



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
WASHINGTON, D. C. 20370

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IN REPLY REFER TO
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Ser: 0056
18 July 1969

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MEMORANDUM FOR THE CHIEF OF NAVAL OPERATIONS (OP-612)

Subj: Draft Organic Act for the Trust Territory of the Pacific Islands (TTPI); review of

Ref: (a) OP-61 memo; serial 001148P61 of 14 July 1969 w/encl

1. The following comments concerning subject draft Organic Act are submitted in response to your reference (a) request:

a. The Trust Territory of the Pacific Islands is presently administered under the provisions of chapter 14, 48 USC 1681-1687. Chapter 14 vests civil administration in the President to be exercised as he directs and authorizes. Chapter 14 contains no provision relating to the armed forces.

b. The Trust Territory is presently administered by the Secretary of the Interior. Civil administration by the Secretary of the Navy over part of the Trust Territory (the Northern Mariana Islands except the Island of Rota) existed until 1 July 1962. Civil Administration by the Secretary of the Navy over all of the Trust Territory existed until 1 July 1951.

c. Subject draft is modeled closely on the Organic Act of Guam (48 USC 1421 et seq.) and the Organic Act of the Virgin Islands (48 USC 1541 et seq.)

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d. Section 118 of subject draft provides that the Micronesian Congress may override the Governor's veto by a two-thirds vote. However, if a bill affects the National interest or the National defense of the United States, the Governor is to transmit the bill within 10 days to the President. If the President does not approve, the bill "shall not become law". The organic acts of Guam and the Virgin Islands place no such limit on legislative overriding of a veto. 48 USC 1423i, 1575d. The interests of the Armed Forces appear to be better protected by the proposed provision as contained in subject draft.

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e. Section 104(b) of subject draft provides that the Governor of Micronesia "may call upon the commanders of the Armed Forces of the United States in Micronesia . . . to prevent or suppress violence, insurrection, or rebellion". The organic acts of Guam and the Virgin Islands provide that in such instances, the Governor may "request assistance of the senior military or naval commander of the Armed Forces of

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the United States . . . which (assistance) may be given at the discretion of such commander if not disruptive of, or inconsistent with, his federal responsibilities" 48 USC 1422, 1591. The language used in the organic acts of Guam and the Virgin Islands is more precise in making assistance discretionary and would thus appear to be preferable to the language used in subject draft.

f. The Organic Act of Guam provides, inter alia, that:

Nothing contained in this chapter shall be construed as limiting the authority of the President to designate parts of Guam as naval or military reservations, nor to restrict his authority to treat Guam as a closed port with respect to the vessels and aircraft of foreign nations.

Subject draft contains no such provision and it is considered that such a provision would appear to be of vital interest to the armed forces.

g. Section 140 of subject draft provides for transfer of property owned by the Government of the Trust Territory to the Government of Micronesia. Should there be any property presently owned by the Government of the Trust Territory which is used by or of interest to the armed forces, a provision reserving such property to the United States appears to be advisable. It should be noted that the provision of the Organic Act of Guam transferring control of property owned by the United States to the government of Guam provided for a reservation of property by the President. 48 USC 1421F(b). Under this provision, the President reserved military and naval areas.

2. From the international legal standpoint it should be noted that in 1947 the United States placed the TTPI under United Nations trusteeship through an agreement between the United Nations Security Council and the government of the United States. Under this agreement, which entered into force on 18 July 1947, the territory was designated a strategic area, as provided for by Article 82 of the Charter of the United Nations. The United States retained the right to establish military bases in the territory and to close all or part of the territory for security reasons. Article 83(1) of the Charter describes the functions of the United Nations relating to strategic areas. These include the approval of the terms of trusteeship agreements and of their alteration or amendment exercised by the Security Council. Any alteration in the status of the TTPI, such as the bringing of it into permanent association with the U.S., is subject both to Security Council approval and referendum within the trust territory itself. Article 76 of the UN Charter, which

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enumerates the basic objectives of the trusteeship system, states the following objective: "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." General Assembly Resolution 1541 (XV) of 14 December 1960 declares that all peoples have the right of self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

3. As pointed out above, under the present trusteeship arrangement the U.S., as administering authority, retains the right to determine military and security needs in the area free of U.N. Security Council control. However, the continuation of the U.S. trusteeship is being seriously challenged in the U.N. The United States is being subjected to considerable pressures from the U.N. General Assembly "Committee of Twenty-four," made up predominantly of so-called anti-colonialists and headed by the Soviet Union, to grant independence to all of the territories. The communist bloc exploits every opportunity to attack U.S. policies in the Pacific islands focusing attention on the questions of independence and U.S. military use of the area.

The language of a Petition From the Senate, Congress of Micronesia, to the U.N. Trusteeship Council on 12 March 1969 voiced extreme criticism of the U.S. presence in Micronesia.

4. In light of the above it would appear essential that serious consideration be given to the problem areas noted if the U.S. is to adequately safeguard its national security interest in Micronesia. Z

John R. Brock

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