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DEPARTMENT OF STATE A/CDC/MR

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TO: The Under Secretary
THROUGH: S/S
FROM: IO - Samuel De Palma

SUBJECT: Independence as an Option in Any Act of Self-Determination Offered to the Micronesians - INFORMATION MEMORANDUM

In response to your request, the following are the factors -- both legal and, more important, political -- which we believe make it imperative that independence be one of the choices offered to the Micronesians in any act of self-determination.

Legal Obligations

Article 76 (b) of the UN Charter provides that one of the basic objectives of the trusteeship system is political advancement of the inhabitants of the trust territories "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..." The quoted language is expressly included in Article 6(1) of the TTPI Trusteeship Agreement. A fair reading of Article 76 (b) requires that a plebiscite to determine the TTPI's future must include independence from the United States among the choices offered.

~~This conclusion~~ is supported by UN practice with respect to ~~termination of~~ other trusteeships. In all cases, the peoples of the trust territories have achieved independence from the administering authority either alone or in association with an adjacent independent State. (See attached legal memorandum).

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Political Realities

Of ~~the~~ greater importance than our legal obligations, but at the same time supporting them, are the political realities which we face both internationally at the United Nations and in Micronesia itself.

At the United Nations, we would find ourselves almost totally isolated if we attempted to end the Trusteeship Agreement on the basis of an act of self-determination which did not include independence as an alternative. The UN's consistent practice has left no doubt that self-determination of the dependent and trust territories cannot be considered complete unless they have been offered a choice of independence. Even our closest allies, some of whom have had to face the problems which such an offer entails on a number of occasions, accept this interpretation -- albeit with flexibility in defining the arrangements which might meet it.

The so-called Colonialism Declaration, Resolution 1514 (XV) stresses the granting of independence to colonial countries and peoples and states that "immediate steps shall be taken, in trust and non-self-governing territories or all other territories which have not yet attained independence to transfer all powers to the peoples of those territories...in order to enable them to enjoy complete independence and freedom." Partly because of our concern with the exclusive focus of this resolution on independence, the United States, at the same General Assembly, was a cosponsor of Resolution 1541 (XV) which includes as Principle VI the following:

"A non-self-governing territory can be said to have reached a full measure of self-government by:

- a. Emergence of a sovereign independent state;
- b. Free association with an independent state; or
- c. Integration with an independent state."

In all ensuing consideration of the problems of non-self-governing and trust territories the United States has stood on this definition.

If the United States, with this record, its heritage of anti-colonialism and its defense of the right of self-determination, were to ignore such an overwhelming commitment to the need for an option of independence in the United Nations, we would invite a major controversy in New York and elsewhere -- a controversy which would quickly be reflected in political opinion in the Territory.

In any event, it is the attitude of the Micronesians which constitutes the critical political reason for including independence among the options. The peoples of the Trust Territory, or at least their leaders, are aware of the terms of the Trusteeship Agreement and are convinced that they have an option of choosing independence in a plebiscite. A succession of UN Visiting Missions has confirmed this point directly to them. Similarly, Trusteeship Council discussion of the TTPI has taken the existence of the independence option for granted. TTPI spokesmen have discussed the subject extensively with members of the US Senate and House. They have heard prominent members of the US Administration state that they would have such an option. The Micronesians have seen such an option made implicit in the language of the legislation proposed by the Johnson Administration and passed by the Senate. Even though we still assume that a vast majority of Micronesians recognize that independence is not a viable alternative for them, the act of precluding this choice would obviously stimulate internal dissension. It could seriously jeopardize achievement of our objective of ending the deterioration in the political climate of the Territory, and of bringing about a decisive Micronesian vote in favor of association with the United States.

Finally, it cannot be overlooked that while adherence to Charter principles is far from universal in other cases, the United States has maintained strict standards both because of its position internationally and because of domestic attitudes. Were we now to depart from this posture, whatever our motives, we might find ourselves in a situation in which continued

UN participation of the trust territory, even in a new
agreement with the United States, would come under fire in
the United Nations and bring the United States under the sort
of criticism directed at South Africa in the United
Nations.

Attachment:

Tab A - Legal Memorandum.

Clearances:

IO:UNP - Miss Brown
L/UNA - Mr. Boyd

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April 7, 1969

MEMORANDUM FOR: The Under Secretary

FROM: L - Leonard C. Meeker

SUBJECT: Whether Independence is Required to be Presented as an Option in Providing for Self-Determination of the TTPI

In consideration of a plebiscite to determine the future of the Trust Territory of the Pacific Islands, the question has been asked whether independence must be one of the alternatives offered. In our view, compliance with the Trusteeship Agreement and the U.N. Charter requires that independence from the United States must be included among the choices offered.

Article 76(b) of the Charter provides that one of the basic objectives of the trusteeship system is:

"to promote the political ... 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 (Tab A) sets forth the responsibility of the United States in discharging its obligations under Article 76(b) of the Charter in virtually identical terms.

This language imposes an obligation on the administering authority to promote the political advancement and progressive development of the inhabitants of the trust

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territory to a point where they may freely express their wishes as to future status. The administering authority must take into account "the freely expressed wishes of the peoples concerned." A fair reading of Article 76(b) requires that a plebiscite to determine the TTPI's future must include independence from the United States among the choices offered.

It has been suggested that the United States might comply with its obligations under the Charter and the Trusteeship Agreement by offering the inhabitants of the trust territory a choice only between accepting and rejecting internal self-government in association with the United States. This choice is too limited to be acceptable in view of the language of the Charter and the Trusteeship Agreement and in the light of the practice that has been followed in the United Nations in terminating other trusteeships.

Of eleven original trusteeships, nine have already been terminated with the people of the trust territories having achieved independence from the administering authority -- either alone or by joining an adjacent independent State. In six cases, the people of the trust territory were granted outright independence by the administering authority without a plebiscite. In the three remaining cases, in which plebiscites were held, none included the option of self-government in association with the former administering authority. In one plebiscite case, the trust territory chose outright independence when it was the only choice offered. In the other two plebiscite cases, the peoples of the trust territories chose to be independent from the administering authority by joining adjacent independent states. In the case of the TTPI, the option of independence as part of a neighboring State in the region is not practically available. Although some of the plebiscite cases might be criticized as having presented choices that were too limited, in all of them the inhabitants of the trust territory were offered complete independence from the administering authority.

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In view of this practice and the language of the Charter and the Trusteeship Agreement, we conclude that a TTPI plebiscite needs to include the choice of independence from the United States.

Attachments:

Tab A - Trusteeship Agreement.

Tab B - Summary of UN Practice.

L:L/UNA:SMBoyd:mab

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Of the eleven original United Nations trusteeships, only two (New Guinea and the TTPI) are still in being. Of the nine that have been terminated, six (French Togoland, French Cameroons, Somaliland, Tanganyika, Ruanda-Urundi, and Nauru) were ended by the people of the territory achieving independence without a plebiscite. In the remaining three cases, plebiscites were held to determine the opinion of the majority; none of these plebiscites included an option for self-government in association with the administering authority.

In one plebiscite case, Western Samoa chose independence as the only alternative offered. Had independence been rejected trusteeship status would have continued. In the other two plebiscite cases (British Togoland and British Cameroon), the peoples of the territory chose to join neighboring independent states. British Togoland chose to join Ghana rather than continue trusteeship status. Independence for the trust territory was not offered. British Cameroon was divided into two parts. The northern part chose "to achieve independence by joining the independent Federation of Nigeria" rather than "to achieve independence by joining the independent Republic of Cameroon". The southern part chose "to achieve independence by joining the independent Republic of Cameroon" rather than "to achieve independence by joining the independent Federation of Nigeria". Neither part nor the territory as a whole was offered straight independence.

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