



DEPARTMENT OF STATE

Washington, D.C. 20520

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February 21, 1975

Mr. Harry Almond
General Counsel's Office
Department of Defense
Washington, D.C.

Dear Harry:

I wish to bring to your attention an apparent loophole in the statutes and regulations regarding recruitment of aliens which seems to permit the recruitment of Trust Territory citizens in time of war contrary to the requirements of Article 5 of our Trusteeship Agreement with the United Nations Security Council regarding the Trust Territory of the Pacific Islands (TIAS 1665).

As you know, the Department of State views Article 5 as restricting the use which could be made of Trust Territory residents enlisted in our armed forces. It is also our view that Trust Territory citizens lawfully admitted to the United States for permanent residence do not fall within the scope of Article 5. Under 10 U.S.C. §§ 3253 and 8253 the Army and the Air Force are authorized, in time of peace, to enlist aliens only if they have been so admitted to the United States. I understand that its own regulations similarly restrict the recruitment of aliens by the Navy. Thus, while present recruiting practices seem to be in keeping with the requirements of the Trusteeship Agreement in time of peace, they also seem to allow unrestricted enlistment of Trust Territory citizens in time of war. The requirements of Article 5 of the Trusteeship Agreement are, of course, no different in time of war than in time of peace.

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This issue has been the subject of two congressional inquiries. I would, therefore, appreciate being informed as to any action which might be taken regarding the matter.

Sincerely,

Tom

Oliver T. Johnson
Special Assistant to
the Legal Adviser

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