

DEPARTMENT OF STATE A/CDC/MR.

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October 23, 1970

Mr. R. D. McLaurin
3455 Woodenhawk Circle
Columbia, Md. 21043

Dear Mr. McLaurin:

Mr. Stevenson has asked me to reply to your letter of September 23, 1970 concerning the Trust Territory of the Pacific Islands. Although I cannot yet answer with the precision you seek, I am pleased to share with you the present progress of our thinking on the trusteeship termination.

As you may be aware, the Pacific Trust Territory is the only strategic trust ever established under the United Nations Charter. There are, therefore, no precedents governing termination or alteration of the trusteeship status. The agreement between the Security Council and the United States, approved by the Security Council of April 2, 1947 and by the President and a joint resolution of Congress on July 18, 1947, at which time it entered into force, contains no express provision on termination. A number of other factors are relevant in determining when and how the trusteeship status may be terminated or altered.

Article 15 of the agreement states that "The terms of the present agreement shall not be altered, amended or terminated without the consent of the administering authority."

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

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"All functions of the United Nations relating to the 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."

Since the Security Council, by its resolution of March 7, 1949, did request and did subsequently receive the assistance of the Trusteeship Council, the Trusteeship Council will share with the Security Council a substantial interest in the development of the relationship between the people of Micronesia and the United States.

The United States is obligated, both by the Charter and by the agreement with the Security Council, to act in a manner that will further the development of the Trust Territory to self-determination. This obligation appears most clearly in Article 6 of the agreement, which establishes that "under Article 76(b) of the Charter the administering authority shall:

"1. foster the development of such political institutions as are suited to the trust territory and 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;

and to this end shall give to the inhabitants of the trust territory a progressively increasing share in the administrative services in the territory; shall develop their participation in government; shall give due recognition to the customs of the inhabitants in providing a system of law for the territory; and shall take other appropriate measures toward these ends;".

It is apparent that the United States, the people of the Trust Territory, and the United Nations all have interests in the status of the Trust Territory that are provided for in the various documents that regulate the Trusteeship. The requirements and procedures for cooperation between the interested parties that this entails are, however, as yet undetermined. At the least no change in status can be effected without the consent of the United States, and no change in status can be effected that does not reflect the obligations assumed by the United States to the people of the Trust Territory under the United Nations Charter and the Trusteeship Agreement.

Our discussions with representatives of the Congress of Micronesia are an attempt to find a mutually acceptable status, which would then be presented to the people of Micronesia for their acceptance or rejection in a referendum. We have so informed the Trusteeship Council, and we would expect United Nations observers to be present at the time of this act of self-determination. However, until our discussions reach a more definite decision on what this status might be or when it might be effected, it is difficult to say what other steps might be taken.

I hope this discussion is of some assistance in answering your questions, although I recognize and regret that its necessarily tentative nature does not precisely meet the issues you raised.

Sincerely yours,

Ronald F. Stowe
Attorney
Office of the Legal Adviser

Clearances:

- IO/UNP - Mr. Sutter *[Signature]*
- Interior - Mr. Whittington *[Signature]*
(subs)
- DOD/ISA - Cmdr. Kuhn *[Signature]*
(subs)