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11 July 1972

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

SUBJECT: Deployment of Nuclear Weapons - Trust Territories.

1. The question of vital interest to the United States is the deployment/storage of nuclear weapons on the Trust Territories. This item is, I understand, non-negotiable. It is a question of tactics which I will not address whether (a) the item is raised in the negotiations on the compact or separately in other negotiations; (b) whether raised at the outset or after negotiations have progressed; (c) whether dealt with in the leases separately or in addition to dealing with it in the compact; (d) whether the United States might for policy reasons choose to follow a position of neither confirming nor denying their presence to any (or to any but a select few of the Micronesians). All of these tactics must be considered by those making the policy judgments.

2. The following approaches can therefore be considered (depending on the tactic adopted):

-cover the matter by providing for the right (expressed) in the leases themselves, in which event the provisions in the leases (or base rights agreements) would spell out that nuclear weapons are to be stored and deployed; if such a provision is desirable, we can draft it upon instructions.

-provide in the compact and in the leases that the use of the facilities and military bases is entirely unrestricted;

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combine with this approach a statement to the Micronesians (if policy judgments dictate) that such weapons are or will be present; cover both existing and future leases. (Alternatively say nothing about the weapons but if the issue ever arises indicate that the term "unrestricted" was intended to be without limits whatsoever).

-agree with the Micronesians to enter into a separate classified undertaking relating to deployment/storage, combined with leases and base operating rights agreements which indicate unrestricted use of the land or territory areas covered;

-provide separately for survivability of these rights, in any event.

3. The following clause relating to unrestricted use might be added in the leases:

"The use of these facilities or any of facilities acquired by the United States in the territory of Micronesia and the measures taken for their protection and defense shall ~~not be restricted in any way.~~"

Comment.

This very general language can be either left for future interpretation (probably undesirable), or explained ~~during~~ negotiation.

SIGNED

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

cc: GC  
Chron  
Circulating  
File: ILP - TTPI

International Affairs  
cc: Col. A. L. Smith, JGS  
P. Barringer, ISA OSD

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July 11, 1972

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

**SUBJECT: Comments - Criminal Jurisdiction Provisions - Compact Trust Territories of the Pacific - Working Paper.**

You have requested our opinion relating to the adopting of the working paper calling for United States Courts, commencing with the federal appellate Courts and continuing through to final review in the United States Supreme Court, to have full and exclusive appellate jurisdiction over Micronesian courts that have dealt with criminal jurisdiction over United States citizens (both civilian and military).

I recommend that the United States adopt the Department of Defense proposal - modifying it to meet its needs, and covering, as that proposal is presently worded, all matters of jurisdiction. I recommend therefore that you advise Captain Crowe that the working paper is not acceptable.

Signed

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

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