



## DEPARTMENT OF STATE

Washington, D.C. 20520

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August 9, 1969

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## MEMORANDUM

TO: The Acting Secretary

THRU: S/S

FROM: IO - Samuel De Palma

SUBJECT: Micronesia: Requested Comments on the Need  
of an Elected Governor and on L's Memorandum  
of August 8, 1969 on this subject.

## ACTION MEMORANDUM

We agree with many points in the memorandum of August 8, 1969, from the Legal Advisor, Mr. Stevenson, to you, but are in substantial disagreement as to the tactics to be pursued by the Department at this time.

L's description of our obligations under the Trusteeship Agreement and the UN Charter is accurate--that we must be able to make a reasonable case in the United Nations that the Micronesians have freely chosen a new status of self-government. It is clear that an elected chief executive is an essential element in any self-governing status. However, we believe that the L memorandum overstates the importance of giving an elected governor full executive powers in two regards.

First, no matter how we define the new status of Micronesia--no matter how much self-government we provide--practical considerations preclude our granting, within the time frame we have set for ourselves, a status meeting absolute standards of self-government. Second, even if the Governor had full powers, the Department including L, has acknowledged that some other factors for full self-government cannot be satisfied. Specifically, fiscal controls will remain almost exclusively in the hands of the US Congress. Thus, in discussing the powers of the Governor we are not choosing between a full measure of self-government and something less. Nor can we ever fully satisfy UN opinion.

~~SECRET~~Attachment No. 2  
Document No. 12  
C.A. No. 86-1102

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We find confusing the discussion in the L memorandum of the possibility of terminating the Trusteeship and then reporting on the Territory as a non-self-governing entity. If we must assert Micronesia has self-government to terminate the Agreement, we do not see how we could then acknowledge that the status was in fact non-self-governing. [REDACTED]

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Question of Tactics

L believes that the Department should not at this time compromise its position; that, if an elected chief executive with full powers is (1) necessary fully to meet our obligations under the Trusteeship Agreement and (2) in no way a threat to basic US interests in the Territory, we should insist on such a provision from the start. We believe that such tactics now would be self-defeating.

We are now only in the first stage--the achievement of an agreement within the Executive Branch--of the formulation of Micronesia's new status. We must still achieve a three-way agreement between the US Executive, the Micronesians and the US Congress before we move in the UN on

termination of the trusteeship. In this first stage, both State and Interior face serious problems. B, AS

[REDACTED]

[REDACTED]

Interior, on the other hand, is faced with the specter of the House Interior Committee and Congressman Aspinall. This is a problem distinct from opinion in the Congress as a whole, as described in the L memorandum. Aspinall is a real and very powerful force to be dealt with, and Interior's reluctance to take a position contrary to his known views at this time is understandable. This is particularly true since Interior believes that the Micronesians will be satisfied with a status consistent with Mr. Aspinall's desires (a view with which we disagree, but which only time will establish). Further we have concluded that Interior does not appreciate our potential difficulties, much less the risks of failure either in Micronesia or in New York--the latter is simply "a problem for State to handle." Consequently they see no need to compromise.

The State Department therefore can only hope to convince Interior that meeting what we estimate to be the minimum requirement to terminate the Trusteeship Agreement is possible without compromising the essentials of the Interior (and Aspinall's) position. IO believes that the position and tactics advocated by L will not enable us to reach any understanding with Interior and will in fact strengthen Interior's belief that we are only concerned with "our" problems, ignoring their interests and experience with Aspinall.

IO is not at all confident that Interior's reaction to the idea of an elected Governor with an advisor (consenter) will be much better. But we do believe that such an alternative provides us the chance to argue that the same controls existing under an appointed governor would remain, and that Congressman Aspinall could be shown, that, despite appearance the substance of the traditional system of handling territories was not being upset.

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RECOMMENDATION

That you authorize us to discuss with Interior the possibility of an elected governor with an Advisor having the power of advice and consent. If we are unable to obtain Interior's acceptance of this alternative or some variation of it we would propose that the definition of the Executive in the Organic Act be bracketed with both alternatives presented for consideration by the Under Secretaries Committee.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

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IO/UNP:SPeale/EABrown:avw  
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August 8, 1969

MEMORANDUM FOR THE UNDER SECRETARY

THROUGH: S/S

FROM : L - John R. Stevenson

SUBJECT: Elected Governor for The Trust Territory of the Pacific Islands - ACTION MEMORANDUM

Problem:

The subcommittee of the Interagency Coordinating Committee is presently preparing draft legislation on the future status of Micronesia. In recent interagency discussions the Department of the Interior has taken the position that the executive provided for Micronesia must be a governor appointed by the President rather than an elected official. In our opinion an elected governor is one of the essential elements of the full measure of self-government which we are obligated to confer upon the Micronesians prior to termination of the Trusteeship Agreement.

Discussion

As stated in the Charter of the United Nations one of the basic objectives of the trusteeship system is to promote the "progressive development [of the inhabitants of the trust territories] towards self-government or independence." The negotiating history of this provision of the Charter, past termination practice, and the plain meaning of the Charter make it clear that the trust given an Administering Authority can only be terminated when the basic objective -- either self-government or independence -- has been achieved. It would, in our opinion, be impossible to argue credibly any other position.

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Since we have decided not to grant independence to the Trust Territory, we must provide for self-government if we are (1) to terminate the trusteeship and (2) to avoid UN General Assembly supervision of our administration of Micronesia as a "non-self-governing" territory under Chapter XI of the Charter. If, after termination of the Trusteeship, the territory were still non-self-governing we would be obligated to report on its administration under Article 73, Supervision would thereby be transferred from the Trusteeship Council to the General Assembly, its Fourth Committee and the Committee of Twenty-Four.

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Basic Elements of Self-Government

(a) 1953 General Assembly Resolution

Some basic principles regarding the meaning of "self-government" have been evolved in the United Nations with the support of the U.S. as well as a majority of the members of the General Assembly. In 1953, the General Assembly passed Resolution 742 (VIII): "Factors which should be taken into account in deciding whether a Territory is or is not a Territory whose people have not yet attained a full measure of self-government." Appended to this Resolution as an Annex was a "List of Factors". The United States did not vote for this Resolution because of certain amendments made by the Fourth Committee to the "List of Factors" as prepared by an Ad Hoc Committee. However, the United States Representative in the Fourth Committee, Mr. Gerig, explained:

"For those reasons, the United States Government would be unable to vote for the six-power draft resolution. It would be more prudent simply to adopt the report of the Ad Hoc Committee on Factors, which the United States would support."

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- 3 -

The factors which appear in both the report of the Ad Hoc Committee and the Resolution Annex, therefore, are basic factors upon which there was general agreement.

The factors relevant to the status we envision for Micronesia, i.e., "the free association of a territory with other component parts of the metropolitan or other country", common to both the Ad Hoc Committee report and the Resolution Annex contain the following "internal constitutional conditions":

"1. Suffrage. Universal and equal suffrage, and free periodic elections, characterized by an absence of undue influence over and coercion of the voter, or of the imposition of disabilities on particular parties.

"2. Local rights and status. In a unitary system equal rights and status for the inhabitants and local bodies of the territory as enjoyed by inhabitants and local bodies of other parts of the country; in a federal system an identical degree of self-government for the inhabitants and local bodies of all parts of the federation.

"3. Local officials. Appointment or election of officials in the territory on the same basis as those in other parts of the country.

"4. Internal legislation. Local self-government of the same scope and under the same conditions as enjoyed by other parts of the country." (Underlining added)

The appointment of a governor for Micronesia rather than the election of a governor would not be consistent with paragraph 3 since he would not be chosen on the same basis as comparable officials in other parts of the United States.

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(b) Termination Precedents

One previous Trusteeship was terminated by integration of the trust territory with an independent state. (All other trusteeships have been terminated by a grant of independence.) In that case the northern half of the British administered Cameroons joined Nigeria, and the southern half joined "Cameroons". In each, local executive officials have been selected by the inhabitants on the same basis as comparable executive officers elsewhere in those countries.

(c) Other U.S. Positions on Self-Government

In the debates of the Fourth Committee on the U.S. decision to cease transmitting information on Puerto Rico (as a non-self-governing territory) after it had become a commonwealth, United States representatives noted popular control of the executive as one of the factors indicative of the achievement of self-government. The U.S. explained that by the terms of the Puerto Rican Constitution which provides for an elected governor "The executive, legislative and judicial branches were responsible exclusively to the people of Puerto Rico." On the basis of his presentation, both the Fourth Committee and the General Assembly adopted Resolution 748 (VIII) decided that the United States no longer had to report on Puerto Rico as a non-self-governing territory.

Indeed, the Interior Department itself has taken the position that an elected executive is a crucial element of self-government. After the enactment of Public Law 90-496 and 90-497 which provide for an elected governor for the Virgin Islands and for Guam, Secretary of the Interior Udall wrote to Secretary Rusk on September 20, 1968. In this letter he stated:

"It is our hope that after due consideration of the degree of self-determination now accorded the territories of the Virgin Islands and Guam, you can conclude and announce to the world through appropriate channels, that those two American communities are now no longer to be regarded as non-self-governing territories."



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- 5 -

### Arguments of the Interior Department

The Department of the Interior advances two basic reasons why they believe an appointed governor is necessary for Micronesia: (1) that the U.S. Congress would not accept legislation authorizing an elected governor, and (2) that no qualified individual is presently available in Micronesia to discharge the duties of such an office. In our opinion neither of these arguments has merit.

Congress might be reluctant to advance the status of the Trust Territory over that of American Samoa (which is non-self-governing) to a position of equality with Guam and the Virgin Islands. However, Congress would be equally reluctant, in our opinion, to place the United States in a position of violating our Charter obligations and opening ourselves to overwhelming criticism in the United Nations. In any event, there is no reason for the Executive Branch to present a position to the Congress which is contrary to our Charter undertakings and which in our opinion will fail to achieve our objective, namely, to end UN supervision over Micronesia.

Interior's second objection, that there is no qualified Micronesian who could discharge executive functions, is difficult to believe. It would hardly be credible in the United Nations. The United States has been administering the Trust Territory for over 20 years with a Charter obligation to promote the political, economic, social and educational advancement of the inhabitants and their progressive development toward self-government. To claim now that no Micronesian is capable of assuming executive authority would be an admission of failure on our part to carry out our responsibilities under the Charter.

### Suggested Compromises

Interior has indicated that it would be willing to agree on a compromise whereby the governor would be appointed until

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- 6 -

1980, and, thereafter, the Micronesians could select their own governor. This proposal does not meet the basic requirement that self-government must be achieved prior to termination of the Trusteeship. It is our opinion that such a provision would require that we continue the Trusteeship until 1980 -- or, if the Trusteeship were ended, that we treat the territory as a non-self-governing territory under Chapter XI of the Charter.

Interior has also suggested as a compromise that the governor be appointed by the President "with the advice of the Congress of Micronesia." A "consent" function for the Micronesian Congress is not envisioned. Therefore, under this plan, control of the selection process would still be in the President and not in the hands of the Micronesians. Even if a "consent" function were added, the arrangement would not meet the criteria for self-government outlined earlier. Moreover, this process would almost certainly be characterized by Presidential domination.

A third compromise has been suggested within the Department of State. It is that Micronesia have an elected governor, but that the President appoint an adviser to the governor whose consent to executive actions would be required. Even if the "consent" function were to terminate on a specified date, this arrangement would not meet the agreed standard of "self-government" (described above) that officials in territories be appointed or elected on the same basis as officials in other parts of the country. Moreover, the operative language of Article 73 of the UN Charter defining "non-self-governing territories" is "territories whose peoples have not yet attained a full measure of self-government." (Underlining added.) It would be virtually impossible to argue that a system under which the elected executive was subject to veto by an appointed "advisor" constituted a "full measure" of self-government.

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- 7 -

There is one compromise which might arguably pass the test of "self-government". That is an elected governor with an advisor appointed by the President who would have strictly advisory powers. The appearance of this arrangement would still be "colonial" and would undoubtedly add to our difficulties in the United Nations. But it may be a fallback position we should be prepared to accept if the Congress balks at an elected executive alone. We would not propose, however, that the Executive Branch take the initiative to present such a compromise to the Congress at this stage.

Recommendation

That the Department's representative in the Interagency Coordinating Committee maintain their position that the draft legislation must contain provision for an elected governor in Micronesia if we are to achieve our objective of terminating UN supervision of U.S. administration of Micronesia, consistent with our international obligations.

Approve \_\_\_\_\_

Disapprove \_\_\_\_\_

CC: IO - Mr. DePalma  
H - Mr. Macomber

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