

In reply refer to:  
I-14087/73

December 27, 1973

**MEMORANDUM FOR CAPTAIN EDWARD C. WHELAN, JR., USN  
EA&PR/ISA**

**SUBJECT: Guam Study**

Responding to your memorandum of 26 December 1973:

1. Presumably my recommendation to pick up the Guam reporting issue has now been accepted at State. I believe that this is essential for this particular report - in part to keep the matter before the attention of those making the ultimate decisions.

2. I do not favor the idea that U.S. established a "precedent" in submitting to UNGA for dropping its reporting; unfortunately, the Puerto Rican base indicates that UN Committee of 24 continues to pressure us for further reporting and will do so notwithstanding our efforts.

3. The point should be made that the determination of "independence, free association... etc." is not to be a political determination. It is a decision based on a legal standard. The US may insist that this standard be applied. The Committee of 24 is acting ultra vires, applying only a political standard and need not be respected.

4. A part of the legal standard extends to "integration with an independent State." Accordingly Guam may be so considered, notwithstanding that it lacks a constitution.

5. The insistence by the Committee on a UN visiting mission is not only inconsistent with above observations but also with Article 2(7) of UN Charter - preserving freedom from intrusions into the "domestic jurisdiction" of the US. Such intrusions can and probably will encourage dissent in Guam.

On the basis of the above, I had earlier taken the view that the United States unilaterally discontinue its reporting. To forestall adverse consequences, however, the United States could insist (though this is a matter for the higher reaches of policy) that the International

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Court of Justice provide an advisory opinion on the matter (through request made by General Assembly). It is my assumption that the Court - based on past trends - will provide an opinion with a broad interpretation relating to the legal standard, but clarifying its edges, and, assuming the present constitution of that Court shows it to be competent, the opinion should favor the United States viewpoint.

For the reasons set forth, I recommend that we should consider closely the possibility of terminating the reporting requirement to the UN, (a) supporting that termination by an appropriate brief and position paper, (b) suggesting if policy judgments dictate submittal to the International Court of Justice, (c) observing that the notion of "absolute" independence is without meaning.

SIGNED

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

cc: Mr. Philip E. Barringer

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