favors any course of action which will bring about the rapid termination of the Trusteeship Agreement and insure the continued association of the Trust Territory with the United States. The Department of the Interior hopes that the proposed commission would recommend a non-self-governing US territorial status for the Trust Territory, for it believes that the Micronesian people are unprepared at present and for the next several years for more than a beginning toward self-

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government. In the view of the Department of the Interior, an elected chief executive denotes an advanced stage of self-government which is beyond the reach of Micronesians in the next several years. Interior believes that the US Government has the latitude under the Trusteeship Agreement to offer the Micronesians a non-self-governing status and should terminate the Trusteeship Agreement if the people freely choose such a status.

The Department of State believes that our treaty obligations under the Trusteeship Agreement as well contemporary international political realities allow the US Government no alternative <sup>but</sup> to offer the Micronesians a choice between independence and some form of self-government in association with the United States if we wish to terminate the Trusteeship Agreement. Senior officials of the Department of State should meet urgently with leaders of the interested Congressional committees to explain these constraints which limit the courses of action we may pursue to achieve our policy aims. These constraints should also be carefully explained to the members of the proposed commission in order to deter them from making recommendations, such as a non-self-governing status, which the US Government could not implement. In like manner the senior officials of the Department of Defense and the Interior would explain respectively national security considerations and <sup>the</sup> present political situation in the Trust Territory.

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