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In reply refer to:  
I-21841/71

15 MAR 1971

MEMORANDUM FOR CDR. EDWIN A. KUHN, ISA/EA&PR

SUBJECT: Trust Territory of the Pacific Islands - Future  
Political Status - Proposed Memo for the President -  
March 9, 1971

In response to your request for comments on this memorandum, we refer to our prior memoranda on the same subject. However, from the point of view of defense interests, it would be helpful to have a breakdown indicating how each of the options stand as they apply to (1) access to land in the event eminent domain provisions are not available; (2) control of security and foreign affairs; and (3) power to deny access to the territory and particularly its strategic areas by third countries. These three subjects are the vital defense interests. If they are not satisfied, then the interest on the part of the Department would surely be bypassed.

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

typed by jad

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Page 1 of 1 Pages

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Memo For Harry Almond, - Gen Counsel.

- This is up for telephone vote by the Undersecretaries' Comm.
- We propose to concur (as the paper incorporates our views).
- Comments ?

Al Kuhner

NSC UNDER SECRETARIES COMMITTEE

## MEMORANDUM FOR THE PRESIDENT

Subject: Trust Territory of the Pacific Islands  
-- Future Political Status

On February 3, 1971, the Under Secretaries Committee reviewed Micronesia's future political status and the options open to the United States for resolving this issue (Tab B).

*(not attached - essentially same as previous version dated 15 JAN. '71, which you have)*

I. Status of Discussions

The Committee agreed that negotiations and other contacts with the Congress of Micronesia have failed to produce appreciable progress beyond clarifying the respective positions.

The most recent U.S. proposal, advanced in the May 1970 discussions, envisaged that Micronesia become a U.S. commonwealth, in permanent association, under U.S. sovereignty. (The proposal explicitly protected Federal Supremacy, so as to avoid the constitutional ambiguities of Puerto Rico's status.) Our delegation

stated that the United States could not now foresee when a status of independence "might be appropriate to the circumstances of the Territory."

The Micronesian Delegation advanced four "non-negotiable" principles which affirm Micronesia's sovereignty and right to independence or unilaterally terminable "free association with any nation." The Congress of Micronesia subsequently endorsed these four principles and declared the U.S. offer "unacceptable in its present form."

— Micronesian leaders recognize the Territory's economic dependence on the United States. Most are convinced that some form of association with the United States, with U.S. powers circumscribed by the terms of the association, would best preserve the unity of the islands and their political and cultural identities. These same leaders, however, strongly object to retention by the United States of the power of eminent domain -- in view of the importance of

land in local culture -- and to the vague but implicitly broad powers which the United States would reserve under Federal Supremacy provisions. Many also believe that a provision for unilateral termination is essential to preserve the concept of Micronesian sovereignty and to protect basic Micronesian interests. (We have indications that some formula, carefully circumscribed in law and difficult in practice, might be acceptable.) Their proposed solution is a "free association" -- a status which would recognize Micronesian sovereignty but generally leave defense and foreign affairs responsibilities to the United States.

More recently, there are increasing indications that it may be difficult, if not impossible, to obtain a single solution for the Territory as a whole in view of the growing alienation between the Marianas, where pro-U.S. sentiments are strong, and the other five districts, which desire a looser form of association. Culminating ten years of agitation, the Marianas

District Legislature last month adopted a resolution stating the District's intention to secede from the Territory -- at an unspecified time. Thus, we may be required -- or, depending upon developments, may prefer -- to deal with the Marianas separately.

Under these circumstances, some of the following options, although they were developed as Territory-wide solutions, might become applicable to the five remaining districts. We would not expect any major difficulty in reaching agreement with the Marianas.

## II. Options

The Committee agreed that we cannot hope simply to maintain the status quo, politically and administratively. The United States should, of course, take all possible steps to improve conditions for the status talks, such as improvements in administration and increased Micronesian responsibility for the government of the Territory. The Committee does not

believe, however, that such actions alone will win Micronesian acceptance of the U.S. proposal in its present form.

The United States can approach the problem in several different ways:

- We could try to make the continuation of the Trusteeship acceptable to the Micronesians by giving them full self-government under it, subject only to U.S. security requirements, with the expectation that this could later result in a more favorable permanent solution than now attainable.
- We could continue to seek the extension of U.S. sovereignty over the islands, to the extent possible. Thus, we could modify the U.S. commonwealth proposal in an attempt to make such an arrangement acceptable to the Micronesians; or, alternatively, we could, by means of a plebiscite, give those districts

which would prefer to become part of the United States (e.g., the Marianas) the opportunity to do so, and seek to negotiate a separate arrangement with the remainder of the Territory.

-- We could abandon the objective of U.S. sovereignty and seek to construct a looser, but still close, relationship ("free association") that would reflect U.S. strategic interests and largely satisfy Micronesian desires.

These broad approaches have been developed into a number of specific options summarized at Tab A and described in detail at Tab B.

### III. Recommendations

The Committee is uncertain which of these approaches and options are negotiable. Moreover, approaches negotiable with the Micronesians might not be acceptable to senior members of the U.S. Congress. Thus, before



proceeding with further negotiations with the Micronesians, we would propose to undertake appropriate Congressional consultations (Tab C).

In light of these uncertainties, our recommendations are presented in terms of a general negotiation sequence setting forth a series of steps, each of which might constitute an acceptable solution to the status question.

The departments differ on what would be the desirable initial step (Step A vs. Step B below). Furthermore, beyond the initial steps, the sequence is necessarily tentative and should be kept under review. We will continue to report on the progress of the negotiations and, as necessary, seek revalidation of the proposed negotiating authority in light of new developments.

Following is the general negotiation sequence for which the Committee requests your decision and approval.

Step A: Micronesian self-government under Trusteeship (Tab B, pp. 11-15 -- recommended by Interior as initial step; opposed by State and Defense).

The United States would, for the time being, discontinue efforts to end the Trusteeship. Instead, the United States would undertake to turn over to the Micronesians, as rapidly as possible, the full administration of the Trust Territory, including relations with foreign countries other than military involvements. A commitment would be required by the United States to continue financial support at approximately present levels (\$50-60 million), without limitation on the use of such funds. The Micronesians would be free to reorganize the present administration, draft a constitution, and establish governmental bodies of their own devising.

The United States, by maintaining the Trusteeship, would continue its rights to exclude any foreign

military presence and to retain or condemn land for military purposes.

Step B: Modified Commonwealth (Tab B, pp. 19-20 -- concessions limited to eminent domain and Federal Supremacy: recommended by State and Defense as initial step; by Interior as second step).

With the aim of extending U.S. sovereignty over the Territory as a whole, we would, within predetermined limits, continue to seek a solution along the lines of a commonwealth relationship modified only where essential to obtain Micronesian agreement. We would not accept a provision for unilateral termination. The U.S. negotiating limits would be:

- a. Eminent domain: Forego the exercise, as distinguished from the inherent power, of U.S. eminent domain, provided that long-term use of needed land in the Marianas is assured by prenegotiated arrangements (option, lease or purchase) and that present facilities in

the Marshalls are retained. We would make every effort to obtain basing options in Palau for future contingencies; we would forego such options only as a last concession in exploring this Step and only if it were reasonably clear that a settlement of the status question was obtainable within the modified commonwealth framework.

- b. Federal Supremacy: Limit the exercise of Federal Supremacy where such is practicable, legal and not in derogation of overall U.S. national interests. We might agree that the United States would exercise Federal powers only in the fields of foreign relations and defense, except as agreed by the Micronesians or required by a national emergency.

Step C: Modified Commonwealth (Tab B - pp. 19-20 Step B with addition of concession on unilateral termination).

If the concessions on eminent domain and Federal Supremacy (Step B) fail to produce agreement, we would offer the Micronesians a provision for unilateral termination, carefully circumscribed, possibly through a complex procedure and after a specified period of years. (For example, Micronesia might be given the right to terminate the commonwealth relationship, after a specified period, upon approval by a two-thirds majority of the Micronesian Congress and the Micronesian electorate.) Individual districts voting against the termination, e.g., the Marianas, would have the right to remain with the United States.

A termination provision would be offered only if two conditions were met: (a) it were clear that all other provisions of the modified commonwealth proposal (Step B) were acceptable to the Micronesians and that the addition of the unilateral termination clause provided a basis for final agreement; and (b) there were explicit agreement that the prenegotiated strategic

arrangements (i.e., denial and basing rights) would legally survive a possible termination.

Step D: Multiple Solutions (District-by-district plebiscite option, Tab B, pp. 21-22, or variations thereof, as described below).

As a result of the most recent developments in the Marianas, we may be unable to find a single solution which will satisfy all districts -- i.e., a modified commonwealth (Steps B or C) may be unworkable as a Territory-wide solution.

Should this occur we would agree to offer the Marianas -- and any other district that found the option attractive -- the choice of joining the United States. We should remain flexible as to the form of such an association, e.g., union with Guam or a separate territory/commonwealth, depending on which districts chose to join with the United States.

As regards the remainder of the Territory\*, we would initially attempt to find a single separate solution, preferably by continuing the exploration of Steps B and C. Should this prove unsuccessful, we would consider further whether we should: a) propose a "free association" type arrangement or a status of full independence to these remaining districts as a group; or b) try to deal with each district separately.

At some point, we may find it useful to suggest a plebiscite that would offer each district a clear, hard choice between commonwealth status and full independence, with those districts choosing independence hopefully joining into a single entity (Tab B, pp. 21-22). Such a suggestion may have utility as a

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\* The Trusteeship agreement can legally be terminated only for the Territory as a whole. Thus, the United States cannot terminate the Trusteeship only for parts of the Territory or arrange for termination at different times.

negotiating tactic at an early stage. In view, however, of the separatist sentiments in the Marianas and the mutual antagonism between the leaders of that district and those of the rest of the Territory, there is a distinct possibility that such a suggestion would be accepted, thus prematurely committing the United States to this approach.

Step E: "Free Association" (Tab B, pp. 23-25)

Under this step, we would explore a relationship of "free association." While abandoning the goal of U.S. sovereignty, to satisfy a key element of the Micronesian position, we would attempt to negotiate a compact terminable only by mutual consent. We would insist on exclusive control over foreign relations and defense. Moreover, in most other respects, we would seek to establish a pattern of close relationships similar to that existing under a modified commonwealth to build up vested Micronesian interests in the association (e.g., participation in Federal



domestic programs, access to the U.S. judicial system, rights of U.S. nationality, etc.). Finally, we would also insist upon prenegotiated arrangements, which would be designed legally to survive the association, to provide for strategic denial of the area and the same degree of access to land for military needs as under the modified commonwealth (Steps B or C).

Discussion:

The positions of the departments and agencies differ with regard to the merits of Step A:

Should the United States offer full self-government within an overall framework that would maintain the Trusteeship?

Interior believes that we should now proceed with this approach, thereby making time work in our favor. This approach will give the Micronesians a better appreciation of the problems of self-government, thus enabling us to strike a better bargain at some future date.

State and Defense agree that increased self-government is advisable but believe that this approach -- aside from serious practical problems, including acceptability in the Marianas -- would at best deflect the Micronesians only temporarily from the status issue. Having established a fully self-governing and functioning Micronesian state, and allowing it to forge unrestricted political and economic links with other nations, we would, as a practical matter, find it very difficult to ignore a petition for the lifting of the Trusteeship a few years hence under terms desired by the Micronesians.

In summary, the Committee requests your decision on the general negotiation sequence:

- (a) Beginning with Step A  
(favored by Interior)
- (b) Beginning with Step B  
(favored by State and Defense)

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Disapprove

(The approved sequence will also serve as the basis of early consultations with the U.S. Congress.)

\* \* \*

In addition to the Committee's regular members, the Departments of Justice and of the Interior (which chairs the Interagency Committee on Micronesian status) have participated in this review.

John N. Irwin II  
Chairman

Enclosures:

Tab A - Summary of Options

Tab B - Report of Interagency  
Committee

Tab C - Proposed Congressional  
Consultations

SUMMARY OF OPTIONS  
(as considered by the Committee)

Approach:

Make maintenance of Trusteeship acceptable to Micronesians.

- Option: Continuation of the Trusteeship; Micronesian self-government subject to U.S. security requirements.

The Micronesians would fully manage their own affairs, including relations with foreign countries other than military involvements; the United States, by maintaining the Trusteeship, would continue its rights to exclude any foreign military presence and to retain or condemn land for military purposes (Tab B, pp. 11-15).

Approach:

Maintain objective of U.S. sovereignty.

- Option: Modification of the U.S. commonwealth proposal.

We would, within predetermined limits, be prepared to modify the U.S. proposal in an attempt to gain Micronesian acceptance. This might entail concessions in one or more of the three critical areas -- eminent domain, Federal Supremacy, and termination (Tab B, pp. 19-20).

-- Option: District-by-district plebiscite

To obtain a permanent association with the United States of at least the Marianas, probably Yap, and possibly other districts, we would offer each of the six districts a choice between accession to the United States and independence (Tab B, pp. 21-22).

Approach:

Seek close relationship short of U.S. sovereignty.

-- Option: "Free Association" (i.e., Micronesian "sovereignty" recognized by compact, with the United States assigned exclusive control over foreign relations and defense.

While granting Micronesian "sovereignty," this arrangement could result in a relationship approaching that of a modified commonwealth at its limits. Strategic denial and basing rights would be secured both by the compact and specific prenegotiated arrangements. In return, while granting Micronesia full internal autonomy, we could offer a variety of benefits to tie Micronesia more closely to the United States, such as participation in federal domestic programs, access to the U.S. judicial system, the rights of U.S. nationality etc. (Tab B, pp. 23-25).

Approach:

Approaches not currently considered feasible long-term solutions.

- Option: Continuation of the Trusteeship, attempt to create conditions conducive to acceptance of the recent U.S. commonwealth proposal.

We would keep the commonwealth proposal open and hope to build future Micronesian support for it through administrative improvements and increased Micronesian responsibility for governing the Territory (Tab B, pp. 16-18).

- Option: Micronesian sovereignty, (i.e., independence with prearranged treaty ties (Tab B, pp. 26-27).

Proposed Congressional Consultations

The Executive Branch is committed to consult with the House Interior Committee before proceeding with the next steps on the Micronesian political status problem. In addition, owing to the far-reaching nature of some of these steps, consultations with the Congressional leadership and other key committees will probably be required.

It is proposed that these consultations be undertaken jointly by the three departments under Department of the Interior leadership, subject to direction by the Under Secretaries Committee. White House assistance may be required to gain the concurrence of key Congressional figures in these proposals and their limits. (We foresee a problem in protecting our negotiating position against unauthorized disclosure; except for a few senior



members of Congress whose support will be essential, consultations will be conducted in more general terms designed to seek reactions to a range of alternatives.)

The U.S. Congress can be expected to have difficulties with these proposals for several reasons:

- The variety of views within the Congress on the status issue: for example, some are concerned that the islands may eventually slip out of the U.S. orbit; others are disturbed by the international and domestic repercussions of limiting Micronesia's choices for self-determination; still others may oppose in principle the continuation of these overseas obligations;
- Congressional concerns as to the nature of the precedents created by a loose Commonwealth relationship, particularly the

implications for Puerto Rico and other U.S. territories of such an arrangement;

- The long-term financial costs to the United States associated with the permanent assumption of responsibility for foreign peoples, who have few historic ties to the United States and will be unable to support themselves over the foreseeable future.