



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON 25, D. C.

617-706

FILE COPY
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Dear Mr. Chairman:

This is in further response to questions raised during the recent briefing session on territorial matters before the Subcommittee. Mr. Meeds inquired as to the severability, under the Trusteeship Agreement of the Trust Territory of the Pacific Islands; specifically, Mr. Meeds referred to the current secession movement in the Mariana Islands district.

I am enclosing a memorandum of May 26, 1971, from the Department of State which speaks to this question of the Marianas' ability to secede.

If we can be of further assistance, please let us know.

Sincerely yours,

(Sgd.) Harrison Loesch

Harrison Loesch
Assistant Secretary for
Public Land Management

Honorable Phillip Burton
Chairman, Subcommittee on
Territorial and Insular Affairs
House of Representatives
Washington, D. C. 20515

Enclosure

cc: Secy's File
Secy's RF (2)
LM-Mr. Whittington

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DEPARTMENT OF STATE

Washington, D.C. 20520

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May 26, 1971

MEMORANDUM

TO : Mr. Thomas L. Whittington
Staff Assistant
Office of the Assistant Secretary
Department of the Interior

FROM: David C. Halsted
IO/UNP
Department of State

Attached is a statement on the Trusteeship Agreement
and Marianas secession for submission to the House
Interior Committee.

Enclosure:
As stated above

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May 26, 1971

MARIANAS SECESSION FROM TTPI

The Department of State considers that without modification of the present Trusteeship Agreement neither the Marianas nor any other district of the Trust Territory has the legal right to secede from the Trust Territory since secession would be an act having the effect of terminating the authority of the Trusteeship Agreement over that district or districts. Without modification of the Agreement, the United States itself does not have the legal authority to terminate the Agreement over part but not all of the Territory.

Marianas representatives have argued that they did not sign the Agreement and hence are not bound by its terms. This reasoning is legally unpersuasive. The rule of international law that a state is generally not bound by treaties to which it is not a party has no application in this case. Neither Micronesia as a whole nor the Marianas as a district thereof is now or was at the time the Agreement was made a sovereign state. Neither, therefore, had or has the capacity to become a party to an international agreement.

The United States and the Security Council, as the parties to the Trusteeship Agreement, have sole power to modify or terminate that Agreement.

Although the United States has administrative flexibility within the scope of the Agreement, the United States cannot unilaterally terminate part of that Agreement by exempting the Marianas or any other district from its application. The agreement related to a specifically defined geographic entity--namely all of the more than 2,000 islands of Micronesia. Collectively they make up one trust territory--that of "The Pacific Islands." The act of terminating the trust over some part of this entity would therefore require

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modification of the Agreement itself to reflect the new geographic entity that would remain in trust territory status. Although such modification is legally possible, the political difficulties likely to be involved in renegotiating the Trusteeship Agreement with the Security Council make such modification a most remote possibility.

At the time of self-determination there is no legal barrier to the Marianas or any other district having the option to elect a status separate from that of the rest of the Micronesian people. Until that Agreement is terminated over the entire Trust Territory, however, it will remain in effect over each of the districts therein.