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I-21096

22 February 1973

**MEMORANDUM FOR MR. DENNIS J. DOOLIN, ISA/EA&PR  
CAPTAIN GORDON SCHULLER, ISA/EA&PR**

**SUBJECT: The Marianas.**

I have reviewed the draft dated 21 February with respect to United States positions - and the draft instructions for Ambassador Williams concerning the Marianas.

With respect to Part X entitled "Recommendations" I have the following comments and proposed changes:

1. The negotiating objectives which are described as primary objectives and secondary objectives are misleading in the context of these negotiations. I therefore recommend that the objectives be combined as indicated later in this opinion.

2. The recommendations have appropriately recognized the fundamental need of the United States to establish a territorial/political relationship with the Marianas with the following in view:

-First, this is the only way in which the United States will be able to preserve the right of eminent domain, essential for all future acquisitions of lands within the Marianas.

-Second, this is the only way in which the United States will be able to protect its interests in presently acquired lands.

-Third, this appears to be the only way in which fundamental United States objectives with regard to the exercise of defense powers and the advancement of United States strategic interests can be achieved.

General Counsel
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*send to Mr. Barringer.*

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SUBJECT TO GENERAL DECLASSIFICATION SCHEDULE OF  
EXECUTIVE ORDER 11652. AUTOMATICALLY DOWNGRADED  
AT TWO YEAR INTERVALS. DECLASSIFIED ON 31 Dec 1981.

AGC (IA) No. \_\_\_\_\_

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3. Recognizing the need to acquire land by purchase or lease on the best businesslike terms, I would emphasize that price shall not be a consideration at least as measured against "appraised value" and the like. The criteria I recommend is that United States representative negotiate price for land requirements which will be satisfactory to the Marianas but will not lead the Marianas or the other Micronesians' political groupings to believe that the United States will meet any price which they demand. On the other hand if the negotiators for the Marianas are satisfied, the relatively small amount of money paid for land in the Marianas will be more than offset by the relationships which the Marianas will have reached with the United States, carrying well into the future, and leading toward an effective integration of the Marianas as a territory of the United States.

4. With respect to the draft instructions for Ambassador Williams I recommend that the following be used in place of those which have been presented in this draft:

OBJECTIVES

-To establish United States territorial sovereignty over the Marianas, and to this end, securing the consent of the peoples of the Marianas (directly or through their authorized representatives, duly appointed by them to represent them for these purposes) to govern themselves under such territorial arrangements as are acceptable to the Marianas and the United States, and in a manner no less favorable than that enjoyed by the American people in United States territories;

-To reach such understandings with the peoples of the Marianas or their representatives that ensure their right to self-government within the framework of United States law and practices;\*

\*This will satisfy United Nations criteria and requirements.

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**-To undertake the negotiations for these purposes in such a manner that United States objectives in the Marianas are satisfied, to wit:**

**-the strategic interests of the United States will be protected and measures will be taken or recognized that as these interests change, the United States will be able to act in the future in response to such change;**

**-the right to exercise defense powers, as presently set forth in the Draft Compact will be preserved;**

**-the right to deny third countries access to the area and its surrounding seas on grounds no less favorable than those which apply in the United States with respect to all United States territory;**

**-the right to maintain and acquire such land as needed for maintaining defense powers and securing the strategic interests of the United States, and in particular through the exercise of eminent domain, in accordance with United States practices.**

**-To reach an understanding with the people of the Marianas, or their duly appointed and authorized representatives that appropriate financial and fiscal objectives will be reached and that United States military presence in the territory and lands to be leased, acquired or used there will be held to a minimum, commensurate only with the needs of satisfying defense powers and strategic interests**

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and shall be used in such event subject to payment of prompt and adequate compensation for such use.

Comment.

One problem in the instructions and negotiating posture remains unresolved: i.e. the role that the United Nations Security Council must or will assume, and the United States reaction to that role. The following should be borne in view:

-The United States has the power to veto - and therefore to refuse any United Nations Security Council's unilateral attempt to terminate or to modify the existing Strategic Trust Agreement. But this "right" is a negative right, and it is clearly not unqualified. The United States would stand to suffer political detriments if it refused without reason all Security Council proposals with respect to termination.

-On the other hand the real problem - which remains unresolved - is whether the United States has the unilateral right to terminate the Agreement, secondly, whether the United States can determine unilaterally that the criteria of self-government, etc. have been met, and thirdly, notwithstanding the above, what "costs" the United States is willing to assume (and how they can be minimized) if it proceeds unilaterally. In all other trust agreements (though all others are with General Assembly) the imprimatur of the United Nations General Assembly was needed. Therefore, query (even now) whether the same of the Security Council is needed.

-The United States was given fundamental strategic rights in the islands, and, in addition, a "duty" to bring the Micronesian people to such a state of political maturity that they might choose the form of self-government they would want to enjoy. Herein lies the nub of the present problem. The United States representatives must (a) convince and fully persuade the Micronesian people to

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accept the United States proposal for territorial association; (b) must further convince them that they shall have, having chosen such association, a right to the kind of self-government that is enjoyed by others within United States territory; and (c) depending upon their ultimate goals and expectations, an opportunity <sup>in the future</sup> ~~(in the future)~~ shall ~~have~~ all such governing rights as are enjoyed by citizens of the United States within the several States of the United States (i. e. I am assuming that the rights of citizens residing in the territories might be somewhat different, either with respect to the several states of the United States, or as between the types of territorial association).

*in the future  
affair*

SIGNED

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

cc: GC  
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