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July 17, 1972

MEMORANDUM FOR CAPTAIN GORDON SCHULLER, ISA/EA&PR

MR. PHILIP BARRINGER, ISA/FMRA

COL. A. M. SMITH, JCS

SUBJECT: Instruments Applicable to United States Trusteeship -
Micronesia.

The following documents relate to United States administration and United States policies over the territory of Micronesia. Discussion of their ramifications on the present negotiations should be made part of our next Department of Defense meeting:

- a. Ambassador Austin's statement to the United Nations - United States Assumption as Strategic Trustee.
- b. Draft Trusteeship agreemt. for the Trust Territory of the Pacific Islands with the comments of Ambassador Warren R. Austin.
- c. Letter of the President, dated June 19, 1947, submitting report on the Trust Territory of the Pacific Islands.
- d. Trusteeship agreement for the former Japanese mandated Islands.
- e. Policy Letter for Trust Territory, dated January 15, 1948.
- f. Land and Claims regulation No. 1.
- g. Land and Claims regulation No. 2.
- h. A Statement of conservation principles for Micronesia.

Signed

Harry H. Almond, Jr.

Office of Assistant General Counsel
International Affairs

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the motives of most men as mean and vulgar, with, of course, one notable exception. If I should send a commission to the Pacific Islands to report to me on . . . the current results of naval administration they will all be yes-men . . . Mr. Ickes, among other things, is an expert on yes-men. He has taken pains to have a satisfactory number around him . . . For tolerance, understanding, wisdom and devotion to the cause of human freedom, I believe the admirals, when called upon for their final accounting before their Maker will not have to step aside, unless Harold Ickes does it by force.⁵

The text of the draft trusteeship agreement for the Pacific Islands was submitted to the Secretary General of the United Nations by the United States Representative to the United Nations, Ambassador Warren R. Austin, on February 1, 1947,⁶ with the request that it be placed on the agenda of the Security Council at an early date. It was scheduled on the provisional agenda for the 113th meeting of the Security Council.

Ambassador Austin formally submitted the draft agreement to the Security Council on February 26, 1947 together with article-by-article explanatory comments.⁷

In presenting this text, Mr. Austin read the following statement to the Security Council:

Mr. President, the United States, like other nations adhering to the United Nations Declaration of January 1, 1942, subscribed to the Atlantic Charter principle that "their countries seek no aggrandizement, territorial or other."

It was for the purpose of making clear that the United States adheres unswervingly to this principle that the President of the United States on November 6, 1946 declared our intentions regarding Pacific islands whose control by Japan enabled her to attack the United States. The President said:

"The United States is prepared to place under trusteeship, with the United States as the administering authority, the Japanese Mandated Islands and any Japanese islands for which it assumes responsibility as a result of the second World War. In so far as the Japanese Mandated Islands are concerned, this Government is transmitting for information to the other members of the Security Council (Australia, Brazil, China, Egypt, France, Mexico, the Netherlands, Poland, the Union of Soviet Socialist Republics, and the United Kingdom) and to New Zealand and the Philippines a

⁵ *The Forrestal Diaries*, p. 232.

⁶ Security Council doc. S/281 of 17 Feb 47.

⁷ U.S. Delegation doc. US/S/119 of Feb 47; Security Council doc. S/281 in *Official Records of the Security Council*, Second Year, Supplement No. 8, Annex 17. For text of draft agreement and Ambassador Austin's comments, see app. 2, p. 1121.



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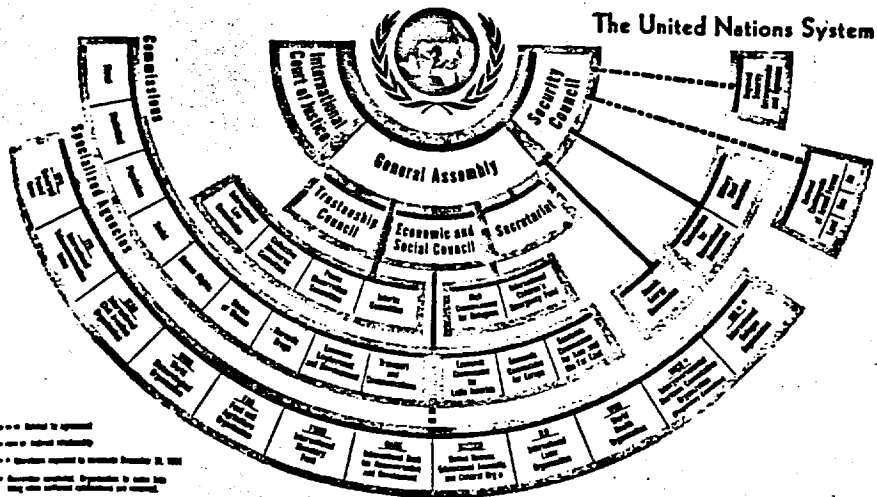
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draft of a strategic area trusteeship agreement which sets forth the terms upon which this Government is prepared to place those islands under trusteeship. At an early date we plan to submit this draft agreement formally to the Security Council for its approval."

Final disposition of islands belonging to Japan must, of course, await the peace settlement with Japan. The draft trusteeship agreement submitted to the Security Council for its approval relates only to the former Japanese Mandated Islands, which never belonged to Japan but were a part of the League of Nations mandate system. The United States has consistently and strongly supported the position of the General Assembly that former mandated territories should be placed under the trusteeship system as soon as possible.

The General Assembly, at the first part of its first session, called on "those members of the United Nations which are now administering territories held under mandate" to undertake practical steps for the implementation of article 79 of the Charter. Since the United States was, and is, occupying the territory formerly mandated to Japan, the United States desired to play its part in attaining the objectives of the General Assembly resolution, namely that trusteeship agreements for all former mandated territories should be concluded promptly and the trusteeship system organized as soon as possible.

The Japanese Mandated Islands—the Marshalls, Marianas, and Carolines—consist of some 98 islands and island clusters with a total land mass of only 846 square miles, a total population of only about 48,000 native inhabitants, and negligible indigenous economic resources.

The tremendous strategic value of the Mandated Islands to Japan is evident, however, in the way these islands were used in carrying out its basic plan of aggression. Before Japan entered the war on December 7, 1941, she had established fortified positions, naval bases, and air bases in the islands of the Japanese Mandates. As a whole, the islands formed a deep, well-defended barrier between the United States and Guam, the Philippines, and its British and Dutch Allies in the Far East.

The major part of the Japanese submarines which participated in the attack on Pearl Harbor staged through Kwajalein in the Marshall Islands. From this same base, Japanese submarines continued to carry out extensive operations against the United States shipping in the eastern half of the Pacific Ocean for years.

Air bases and amphibious staging points in the Marianas facilitated the capture of Guam in December 1941.

Air forces and naval forces operating from the Marshalls were used in the capture of Wake Island.

On the outbreak of war, the Japanese Mandated Islands, with their naval and air forces and shore defenses, served to screen and protect the southward advance of the Japanese against the Philippines and British and Dutch possessions in the southwestern Pacific Ocean.

The Palau group in the western Carolines served as the main forward support base for the attack on the Netherlands East Indies and Timor.

It was this interlocking network of naval and air bases in the Mandated Islands that prevented sending early and effective support to China except by circuitous and highly difficult routes.

The atoll of Truk was used by the Japanese as a great naval and air base from which they launched their attacks against New Britain, New Ireland, New Guinea, and the islands of the Solomons chain. It was a base for their projected attack against Australia. From Truk and other bases Japanese naval and air forces could and did penetrate to the eastward to threaten the Allied lines of communications between the United States, Australia and New Zealand.

Until they were reduced, or by-passed and rendered innocuous by air and naval attack, the Mandated Islands threatened our lines of communications to Australia and prevented our early return to the aid of the Philippines and to China. It was only after neutralization of Truk and capture of Peleliu and Angaur in the Palaus that it was feasible to return to the Philippines, and it was only after capture of the Marianas that serious military pressure could be placed on Japan itself by our B-29's.

Tens of thousands of American lives, vast expenditures of treasure, and years of bitter fighting were necessary to drive the Japanese aggressors back from these islands. These islands constitute an integrated strategic physical complex vital to the security of the United States.

The American people are firmly resolved that this area shall never again be used as a springboard for aggression against the United States or any other member of the United Nations.

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Most of the strategically important areas of the world, including those in the Pacific, are at present under the exclusive sovereignty of various of the larger nations. The United States, however, is proposing trusteeship rather than annexation as the basis for its administration of these highly strategic islands.

In undertaking to place under trusteeship a territory of such strategic importance to the United States as these islands, the United States is expressing its faith in the United Nations.

Our purpose is to defend the security of these islands in a manner that will contribute to the building up of genuine, effective, and enforceable collective security for all members of the United Nations.

The first of the four basic objectives of the trusteeship system set forth in article 76 of the Charter is "to further international peace and security." Since the area of the former Japanese Mandated Islands is of paramount strategic importance, the United States proposes, in accordance with article 82 of the Charter, that the trust territory be designated a strategic area.

In preparing this draft trusteeship agreement, the Government of the United States gave long and careful study not only to the Charter as a whole and to its specific provisions for strategic needs in special areas, but also to the draft agreements for non-strategic areas recently submitted to the General Assembly by five of the mandatory powers. This draft trusteeship agreement is viewed by the Government of the United States as conforming, in substance and in form, with the Charter and as promoting the interests both of the inhabitants of the islands and of the United Nations. It contains the terms upon which the United States is prepared to administer the former Japanese Mandated Islands as a trust territory.

In conformity with the provisions of the Charter for strategic areas the trust territory will contain bases. Many atolls in the territory have potential value as base sites or as anchorages. Few such sites, however, are being developed and maintained at present.

The United States will administer this strategic trust territory in accordance with the provisions of the Charter. In particular, the United States will administer the territory in accordance with the obligations contained in article 2, paragraph 4, to "refrain . . . from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations."

The United States as administering authority will insure that this trust territory shall play its part in the maintenance of international peace and security in accordance with its obligation under article 1 of the Charter—"to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace." Its administration will also be in accordance with article 84 of the Charter, relating to the part to be played by trust territories "in carrying out the obligations towards the Security Council" of the administering authority.

The United States intends, therefore, to include this trust territory as fully as those territories under its sovereignty in the special agreement or

agreements it will conclude with the Security Council for the provision to the United Nations of "armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security" as envisaged under article 43 of the Charter.

Pending conclusion of these permanent agreements under article 43 the United States will undertake that these islands play their part in whatever action the United States may be called upon to take in accordance with the obligations imposed by article 106 relating to transitional security arrangements.

The United States draft agreement provides that the administering authority may from time to time specify certain areas as closed for security reasons. This provision will not, of course, prejudice the full application to the entire trust territory of all international control and inspection measures that become part of a system of international control of atomic energy, other weapons of mass destruction, and conventional armaments.

The United States is willing to submit to international supervision, as provided in the agreement, the political, economic, social, and educational development of the inhabitants of the trust territory. It is equally willing to submit military and naval installations to whatever degree of supervision and control may be provided by agreements for the international control of armaments and armed forces.

In preparing this draft trusteeship agreement the Government of the United States bore constantly in mind article 73 of the Charter:

"Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants."

The United States Government believes that the draft trusteeship agreement now before you conforms fully with this principle in its provisions for the political, economic, social, and educational advancement of the inhabitants of the trust territory.

Although this is a strategic area vital to that system of international peace and security to which articles 73 and 76 refer, the United States draft agreement goes beyond the requirements of the Charter in strategic areas: it provides that articles 87 and 88—relating to reports, petitions, visits, and questionnaires in non-strategic trusteeship areas—shall be applicable to the whole of this trust territory, except that the administering authority may determine the extent of applicability in any areas which may from time to time be specified by the administering authority as closed for security reasons. This exception has been made in recognition of the fact that the administering authority of a strategic trust territory should have the authority necessary to safeguard the installations established in the discharge of its responsibilities for the maintenance of international peace and security.

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It is true that the fulfillment of the basic objectives of the trusteeship system will depend in all trust territories—and this territory is no exception—upon the good faith of the administering authority as well as upon effective supervision by the United Nations.

I can assure you on behalf of the Government of the United States that the United States will faithfully support the principle of effective supervision by the United Nations as fully in this trust territory as in any other trust territory within the limits imposed by its obligation to administer this area in such a way as to preserve the security of the United States and to strengthen collective security under the United Nations.

Articles 6 and 7 of the draft trusteeship agreement submitted to the Security Council contain strong provisions relating to the political, economic, social, and educational advancement of the inhabitants of this territory and to guaranties of their basic human rights. These are the fundamental objectives of the trusteeship system, aside from the strengthening of international peace and security. The United States is glad to invite the members of the Security Council to make a searching examination of the provisions contained in these articles not only in relation to the requirements of the Charter but in relation to the comparable provisions of the trusteeship agreements approved by the General Assembly last December. The United States believes these articles, taken together with other provisions of the draft agreement, provide a maximum degree of protection for the welfare and advancement of the inhabitants of these islands.

The United States believes it has fulfilled the requirements of article 79 of the Charter, first by transmitting copies of a draft trusteeship agreement for the former Japanese Mandated Islands to all members of the United Nations which, in the view of the Government of the United States, may have special interests in these islands, and now by formally submitting the draft agreement to the Security Council for its approval.

The United States Government does not consider that there is any barrier to the placing of these islands under trusteeship in accordance with the Charter whenever the Security Council approves the draft agreement.

As a result of the war, Japan has ceased to exercise, or to be entitled to exercise, any authority in these islands. The islands were entrusted to Japan under mandate from the League of Nations following the first World War. In utter disregard of the mandate Japan used the territories for aggressive warfare, contrary to the law of nations, against the United States and others of the United Nations. By Japan's criminal acts of aggression, she forfeited the right and capacity to be the mandatory of the islands. The termination of Japan's status as mandatory in the islands has been frequently affirmed, as in the Cairo Declaration of 1943, subsequently reaffirmed in the Potsdam Declaration and in the instrument of surrender accepted by the powers responsible for Japan's defeat.

All authority in these islands is now exercised by the United States. The United States in repelling Japanese aggression occupied, and is in possession of, the former Japanese Mandated Islands. This Government is not aware that any other member of the United Nations has asserted any claim for

trusteeship of these islands. All the members which may have special interests in the islands have been sent copies of the draft agreement with the United States, as the responsible administering authority in the island, has submitted to the Security Council.

Under the above circumstances, it is the view of this Government that the conclusion of a trusteeship agreement, pursuant to the Charter, for the former Japanese Mandated Islands clearly can take effect at this time and does not depend upon, and need not await, the general peace settlement with Japan.

The United States Government considers that it has fulfilled its immediate responsibility to the United Nations by having responded on last November 6 to the call of the General Assembly and by taking this occasion today to submit the draft agreement to the Security Council and to present some of the more important aspects of the agreement.

The United States Government will continue to administer the former Japanese Mandated Islands in the spirit of the proposed trusteeship and in conformity with the provisions of the draft agreement which implement the basic objectives of the trusteeship system during the time these proposals are under consideration.

It is the profound belief of the Government of the United States and of the American people that the administration of these islands by the United States in accordance with the terms of this draft agreement would contribute both to the maintenance of international peace and security and to the well-being and advancement of the inhabitants of the islands.

The Security Council began consideration of the draft trusteeship agreement on March 7, 1947 and continued examination of it on March 12, 17 and 28 and April 2, 1947.⁸ In a five and one-half hour session on April 2, the Council considered the entire agreement article by article.

During the course of the debates, requests were received from the Governments of New Zealand and India, that under Article 31 of the Charter, they participate in the discussions. New Zealand also requested that the members of the Far Eastern Commission not represented in the Security Council be invited to participate if they so desired. The United States agreed to these requests and the Security Council accordingly invited Canada, India, the Netherlands, New Zealand and the Republic of the Philippines to be represented at subsequent discussions. The representatives of all these states took an active part in the deliberations thereafter.

⁸ Verbatim records of the Security Council discussions on the United States draft trusteeship agreement are contained in the following United Nations documents: S/P.V. 113, February 1947; S/P.V. 116, March 7, 1947; S/P.V. 118, March 12, 1947; S/P.V. 119, March 17, 1947; S/P.V. 123, March 28, 1947; S/P.V. 124, April 2, 1947.

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APPENDIX 2

DRAFT TRUSTEESHIP AGREEMENT FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS WITH THE COMMENTS OF AMBASSADOR WARREN R. AUSTIN¹

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 agreement; and

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

Whereas on December 17, 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; and

Whereas Japan, as a result of the Second World War, has ceased to exercise 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 decides to approve the following terms of trusteeship for the Pacific Islands formerly under mandate to Japan.

ARTICLE I

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.

Comment

The entire Territory of the Pacific Islands is designated as strategic under the provisions of Article 82 of the Charter in order to enable the United States to safeguard its own national security and at the same time to discharge its obligations for general security under the United Nations. The importance of these requirements was clearly shown in the last war.

It should be noted, of course, that the geographical extent of the trust territory based upon the mandate formerly held by Japan. The three archipelagos in the trust territory include 98 islands and island clusters, with a total land area of 646 square miles inhabited by 48,297 natives. This agreement applies only to

¹ U.S. Delegation Doc. US/S/119 of 26 Feb 47. Included as Doc. S/281 in *Official Records of the Security Council, Second Year, Supplement No. 8, Annex 17.*

the Japanese Mandated Islands and does not apply to any islands under Japanese sovereignty for which the United States may become responsible.

ARTICLE 2

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

Comment

Although the United States has not been the mandatory power responsible for these islands, the United States was primarily responsible for their liberation, is presently responsible for their administration, and considers them essential to the security of this country and to the maintenance of international peace and security. For these reasons this Government considers that the United States should be designated as the sole administering authority. Such a designation is in accord with action recently taken by the General Assembly with respect to the several trusteeship agreements, wherein in each case a single Member of the United Nations is designated as the administering authority.

ARTICLE 3

The administering authority shall have full powers of administration, legislation, and jurisdiction over the territory subject to the provisions of this agreement *as an integral part of the United States*,² 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.

Comment

This article is similar to the relevant provision of Article XXII of the Covenant of the League of Nations and of the terms of the original "C" Mandates, as well as to corresponding articles in the trusteeship agreements recently approved by the General Assembly. The words "as an integral part" of the United States are carried over from the original mandate to Japan, and appear in other trusteeship agreements approved by the General Assembly. The phrase does not, of course, imply sovereignty over the territory.

ARTICLE 4

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.

Comment

This article explicitly places the United States under obligation to apply the objectives of the international trusteeship system to the people of the trust territory. Since these objectives were designed primarily for the protection and benefit

²Phrase *underlined* later deleted by Amendment No. 1.

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of the inhabitants this undertaking on the part of the United States is of fundamental importance. Articles 5, 6, 7 and 8 of the draft agreement outline the specific measures by which the United States proposes to implement these objectives.

ARTICLE 5

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.

Comment

This article specified the military measures which the United States may take in the trust territory to assist in the maintenance of International peace and security and to safeguard the security of the United States.

Similar provisions are contained in the trusteeship agreements approved by the General Assembly.

Since, according to Article 84 of the Charter, it is the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security, this article has been designed to list some of the powers necessary to fulfill that obligation and any obligation assumed under Article 43 of the Charter.

ARTICLE 6

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

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,³ 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 local⁴ 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;

³The following phrase was here inserted by Amendment No. 2: "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."

⁴The word "local" was deleted by Amendment No. 3.

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 spiritous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses; and

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.

Comment

These provisions elaborate the general objectives of Article 76(b) of the Charter and constitute a considerable advance over the terms of the original mandate.

This article refers to the development of the people of the territory as being directed specifically towards "self-government" rather than "self-government or independence" incorporated in Article 76(b) of the Charter. This article is not a prior judgment of the ultimate status of the trust territory, but merely reflects its sparse, highly scattered population, its relatively underdeveloped, indigenous central government, and its lack of economic resources.

ARTICLE 7⁶

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

Comment

There were no comparable guarantees of freedom of speech, of the press, of assembly, and of migration and movement in the original mandate. The present article adds "freedom of migration and movement" to the other freedoms referred to in the agreements approved by the General Assembly. The provision

⁵ A comma was inserted after the word "inhabitants" by Change No. 1.

⁶ Article 7 was reworded by Change No. 2 to read as follows: "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."

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that these freedoms are subject not only to the requirements of public order, as in other trusteeship agreements; but also to the requirements of security, is considered necessary in view of the fact that the trust territory is a strategic area.

The right of petition is provided for in Article 13 of this agreement.

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 favorable than that accorded therein to nationals, companies and associations of any other United Nation except the administering authority.

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.

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 favorable than that granted by them 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.

Comment

1. The intent of this paragraph is to ensure the greatest freedom of international participation in the economy of the trust territory consistent with the basic prerequisite of ensuring that its role as a strategic area is not interfered with. Accordingly it provides for most-favored-nation rather than national treatment in the territory for all Members of the United Nations.

The United States does not intend to take advantage for its own benefit of such meager and almost non-existent resources and opportunities as may exist in these scattered and barren islands.

The Charter makes a specific exception to the application of economic principles affecting Members of the United Nations when the area concerned is a strategic one. This exception is contained in Article 83(2) of the Charter of the United Nations which provides that the basic objectives of Article 76 "shall be applicable to the people of each strategic area" rather than to the territory as a whole or to people in other territories. Article 76(d) also provides that the objectives contained therein shall not prejudice "the attainment of the foregoing

objectives," including that of international peace and security. Since security is the overriding consideration in a strategic area, economic treatment is required which will be compatible with this objective.

2. This provision is in accordance with Article 76(d) of the Charter and ensures equal treatment for the nationals of all Members of the United Nations in the administration of justice.

3. The purpose of this provision is to state explicitly what has already been accepted in international practice; namely, that air traffic rights which concern the picking up and discharging of passengers, mail, and cargo are subject to specific bilateral agreements. Thus, irrespective of what form of economic treatment for non-territorial interest might be provided in any trusteeship agreement, air traffic rights would remain subject to bilateral agreements. Air transit rights, on the other hand, are covered by the Chicago Convention on International Civil Aviation, a multilateral agreement.

4. The intent of this paragraph is to protect the interests of the inhabitants of the trust territory in the economic treatment and other rights which they may obtain outside the trust territory. Since this agreement applies to a strategic area, the rights of other Members of the United Nations in the territory are of a most-favored-nation character. The paragraph, therefore, provides that the United States may negotiate and conclude appropriate international agreements which will attain for the inhabitants of the trust territory most-favored-nation treatment by Members of the United Nations. In addition, it provides that the Security Council or, at its invitation, other organs of the United Nations may recommend what other 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

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.

Comment

This article should be read in connection with Article 3 of the draft agreement which provides in part that the administering authority shall have full powers of administration over the territory as an integral part of the United States. Both Articles 3 and 9, it should be noted, are made subject to the terms of this agreement. The substance of Article 9 permits customs, fiscal, or administrative union or federation, with other territories under United States jurisdiction. It is practically identical with similar provisions in four of the agreements approved by the General Assembly. Provision for such union or federation is obviously desirable to ensure the efficient administration of such island areas as Saipan which will face many problems common to the nearby island of Guam. However, such a provision does not imply sovereignty over the trust territory.

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ARTICLE 10

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 cooperate with specialized international bodies, public or private, and may engage in other forms of international cooperation.

Comment

This article, which is permissive in character, seems particularly appropriate for the trust territory in that it offers the inhabitants an opportunity to benefit from association with other peoples who face similar problems. Such association would enable them to develop a regional economy, to take advantage of technical studies on common problems, and to participate effectively in furthering their own development. The advantages of regional organization have been demonstrated by the Caribbean Commission. Similar developments are also under way in the South Pacific.

ARTICLE 11

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.
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.

Comment

1. The status of citizenship will tend to create a common bond amongst peoples who otherwise might feel no unity and consequently would have difficulty in working toward the objectives of the trusteeship system as set forth in Article 76 of the Charter.
2. Diplomatic and Consular protection of the inhabitants of the trust territory when outside the territorial limits of the trust territory or of the territory of the administering authority serves not only to provide a necessary service, but also to establish the rights of the inhabitants under international law.

ARTICLE 12

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

Comment

This article constitutes an international commitment upon the part of the United States to implement by legislation the provisions of the trusteeship agreement.

ARTICLE 13

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.

Comment

The intent of this paragraph is to ensure that the functions of the Trusteeship Council in regard to non-strategic trust territories may be appropriately applied to the strategic trust territory covered by this agreement.

The Charter itself provides for supervision over strategic areas in only the most general terms. Article 83 states merely that "all functions of the United Nations relating to strategic areas . . . shall be exercised by the Security Council" and that "the Security Council . . . avail itself of the assistance of the Trusteeship Council to perform those functions . . . relating to political, economic, social, and educational matters in strategic areas." No indication is given as to what those "functions" should be. Accordingly, Article 13 of the draft agreement provides that Articles 87 and 88 of the Charter—relating to reports, petitions, visits, and questionnaires concerning non-strategic areas—shall be applicable to the trust territory, even though it is designated as a strategic area, except that the administering authority may determine the extent of applicability in any areas which may, from time to time, be specified by the administering authority as closed for security reasons.

This exception has been made in recognition of the fact that an administering authority of a strategic trust territory should have, in the discharge of its responsibilities for the maintenance of international peace and security, the authority necessary to safeguard the installations established for that purpose. It is permitted under Article 83(3) of the Charter which wisely provides that the functions of the Trusteeship Council in strategic areas shall be "subject to the provisions of the trusteeship agreements and without prejudice to security considerations."

Article 13 of the draft agreement states only that the extent of applicability of Article 87 and 88 of the Charter may, in "closed" areas be determined by the administering authority. Hence, even in such areas the Trusteeship Council can, and normally would, be authorized to request and consider reports submitted by the administering authority, to accept petitions and examine them in consultation with the administering authority, and otherwise to keep itself informed of the political, economic, social, and educational development of the inhabitants.

Any agreement arising out of (a) the regulation of armaments, including the principle of inspection, or (b) the assignment of forces and facilities to the Security Council under Article 43 of the Charter, would apply to the strategic areas of the Japanese Mandated Islands in the same way as to any United States territory.

ARTICLE 14

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.

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Comment

This provision will secure for the inhabitants of the territory the benefits of all appropriate international conventions and recommendations, including agreements which already exist as well as those which may be adopted in the future by the United Nations and its specialized agencies.

ARTICLE 15

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

Comment

Under this provision, the United States as the administering authority of the trust territory would occupy the same position with respect to amendment of this agreement as the administering authorities of other trust territories with respect to the agreements for those territories.

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.

Comment

This article merely defines the steps necessary for the agreement to come into force under the Charter of the United Nations and the Constitution of the United States. Article 83 of the Charter provides that the terms of trusteeship agreements relating to strategic areas must be approved by the Security Council.

APPENDIX 3

LETTER OF THE PRESIDENT

JUNE 19, 1947.

HON. JOSEPH W. MARTIN, JR.,
Speaker of the House of Representatives.

MY DEAR Mr. SPEAKER: There is enclosed a copy of a report from the Secretary of State indicating a course of action which the Secretaries of State, War, Navy and Interior have agreed should be followed with respect to the administration of Guam, Samoa, and the Pacific Islands to be placed under United States trusteeship.

On October 20, 1945, I appointed a committee consisting of the Secretaries of these four Departments to make recommendations concerning this matter. After preliminary consideration it seemed inadvisable to formulate a final recommendation until a determination had been made of the status of certain islands formerly under Japanese control. In the meantime the Departments represented on the committee continued to give study to the problems involved.

After the United Nations Security Council approved a trusteeship agreement designating the United States as the administering authority for the former Japanese mandated islands, I requested that the members of the committee again give joint consideration to problems relating to the administration of the Pacific Islands. The enclosed report has been submitted pursuant to that request.

I am sure that the agreement reached by the four Secretaries will be of interest to the Congress in connection with its consideration of legislation to provide civilian government for these islands and that the information obtained by the Departments in studying this question will also be helpful in the consideration of such legislation.

It has long been my view that the inhabitants of Guam and Samoa should enjoy those fundamental human rights and that democratic form of government which are the rich heritage of the people of the United States. We have already extended those rights and that form of government to other possessions of the United States, such as Puerto Rico and the Virgin Islands, and with respect to the inhabitants of the trust territory have given solemn assurance to the United Nations of our intention to grant these inhabitants a full measure of individual rights and liberties.

I hope that the Congress will approve legislation for the purposes indicated in the enclosed report and that such legislation will provide for the full enjoyment of civil rights and for the greatest practicable measure of self-government.

Very sincerely yours,

HARRY S. TRUMAN.

APPENDIX 4

TRUSTEESHIP AGREEMENT FOR THE FORMER JAPANESE
MANDATED ISLANDS

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 agreement; and

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

Whereas on December 17, 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; 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 I

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.

ARTICLE 2

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

ARTICLE 3

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

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

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

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

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;
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 alcoholic and other spiritous beverages; and institute such other regulations as may be necessary to protect the inhabitants against social abuses; and

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.

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.

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.

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 state whose nationality such aircraft possesses.

4. The administering authority may negotiate and conclude commercial and other treaties and agreements with Members of the United Nations and 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 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

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

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 associations; states, may co-operate with specialized international bodies, public or private, and may engage in other forms of international co-operation.

ARTICLE 11

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.
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

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

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

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.

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.

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APPENDIX 7

POLICY LETTER FOR TRUST TERRITORY

Serial 1422P22

15 JANUARY 1948.

From: Chief of Naval Operations.
 To: High Commissioner of the Trust Territory of the Pacific Islands.
 Commander in Chief, Pacific and U.S. Pacific Fleet.
 Governor of Guam.
 Governor of American Samoa.
 Subject: Government of the Trust Territory of the Pacific Islands.
 References: (a) CincPac—CincPoa ltr Ser 52855 of 12 Dec 45.
 (b) SecNav despatch 211415 of July 47.

1. Reference (a) promulgated the basic policy for the Naval Military Government in the Pacific Ocean Areas for the interim period between the close of active hostilities and the establishment of the Civil Administration of the Trust Territory of the Pacific Islands which was instituted by reference (b).
2. The general provisions of reference (a), being applicable to the Trust Territory, have been confirmed by the Chief of Naval Operations and by the Secretary of the Navy. Certain portions thereof have been rendered obsolete by changed conditions. This letter sets forth the basic policy of the Navy Department with respect to the government of the Trust Territory. While intended primarily for that territory, certain portions are equally applicable to the Island Governments of Guam and American Samoa. All provisions are applicable to the Naval Military Government of the Bonin-Volcano Islands. The principles herein set forth are to be considered as a guide for all officers and persons connected with the several governments under the cognizance of the Navy Department. In the Trust Territory, they are to be observed in conjunction with the provisions of the trusteeship agreement as approved 18 July 1947.

MISSION

3. It shall be the mission of the island governments under the jurisdiction of the Navy Department to discharge the obligations of the United States under the trusteeship agreement and to this end they shall effect:
 - (a) The early establishment of self-governing communities.
 - (b) The institution and maintenance of an adequate program for public health and sanitation.
 - (c) The establishment of a general system of elementary education adapted to local environments and designed to assist in the early achievement of the objectives enumerated herein and the facilitation of vocational and higher education, including training on the professional levels.

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- (d) The protection of the local inhabitants against the loss of their lands and resources and the institution of a sound program of economic development of trade, industry and agriculture along lines which will ensure that the profits and benefits thereof accrue to the inhabitants and which will assist them in achieving the highest possible level of economic independence.
- (e) The physical restoration of damaged property and facilities.

SELF-GOVERNING COMMUNITIES

4. It is desired that the inhabitants of the island territories be granted the highest degree of self-government that they are capable of assimilating. They shall be encouraged and assisted to assume as much as possible of the management of their own affairs and the conduct of their own government. Local governments, insofar as practicable, should be patterned on the politico-social institutions which the inhabitants have evolved for themselves. Island Government ordinances and regulations should give due weight to local traditions and customs. Legislation and its enforcement machinery should be held to the minimum requisite to the preservation of peace and order, the maintenance of property rights, the enforcement of measures for health and sanitation and those laws respecting trade, industry and labor which are essential to economic well-being.

PUBLIC HEALTH AND SANITATION

5. The Health Service Policy for the Trust Territory of the Pacific Islands issued by the High Commissioner on 5 August 1947 and promulgated by the Deputy High Commissioner in his letter Serial 473 of 28 November 1947, together with the Program, Rules and Regulations promulgated by the same letter are hereby approved. Details of the program and of the rules and regulations for its execution may be modified as necessary to suit changing conditions.

EDUCATION

6. The type and extent of educational facilities will vary in different localities according to local needs and the native capability for assimilation. The primary consideration is a system which will benefit the many and which will assure a progressive development of each community along lines which will raise the native standards by improvement in health and hygiene, by betterment in methods of food production and in the nature of food supply, and which will equip the local inhabitants for the conduct of their own government and the management of their trade and industry.

7. Educational programs shall foster and encourage instruction in the native language and history and in native arts and crafts. Instruction in the English language for inhabitants of all ages is a prime necessity but this is not to be construed as discouraging instruction in native languages and culture. Vocational training in trades, skills, agriculture and home-making as suited to the particular locale should be included in all curricula. Tests and educational material should be appropriate to the local environment, should be geared to

the capacity of the inhabitants to absorb and should be calculated to effect the aims of the system as enumerated above.

8. Maximum employment shall be given to local teachers and programs for their progressive training and for the training of additional native teachers shall be continued. Educational facilities on Guam can be made available for the higher education of those individuals who demonstrate a capability and adaptability for advanced work and who should be considered as a potential source of teachers and government officials.

ECONOMIC DEVELOPMENT

9. Indiscriminate exploitation of the meager natural resources of the area is to be avoided. Trade and industry should be encouraged along lines which directly benefit the local inhabitants by providing for their physical needs and material well-being and which are of a nature and on a scale such that ultimate ownership and management can be transferred to their hands. The establishment for the profit of aliens, of enterprises which tend to maintain the native economy at the level of cheap labor and those which do not permit the local inhabitants to enjoy the full benefits of their own labor and enterprise shall not be tolerated. No rights in land or concessions to operate commercial or other enterprises in the Trust Territory shall be granted to non-local private individuals, companies, or associations without prior approval of the Secretary of the Navy.

10. The Island Trading Company has been created as a governmental agency for the purpose of providing trade goods, purchasing and marketing handicraft and copra, and for the conduct of such other commercial enterprises as may be appropriate. This is an interim arrangement until such time as the inhabitants of the various localities are in a position to carry on these functions on their own account. It is the Department's desire to encourage and assist the local people to achieve this goal as soon as practicable.

11. In those areas in which the inhabitants are agriculturally minded, they should be encouraged and assisted in bettering their methods of agriculture and in increasing the yield. In other areas where the people are not agriculturally inclined, consideration shall be given to the importation of trees and plants which, while requiring little cultivation, will effect an augmentation of the food supply or will provide materials for local construction and handicraft. The establishment of "industrial" agriculture by outside owner-management which offers only employment or farmer-tenancy to the local inhabitant will not be permitted. Every encouragement will be given to agricultural development along lines which will assist the area toward self-subsistence and which will assure the individual the maximum returns from his effort.

RESTORATION OF DAMAGED PROPERTY

12. The scarcity of local construction materials and the difficulties connected with obtaining importations are recognized. Nevertheless, in some localities substantial progress has been made in the restoration of damaged facilities by in-

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genious use of local and salvaged products. The local inhabitants should continue to be assisted in restoring their damaged communities and at the same time encouraged to develop their own resources and initiative.

Approved:

(S) JOHN L. SULLIVAN,

Authenticated:

W. F. JENNINGS,

Captain, U.S. Navy.

(S) LOUIS DENFELD.

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APPENDIX 12

LAND AND CLAIMS REGULATIONS NO. 1

RETURN OF LANDS TO OWNERS

Section 1. Purpose.—The purpose of this regulation is to provide a procedure for effecting the prompt return of public and private lands formerly used, occupied, or controlled by the United States but now no longer required for government purposes. It is the intent of these regulations to return the lands to the owners in the shortest practicable time, consistent with the full protection of the interests of all parties.

Section 2. Procedure, General.—The return of the lands will be carried out by "title officers" appointed by the High Commissioner for each district, which officers will be authorized and empowered to determine land ownership and execute releases of land to the owners.

Section 3. Determination of land Ownership.—Each title officer is hereby authorized and empowered, by virtue of his appointment, to determine, after the notice and hearing in accordance with this regulation, the ownership of any tract of land in the district for which he is appointed.

Section 4. Release of Land to Owners.—Each title officer is hereby authorized and empowered, by virtue of his appointment, as agent of the High Commissioner, to release to the owner any tract of land determined by proper authority to be no longer required for governmental purposes, and to execute the necessary papers to formalize such release as provided by this regulation.

Section 5. Hearings, Witnesses, Contempts.—Each title officer is authorized and empowered to hold hearings, take testimony under oath, administer oaths to witnesses, subpoena witnesses and order the production of papers and documents, and punish for contempts committed in his presence. Punishment for contempt is limited to a maximum fine of ten dollars (\$10) or imprisonment for a period not to exceed five days or both.

Section 6. Hearings, Notice.—Both public and private notice shall be given of all hearings. Each notice shall contain a statement of the time and place of the hearing, a brief but clear description of the land or lands to be considered, the names of the owners of record (if any), the names of all claimants of record, and such other information as the title officer determines to be necessary to give full notice of matters to be considered.

(a) *Public Notice.*—Public notice shall be given by posting in a public place at the Civil Administration headquarters, in the municipality in which the land is located, and, where practicable, on the land to be considered.

(b) *Private Notice.*—Private notice shall be given to all parties of record by delivery of a copy of the notice to the party or to his last known place of residence.

All notices shall be served or posted not less than ten days prior to the date of the hearing, except where practical considerations make this impossible in which case reasonable notice shall be given to all parties.

Section 7. Hearings, Evidence, Parties.—In conducting the hearings, the title officers shall be guided by, but need not conform to the usual rules of evidence. Title officers shall consider evidence that they believe will be helpful in reaching a just decision. All hearings shall be public, and every person claiming an interest in the land under consideration shall be given an opportunity to be heard.

Section 8. Minors and Incompetents, Representation.—When a title officer finds that any party in interest is a minor or incompetent, he shall immediately appoint a responsible person to represent such minor or incompetent, unless that person is already represented by a person appointed by a court or other proper authority. A representative appointed by a title officer is authorized and empowered to act for the minor or incompetent in all matters pertaining to land return and real property claims arising out of the use or occupation of the land.

Section 9. Determination of Ownership, Form.—After hearing all of the evidence and making his findings, the title officer shall publish his determination of ownership in substantially the following form:

“DETERMINATION OF OWNERSHIP NO.”

I,, Title Officer for the District, Trust Territory of the Pacific Islands, after due public notice and private notice to all parties of record, and after public hearings at which all persons claiming an interest in the below described land were given full opportunity to be heard, have determined that the tract of land known as more fully described in Annex “A”

(name of tract no.)
to this determination, and containing the improvements set forth in Annex “B” to this determination, is the property of

(list names and interests of each)
and I hereby release the said land to the aforesaid owners, giving them the right to immediate possession, and order this determination to be filed in the office of the Clerk of Courts of the District.

Signed this day of 195...

Copies of the determination shall be distributed as follows:

Original to owner; executed copies to Clerk of Courts; to title officers file and High Commissioner; certified copy posted in a public place at CIVAD Headquarters; copy to CIVAD file.

Section 10. Determination, Annex “A”, Description of Land.—The descriptions of land used in determinations of ownership must be the most complete possible with the information available, and must in all cases be sufficient to permit accurate identification of the land covered. It is the responsibility of the title officer to ascertain that the description is complete and accurate.

Section 11. Determination, Annex “B”, Description of Improvements.—The purpose of the description of improvements is to provide official information for use in determining liability in claims against the United States arising out of the use and occupancy of the land. The descriptions should be clear and accurate

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and should state the type of improvement, by whom installed, its condition and appraised value to the owner at the time the owner took possession or at the time of determination of ownership, whichever is earlier. The title officer is responsible for the completeness of this information.

Section 12. Determination of Ownership, Effect.—Unless and until the decision of the title officer is reversed or modified by the District Court or the Court of Appeals, the legal interests of persons designated as owners shall be as shown on the determination of ownership, except that no person can convey better title than he has at the time of the conveyance.

Section 13. Appeal.—Any person who has or claims an interest in the land concerned may appeal from a title officer's determination of ownership to the District Court at any time within one year from the date that the determination is recorded in the office of the Clerk of Courts. The District Court is authorized to set aside, modify, or amend the determination of the title officer. Hearings on appeal may be de novo or on the record at the discretion of the District Court. Appeal from the decision of the District Court is permitted as in all civil cases.

Section 14. Claims, Filing, Indexing.—Every person claiming any right, title, or interest in any land that is now, or has in the past been, used or occupied by the United States may file at any time with the land and claims officer, or, in his absence, with the Civil Administrator, a statement of claim, in the form prescribed by the land and claims officer or Civil Administrator. Statements of claim should include the full name and address of the claimant, a summary of the basis of the claim and the amount of damages claimed, original or certified copies of available documentary evidence, affidavits of material witnesses, and all other information that may be of value in processing the claim. The land and claims officer will maintain complete files and indexes on all claims filed. Both land ownership claims and damage claims may be filed but shall be separately filed and indexed. All persons filing claims are entitled to individual notices of all hearings concerning their claims. Failure to give such notice shall be cause for rehearing if such failure is prejudicial to the interests of the claimant. Civil Administrators will provide for public notice of right to file claims and the desirability of filing at an early date.

Section 15. Unlawful acts, Penalties.—Any person who knowingly prepares, presents or attempts to present as evidence in a hearing before a title officer any deeds, records, or documents which are false, misleading, or inaccurate, or who by use of false or misleading evidence of any nature obtains or attempts to obtain a determination in favor of himself or another or who conspires to present false, misleading, or inaccurate documents in evidence or to procure a determination of ownership in favor of himself or another shall be guilty of a felony and upon conviction thereof may be fined not more than one thousand dollars (\$1,000) or imprisoned for a period of not more than five years or both.

Signed this 11th day of January 1951.

APPENDIX 13

LAND AND CLAIMS REGULATION NO. 2

AMENDING LAND AND CLAIMS REGULATION NO. 1 TO PROVIDE PROCEDURE FOR HANDLING DECEDENTS, ESTATES AND OTHER GROUP-OWNED LANDS

After Section 8 of Land and Claims Regulation No. 1, add the following:

Section 8.1. Estates of deceased persons; estates owned jointly or in common; other group-owned estates; representation by Land Trustees.

(a) Where an estate is owned jointly or in common by the heirs of a deceased owner, or by any other group or association of individuals, the Title Officer may appoint one or more persons to act as trustee or trustees for the group, and such person or persons shall have full authority to act for all members of the group in all matters connected with land return and claims for the use, retention, or occupation of the land. Such trustees shall be known as "Land Trustees", and shall be appointed only where no administrator or executor has been appointed for an estate, or no other responsible person or reasonably small group of persons is authorized to act for a group or association. The Land Trustees, or Trustees, shall act as administrators of lands of deceased persons, and shall take immediate steps to determine the persons interested in the land as heirs or otherwise, and to have the lands distributed according to law or the desires of the true owners, subject to approval of the courts in the event of controversy. The District Court may at any time remove and replace a Land Trustee or, in the case of an estate, appoint an executor or administrator who shall automatically succeed the Land Trustee in all matters affecting the estate. A Land Trustee may not sell or otherwise dispose of the land or any interest therein, except a lease not exceeding one year, except with the approval of all parties having an interest in the land or of the District Court.

(b) A Land Trustee may represent the interest of a minor or incompetent who is one of a group of heirs or is a member of a group or association, and such appointment shall not relieve the representative of the minor or incompetent of his responsibility for the protection of the interest of the minor or incompetent in matters involving the handling of the estate by the Land Trustees.

(c) All questions of the propriety of the actions of the Land Trustee shall be referred to the appropriate Civil Administration Court. A Land Trustee shall be held accountable for all assets, land, receipts, and disbursements as is a Trustee under the laws of the United States.

(d) The term "group" as used in this section includes a clan, family, tribe, or other group owning land or any interest in land.

APPENDIX 17

A STATEMENT OF CONSERVATION PRINCIPLES FOR MICRONESIA¹

INTRODUCTION

The primary aim of conservation in Micronesia is the health, survival and self-sufficient life of the people of Micronesia in the real world of the foreseeable future. This aim must include, in this present world, a moderate but continuous contact with, and participation in, the network of world commerce and communication. On the contrary, we must not suppose that the welfare of the people of Micronesia can be promoted by a change of their way of life into preponderant or even substantial dependence on commercial goods or mechanized facilities.

The status of soil, plants, animals, water supply, or other natural resources in a program of conservation, over and above their functional interest to specialists, is clearly to be evaluated in its long run relation to human welfare. Any establishment of sanctuaries or other preservation of things as they are derives its value from one or both of two considerations. First, to permit the rounded and adequate taxonomic, physiologic and ecologic analysis of the ensemble of existing conditions that is still so fragmentary; second, to proceed with the utmost caution and circumspection in making changes in a network where we at present have such grave doubts of our capacity to make large-scale improvements safely.

One of the primary responsibilities of any current generation is to maintain the environment in such condition that they and their successors may find it a fit place to lead happy and satisfying lives. For this purpose it is necessary to consider both material and intangible or aesthetic and intellectual values. It would be ironic if we should, by our educational programs, develop in the Micronesians the capacity, more than they do at present, to appreciate and benefit from the beauty and interest in their surroundings, only to find that these features of their environment have become largely things of the past.

We recognize that our instruments and machinery with capacity for benefit to native aims and practices are equally the means by which irreparable damage and irreversible change may be done; drugs, poisons, firearms, various types of machinery. Even in our own culture these things are not all good, and destructive applications are too common. The more will this be the case where they are suddenly made available without the accumulation of restraints which experience may in part bring.

¹ Based largely on a Conservation Program prepared by Ernest G. Holt, former Staff Conservationist for the Trust Territory of the Pacific Islands.

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We do not believe that the people of Micronesia can return wholly to their former patterns of life, either to their own contentment or in relation to unavoidable realities in the Pacific world. We do believe that we can improve on the experience of the western world where exploitation has been too tardily followed by too little conservation. We believe that a truly efficient and stable utilization can only be developed by conservative and restrained action. To develop only after full consideration of collateral and ultimate consequences as well as immediate and principal objectives is true conservation.

OUTLINE OF SUBJECT MATTER

The chief groups of natural resources are: soils, water, minerals, plants and animals. With the latter comes man, his cultural heritage and material monuments and relics. As stated by Holt and others, these resources, both exhaustible and renewable, constitute an enormously complicated web, whose very existence may well be threatened by undue and ill-considered unravelling at any one point. It is a challenge to the various groups of biologists and other specialists that none should seek their desired ends without the fullest possible consideration of the collateral results of new tensions or relaxations in this web. It seems almost the nature of exploitation that its course is linear and its estimate of profit is contemporary; examples are legion that on the wayside paralleling the contemporary profit are the weeds of destruction of lands, soils, water resources and of worthy social fabrics.

The recommended specific aims that follow are but a few whose outlines can at this time be discerned. Most important is continued investigation and education toward a more understanding code of conservational procedure that a future generation will write and read.

THE SAVING OF THE SOIL

With certainty that agriculture in Micronesia will be intensified comes the obligation to avoid the destructive, shifting agriculture so common in the tropics. Wise conservation calls for avoidance of deep plowing and heavy tillage equipment (heavy tractors and moldboard plows), the use, alternately with crops, of some of the many leguminous plants found in the Trust Territory, avoidance of use of fire for general clearing and avoidance of every other practice which threatens the natural structure and humus of the soil. Use of tree crops is urged as far as possible since for them the necessary tillage is far less destructive of the soil. All these procedures will reduce and retard the need for commercial fertilizers which can probably be economically justified for but few crops. Practices that leave bare scars on the land, or that augment soil erosion should be discouraged. Cultivation rows should follow the contour across the slope, rather than run up and down hill, whether made by plow or hand tillage. Where scars have been made or the slopes bared by erosion, the areas should be revegetated by planting leguminous plants.

USE AND EVALUATION OF WATER SUPPLIES

Water supply available on a given island depends on rainfall, the nature of the soil and rocks and the island's size and relation to the sea. Runoff increased by disturbance of vegetation and soil is likely to decrease ground-water supplies. These supplies in many of the islands are chiefly in the floating lens which lies on the salt water just above and below sea level. In small islands or in islands of porous or cavernous structure this lens is often in a delicate state of equilibrium which can withstand but a limited draft through wells or shafts without destruction by salt encroachment.

Providing for the increasing demands for water will require not only great caution in utilization but protection of critical watersheds. Because of the certainty of increasing demand and the impracticability of relying wholly on spot surveys, it is urged that provision be made for a territory-wide recording service for rainfall, water levels, station data on quantities and drawdown, and salinity, under the direction of a competent hydrologist.

CONSERVATION AND USE OF MINERAL RESOURCES

"The conservation program, while safeguarding the mineral resources of Trust Territory against unwise exploitation, must provide for eventual utilization of these resources for the maximum benefit of all the people. This will involve close scrutiny of all proposals for exploitation, and the issuance of permits only after determination that such exploitation will in fact be in the best interest of the people." (Holt)

ESTABLISHMENT AND MANAGEMENT OF PUBLIC FORESTS

Remnants of former forest plantations exist on several islands and, in some of these, fine timber species have reached the fruiting age. There is also much native forest in good condition. Using these trees as sources of seed, public forests should be established and provision made for their management. Value of such forests for water conservation and for the development of forest industries and handicrafts is self-evident and the latter group of enterprises appears more promising than any other that might depend on export of the products.

CONTROL OF FIRE

"The greatest single hazard to the soils, vegetation, wildlife, ground water, and long-term well being of the people of the Trust Territory is the indiscriminate burning of vegetation." (Holt) Fire is certainly an increasing source of destruction and loss, owing in part to the greater concentrations of structures, property, and crops under present conditions; Civil Administration Units have already taken steps to curb the practice. Continued emphasis will be required, by regulations, by example and by education to cope with this ill.

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CONTROL OF GRAZING

Overgrazing is not at present a problem. Limited numbers of cattle and other domestic animals would be a desirable addition to native economy from dietary and other standpoints. Because of disastrous experience of tropical islands elsewhere, any proposal for commercial cattle raising should be very carefully examined. Any such enterprise should be permitted only under adequate safeguards as to rotation of pasture and range lands and adherence to all conservation principles.

CONTROL OF PESTS

"Control of pests that damage desirable vegetation or interfere with the production of crops, or which are inimical to the welfare of humans and other animals, must be an integral part of any conservation program. Therefore continuing stress should be placed upon the formulation and enforcement of quarantine regulations; and on effective biological control of the giant African snail, the Marianas coconut beetle, and the rhinoceros coconut beetle. Chemical and cultural control of these and other pests should not be overlooked. Problems posed by heavy rodent populations demand solution. In addition, more active steps should be taken to eliminate or prevent the spread of noxious weeds that have already gained a foothold in Trust Territory. In many cases, this might be done by early applications of effective herbicides. This should be tried with the infestation of sensitive brier (*Mimosa* or possibly *Schrankia*) on Rota." (Holt)

CONSERVATION AND USE OF MARINE RESOURCES

Increase of population, development of marine industries, and the advent of destructive or doubtful methods of capture, all conspire to demand regulations to prevent wastage and depletion of marine food and other resources and insure their maintenance on a sustained yield basis. Further investigation and action are needed to bring about the establishment of profitable and permanent marine industries.

PRESERVATION OF NATIVE FLORA AND FAUNA

The establishment of preserves and sanctuaries for native flora and fauna, as well as to preserve unusual scenic features, is desirable both on aesthetic and cultural grounds and on the ground that only in such a manner can desirable species be preserved and their characteristics and relation to other species and the environment be fully determined. The understanding and support of the people should be sought through an educational program. The history of most advanced peoples in this field shows the need of an early and vigorous program unless irreparable losses are to be incurred. The possibility of providing open seasons for the taking of certain wildlife species may be considered when the preservation seems assured and sufficient data on habits are available.

With the preservation of native species should go an agricultural program for the improvement of these species as well as a carefully regulated introduction and

improvement of species of plants and animals from similar environments. Neither an attitude of *laissez faire* nor one of complete prohibition will suffice. Work of former experiment stations of the Japanese will furnish a starting point and this work should be reactivated at the earliest possible moment to avoid further loss of continuity.

REHABILITATION OF CONSTRUCTION AREAS

Areas now covered by abandoned roads, air strips, paved housing and warehouse areas, and quarries are all needed within the foreseeable future for agriculture. To break up these areas by heavy machinery would perhaps be prohibitively expensive. An alternative method is to blast holes at favorable points, plant suitable tree species in cracks, and the like. The program could be a slow-moving one but provision should be made for starting it at selected points.

MANAGEMENT OF UNALLOTTED GOVERNMENT LAND

"After the reservation of appropriate former Japanese lands, or lands on uninhabited islands, as forest preserves, territorial parks, and wildlife sanctuaries, much land undoubtedly will remain unallotted until needed for resettlement schemes or other types of native occupancy. Such land should be managed under definite plans to prevent despoliation by fire, unauthorized timber cutting, soil erosion, and so on. In no case should government land be assigned for private or clan use unless land capability investigations have shown the land to be suited to the uses proposed. Moreover, no government land should be alienated until it has been determined that such land would not better serve the long-term interest of the Trust Territory as territorial forest, park, wildlife sanctuary, or as some other public reservation." (Holt)

PRESERVATION OF ARCHAEOLOGICAL REMAINS

"While not a natural resource, there are archaeological remains of great general and scientific interest in Trust Territory that must not be lost to the world in general and to future generations of Micronesians in particular. The preservation of these remains might well be made a part of the conservation program. This may best be accomplished by designating them as archaeological monuments, and, after initial clean up, placing responsibility for maintenance upon the municipalities concerned. This should not be done, however, until the proposals have first been thoroughly discussed with the local officials and the reasons for them carefully explained. Thereafter only occasional supervision by the Civil Administration Units should be necessary." (Holt)

PROHIBITION OF FIREARMS

The restriction of firearms to a legitimate use by regularly constituted public safety agencies is greatly to be desired. There is no need for possession of firearms for general protection since there are no predatory animals of significance, and it appears quite unwise that a relatively primitive people should be provided

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with such a modern means of self-destruction. The preservation of various endemic birds and other animals would be far more insured if firearms could be restricted from general use.

TECHNICAL INFORMATION AND RESEARCH

There is very urgent need for technical information on the relationship of the various resources that enter into the conservation picture. Information is needed both as to distribution and quantities of various resources and also as to the inter-relationships and replacement potentialities. There is need for translating and making available the results of Japanese research as well as need for prompt publication and distribution of findings as they are compiled. The studies should include native customs, languages, and attitudes if the Trust Territory officials are effectively to carry out the cultural mandates imposed on them. E. G. Holt has outlined these needs in greater detail.

CONSERVATION EDUCATION OF THE NATIVE PEOPLES

"Although stated last, the education of the indigenous people in the objectives, principles, and practices of resource conservation is the very crux of the entire conservation program. It is at once the most vital part of the program and the part most difficult of accomplishment. It is essentially long range in time and Territory-wide in scope. Though the schools, the demonstration farms, and the extension agents must assume responsibility for most of the formal instruction, the execution of the program demands the devoted perseverance of every member of the staff and the closest possible coordination of every Trust Territory activity."
(Holt)

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17 July 1972

MEMORANDUM FOR MR. PEDRO SANJUAN
DEPUTY DIRECTOR, NEGOTIATIONS &
ARMS CONTROL/ISA

SUBJECT: Compact TTPI

The following clause is being considered for incorporation in the Compact, under negotiation at the present time, with Micronesia. May I have your comments on one of the attached copies?

"In its use of its facilities and in pursuing its activities on the territory of Micronesia under this Compact, the United States shall refrain from engaging in any activity contrary to or inconsistent with its treaty commitments, including all such commitments relating to the testing of nuclear weapons or the protection of the environment."

SIGNED

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

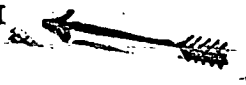
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