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February 17, 1972

MEMORANDUM FOR CAPTAIN GORDON SCHULLER, USN
ISA/EA&PR

SUBJECT: Acquisition of Tinian.

Referring to the Memorandum dated 16 February 1972 from
Capt Crowe to you, the following should be noted:

1. A legal opinion concerning these subjects should be coordinated with the Department of State. On the assumption that such coordination will take place, I offer the preliminary comments set forth below.
2. In my view the purchase of Tinian before termination of the Trust would not be a violation of Article 6(2) of the Trusteeship Agreement, but see response to question 1(d) below.
3. The response to Question 1(b) raises policy issues which cannot be answered until they are resolved.
4. The response to Question 1(c) should be provided by Departments of Justice/Interior. They should provide a coordinated opinion between one another, and should be provided us for comments/concurrence in the event Defense "interests" are raised.

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If the United States has the power of "eminent domain" at present it can acquire title at this time by exercising that power. If it does exercise such a power, it then would acquire title to the condemned land in the same way it acquires title within the territory of the United States (i. e. appropriate judicial proceedings, payment of just compensation, etc.).

The Department of Interior and Department of Justice should indicate what institution or who, in its view, is the legally constituted authority to represent the Marianas in the event "negotiations" and a land transaction with such authority would take place.

SIGNED

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

cc: Col A. Smith, JCS
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