

4/19/76

DRAFT REPORT\*

Mr. Byrd, from the Subcommittee on General Legislation of the Committee on Armed Services, submitted the following

REPORT

[To accompany H.J. Res. 549]

The Subcommittee on General Legislation of the Committee on Armed Services, to which was referred the joint resolution (H.J. Res. 549) to approve the "Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", and for other purposes having considered the same, reports thereon with <sup>out</sup> an amendment ( ) and recommends that the joint resolution (as amended) do

SUBCOMMITTEE AMENDMENT (S)

[To be determined]

PURPOSE OF SUBCOMMITTEE AMENDMENT (S)

[To be determined]

\*At its meeting on December 16, 1975, the Subcommittee directed staff to prepare a preliminary report on H.J. Res. 549 based on the Subcommittee's discussions. Action on Subcommittee amendments and recommendations as well as approval of a final report is to occur later. Thus, this draft is incomplete and subject to change.

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SUMMARY

H.J. Res. 549 would approve the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America". U.S. approval of this Covenant would represent a permanent grant to the people of the Marianas of extraordinary value and proportion, bestowing precious American rights and benefits, involving significant economic costs, and affecting the future course and aspirations of the United States.

Such a valuable and sweeping grant to a foreign territory should be made only if it clearly is in the best overall interests of the United States. In the case of the Mariana Islands, however, the Subcommittee could find no significant U.S. interest that would justify such a grant. On the contrary, U.S. interests could be better served through a more balanced and comprehensive arrangement dealing with the future status of the entire U.S. Trust Territory of the Pacific Islands.

The Subcommittee particularly examined U.S. national security interests in the Marianas since these interests have been the major U.S. justification for entering into the Covenant with the Marianas. The Subcommittee found no crucial U.S. national security interests at stake in the Marianas. To the extent there are U.S. security interests in the Marianas, these interests are similar to U.S. security interests throughout all of Micronesia. In addition, U.S. security interests in the Marianas can be satisfied in a variety of ways other than through the proposed Covenant.

NOT SO

The Subcommittee could find no other major U.S. interest in the Marianas, economic or otherwise. Indeed, U.S. approval of the Covenant would constitute

a substantial economic cost to the United States. The Subcommittee noted that several specific provisions of the Covenant were objectionable both in cost and principle.

In originally agreeing to hold the islands of Micronesia in trust, the United States undertook an obligation to the people of Micronesia, including the Marianas, to help them toward self-determination or independence. While the United States may be flattered that the people of the Marianas have indicated a desire to become associated with the United States, there is not now -- and has never been -- any obligation to make the Marianas a part of the United States.

The United States has made certain commitments to the United Nations in connection with its trusteeship of Micronesia. Disposing of the Marianas prior to agreeing on the future status of the rest of Micronesia may cause unnecessary difficulties with the United Nations and set an unfortunate and disruptive precedent for dealing with the remaining Trust districts in Micronesia.

LEGISLATIVE HISTORY OF H.J. RES. 549

H.J. Res. 549 was introduced in the House of Representatives on July 10, 1975. After a single day of hearings and a favorable report by the House Interior and Insular Affairs Committee, H.J. Res. 549 passed the House by voice vote. The Senate Interior and Insular Affairs Committee then held a hearing on H.J. Res. 549 and reported it favorably to the Senate with an amendment.

*extensive  
amendment*

On October 22, 1975 H.J. Res. 549 was referred to the Senate Armed Services and Foreign Relations Committees, jointly, for a period not to extend beyond December 3, 1975. This reporting date was subsequently extended to January 27, 1975.

The General Legislation Subcommittee of the Armed Services Committee held open hearings on H.J. Res. 549 on November 17, 1975. Appearing, among other witnesses, were Mr. Robert Ellsworth, Assistant Secretary of Defense (International Security Affairs), Ambassador F. Haydn Williams, the President's personal representative for Micronesian Status Negotiations and Ambassador Robert Blake, Deputy Assistant Secretary of State (International Organization Affairs). The Subcommittee met again on December 16, 1975 to further consider

H.J. Res. 549. It should be pointed out that the Armed Services Committee and no subcommittee thereof had been briefed on or considered the Marianas Covenant prior to the recent activities of the General Legislation Subcommittee.

True?

[To be completed]

SUBCOMMITTEE ACTION

[To be determined]

BACKGROUND

Geography

Micronesia consists of 2,100 islands covering over 3 million square miles of the Pacific Ocean. It has a total land area of only 700 square miles -- about half the size of Rhode Island.

Micronesia is located almost 6,000 miles west of the continental United States. The islands of Micronesia extend from the Equator north to the Tropic of Cancer and from the Philippines almost to Hawaii.

Micronesia, with a total population of roughly 115,000 consists primarily of three chains or archipelagos -- the Marianas, Carolines, and Marshalls.

location respect to Guam

The Northern Marianas are made up of 21 small islands of approximately 184 square miles. The vast majority of the over 14,000 inhabitants of the Northern Marianas reside on the islands of Saipan, Rota, and Tinian.

#### History of U.S. Trust Arrangement

During the 17th, 18th, and 19th centuries the Marianas and Guam were governed by the Spanish. In 1898 the United States annexed Guam, and a year later Germany purchased the Marianas and the Carolines. Japan seized the German possessions in 1914 and controlled them until the end of World War II.

A trusteeship agreement between Micronesia and the United States was approved by the Security Council of the United Nations in April, 1947. Micronesia was one of 11 territories in the United Nations trusteeship system and the only one now remaining. It was designated as a "strategic trusteeship", a distinguishing feature of which is that military bases may be established by the administering nation as needed to maintain world peace and security.

Under Article 83 of the United Nations' Charter, "All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council". The United Nations' Charter also obligated the United States to promote the general advancement of the trust territories and "their progressive development towards self-government or independence".

Micronesia was divided into six U.S. trust districts of which the Northern Marianas is one. The U.S. Navy administered the trust territory in Micronesia until 1951 when administration was transferred to the Department of the Interior. The Northern Marianas, however, were again administered

by the U.S. Navy from 1952 to 1962.

Since the creation of the U.S. Trust Territory for Micronesia, U.S. policy has been to consider any new status for Micronesia on a territory wide basis and not to engage in separate discussions about the future status of individual districts within the Trust Territory. The only exception to that policy has been U.S. acceptance of a request by the Marianas in 1972 to enter into separate status negotiations.

*after repeated requests*

There is no fixed date for termination of the U.S. trusteeship in Micronesia. Consistent with the U.N. Trusteeship Agreement, however, the United States does not intend to terminate the trusteeship until it has fulfilled its responsibilities to all trust districts in Micronesia and has appropriately provided for the future status of the trust territory as a whole. Disposition by the United Nations of the U.S. trusteeship in Micronesia is not expected to occur before 1980 or 1981.

HISTORY OF MARIANAS COVENANT

Since the creation of the Marianas Islands District Legislature in 1963, the Marianas have been moving toward secession from the trust territory in Micronesia. Until recently the separatist actions of the Marianas have been contrary to U.S. policy and the efforts of the other districts in the Trust Territory.

In 1965 and later in 1967 a resolution of the Marianas Legislature requested the territory of Guam to extend its boundaries to include the islands of the Marianas. In a plebiscite in 1969, Guam rejected the concept of integration with the Marianas.

In 1968 a resolution of the Marianas Legislature requested that the United States grant citizenship to the people of the Marianas. Again in 1970 a resolution was passed requesting the Trusteeship Council of the United

Nations to affect an immediate reunification of the Marianas with the territory of Guam.

At the same time the Congress of Micronesia, a body representing the whole Trust Territory of the Pacific Islands, was trying to work toward a future status of unity for Micronesia. In 1972 the Congress of Micronesia passed a resolution endorsing the concept of a Commonwealth of Micronesia.

Acting alone, however, the Marianas Legislature passed a resolution in 1971 advising the United Nations that the Marianas wanted a political association with the United States and would secede from the trust territory by force of arms, if necessary.

The United States has been negotiating with representatives of Micronesia as to its future political status since 1967. In 1972, however, the Marianas delegation formally requested separate status negotiations with the United States. Reversing its traditional policy against dealing separately with individual districts of the Trust Territory, the United States agreed to negotiate with the Marianas.

After over two years of bargaining a final covenant emerged. The Covenant was approved by the people of the Marianas in a plebiscite on June 17, 1975 by a favorable vote of 78.8 percent. Ninety-five percent of the people in the Marianas eligible to vote were registered; ninety-five percent of the registered voters voted in the plebiscite.

For a more complete discussion of the history of the Micronesian Trusteeship and the Covenant, see the Report of the Senate Interior Committee (Senate Report No. 94-433, The Covenant to Establish a Commonwealth of the Northern Mariana Islands, Committee on Interior and Insular Affairs, United States Senate, October 22, 1975).

Relevant Terms of Covenant

The Covenant contains ten Articles, the highlights of which follow:

- I. Political Relationship to be a self-governing Commonwealth under the sovereignty of the United States which will have complete authority over foreign affairs and defense matters.
- II. Constitution to be formulated for a republican form of government similar to that of United States.
- III. Citizenship to be conferred at time the Presidential Proclamation to terminate Trusteeship Agreement is promulgated, to those qualified Marianans desiring it.
- IV. Judicial Authority to be divided between the judiciary established by the Mariana Constitution and a District Court which will be part of the same U.S. judicial circuit as Guam.
- V. Applicability of Laws of the U.S. except in specific cases.
- VI. Revenue & Taxation provisions allow U.S. income taxes and custom duties (the latter only if subsequently applied by United States) to be collected and rebated for use by Mariana government.
- VII. U.S. Financial Assistance in the form of grants (\$12.25 million) and loans (\$1.75 million) for seven years

NOT SO  
grants for loans  
=



for budgetary support and development; to be increased per the Consumer Price Index and to be continued after the original 7 years as Congress provides.

VIII. Property to be available by 50 year lease to United States to enable it to carry out its defense responsibilities on Tinian (17,800 acres) and Saipan (177 acres) and the Farallon de Medinilla Island (206 acres); to be paid/for in one lump sum of \$19,520,600; renewable for a second 50 year period; airfield facilities at Isely Field, developed with U.S. aid, will be available to United States for use by its military aircraft without charge although the U.S. Government assumes responsibility of paying a reasonable share of costs to operate facilities.

IX. Representation for Marianas in United States if provided for by Mariana Constitution either through appointment or election; precise status of representation in Congress to be determined. *by Congress*

X. Effective Dates vary with some provisions becoming effective upon Congressional approval of the Covenant, others within 180 days of approval of the Mariana Constitution, and the rest upon the termination of the Trusteeship Agreement.

For a detailed section-by-section analysis of the Covenant, see Report of the Senate Interior Committee, Ibid., 65.

CRITERIA FOR EVALUATING H.J. RES. 549

The fundamental criterion to evaluate any proposal concerning a modification of the status of Micronesia must be whether the proposed arrangement is in the best overall interests of the United States. The advantage to U.S. interests from making the Marianas a U.S. commonwealth -- its first territorial acquisition in over fifty years -- must be weighed against what the United States is providing or giving up through this particular Covenant. This is particularly true when the proposed arrangement includes such far reaching commitments as U.S. citizenship, sovereignty, and defense responsibilities. The burden of proof is on the proponents of any proposed arrangement to demonstrate its overall and long-term value to the United States.

The United States has accepted certain obligations and responsibilities in undertaking to administer Micronesia as a trust territory in the United Nations system. These obligations, along with the general goals and well-being of the people of the Marianas, cannot be ignored. But whether a proposal meets U.S. obligations to the people of the Marianas, Micronesia as a whole, or even the United Nations cannot be the primary test for choosing a future status arrangement.

U.S. INTERESTS AFFECTED BY H.J. RES. 549

U.S. Defense and Security Interests

In testimony before the Subcommittee, witnesses from the Defense Department set forth a variety of U.S. defense interests associated with the Marianas. It was their judgment that the proposed covenant with the Marianas would fully protect and enhance these U.S. defense interests. The

Covenant would provide valuable land which would be available for military purposes as well as a desirable environment from which to operate.

Although Defense witnesses mentioned ~~a great~~ many specific defense interests and objectives, they could be classified into essentially four categories:

1. Improve U.S. military capability in Asia and the Pacific
2. Provide a hedge and flexibility in defending existing U.S. presence in the Pacific.
3. Contribute to U.S. force readiness.
4. Deny area to other powers for military purposes.

The first category of U.S. defense interests in the Marianas was the enhancement of U.S. military credibility in Asia and the Pacific. The construction of U.S. military bases in the Marianas -- although not presently planned -- would constitute an additional U.S. military presence in Asia and the Pacific. This would buttress the U.S. maritime posture in the Pacific and lend support to U.S. allies by assuring freedom of transit through the area surrounding the Marianas. It was also pointed out that U.S. military bases in the Marianas would allow the United States to fulfill its responsibilities for civil air traffic control and search and rescue operations in that area.

In principle, enhancement of U.S. military credibility in the Pacific and Asia is desirable. In fact, however, U.S. military bases in the Marianas could do little to enhance meaningfully U.S. military credibility. The land in the Marianas could not serve as a base for U.S. strategic forces -- bombers, submarines, or missiles. Similarly, these areas in the Marianas

could not be used as major operating bases for conventional forces. As contemplated by the Defense Department, the primary role of these areas if they were ever developed would be for training and logistic support.

As for protecting U.S. and allied maritime activities in the Pacific, the Marianas lie astride no important sea lanes. As a result, U.S. military bases in the Marianas would be of relatively minor significance in protecting important sea lanes.

The second category of U.S. defense interests associated with the Marianas provide a hedge and flexibility in defending the existing U.S. presence in the Pacific. Bases in the Marianas could help to defend Guam, Hawaii, Midway, Johnston Island and Wake Island. Moreover, bases in the Marianas could be a form of insurance against unforeseen U.S. basing changes elsewhere in Asia and the Pacific.

It is true that bases in the Marianas could offset to some extent the reductions in U.S. military capability that might accompany loss of U.S. basing rights in Japan, Korea, Taiwan, Philippines, etc. But Defense officials admitted that bases in the Marianas could not realistically substitute for any existing U.S. major operating bases in the Pacific and Asia.

Furthermore, U.S. bases in the Marianas would have only a marginal impact on providing for the defense of other U.S. possessions in the Pacific. A large number of U.S. military installations already exist to protect the U.S. presence in the Pacific. On the other hand, any U.S. installation in the Marianas would itself be vulnerable to attack. Approval of the Marianas Covenant would create a new, permanent defense commitment. Thus, rather than significantly improving U.S. defense in the Pacific, the

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NO

Marianas Covenant may have the effect of adding to U.S. responsibilities in the Marianas.

In fact, acquisition of the Marianas might be construed by other nations as preparation for a U.S. withdrawal from forward-deployed installations in the Western Pacific. Such an unintended signal that the U.S. resolve to continue overseas basing has weakened could tend to undermine our present foreign policy in the Western Pacific.

Any contribution that the Marianas could make to the first two categories of U.S. defense interests is of a contingent and conjectural nature. U.S. defense and foreign policy in Asia is not tied in any substantial sense to the construction of any military base in the Marianas.

The third category of U.S. defense interests that might be served by a U.S. military presence in the Marianas is more straightforward. Bases in the Marianas could help sustain U.S. combat readiness by providing a safe and convenient environment for a variety of military training exercises. Bases in the Marianas are also well suited for logistical support of forward deployments throughout Asia and the Pacific including the prepositioning of equipment and the storage of fuel and ammunition. Although the Defense Department has no present plans to construct military facilities in the Marianas, Defense officials declared that training and logistic support would be the primary missions for any future base construction in the Marianas. With the end of U.S. military activities in Southeast Asia and the increasing political pressure against U.S. military training in Asian countries, the availability of training areas has become a serious concern to the Defense Department.

The Subcommittee appreciates the need for suitable training and logistic areas in order to maintain U.S. force readiness. Nevertheless, training and logistic support in the Marianas, while important, is not crucial or essential to U.S. military needs. Rather, such facilities would be convenient and useful to the U.S. defense posture. The general problem of insufficient training and support areas for U.S. forces exists throughout the world.

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A variety of alternative sites could serve the same function as those/the <sup>in</sup> Marianas, although at a perhaps higher cost.

It should be pointed out that a variety of desirable but not indispensable U.S. military interests could be satisfied in other parts of Micronesia. From a military standpoint, the Kwajalein Missile Range in the Marshall Islands, where the United States has already invested over \$700 million, is probably a much more important U.S. defense asset than the proposed land acquisition in the Marianas.

The last category of defense interests in the Marianas is the denial of the area to other military powers. This is unquestionably an important U.S. defense interest which the United States should strive to preserve. This interest, however, applies to all of Micronesia. More significantly, it can be achieved -- albeit less emphatically -- through a variety of other means such as a status of free association between the United States and the Marianas, a direct defense treaty with the Marianas, specific agreements on U.S. basing rights, etc.

NOT  
SO

In short, a thorough review of the U.S. defense rationale for the Marianas did not persuade the Subcommittee that any vital U.S. defense interests were at stake. While U.S. base rights may be desirable in the Marianas, they are not essential either in a strategic or tactical sense. Even more relevant to Congressional consideration of H.J. Res. 549 is that what U.S. defense interests there are in the Marianas can be satisfied in a variety of ways beyond granting commonwealth status to the Marianas. The Marianas are too small, too remote and too underdeveloped to contribute substantially to the U.S. defense posture. Thus U.S. defense interests should not be a justification for approving the Covenant contained

in H.J. Res. 549.

OTHER U.S. INTERESTS

Acquisition of the Marianas could serve no useful economic purpose for the United States. The Marianas lack any exportable natural resources. Due to its small population, the Marianas offer neither a major labor source or a potential market.

The largest employer in the Marianas is the government. Upwards of 75 percent of the total wage income in the Marianas during FY 1974 was from the government. Thus it will be many years in the future before the Marianas will be even self-sufficient economically.

The Committee was unable to identify any other advantages that might flow to the United States as a result of the approval of the proposed Covenant.

COST OF THE MARIANAS COVENANT

The Subcommittee requested from the Administration a detailed estimate of the total cost to the United States which would result from creating the proposed commonwealth. Unfortunately, no comprehensive cost estimate was possible, although component costs could be identified.

Under the proposed covenant, the Marianas would receive \$19.5 million if the United States exercises its option to lease land for military purposes. This amount would be increased for inflation since July 1974. Another one-time expenditure is \$31.9 million which the Coast Guard estimates would be necessary to construct facilities in the Marianas in the event the islands become U.S. possessions.

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Figure

where did this come from?

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The United States would also be required to give the Marianas in grant assistance \$14 million yearly for the next seven years. This amount would be automatically increased from the July 1974 base to make up for any inflation. The Marianas Status Commission interprets the Covenant as requiring this annual constant dollar payment will be paid indefinitely on the grounds that assistance levels cannot be adjusted, even after the initial seven-year period, without the consent of the Marianas. In addition, these funds from the United States will be considered local in nature for the purpose of obtaining further federal matching funds. The \$14 million alone equates to \$1,000 constant dollars yearly for every inhabitant of the islands.

NO

The people of the Marianas will also be eligible for a full range of federal programs and services. Administration witnesses estimate that, based on the experience in Guam, the cost of federal services to the Marianas would be roughly \$285 per person. Other information offered to the Subcommittee, however, indicates that this cost could be vastly higher. Based on estimates of additional costs forecast by only three departments, HEW, Transportation and Agriculture, the acquisition of the Marianas could cost an additional \$12 million yearly. In total, the yearly cost to the United States, excluding the one-time payments, would be about \$27.6 million a year. On a per capita basis this represents nearly \$2,000, approximately 10 times more than the average annual per capita federal payments to the states of the union.

where's this?

The Subcommittee was concerned about this relatively high level of federal payments to the inhabitants of the Marianas, particularly in light of the tax provisions contained in the covenant. Under the Covenant the Marianas would retain locally all duties and taxes collected there under existing law, including the income taxes paid by federal employees and military personnel. The Covenant also allows the Marianas legislature to rebate any or all of these



NOT file  
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taxes at its own discretion. In summary, the Covenant would allow the Marianas to avoid, in effect, the payment of any taxes to the U.S. government.

The Subcommittee believes that these tax provisions are ill-advised and deserving of further study.

OTHER QUESTIONS RAISED BY THE COVENANT

In addition to the tax and revenue provisions the Subcommittee also is concerned about other features of the Covenant, particularly its irrevocable nature. If the Covenant is enacted into law, no change may be made to it without the agreement of both the United States and the future government of the Marianas.

NOT SO

Several sections of the Covenant raise problems which might prove detrimental to the interests of all the people of the United States. Some of these are:

- Land ownership could be denied to mainland Americans.
- The Marianas government would have to approve the application of any future U.S. constitutional amendments to the islands.
- The principle of "one man, one vote" would not apply to the Marianas legislature.
- The right to indictment by grand jury and trial by jury in cases of violations of Marianas law would be denied to all Americans when in the islands.
- The Marianas can charge duty on products of the states and territories imported into the islands.
- Article IV, Section 3, of the Constitution, which gives Congress the power to govern territories would not apply to the Marianas.

NO

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misleading

NOT SO

U.S. OBLIGATIONS TO THE MARIANAS AND  
MICRONESIA

In accepting the Trust Territory for the Pacific Islands, the United States agreed to certain obligations and responsibilities as set forth in the Trust Agreement. Among other things, these obligations include promoting the economic, social and educational advancement of the inhabitants of the Trust Territory, as well as guaranteeing security and certain basic freedoms. Of special significance, the United States undertook to promote the development of self-government or independence for the people of the Trust Territory.

For almost thirty years the United States has been working to meet these responsibilities. In particular, the United States has made a sincere effort to encourage the people of Micronesia to work out their own future political status. It should be emphasized, however, that a United States commitment to promoting self-determination or independence for Micronesia does not encompass any obligation for the United States to join in permanent political union with Micronesia or any part thereof.

United States obligations and responsibilities extend to the entire Trust Territory. Indeed, it is essential that the United States be even-handed in its treatment of all parts of Micronesia. Singling out the Marianas for special treatment at this time must inevitably affect the terms of future status for the remaining areas of Micronesia. To the extent this splintering off of the Marianas causes problems for the rest of Micronesia, these problems will ultimately have to be confronted by the United States. If the fragmentation of Micronesia leaves some areas unable to achieve self-determination, they will remain the responsibility of the United States. Similarly, to the extent that the United States provides political rights and privileges to the Marianas, it will constitute a strong precedent for other areas such as the Marshalls or the Carolines to insist upon a similar arrangement.

THE MARIANAS COVENANT AND THE UNITED NATIONS

The Trust Territory of the Pacific Islands is the only remaining trust territory of the original 11 United Nations trusteeships. To be consistent with the Trust Agreement the Trusteeship must be terminated all at one time. The Trust Territory was created under the authority ~~and with the approval of the United Nations.~~ Article 83 of the United Nations' Charter calls for Security Council approval for any "alteration or amendment" to the Trust Agreement. Thus, any termination of the Trust Territory should be pursuant to the authority of the United Nations.

NTSO

The Covenant itself does not deal with the termination of the Trust Territory nor does it make any provision for notifying the United Nations. Nevertheless, the United States is rightly dedicated to terminating the Trust Territory as soon as possible. The United States intends to terminate the Trust Territory only when the future status of the entire Trust Territory has been resolved. Also, the United States intends to submit its termination scheme for the Trust Territory to the United Nations. In light of this substantial and necessary involvement of the United Nations in the termination of the Trust Territory as a whole, it would appear overall desirable to consider a plan to terminate the Trust Territory prior to taking steps to terminate a portion of the Trust Territory.