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

John Marston
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15 February 1973

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

SUBJECT: Study of Negotiations on the Future Political Status
of the Mariana Islands.

Pursuant to your request of February 15, 1973 calling for substantive comments on the above study provided us in the form of a draft I offer the following comments:

1. Two primary features with respect to the Trust Territory and in particular with respect to United States fundamental interests in the Marianas are that those interests require us to maintain a strategic trust posture, and therefore require us to protect and advance United States strategic interests in the South Pacific through any and all such actions as are needed in Micronesia. It is absolutely essential in maintaining this position that the United States enter into a territorial association if possible with all of Micronesia and if not with Micronesia as a whole then with the Mariana Islands.

2. A secondary feature with respect to United States interests must be put in a perspective differing from the position as put in this paper. The United States legal obligations both under the United Nations Charter and under the Strategic Trust Agreement requiring the United States to assist the peoples of Micronesia in securing independence or a self-governing status is not inconsistent with United States strategic interests nor is inconsistent with United States acquisition of territorial rights to the Islands or to part of the Islands such as the Marianas. In elaboration of this argument, the United States need not and of course should not deprive the people of Micronesia of the power to govern themselves simply because the United States maintains its strategic trust interests through a territorial association. The Micronesian people are in fact deprived to no greater degree than are the people of the United States and are as subjected as are the people of the United

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States and from the point of view of self-government to very low key "intrusions" arising from the peacetime exercise of defense powers over United States territory. But these "intrusions" for defense reasons do not impact ^{on} /or adversely affect the powers of self-government. They are exercised without such impacts by every nation in the world.

3. For the above reasons I make the following recommendations:

-Rewrite the second paragraph of "B" on page 2 in Part I (concerning the background) to reflect the comments just made above.

-Rewrite page 10 of the same, first paragraph under "Defense" to indicate that United States defense powers are dependent and cannot effectively be exercised unless the Marianas are linked to the United States through a territorial status.

-Omit the CONS on page 4, at CON 5 in Part III since that CON is inconsistent with this opinion, conflicts with major United States interests, and will tend to distract United States policy makers with false road blocks as far as territorial integration is concerned.

-Emphasize at page 9 - that is more emphatically than is stated there - that the United States must integrate the Marianas into United States territorial jurisdiction indicating only that the form of territorial integration is not as material as is the integration itself.

4. Conclusion. We are now at a time when we must see realistically - and fully respect in the legal and political sense - the United States position, in terms of its anticipated needs. In particular we are concerned with the exercise (the right and capability to exercise) United States defense powers, how far we can limit our exercise of those powers without losing the value they afford, what can be done to protect or preserve them from political deterioration,

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and the like. We are concerned with United States strategic trust interests. All of these observations appear in all of our major defense papers and policy. The strategic trust interest was the dominant, if not the sole, reasons for a United States interest in the territory. And only if a realistic posture is maintained can we ascertain and balance out the real cost benefits to any association or any Compact that falls short of territorial status.

These comments are rushed to your office with the understanding that if you proceed with the changes recommended here I will provide promptly such assistance in drafting those changes as needed to conform with this opinion.

SIGNED

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

cc: Mr. Dennis Doolin, ISA
LTC W. R. Kenty, J-5
Mr. Phillip E. Barringer, ISA



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