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23 March 1973

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

**SUBJECT: United States Position with Respect to Sovereignty,
Self Determination, and Trust Territory Obligations.**

With respect to the above subject a major United States position concerning "sovereignty" is set forth in the Opinion of the United States Supreme Court, United States vs. Curtiss-Wright Export Corporation, 299 U. S. 304, 1936. (Copy attached)

Summarizing the points made in this opinion:

- External Sovereignty refers to the power of people through their State to engage in relations and fulfill their responsibilities with respect to other nations;

- External Sovereignty is determined and "governed" under international law and is not finally determined by the constitutional law or constitution of a nation; in the event of inconsistency, the principles of international law must govern;

- Internal Sovereignty refers to the power in the people - usually through public officials of their State or their representatives - to regulate or govern their own affairs and is generally attributed to and governed under their constitution or constitutional processes. The constitution may have provisions which declare international law, but constitutional provisions or practices inconsistent with international law are not recognized under international law;

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-Internal sovereignty is therefore an internal matter, and the legitimate exercise of self determination by any people may therefore lead them to choose or govern their own internal affairs as follows:

-To act independent of all other States in domestic matters, but delegating their power over foreign affairs or defense or both to another State; there have been a number of examples of this kind within the British Commonwealth.

-To act as a self governing unit, exercising internal sovereignty within another State but operating under a territorial status and a form of territorial self government; the legal status of this arrangement, freely chosen as an exercise of self determination, makes those peoples part of that other State governing themselves in a political unit, as one of several states (as in a Federal system like the United States), as an unincorporated territory, or as an incorporated territory, or as an incorporated commonwealth, etc.

The United States should not be placed in a position in its dealings with the United Nations or with individual members of the United Nations which would be inconsistent with the view that self determination of the Micronesian people may as a legitimate exercise of their power permitting them to associate with the United States in whole or in part.

Accordingly, the peoples of the Marianas under the views expressed here would be entitled lawfully to exercise their right to become part of the United States at such time as they reached the

"political maturity" to make such a choice. This could occur even where other peoples of Micronesia had not reached this stage or made this choice (though political policy factors might lead to insistence that all of Micronesia must be treated as a single unit).

SIGNED

Encl

Harry H. Almond, Jr.
Office of Assistant General Counsel
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cc: Mr. Philip E. Barringer, ISA
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