



DEPARTMENT OF DEFENSE  
OFFICE OF GENERAL COUNSEL  
WASHINGTON, D. C. 20301

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19 September 1973

MEMORANDUM FOR CAPTAIN EDWARD C. WHELAN  
EA&P REGION, ISA, OASD

This memorandum will confirm the statement which was proposed for the Secretary of Defense's submittal to the Interagency Group on Micronesia. It contains my opinion and the language recommended for the submittal. The purpose of this statement, to be added to the general statements, is to ensure that the Department's position concerning the legal interpretation of the United Nations Charter and the Strategic Trust Agreement is absolutely clear, and to identify the difference in that position from the position taken by State. It reads.

"We have reached the conclusion that before we can properly offer the Micronesian people the independence option, we are legally obligated to determine that they are ready to choose this option, and that they can fulfill the obligations which it creates for them. The Micronesian people have not reached this point as evidenced by the survey conducted by the Congress of Micronesia in July 1973. Accordingly it is our conclusion that at this time free association satisfies United States obligations under the United Nations Charter and the Strategic Trust Agreement, and that neither the legal basis nor a legal obligation exists for the United States to offer independence as set forth by State in Annex D."

The Statement separately includes emphasis upon safeguarding the United States strategic objectives in Micronesia, and preserving the needed balance between those objectives, and their accommodation with the objectives addressing the welfare of Micronesians. These

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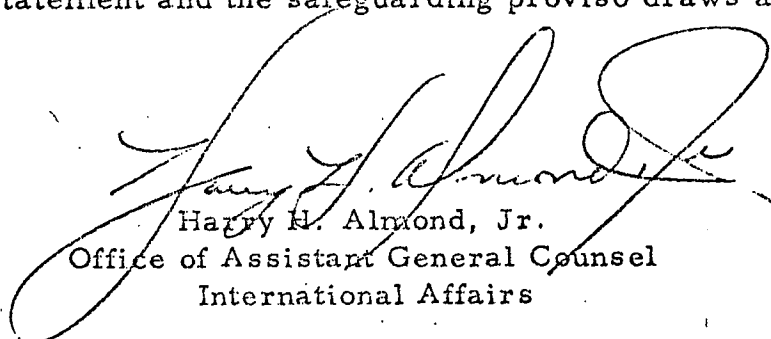
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objectives we do not find incompatible. The above statement provides emphasis upon the legality of the United States position, and the duties that the United States must satisfy before making independence an option.

In taking the above position - and in making the recommendation that we clarify the fundamental differences in our position from that held by State - on legal grounds - with respect to the independence option, I wish further to emphasize that I would prefer to see the Secretary's letter put first the fundamental policy objective: the independence option is from a policy point of view totally inconsistent with our strategic objectives in the South Pacific. This is the unique element in the Strategic Trust Agreement and needs no further support in this memorandum.

With respect to the independence option, and the clarification sought: State argues we must offer an independence option. We oppose this because our obligation is to offer independence or self-determination as we determine. We have a legal obligation and duty to determine first whether the Micronesians are ready for either option. Once this determination has been made, we must then decide which option (or if both) to offer. Our determination under our unique strategic trust enables us to balance in our strategic objectives. The above statement and the safeguarding proviso draws attention to this.



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

cc: P. E. Barringer, FMRA, ISA GC  
Col W. R. Kenty, EA SA Region, J-5 Chron  
W. Solf, JAG-A Circulating  
D. J. Doolin, EA&P Region, ISA File: ILP - TTPI  
RADM T. J. Bigley, EA&P Region, ISA

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