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DEPARTMENT OF STATE A/CDC/MR  
 REVIEWED BY W. J. [Signature] DATE FEB. 25 1987  
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March 5, 1970

Honorable William S. Mailliard  
House of Representatives  
Washington, D. C. 20515

Dear Congressman Mailliard:

In furtherance of my interim letter of February 17, I am writing to you concerning your inquiry of February 11 with regard to the Trust Territory of the Pacific Islands.

Your understanding that United Nations functions with regard to the Trust Territory are exercised by the Security Council is correct. Article 83, paragraph 1, of the Charter provides that:

"All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council."

Paragraph 3 of the same Article further provides:

"The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas."

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The Trusteeship Agreement for the Pacific Islands between the United States and the Security Council of April 2, 1947, was negotiated and concluded in this framework; under the Charter and the Agreement, the United States possesses full powers of administration, legislation and jurisdiction, but not sovereignty, over the Trust Territory. In its resolution of March 7, 1949 (S/642), the Security Council resolved:

"1. That the Trusteeship Council be requested, subject to the provisions of Trusteeship Agreements or parts thereof in respect of strategic areas, and subject to the decisions of the Security Council made having regard to security considerations from time to time, to perform in accordance with its own procedures, on behalf of the Security Council, the functions specified in Articles 87 and 88 of the Charter relating to the political, economic, social and educational advancement of the inhabitants of such strategic areas."

The Charter contains a general provision authorizing administering authorities to ensure that trust territories play a part in the maintenance of peace. Article 84 states:

"It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory."

Article 5 of the Pacific Islands Trusteeship Agreement, referred to above, carries over this provision in the following terms:

"In discharging its obligations under Article 76 (a) and Article 84, of the Charter, the administering authority shall ensure that the trust territory shall play its part, in accordance with the Charter of the United Nations, in the maintenance of international peace and security. To this end the administering authority shall be entitled:

1. to establish naval, military and air bases and to erect fortifications in the trust territory;
2. to station and employ armed forces in the territory; and
3. to make use of volunteer forces, facilities and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for the local defense and the maintenance of law and order within the trust territory."

Also relevant are the obligations of Article 76 of the Charter and Article 6 of the Trusteeship Agreement requiring the United States to foster the development of progressive political institutions and to promote the economic, social and educational advancement of the citizens of the Territory. The United States submits an annual report to the Security Council on our administration of the Territory, which is automatically referred to the Trusteeship Council, receives visiting missions

from the Trusteeship Council and comments on petitions submitted by the citizens of the Territory.

The United States has through the years established important military facilities in the Territory following appropriate consultations with the citizens of the Territory, bearing in mind that, apart from people, land in an island community is the most precious natural resource. Neither the Charter nor the Trusteeship Agreement in any way suggests that approval should have been sought for such action.

As for your other two questions regarding granting independence or territorial status to Micronesia, in both cases this would involve terminating the Trusteeship Agreement. Since, as mentioned above, the Pacific Islands is the only territory classified as a strategic trust, the precedents are not clear. The United States, of course, realizes that an act of self-determination by the people of the Territory will be required, and we have informed the Trusteeship Council that we would hope to have United Nations observers present at the time of this act, presumably a vote on the status or statuses in question. However, in the absence of more definite decision on what this status might be, it is difficult to decide what other steps might be taken. As to the possibility of granting U.S. citizenship to the people of Micronesia while the Trusteeship Agreement remains in effect, there would be a like absence of precedent. Article 11 of the Trusteeship Agreement touches briefly on the question of citizenship in the following terms:

"1. The administering authority shall take the necessary steps to provide the status of citizenship of the trust territory for the inhabitants of the trust territory.

"2. The administering authority shall afford diplomatic and consular protection to inhabitants of the trust territory when outside the territorial limits of the trust territory or of the territory of the administering authority."

A copy of the Trusteeship Agreement is enclosed.

Please do not hesitate to call upon me if I may be of service.

Yours sincerely,

signed

H. G. Torbert, Jr.  
Acting Assistant Secretary  
for Congressional Relations

Enclosure:  
TIAS 1665

Concurrences:

UNP - Mr. Peale (in draft) *ly Hr*  
Interior - Mr. Whittington (in draft) *ly Hr*  
Defense - Commander Kuhn (in draft) *ly Hr*

*Hr*

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*H. G. Torbert, Jr.*

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FEBRUARY 17, 1970

Honorable William S. Mailliard  
House of Representatives  
Washington, D. C. 20515

Dear Congressman Mailliard:

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Thank you for your letter of February 11 to  
Herbert Reis of the Office of the Legal Adviser  
raising questions concerning the Trust Territory  
of the Pacific Islands.

A reply is being drafted and we hope to have an  
answer for you shortly.

Sincerely,

*GW*  
H. G. Torbert, Jr.  
Acting Assistant Secretary  
for Congressional Relations

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Clearance:

UNP - Mr. Peale by *HN*

*[Handwritten signature]*

*HR*  
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WILLIAM S. MAILLIARD  
SIXTH DISTRICT  
CALIFORNIA

COMMITTEES:  
FOREIGN AFFAIRS  
MERCHANT MARINE AND FISHERIES

Congress of the United States  
House of Representatives  
Washington, D.C. 20515

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February 11, 1970

Ans. by letter 2/26/70  
LEGAL ADVISER.  
Huma - HR - File  
FEB 15 1970

Mr. Herbert K. Reis  
Assistant Legal Adviser for  
United Nations Affairs  
Department of State  
Washington, D. C.

DEPARTMENT OF STATE

Dear Mr. Reis:

My staff and I are engaged in a study of the status of Micronesia. In the course of our research, we have encountered some questions concerning the legal implications of a "strategic" trust territory such as Micronesia.

It is our understanding that, while the Trusteeship Council performs United Nations functions with regard to trust territories, the Security Council exercises the U.N. functions in strategic trust territories with the aid of the Trusteeship Council. However, we are unclear as to what the U.N. procedure would be in certain instances.

Specifically, what United Nations procedure would be required to permit the following hypothetical changes in the status of Micronesia.

1. The establishment of military installations in Micronesia by the Administering Authority.
2. The granting of full independence to Micronesia.
3. The granting of territorial status to Micronesia and American Citizenship to its population.

Your assistance in clarifying these matters pertaining to Micronesia, as soon as possible, will be greatly appreciated.

Sincerely,

*W. S. Mailliard*  
Member of Congress

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