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February 1, 1971

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MEMORANDUM FOR MR. J. FRED BUZHARDT

SUBJECT: Joint OSD/OJCS Talking Paper for Deputy Secretary of Defense and Chairman, Joint Chiefs of Staff, on Political Status Negotiations with Micronesia

Pursuant to our recent discussions with Commander Kuhn concerning the above talking paper, I would like to call your attention to the following:

1. The basic agreement under which the United States assumed the power to administer Micronesia as a strategic Trust Territory was approved by the United Nations Security Council April 2, 1947, entered into force July 18, 1947 (61 Stat. 3301) and calls for the United States as the administering authority, inter alia, to "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....." (Article 6 of the Agreement - said Article was added pursuant to and reflecting Article 76(b) of the United Nations Charter).

2. In accord with this agreement and with the United Nations Charter, it was the opinion of our office that in pursuing any option, United States must first bring the people of the Trust Territory to the stage of independence (as indicated above) and then to seek from the people and their representatives an arrangement which would be in the best interests - and particularly the strategic interests of the United States.

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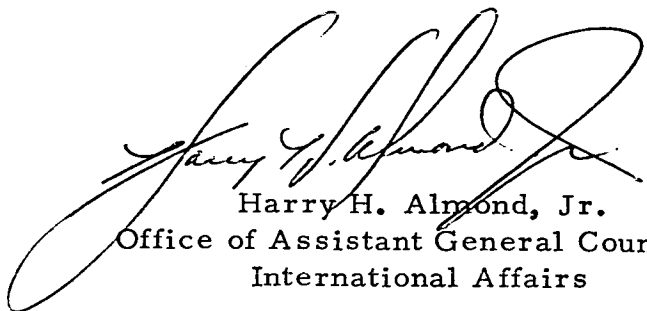
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3. The Trust Territory has been administered as a strategic Trust Territory. It is the only one of its kind. It is strictly an arrangement between the United States and the Security Council and not with the General Assembly. Up to now, as Commander Kuhn has indicated, the United States has not had any problems with the Security Council.

4. The commonwealth proposal which we discussed was worked out on an interagency basis in which I was assigned to provide major assistance in drafting the proposal, the organic act, and in particular all provisions relating to the United States interests in real property on the islands. I do not believe the proposal should fragment United States "sovereignty" by reducing or denying it the power to exercise eminent domain or to provide for federal jurisdiction. Such fragmentation, in my view, would not be acceptable to our congress and would cause us considerable trouble in the future.

5. The proposal which I voiced for the continuation of the strategic trust arrangement is, of course, a matter involving policies and factors not readily within the reach of our department. As you will recall, this proposal might enable us to maintain a reason for continuing our present administration with a view toward bringing the Micronesians not only to a position of self-government or independence but to link with that position the necessary "infrastructure" in the sense that the territory might also - at least to the rest of the world - enable the territory to reach economic self-sufficiency (see to this effect Article 6 of the Trusteeship Agreement, paragraph 2).*


Harry H. Almond, Jr.
Office of Assistant General Counsel
International Affairs

* Associated with this proposal is the thought that the United States would shape Micronesian policies and opinion toward seeking ultimately either a treaty arrangement for the United States or a commonwealth arrangement which would take place in the future and not at the present.

Agreement approved by the Security Council of the United Nations April 2, 1947, respecting trusteeship for the former Japanese mandated islands. Approved by the President of the United States of America July 18, 1947, pursuant to authority granted by a joint resolution of the Congress of the United States of America July 18, 1947; entered into force July 18, 1947.

July 18, 1947
[T. I. A. S. 1665]

TRUSTEESHIP AGREEMENT FOR THE FORMER
JAPANESE MANDATED ISLANDS
APPROVED AT THE ONE HUNDRED AND TWENTY-FOURTH
MEETING OF THE SECURITY COUNCIL

PREAMBLE

WHEREAS Article 75 of the Charter of the United Nations provides for the establishment of an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent agreements; and

59 Stat. 1048.

WHEREAS under Article 77 of the said Charter the trusteeship system may be applied to territories now held under mandate; and

59 Stat. 1049.

WHEREAS on 17 December 1920 the Council of the League of Nations confirmed a mandate for the former German islands north of the equator to Japan, to be administered in accordance with Article 22 of the Covenant of the League of Nations; [1] and

WHEREAS Japan, as a result of the Second World War, has ceased to exercise any authority in these islands;

NOW, THEREFORE, the Security Council of the United Nations, having satisfied itself that the relevant articles of the Charter have been complied with, hereby resolves to approve the following terms of trusteeship for the Pacific Islands formerly under mandate to Japan.

ARTICLE 1

The Territory of the Pacific Islands, consisting of the islands formerly held by Japan under mandate in accordance with Article 22 of the Covenant of the League of Nations, is hereby designated as a strategic area and placed under the trusteeship system established in the Charter of the United Nations. The Territory of the Pacific Islands is hereinafter referred to as the trust territory.

Trust territory.

ARTICLE 2

The United States of America is designated as the administering authority of the trust territory.

¹ [Treaties, Conventions, International Acts, Protocols, and Agreements Between the United States of America and Other Powers, 1910-1923. Vol. III, p. 3342, compiled by C. F. Redmond, Washington, D. C.]

ARTICLE 3

Powers of administering authority.

The administering authority shall have full powers of administration, legislation, and jurisdiction over the territory subject to the provisions of this agreement, and may apply to the trust territory, subject to any modifications which the administering authority may consider desirable, such of the laws of the United States as it may deem appropriate to local conditions and requirements.

ARTICLE 4

59 Stat. 1050.

59 Stat. 1048.

The administering authority, in discharging the obligations of trusteeship in the trust territory, shall act in accordance with the Charter of the United Nations, and the provisions of this agreement, and shall, as specified in Article 83 (2) of the Charter, apply the objectives of the international trusteeship system, as set forth in Article 76 of the Charter, to the people of the trust territory.

ARTICLE 5

Maintenance of peace and security.
59 Stat. 1049, 1050.

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.

ARTICLE 6

59 Stat. 1049.

In discharging its obligations under Article 76 (b) of the Charter, the administering authority shall:

Development of political institutions.

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;

Economic advancement.

2. promote the economic advancement and self-sufficiency of the inhabitants, and to this end shall regulate the use of natural

resources; encourage the development of fisheries, agriculture, and industries; protect the inhabitants against the loss of their lands and resources; and improve the means of transportation and communication;

3. promote the social advancement of the inhabitants, and to this end shall protect the rights and fundamental freedoms of all elements of the population without discrimination; protect the health of the inhabitants; control the traffic in arms and ammunition, opium and other dangerous drugs, and alcohol and other spirituous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses; and

Social advancement.

4. promote the educational advancement of the inhabitants, and to this end shall take steps toward the establishment of a general system of elementary education; facilitate the vocational and cultural advancement of the population; and shall encourage qualified students to pursue higher education, including training on the professional level.

Educational advancement.

ARTICLE 7

In discharging its obligations under Article 76 (c), of the Charter, the administering authority shall guarantee to the inhabitants of the trust territory freedom of conscience, and, subject only to the requirements of public order and security, freedom of speech, of the press, and of assembly; freedom of worship, and of religious teaching; and freedom of migration and movement.

Guarantee of designated freedoms.
59 Stat. 1049.

ARTICLE 8

1. In discharging its obligations under Article 76 (d) of the Charter, as defined by Article 83 (2) of the Charter, the administering authority, subject to the requirements of security, and the obligation to promote the advancement of the inhabitants, shall accord to nationals of each Member of the United Nations and to companies and associations organized in conformity with the laws of such Member, treatment in the trust territory no less favourable than that accorded therein to nationals, companies and associations of any other United Nation except the administering authority.

Treatment to be accorded designated nationals, etc.
59 Stat. 1049, 1050.

2. The administering authority shall ensure equal treatment to the Members of the United Nations and their nationals in the administration of justice.

3. Nothing in this Article shall be so construed as to accord traffic rights to aircraft flying into and out of the trust territory. Such rights shall be subject to agreement between the administering authority and the state whose nationality such aircraft possesses.

Traffic rights of aircraft.

4. The administering authority may negotiate and conclude commercial and other treaties and agreements with Members of the United Nations and other states, designed to attain for the inhabitants of the trust territory treatment by the Members of the United Nations and other states no less favourable than that granted by them

Negotiation of treaties, etc.

to the nationals of other states. The Security Council may recommend, or invite other organs of the United Nations to consider and recommend, what rights the inhabitants of the trust territory should acquire in consideration of the rights obtained by Members of the United Nations in the trust territory.

ARTICLE 9

Federation with other U. S. territories.

The administering authority shall be entitled to constitute the trust territory into a customs, fiscal, or administrative union or federation with other territories under United States jurisdiction and to establish common services between such territories and the trust territory where such measures are not inconsistent with the basic objectives of the International Trusteeship System and with the terms of this agreement.

ARTICLE 10

International cooperation.

The administering authority, acting under the provisions of Article 3 of this agreement, may accept membership in any regional advisory commission, regional authority, or technical organization, or other voluntary association of states, may co-operate with specialized international bodies, public or private, and may engage in other forms of international co-operation.

ARTICLE 11

Citizenship.

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.

Diplomatic protection.

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.

ARTICLE 12

Legislation.

The administering authority shall enact such legislation as may be necessary to place the provisions of this agreement in effect in the trust territory.

ARTICLE 13

59 Stat. 1030, 1051.

The provisions of Articles 87 and 88 of the Charter shall be applicable to the trust territory, provided that the administering authority may determine the extent of their applicability to any areas which may from time to time be specified by it as closed for security reasons.

ARTICLE 14

Application of international conventions.

The administering authority undertakes to apply in the trust territory the provisions of any international conventions and recommendations which may be appropriate to the particular circumstances of the trust territory and which would be conducive to the achievement of the basic objectives of Article 6 of this agreement.

ARTICLE 15

The terms of the present agreement shall not be altered, amended or terminated without the consent of the administering authority.

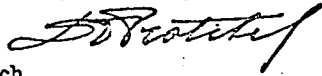
Non-alteration of terms.

ARTICLE 16

The present agreement shall come into force when approved by the Security Council of the United Nations and by the Government of the United States after due constitutional process. [1]

Entry into force.

Certified corrected true copy
For the Security Council Affairs Department



D. Protitch
Director in charge of Security Council Affairs Department

[1] [Approved by the Security Council of the United Nations, Apr. 2, 1947; and by the Government of the United States of America, July 18, 1947.]