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

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31 August 1973

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MEMORANDUM FOR CAPTAIN EDWARD C. WHELAN, JR.
ASSISTANT FOR TTPI
EA&PA, ISA, OSD

SUBJECT: Negotiations on the Future Political Status of the Trust
Territory of the Pacific Islands.

In response to your request for our comments on the major strengths or weaknesses of the above study and on the draft instructions made part of that study I bring the following to your attention:

I

UNITED STATES OBJECTIVES

The objectives of the United States, set forth on page 2 of the summary in the form of primary objectives and secondary negotiating objectives, are not in my view satisfactory for the reasons already mentioned in my memo addressing this subject. Repeating the comments of that memo I recommend that the United States indicate that its primary objectives shall be to accommodate its continued interests in the Micronesian area in terms of strategic objectives coupled with its willingness and its recognition of an obligation to promote the political, social and economic aspirations of the peoples of the territory. These are compatible objectives since they are dependent upon one another. This primary objective should be supplemented by indicating that the United States will thereby seek to satisfy its obligations under the United Nations Charter with respect to the maintenance of international peace and security. This objective in reality reflects the significance of the strategic balance among the Powers in the Pacific.

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Classified by Office of Micronesian Status Negotiations, Interior Department
SUBJECT TO GENERAL DECLASSIFICATION GUIDE OF
EXECUTIVE ORDER 11652. ALTERNATE SCHEDULE FORWARD
AT TWO YEAR INTERVALS. DECLASSIFIED ON 31 Dec 1981.

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In proceeding in this way the United States clearly establishes, contrary to the implications set forth on page 4 of the summary of this study, that the United States continues and will continue to recognize the nature of its obligations and commitments in terms of strategy and in terms of ongoing responsibilities toward Micronesian peoples under the Strategic Trust Agreement. Objectives stated in the form which I propose enable us both to derive and support conclusions which may best meet the needs and interests of the Micronesian people and of the United States Government. Furthermore, in stating these interests and objectives in this form we are better enabled to establish in our bargaining tactics the following:

-Adoption of independence as a possible objective may mean that the United States will no longer be able to further its strategic objectives. In other words, it can reasonably be assumed that if Micronesia insists on independence, it will, like most other ex-colonial states, withdraw from close ties with the parent country and seek to fulfill narrowed nationalistic objectives. It will not have the overriding perspectives of South Pacific security in view.

-If however the United States determines to the best of the ability of its delegates and negotiating team that the Micronesians will insist upon independence then the following self-explanatory options must be more closely considered as to how the United States will protect its strategic interests:

(1) Purchase outright as long term leases or if possible as fee interests appropriate land and set aside appropriate tracts in Micronesia for military bases; or

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(2) Establish a program/gradual development of military bases within an independent Micronesia with the understanding negotiated at the outset with the Micronesians that these bases are to be gradually enlarged in accordance with our timetable over a

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- 3 -

period of time (say 30 years); or

(3) Insist that independence at this time is premature and, although the United States recognizes a claim by the Micronesians to independence, it will insist, in fulfilling its mandate in Mirconesia, that the peoples of Micronesia be enabled to reach the political maturity upon which independence might soundly be based.

II

ASSESSMENT OF UNITED STATES POSITION

The United States would be best protected by continuing to operate under the Strategic Trust Agreement with the understanding that Micronesia will from now on be more rapidly prepared for independence (if that is what it seeks within the coming 30 years) and with the further understanding that the United States will continue to maintain foreign affairs and defense powers over the islands for a period of not less than 30 years.

Alternatively, the United States can protect its strategic interests by the establishment of either a commonwealth relationship or some other territorially related status with the United States. These procedures may be readily justified under Article 9 of the Strategic Trust Agreement.* The Micronesians, in the period in which they enjoy a status which may ultimately lead to independence, would be advised that they will have a limited but gradually growing role in the management of their foreign affairs. Proposals of this kind are presently being considered with Puerto Rico.

* see discussion in Part IV

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III

REVIEW OF THE INTERIOR DEPARTMENT STUDY

The above two portions of this paper will constitute my general comments repeating in large measure comments which have been made in the past. The paper itself is weak in many areas including the emphasis upon the obligations of the United States toward the Micronesian people at the expense of denying the interests of the United States in strategic objectives while suggesting that these are competitive considerations. I recommend that in place of language of this kind, following the tenor of my general comments made at the beginning of this paper, that we indicate that in defending Micronesia, in seeking to promote the maintenance of international peace and security, and in providing economic and social support to the islands, including our making available technical and political support to its infrastructure, and in establishing a clean clear cut timetable that they may follow either for independence or to continue their relationship with the United States, the United States will thereby establish a reasonable, time-phased program for bringing the Micronesians to the level of political maturity appropriate to a region seeking self-government and even (if they so choose) the management of their own foreign affairs.

The study is weak in suggesting that the United States must terminate the Strategic Trust Agreement. In reality one of the strong bargaining positions which the United States presently has is that it can also determine when the Strategic Trust Agreement shall terminate. I therefore recommend that serious consideration be given by the negotiating team to this end: that these negotiations are, in part, intended to test and seek out present reactions on the part of Micronesia but that a determination as to whether the United States' obligations toward bringing the Micronesians to full political maturity is a matter that has not been resolved. If this recommendation is adopted, we can protect our position with respect to the Strategic Trust Agreement.

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I assume throughout this analysis that the United States has serious and long term strategic objectives in the islands. I therefore recommend that if all else fails, the United States is free to seek out its objectives as best as possible both in land and base acquisition and denial of access to other foreign powers by dealing with the islands separately as is presently the case with the Marianas. The risk which this entails is self evident: Another country may deal with the other islands to the same end and in their interests. Hence even if we separately conclude an acceptable relationship with the Marianas, we must also reach a safeguard understanding with the remainder of Micronesia.

The paper is extremely long and unwieldy since so many issues are raised and so many factors woven into the basic discussion. As presently written it leaves a substantial amount of freedom for others to make decisions over which the Department of Defense should maintain closer control. The extensive set of pros and cons, the substantial amount of explanatory material, the lengthy footnotes, and the discussion at many points is not easy to follow

Assuming that the paper cannot be shortened or changes made to satisfy DoD interests I suggest that you inquire into the possibility of the Department of Defense offering a separate paper establishing its views and position, but concisely setting forth the reasons for those views and the risks to the United States strategic interests if they are ignored. I do not believe that a "line in line out" effort would be of much value in seeking a paper more closely associated with DoD views.

IV

THE INDEPENDENCE OPTION

In stressing the independence option the Department of State and the other agencies responsible for various portions in the study tend to overlook three major points. First, the United States

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obligation is that which is set forth in the Strategic Trust Agreement. It is not those obligations otherwise set forth in the General Assembly Resolution relating to other trust territories administered by the General Assembly. In making out the United States position, we should rely upon our obligations, not those applicable to non-strategic areas. Second, the Strategic Trust Territory maintains in balance strategic interests of the United States, coupled with obligations relating to maintaining international peace and security and further coupled with Article 76 obligations from the United Nations Charter. This balance means that the United States may seek an accommodation to the extent that these objectives are incompatible by modifying one or the other within a reasonable program and approach. However, as I have indicated in the body of my analysis I believe that these objectives are largely compatible and that every effort should be made to establish this.

Third, the Strategic Trust Agreement in Article 9 clearly presupposes the conclusions which I have reached since it specifically enables the United States "to constitute the Trust Territory into a customs, fiscal or administrative union or federation with other territories under United States jurisdiction. . .". This authorizing formula requires that such action shall not be inconsistent with the basic objectives of the Trusteeship Agreement or the terms of the Strategic Trust Agreement. However, if the United States takes such action under Article 9 I would assume that the United States would tend to take it by providing the Micronesians with the same measure of self-government which citizens of the United States otherwise enjoy. I would assume that this would meet the standards which we must satisfy. Moreover, as the European Common Market clearly shows (as well as was the case with the Zollverein consolidating the German states into a greater Germany) a custom union would amount to a territorial marriage of Micronesia with the United States. (See also the Permanent Court of International Justice case on the Austrian-German Customs Union).

Article 6 of the Strategic Trust Agreement repeats in large measure the analogous portion of the Atlantic Charter. It refers to fostering the development of political institutions slanted toward

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-7-

promoting development of "self-government or independence." The term "or" placing the burden on the United States to determine how far the process can go. Drawing again on my analysis made in this paper I would like to emphasize that this obligation assumes that the Micronesians have reached political maturity for self-government or the greater burden that they are mature enough for independence. Secondly it assumes that level of political maturity which entitles them to the standing of a State in international law and therefore reflects their capability and a showing of their willingness to assume the responsibilities of such a state (i. e. capability of participating in United Nations, foreign affairs generally, international conferences, and treaty commitments). I have gone to great length to emphasize that this level of political maturity has not been reached.

Accordingly, the United States is presently in a strong position to justify a continued relationship with the Micronesians and to establish for them a program leading to independence, if they choose this option, to be reached over an appropriate period of time. Moreover, I have suggested that such a program should clearly be geared to the United States reaching a clear understanding with them that it will be enabled to protect its security and strategic interests during the period following independence and not be denied its obligation to carry out undertakings as to international peace and security.* Assuming that such a program is adopted, a forthright effort to shape the attitudes of the Micronesians toward accepting a long term continuation of United States presence in the area can be encouraged.

V

UNITED STATES STRATEGIC INTERESTS

This paper takes the view that United States strategic interests are the foremost concern to the United States in this area of the Pacific. In the Supplemental Statement to the Report of the Blue Ribbon Defense Panel submitted to the President and the Secretary of Defense on the Shifting Balance of Military Power, dated September 30, 1970, it was noted that the Soviet Union has gradually but persistently

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* A similar balance and argument applies in the SALT context.

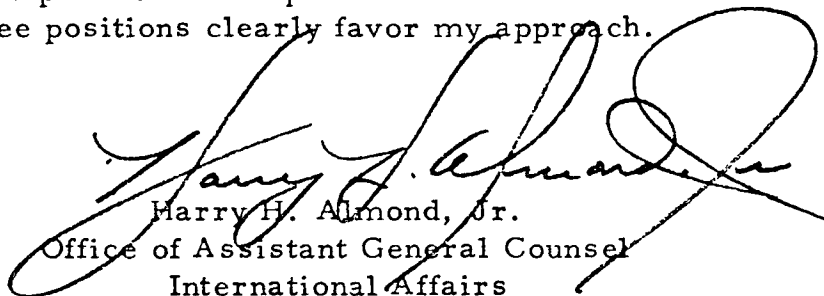
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-8-

moved toward upsetting the earlier superior status established by the United States over that country. A new equalized "equilibrium" is supplanting the earlier balance which favored us. According to this Statement it was noted that if these trends continue the United States could well become a second rate power incapable of ensuring the future security and freedom of its people. The expanding modernized Soviet Navy was described "as a major element in the shifting balance of military power." Moreover, the development and deployment of missiles by the Soviets were emphasized.

It is my understanding that the Micronesian Islands furnish the United States with areas for deployment of legitimate weapons, for bases affording its Navy greater striking force, and offer the means to protect and safeguard large areas of the South Pacific from hostile movement. The paper suggests "arm chair strategy" in noting that these strategic interests no longer have meaning and in drawing conclusions congenial to that view. It therefore behooves us in presenting the DoD position to make this strategic element crystal clear to those who ultimately decide which options if any shall be pursued to indicate the kind of effort to be given the options selected. We have all recognized the benefits to the Micronesians in maintaining our bases and these should be emphasized. If it is intended that they shall have independence, then with the above analysis in view, the possibility of protecting United States strategic interests will be seriously jeopardized. The analysis made here moreover is consistent with Mr. Kissinger's Memorandum of July 20, 1971 (Annex A in the Study) and with my understanding of his "scenario" - referred to as Position II (the position which provides for unilateral termination). The other three positions clearly favor my approach.


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

cf: Mr. W. Mitchell, PP&NSC, ISA
Lt Col W. R. Kenty, JCS
Mr. Philip E. Barringer, EMRA, ISA
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