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SELF-DETERMINATION AND SECURITY IN THE PACIFIC:
A Study of the Covenant Between the
United States and the Northern Mariana
Islands

Since it first took possession during

World War II of those Pacific islands known collectively as Micronesia,¹
the ^{United States} has been faced with a significant policy dilemma caused
by the inherent conflict between *its* desires to control the area
for defense reasons and to recognize the right of the peoples of Micro-
nesia to determine their own future. In the immediate post-war era,
the United States affected a temporary solution to its difficulties by
agreeing to administer the islands as the Trust Territory of the Pacific
Islands, a "strategic trusteeship" under the supervision of the United
Nations,² but that action merely postponed rather than resolved the
underlying problem. In the late 1960's, therefore, the dilemma surfaced
again as the *United States became alert to the anomaly of its control of
of one of the last trust territories in existence at a time when
colonial peoples all over the world were agitating for the right to
govern themselves. Since that time,* 
the United States has been struggling to work out a plan for the future
status of the Trust Territory which will provide an enduring solution

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for this problem. It now appears that the key component of that solution
is a legal covenant signed by ³ ~~then~~ President Ford on March 24, 1976,
that ⁴ will eventually make the Northern Mariana Islands, which
currently form one of the six districts of the Trust Territory, a com-
⁵ monwealth in political union with the United States.

On its face, the Covenant between the United States and the
Marianas seems well-calculated to advance the primary interests of all
concerned. It represents the culmination of long-standing agitation
by the people of the Marianas for a separate status from the rest of
Micronesia, and, at the same time, the Covenant gives the United States
sovereign territory on which to place military bases. In addition,
the agreement imparts flexibility to United States' negotiations with
the Congress of Micronesia concerning the future status of the re-
⁶ mainder of the Trust Territory, negotiations which had previously been
stalled by American intransigence over the issue of the permanence of
any future relationship. *U.S. was not insisting on permanence
after 1971.*

The simple fact that the Northern Marianas are part of
the Trust Territory raises, however, some disturbing questions concern-
ing the propriety of the Covenant as a solution to the problems of the
United States. When this country voluntarily submitted the islands

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of Micronesia to the International Trusteeship System of the United Nations, it committed itself to observe specific guidelines in its conduct towards the peoples of the Territory. Yet, with the approval of the Marianas Covenant, the United States has embarked on a course of action unique in the relatively short history of the Trust System.

CONCLUDES Never before has a trust territory been geographically fragmented by the arrangement for its future status, and never before has the administering authority of a trust sought to politically absorb any or all of its dependency. The purpose of this note is to analyse the nature of these actions, and *it concludes that* the United States has, through *the* Covenant with the Marianas, ^{*properly*} discharged its ^{*trusteeship*} obligations under the United Nations Charter and the specific trust agreement for the Pacific Islands.

I The Course of Trusteeship

A. The Terms of the Trust

The chain of events which has brought the United States and the Northern Mariana Islands to the brink of political union began with the establishment of the United States after World War II as the United Nation's trustee for the three main Micronesian Island groups -- the Marshalls, the Marianas and the Carolines. The islands had previously been controlled by ~~the~~ Japan under a Mandate from the League of Nations, but that arrangement came to an end when American troops seized the islands in 1944. The trusteeship arrangement which replaced ^{the League's Mandate} ~~^~~ was an experiment designed to reconcile divergent American approaches to the problem posed by possession of the islands.

^{strong sentiment existed} On the one hand, [^] in America in favor of outright annexation of the islands. They had played an undeniably important strategic role in the ^{Second World} ~~^~~ War, ¹⁰ and given America's new dominance in the Pacific, it was thought that they might be equally important in future conflicts. In addition,

⁴¹²⁷⁹⁴ ¹² the islands had been purchased at a high cost in American lives, a fact which seemed to justify their possession. ^{↑ further}

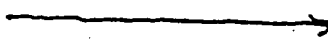
Many believed that to surrender control of the islands under such circumstance was unthinkable and, in fact, resolution calling for the permanent retention of all islands taken from the Japanese ^{were discussed} ~~was introduced~~ in Congress. ¹³ On the other hand, *anti-colonialists felt equally strongly* → that in view of America's traditional stance in favor of freedom for all peoples of the world, *the United States would be betraying its ideals if it sought* to profit territorially from its war effort. ¹⁴

To resolve this difference of opinion, a compromise was obviously needed, and American policy-makers availed themselves of the United Nations Charter to find one.

The problem of post-war disposition of non-self-governing territories was a prominent concern in the drafting of the United Nations Charter in 1945, and, after long debate, a solution emerged which was embodied in Chapters XI and XII of the Charter. ¹⁶ The essence of Chapter XI is that there is a general "sacred trust" which all United Nations members must observe in regard to non-self-governing territories. ¹⁷ Chapter XII → contains the specifics of a ^{trusteeship} system for the administration and supervision of

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such territories under the authority of the United Nations itself. ¹⁸

According to the Charter, non-self-governing territories
are placed under trusteeship by ^{voluntary} agreement between the United Nations
and the country responsible for the territory's administration. ¹⁹ This
agreement sets out the particular terms of the trust, and designates
an "administering authority" for the territory which traditionally,
although not necessarily, has been the country placing the territory
into the trusteeship system. ²⁰ For its part, the authority undertakes
to administer the trust in such a way as to promote both international
security, and the "political, economic, social and educational advance-
ment of the inhabitants . . ." ²¹ of that territory. The United Nations'
duties towards the trust are usually performed by the General Assembly,
and they include approval of the trust agreement, and any subsequent
modification thereof, and general supervision of the trust administration ²²
through the medium of the Trusteeship Council established by Chapter
XIII of the Charter. ²³ The Charter also provides, however, that all
or part of a trust territory can be designated as a "strategic area", ²⁴
in which case all functions of the United Nations relating to that
territory are assigned to the Security Council. ²⁵ 

The Charter makes

^ no other definitional distinctions between the two types of trusts.

The provision for strategic trusts was included in the trusteeship system primarily at the insistence of the United States and it is not surprising, therefore, that this country seized upon that provision to solve → its Micronesian problems. Late in 1946, the United States proposed that the islands be made a strategic trusteeship. → The Security Council gave its approval to a specific trusteeship agreement on April 2, 1947, and when it was approved in turn by Congress and by President Truman, the United States became the administering authority of the strategic area known as the Trust Territory of the Pacific Islands. ²⁶ ²⁷

A look at the precise terms of the 1947 Agreement reveals why the submission of the islands to the Trusteeship System was such an effective compromise -- it offered something for everyone.

For annexationists, the agreement featured a carte blanche for the United States to establish bases and station troops in the area, ²⁸ pre-

ferential commercial status for American traders. ²⁹ Most importantly,

the trust arrangement gave the United States the power to limit any practical effect of United

Nations' supervision by declaring at its discretion that *part* or all

of the Trust Territory was closed "for security reasons". ³⁰ For anti-

colonialists, however, the agreement contained an explicit commitment

by the United States to the promotion of the humanitarian interests

of the inhabitants of the Trust Territory, and an implicit measure ³¹

of international accountability. ³² Thus, temporarily at least, the

problem of Micronesia was solved.

B. The Trust Administration

After the 1947 Agreement went into effect, a ^{curious} dichotomy de-

veloped in the attitude of the United States towards the Trust

Territory. While ambitious military projects were vigorously pursued

in the Territory by the armed services, civilian development of the

Trust proceeded slowly at best under the administration of, first,

the Department of the Navy and then, after 1951, of the Department of

³³ the Interior. In part, the neglect of civilian affairs has a prac-

tical explanation. Comprised, by best estimates, of some 2,141 islands scattered over 3,000,000 square miles of ocean north of the equator in the Western Pacific, and populated by an extremely small number of people, Micronesia posed a formidable administrative chal-

³⁴lenge for the United States. Additionally, in the post war era, the United States simply had more important priorities than the re-building of Micronesian society.³⁵ In any event, during the initial stages of the United States' trusteeship the economic, social and political development of the Territory languished. Symptomatically, the headquarters of the United States administration was not moved into the Territory until 1962.³⁶

The benign neglect which characterized civilian affairs contrasts sharply with the energy expended on military projects in the Territory during the same period.³⁷ Bikini Atoll in the Marshalls was the site of an important hydrogen bomb test in 1954,³⁸ while Kwajalein Island in the same chain was built into a missile testing facility costing hundreds of millions of dollars →

at a time when the annual budget for the entire territory never exceeded seven million dollars. ³⁹ Saipan

Island in the Marianas, which were placed under special military control from 1953 to 1961, was the site of a massive building project, not for the benefit of the inhabitants, but as part of the creation of a training base for Nationalist Chinese soldiers receiving C.I.A. instruction. ⁴⁰

This ~~undesirable~~ state of affairs finally came to an end in the early 1960's. On the threshold of the Vietnam era, United States military and government officials had occasion to re-examine the United States' posture in the Pacific, and as a result they again became alerted to the potential value of Micronesia to America's security interests. ⁴¹ At the same time, the government became very sensitive to the changing international attitude towards the existence of dependent territories caused by the accession to independence of large numbers of former colonies in Africa and Asia. This change was reflected in

The practical impact of this renewed interest in the Trust Territory was immense. Funds were pumped into the Territory to spark an economic revival, and gradually the Trust ^{began to lose} ~~lost~~ its sobriquet of the "Rust Territory".⁴⁷ In 1964, a Congress of Micronesia, a bicameral body with significant legislative powers, was created to give the people of Micronesia a genuine opportunity to direct their own affairs⁴⁸. The next two United Nations Visiting Missions in 1964 and 1967 were both ¹⁹⁶⁴ tremendously impressed by the progress that was being made.⁴⁹

Ironically, however, this radical improvement of the Trust administration, an improvement which is still continuing today, has never led to attainment of the political objectives desired by the United States. _____

~~of the Trust administration, an improvement which is still continuing today, has never led to attainment of the political objectives favored by the United States.~~ When

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negotiations concerning the future status of the Trust Territory began between Washington and the Congress of Micronesia in 1969, both sides were nominally seeking the same goal of "free association" between the United States and Micronesia. *The problem was and still is, however, that* each side had a radically different view of the form that association should take. The United States wanted a compact which would be revocable only with the consent of both parties, and _____

_____ which would give it outright a great deal of land for military installations, and eminent domain over the rest. *50* The Micronesians, on the other hand, were looking for a truly voluntary arrangement which would be subject to unilateral termination; they also wanted to retain full control of their scarce land resources. *51*

This was not the only rock upon which negotiations foundered, however; the talks between the United

U.S. seeks "commonwealth" in 1969-1970. APB 70, U.S. seeks F.A.

States and Micronesia were also hampered by sheer inefficiency and simple disinterest on the part of the Americans. No real progress was made until the third round of talks in 1971, when control of the negotiations on the American side was taken out of the hands of the Department of the Interior and placed in those of Special Ambassador Hayden Williams at the head of ^{the} new Office of Micronesian Status Negotiations. Up to that point, American negotiators had almost no real power and often had not even been informed of the official United States position on important issues. To some extent, this state of affairs prior to 1971 was merely a reflection of the indifference to the Micronesian situation displayed by top government officials in the Nixon administration. Secretary Kissinger is reported to have said in response to a question about a point in the negotiations:

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"There are only 90,000 people out there. Who gives a damn?"

While the ^{were} negotiations stalled by such problems, separate negotiations ^{arose} between the United States and the Mariana Islands District of the Trust Territory

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C. The Negotiations with the Marianas

In point of fact, Marianas separatism is not a new element on the Micronesian scene; the inhabitants of those islands have been agitating for closer political ties with the United States since the Trust was instituted.⁵⁴ The majority of the 14,000 Marianans are of different ethnic and linguistic descent from the bulk of the population elsewhere in the Territory, and they have never accepted the historical accident of Spanish, then German, and finally Japanese imperialism which linked their island group with the others of the Trust Territory.⁵⁵ They also have long viewed with envy the advantages of association with America enjoyed by their fellow Chamorros on Guam. Finally, during the course of the trusteeship, this sense of distinct Marianan identity has received special social and economic reinforcement. As a separate military territory from 1953 to 1961, and then as the seat of the Trust administration as a whole, the Marianas District has enjoyed greater economic benefits than the rest of the Territory.⁵⁶ As the per capita income of the district has risen, so has its feeling of superiority.

These various elements of Marianas separatism

did not, however, coalesce into an effective political force until the onset of United States negotiations with the Congress of Micronesia. Faced with the prospect of the loss of United States dollars coupled with that of responsibility for economically ~~lesser~~ - developed districts of the territory, the Marianas decided in April of 1972 to request the opening of separate talks aimed at developing a special political relationship between the Marianas and the United States. ⁵⁷ Up to that point, the United States had discouraged such overtures, and it ^{had} appeared _^ committed to establishing a single status for the whole of Micronesia. ⁵⁸ The offer by the Marianas, ^{however,} coinciding as it did with the difficulties in the primary negotiations, held out an appealing incentive for a change in policy. The Marianas' representatives made it clear that they were amenable to a mutually binding permanent relationship, and that they were willing to give the United States substantial land areas for bases. ⁵⁹

In consequence, the United States began to negotiate with the representatives of the Marianas District as well as with the representatives of the Congress of Micronesia. While talks with the Micronesians remained stalled, those with the Marianans blossomed relatively quickly into a draft covenant⁶⁰ which was signed by both parties on February 15, 1975.⁶¹ The Covenant was approved overwhelmingly by the inhabitants of the district in a plebiscite in June⁶² observed a Special United Nation's mission. Approval by the United States House of Representatives in July⁶³ was followed by approval by the Senate in February of 1976,⁶⁴ and President Ford signed the Covenant into law on March 24. This final approval has not yet culminated, however, in full establishment of the new Marianas commonwealth. By its own terms, the Covenant will be effective only at such time as the Marianans have drafted and accepted a constitution and the President of the United States has declared that the trust arrangement for Micronesia as a whole has been terminated.⁶⁶

II Analysis of The Covenant

At this juncture, consideration of the →
propriety of the United States' actions with regard to the
Marianas within the framework of the trust relationship ^{is necessary.}
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This analysis → must focus on two closely related
questions concerning the Covenant. The first is whether the
United States acted properly in allowing geographic fragmen-
tation of the Territory in terms of its future status, and the
second is whether the specific commonwealth arrangement
contemplated by the Covenant for the Northern Marianas and the
United States is consistent with the objectives of the Trusteeship
System. The answers to both these →

Questions can be found through close analysis of the specific articles of the United Nations Charter and other international agreements which bind United States' action with regard to the trusteeship.

A. Fragmentation of the Trust

The separate negotiations of the United States and the Northern Mariana Islands raises one of the pre-eminent issues in the topic of self-determination -- the identification of precisely which geo-political groups are entitled to determine their own futures. Through the Covenant, the United States has taken the position that the Marianas ~~are~~ *as a discrete unit* have an equally legitimate right to self-determination as the Trust Territory as a whole. Yet, historically, that right has only been accorded to the majority within any generally accepted political unit. ~~and~~ ⁶⁷ The United Nations ~~itself~~ *adopted the latter* ⁶⁸ ~~has expressed approval of that~~ position.

Insert text

"Any attempt at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."

The Trust Territory, of course, is not a "country", nor does it have anything but a nascent "national unity". ⁶⁹ Micronesia

was and is an artificial creation of historical happenstance.

Still, it must be determined whether this distinction is signifi-

cant, or whether, under the ^{U.N. position} ~~principles outlined above~~, the compo-

sition of the Trust Territory must be held inviolate in terms of
its future status.

The language of the Charter and of the 1947

Agreement suggest that the distinction does justify the separate
negotiations with the
negotiations with the Marianans.

The basic objectives of the trusteeship system are deli-

neated in Article 76 of the United Nations Charter. ⁷⁰ With one ex-

ception, the general goals of trusteeship are stated only in broad

outline. On the subject of the political future of a trust,

however, the Charter goes into significant detail. It mandates

for the ⁷¹
for the "inhabitants" of each territory

. . . their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement; . . .

In the particular case of the Pacific Trust Territory, the trustee-
ship agreement does not elaborate on this proposition; the language

of the relevant section simply tracks that of article 76. ⁷²

The key word in this section is ~~obviously~~ the term "peoples".

A It is not defined anywhere in the Charter, ~~as the simple~~ ^a dictionary definition must be ~~supported to~~ ^{supported} instead: "a body of persons that are united by a common culture, tradition, or sense of kinship, that typically have common language, institutions, and beliefs, and that often constitute a politically organized group". ⁷³ The Marianans clearly fit this description. Moreover, the use of ~~the use of~~ the word "inhabitants" in the same article seems to provide tacit recognition of the fact that more than one "people" with a right to self-determination may inhabit a particular trust territory. ⁷⁴

This provision for the recognition of sub-territorial political movements is not, however, self-executing. The language of Article 76 contemplates the exercise of discretion by the trustee "as may be appropriate". The United States was thus mandated to balance the positive right of the Marianas to a separate status against the negative ^{effect} separation of the Marianas might have on the viability of any political unit encompassing the rest of the Trust Territory, given the "smallness" of Micronesia in both a geographic and an economic sense. ⁷⁵ **412811** The facts indicate this discretion was not abused by the United States decision to

The "particular circumstances" of the Trust Territory are that there is no single "people", except in an administrative sense, and that there are a number of sub-regions within the Territory which have legitimate historical, ethnic and cultural reasons for demanding special treatment from the administering authority. The United States neither initiated nor particularly encouraged the separate negotiations with the Marianas; it simply responded to the unilateral agitation of the Marianas for a separate future status from the rest of Micronesia. ⁷⁶ The fait accompli nature of this situation contrasts sharply with the speculative nature of the adverse impact which fragmentation might have on the Trust.

More importantly, perhaps, circumstances simply left the United States in its capacity as trustee with no more attractive practical options than the one it exercised. The alternative to condonation of Marianas separatism would have been its discouragement or suppression, but that course of action would certainly have been of dubious legality. Such action, moreover, would not even necessarily have been successful. An implied threat which underlay all of the dealings between the United States and the Marianas was that of the Marianans simply going elsewhere for assistance if the

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United States again ⁻²³⁻ rejected their overtures.

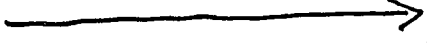
Several critics of the proposed commonwealth have suggested that even if there is some justification for the United States arrangements with the Marianas, the true wishes of the people of those islands were never "freely expressed" within the meaning of

article ⁷⁷ 76. What this criticism ignores, however, are the basic facts that the Marianans were at no time forced to participate in the covenant negotiations and that they were given the opportunity to approve or disapprove of the end product of that process. Up

until the moment of the plebiscite, the Marianans retained the option of rejoining the pan-Micronesian negotiations. ⁷⁸ Furthermore,

the plebiscite itself was administered by a United Nations Visiting Mission which gave its full approval to the ⁷⁸ fairness of the

and the final result of the vote. ⁷⁹

There is also historical precedent for the United States' treatment of the Marianas' political status movement. When the United Kingdom decided to terminate its trusteeship over the Trust Territory of the Cameroons, it requested 

that the United Nations sponsor a plebiscite to determine the wishes of the population. ⁸¹ As a result, the Southern Cameroons ^{combined} ~~joined~~ with the French Trust Territory of the Cameroons to form an independent state, while the Northern

⁸² Cameroons chose to join the Nigerian Federation. This example ^{is} ~~might be~~ distinguishable on the basis of the fact that the northern and southern portions of the British Cameroons

had never been actively administered as a single unit because of the physical isolation of the one from the other, ⁸³

^{however,} but considering the separate administration of the Marianas from 1953-1961 and the United States' use of a plebiscite to determine popular opinion, the situations are certainly analogous. ^{each} Proposal

In summary, the United States' negotiations with the Marianas are supported by both the ^{provisions of} ~~theory~~ and the practices ^{under United Nations} ~~of the International~~ Trusteeship System. The Northern Mariana Islands requested separate status from the rest of the Trust Territory on the basis of legitimate, long-standing claims. The United States acceded to the request only

after it had ~~seriously~~ attempted to make an arrangement for Micronesia as a whole. Finally, the results of the negotiations were ratified by the inhabitants of the islands in a free plebiscite observed by a United Nations Visiting Mission. The United States thus seems to have fully discharged its obligations to guide the political development of the Trust Territory as the "particular circumstances" of the territory and the "freely expressed wishes of the people concerned" require.

B. The Commonwealth Proposal

The more difficult question concerning the United States' separate dealings with the Northern Marianas *involves* the propriety of the specific commonwealth arrangement which has been developed by the parties. Underlying the entire Trusteeship System is the notion that the administering authority of a trust stands in a special fiduciary relationship to the inhabitants of its territory. *As* expressed in Article 73 of the Charter, this relationship

demands that the United States place the interests of the peoples of the Trust Territory of the Pacific Islands above all other considerations in determining the future status of any or all portions of Micronesia. ⁸⁴

The most important practical impact of the "sacred trust" ^{posited by Article 73} is that it that it prevents any action by the administering authority which might prejudice achievement of the basic objectives of the Trusteeship System for a particular trust territory. In the context of the U.S.-Marianas commonwealth arrangement, this means that the relationship is improper / unless the measure of autonomy which it gives to the inhabitants of the islands is equi-

valent to "self-government or independence" within the
 meaning of Article 76 of the Charter. ⁸⁵

In most ways, the commonwealth covenant passes
 this threshold test easily. The islands have not been
 given independence, ^{in terms of control of their foreign affairs} but they have been given a full measure
 of self-government. ⁸⁶ The Covenant grants them com-
 plete rights to "govern themselves with respect
 to internal affairs in accordance with a
 Constitution of their own adoption." ⁸⁷ →

Perhaps the best example of the ^{extent} of control
 over internal affairs which the covenant gives to the
 Marianans is provided by special provisions in that docu-
 ment relating to control of the very scarce land resources
 of the new territory. ⁸⁸ The new government of the islands
 will have powers of eminent domain, as well as
 a special power to limit the possession of real property
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In recent years, however, one aspect of the test
of acceptable self-government

^ has been changed, and that change makes the success of the covenant in the United Nations more problematical. Despite the precise language of Article 76 which refers to "self-government or independence", Third World countries in the General Assembly have prompted a re-interpretation of that phrase to make those two statuses identical, rather than alternative, goals for the political development of a trust territory. The "Declaration on the Granting of ⁹⁰ of Independence to Colonial Countries and Peoples", which

passed the General Assembly in 1960 without a single
negative vote is quite emphatic on this point. ⁹²

U.S. Abstained

While the precise legal effect of a General Assembly reso-
lution is still a matter of some controversy, ^{most agree} ~~it is clearly~~

⁹³
that it is not binding on any member state of the United Nations, nor

is it, because of Security Council control over strategic
trusts, ⁹⁴ ~~applicable~~ ^{directly} to the Trust Territory of the Pacific

Islands. For lack of any other guidelines, however, the

message of the Declaration might be very persuasive in

the context of Security Council review of the United

States' plans for termination of the Trust, considering

that the inhabitants of the Marianas ~~were~~ never

offered a true independence option. The plebiscite offered a choice between only acceptance or rejection of the specific commonwealth set-up.⁹⁵

In practice, however, even the General Assembly has approved a status short of full independence for a non-trust, non-self-governing territory. In the early 1960's, the Cook Islands, comprising two small island groups in the South Pacific controlled by New Zealand, began to agitate for a new status.⁹⁶ After U.N.-supervised general elections, ^{the Cook Islands} finally opted for a "free association" with New Zealand which gave them Full ~~the~~ Local autonomy and a unilateral right to ^{terminate the arrangement;} the conduct of foreign and defense affairs was left to ⁹⁷ New Zealand. The General Assembly then passed a resolution declaring that ⁹⁸⁻ the Islands were no longer a Non-Self-Governing Territory. At the same time, however, it must be noted that the General Assembly has refused to approve a similar arrangement which currently exists between the United Kingdom and several small islands in the West Indies.⁹⁹

This contrast between theory and practice is

~~These contrasting positions are~~ not simply the

result of capriciousness; ^{it} they reflect the action of another

General Assembly resolution which both *modifies* and *expands*

on the Declaration on the Granting of Independence. G.A.

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Res. 1541, passed only one day after its more famous pre-

decessor, retreats from the position that independence is

the only status acceptable for a dependent territory and

indicates that both "integration" and "free association" are appropriate

forms of self-government. ¹⁰¹ →

Again, this Resolution is not precisely applicable to

United States termination of its Trust, because the Se-

Council

curity [^] has full discretion to approve or disapprove of

the termination plan, but the principles outlined in 1541

are nevertheless likely to be consulted in a determina-

tion of the validity of the Marianas commonwealth.

*Unfortunately, the proposed commonwealth does not constitute a
sovereign state, nor does it*

[^] fit into any of the discrete categories envisioned by

other

the resolution.

contained in G.A. 1541

Applying the definitions to the proposed com-
monwealth throws the problems of the plan into sharp relief. 102

In many ways, the future arrangement between the Marianas and the United States resembles a free association. The parties have voluntarily acceded to the status, and the non-independent party has been given ^{complete} control over its internal affairs. 103 The arrangement does not fully achieve that status, however, because the relationship between the islands and the United States is mutually binding. 104

Without a unilateral option for the Marianas to alter or terminate the relationship, the commonwealth fails to meet the criteria for a truly "free" association.

An argument that the proposed commonwealth constitutes an integration of the Marianas into the United States is even more difficult to make. ¹⁰ *Nevertheless, that is the position which has been taken by State Dep't.* Although the cove-

nant makes the inhabitants of the Marianas United States citizens, ¹⁰⁶ its specific terms clearly contemplate some different treatment for each group. More importantly, the proper circumstances for integration, as defined by the

United Nations, have never existed in the Trust Territory in general, or the Marianas in particular. The only "free political institution" which the Marianas possessed prior to the signing of the covenant was a district legislature

with ^{few} ~~almost no~~ real powers, ¹⁰⁷ and yet it was that body which

created the ^{Marianas} ~~Future~~ Political Status Commission which con-

ducted negotiations with the Americans. ¹⁰⁸ It is precisely

this pattern of activity by an existing legislative group ^{of dubious authority}

which the United Nations objected to in the case of the

West Indian Federation sponsored by Britain among its Caribbean possessions. ¹⁰⁹

In summary, the proposed commonwealth does not fit into any categories of political status approved by the

United Nations, and any international review of the

arrangement is likely to draw a negative inference from this

lack of conformity. ^{to} to submit the covenant for

approval.

III International Review of the ~~C~~Covenant

On the balance, then, the proposed commonwealth covenant between the United States and the Northern Mariana Islands can be characterized like almost any political plan -- it has both merits and demerits. The Covenant does fulfill legitimate aspirations of the Marianans, but it has the practical impact of jeopardizing the the political future of the rest of the Trust Territory. Similarly, while the commonwealth does not fit into any approved political status mold, the idea that the Marianans may not accede to any status other than the ones chosen by the General Assembly is as repugnant to the ideal of self-determination as the concept of imperialism it was designed to supplant.

Unlike most political plans, however, the final judgment of whether the proposed commonwealth, on balance, properly effectuates the United States' obligations is left to the parties themselves because the Covenant is not subject to any formal international review.

of the Covenant from int'l review

The crucial component of this insulation is the
fact → that no United Nation's approval
the
is required for / termination of the 1947 Trusteeship
Agreement which is needed to put the Covenant into effect.
Despite the inherently temporary nature of trust status,
the sections of the United Nations Charter which delineate
the Trusteeship System make no specific provision for

the termination of a trust. The subject did arise during the original debates concerning the System in the form of a proposal that the United Nations be vested with the power to terminate all trusts, but that was defeated because it was felt to be contrary to the voluntary basis of the trustee-
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ships. The only guidance concerning termination to be found in the Charter, therefore, is the *implied* rule of reason that a trust must end when the objectives of the trusteeship have been achieved. The Charter does not, however, contain any explicit instructions as to who should make that all important determination.

It has been suggested that United Nations approval of any trust termination is mandated by language in Articles 83 and 85, but while that argument is appealing, it is ~~probably~~ not sufficiently conclusive to support United Nations' review of the Marianas commonwealth. The relevant language in those Articles specifies that "the approval of the terms of the trusteeship agreements and of their alteration or amendment"
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is a mandatory function of the U.N. with regard to Trusteeships.
(Emphasis added.)

In this precise context, however, such expansion is inapt. Termination will neither amend nor alter the terms of the 1947 Agreement; It will simply cause them to cease to have effect.

could have The question of termination ~~has~~ been dealt with explicitly in the specific trusteeship agreement for ~~that~~ ^{the} territory, but no such clear provision is contained in the 1947 Agreement. The only reference to termination in that document is one which seems to support the *position that the United States!* power of termination is unilateral and unreviewable: "The terms of the present Agreement shall not be altered, amended or terminated without the consent of the Administering Authority." ¹¹² This ¹¹³ statement may or may not imply that the Agreement can be terminated without the consent of the United Nations, but in any case, it does not provide the kind of explicit authority necessary to force the United States to submit the commonwealth proposal for review.

No means exist means for the United Nations

to raise the question of the legality of the Marianas

Commonwealth on its own initiative. Because the Territory

is a strategic trust, the problem is beyond the competence
of the General Assembly. The Trusteeship Council may,
and indeed has, entertained petitions regarding the
situation in Micronesia,¹¹⁴ but the American
veto in the Security Council virtually assures that there

will never be a formal consideration of the plan *absent*
American consent to the process.

The Covenant *also may* theoretically be open

to challenge in the International Court of Justice, but

again, such a challenge is unlikely to materialize. ¹¹⁵ Article

89 of the Charter specifies that "any alteration or amendment"

of the terms of trusteeship "shall be agreed upon by the

states directly concerned, including the mandatory power in

the case of territories held under mandate by a Member of

¹¹⁶ the United Nations." Leaving aside for the moment the

question of whether termination is one of these items which

must be "agreed upon", the phrase "states directly concerned"

has never been adequately defined by the United Nations. ¹¹⁷

There are undoubtedly several Pacific nations, including

Japan, the former mandatory power, that are concerned about

the future of the Territory, and this article seems to give them a judicially cognizable interest therein. The fact that no other powers were involved in the formation of the Trust should not necessarily preclude their participation in its termination. In view of the International Court's well-known aversion to "political" issues, however, a judgment on the merits of that case is unlikely.

A final avenue of attack on the Covenant would ordinarily be the courts of the United States itself, but this approach has been closed off as well. If, logically, a Trust may not be terminated unless its objectives have been fulfilled, then, a fortiori, a determination that it has been terminated should mean that the people of the trust have acceded to an appropriate political, social and economic status. ~~Article~~ ^{Section} 1002 of the Covenant provides in relevant part:

Any determination by the President that the Trusteeship Agreement has been terminated . . . will be final and will not be subject to review

by any authority, judicial or otherwise, of the Trust Territory of the Pacific Islands, the Northern Marianas Islands or the United States.

This ban on review of the termination ^{can only} / have the practical effect of making review of the Covenant itself more difficult.

IV *Conclusion*

The United States is thus free in the technical sense of that word to implement the Covenant with the Northern Marianas Islands. To do so, however, will create a more serious dilemma than the one the commonwealth is designed to solve because such action would fly in the face of of accepted attitudes concerning the treatment of Non-Self-Governing peoples. ~~And even if~~ international public opinion cannot find an official voice with which to express its *displeasur*e with the Covenant, it can unofficially make things very unpleasant for this country.

The crux of the matter seems to be a feeling that the United States' actions have violated at least the spirit of of its trusteeship position. Because of *the* *United States'* *self-interest in* **412831** not so subtle motives of *the* negotiations,

the Covenant presents the unfortunate specter of a western imperialist power seeking to further its own security' at the expense of true freedom for the people of Micronesia.

→ The negotiations were mishandled by the parties on a public relations level, and ^{have} created an unfavorable impression on world opinion which prevents thoughtful evaluation of the actual worth of the commonwealth plan.

The only way this unofficial outcry can be silenced is if the United States can come to an acceptable agreement with the rest of Micronesia before the Covenant goes into

effect. If the United States is able to create a viable future political status for the other districts of the Territory, then its actions with regard to the Marianas should be → more acceptable, especially if the Marianas are given → a formal opportunity to participate in any ^{pan-Micronesian political unit} future rather than in the Commonwealth. Under → those circumstances, the United States could probably be confident of the results of any voluntary submission of the Trust termination arrangements to the United Nations.

To reach such a point, however, the United States has to re-assess its entire position with regard to both the Marianas and the whole of the Trust Territory. It must examine the unquestioned assumptions that the islands of Micronesia are still essential to American security interests in the Pacific, and ~~_____~~ that permanent association is the only acceptable relationship

between the United States and its former dependencies. Only
when the United States does learn to distinguish between
what is desireable and what is possible, and between what
is possible and what is essential, will the way be open to
finding a final answer to the dilemma raised by the United
States' trusteeship in the Pacific.

FOOTNOTES FOR ARTICLE ON THE MARIANAS ISLANDS

1. This article will use the geographic term "Micronesia" interchangeably with the political term "Trust Territory of the Pacific Islands." For a more detailed geographic description of Micronesia, see S. De Smith, *Microstates and Micronesia* at 119 (1970) [hereinafter "De Smith"].
2. Trusteeship Agreement for the Former Japanese Mandated Islands, July 18, 1947, 61 Stat. 3301, T.I.A.S. No. 1665, 8 U.N.T.S. 189 [hereinafter "1947 Agreement"].
3. Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, February 15, 1975, H.J.Res. 549, 94th Cong., 1st Sess. (1975), S.J. Res 107, 94th Cong., 1st Sess. (1975) [hereinafter "the Marianas Covenant"] (reproduced

in 121 Cong. Rec. 7106-11 (daily ed. July 21, 1975)].

4. The islands are referred to as the Northern Marianas ~~islands~~ in order to indicate that Guam, which is the southernmost island in the Marianas chain but which is not part of the Trust Territory, is not included in the new commonwealth. The Northern Mariana archipelago is comprised of 16 islands with a total land surface area of 185 square miles and a population, in 1973, of 14,335. Report of the United Nations Visiting Mission to Observe the Plebiscite in the Marianas Island District, Trust Territory of the Pacific Islands, June 1975, 43 U.N. Trusteeship, Supp. 2, 5-6, U.N. Doc. T/1771 [hereinafter "Plebiscite Report"].

5. The six are: Mariana Islands District, Marshall Islands District, Yap District, Truk District, Ponape District, and Palau District. The latter

four districts are subdivisions of the Caroline Islands chain.

6. The Congress of Micronesia is a territory-wide legislature which was created in 1964. See generally, N. Meller, *The Congress of Micronesia* (1969). The Micronesian Political Status Commission created by the Congress in 1967 has represented the Trust Territory in all negotiations with the United States. D. McHenry, *Micronesia: Trust Betrayed*, 88-94 (1975) [hereinafter "McHenry"].
7. *Mandate for the German Possessions Lying North of the Equator in the Pacific*, L.N. Doc. 29/31/14E as reprinted in D. Hall, *Mandates, Dependencies and Trusteeships*, 307 (1948).
8. Although the Americans chose to by-pass the

formidable Japanese fortress of Truk in the Carolines, they did seize key islands in the Marshalls and the Marianas in swift campaigns during the summer and fall of 1944. The United States military operations in the area during the war are detailed in S. Morison, *The Two-Ocean War*, 295-348 (1963) [hereinafter "Morison"].

9. A Gallup poll taken late in 1944 found that 60% of the Americans surveyed felt that the United States should retain control of Micronesia after the war. McHenry, *supra* note 6, at 188.
10. For example, the B-29 which carried the first atomic bomb to Hiroshima was based on the Mariana island of Tinian. Morison, *supra* note 8, at 570.
11. The testimony delivered by numerous political and military figures during the Congressional hearings on the 1947 agreement clearly demonstrate the United States' belief in the

strategic potential of Micronesia. Hearings
on S.J. Res. 143 Before the Senate Comm. on
Foreign Relations, 80th Cong., 1st Sess. (1947).

In light of the Covenant it is obvious that the

United States still believes that bases in


Micronesia are militarily important. Many

commentators agree with this position. See, e.g.,

Comment, The Marianas, the United States, and the

United Nations: The Uncertain Status of the New

American Commonwealth, 6 Cal. West. Int'l L.J.

382 (1976). Others suggest, however, that while
it is still desirable to deny the use of the
islands to any other power, there is little
need for other permanent installations in
the area given America's continuing presence
at Guam. See, e.g., 

Mihaly, Tremors in the Western Pacific, 52

Foreign Affairs 839 (1974).

12. The conquest of Saipan in the Marianas alone cost
nearly 15,000 American casualties. Morison,

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supra note 8, at 346-47.

13. N.Y. Times, Jan. 12, 1947, at 44, col. 3.

14. These non-aggrandizement ideals had recently been re-iterated in the historic Atlantic Charter issued by President Roosevelt and Prime Minister Churchill in 1941, prior to the United States' entry into the war. Joint Declaration of August 14, 1941, 55 Stat. 1600 (1941), E.A.S. No. 236.

15. For a brief description ^{and} analysis of the debate over the trusteeship system, see Green, America's Strategic Trusteeship Dilemma, 9 Texas Int'l L.J. 19, 27-33 (1974) [hereinafter "Green I"].

16. Chapter XI, entitled "Declaration Regarding Non-Self-Governing Territories", consists of articles 73 and 74 of the United Nations Charter. Chapter XII, entitled "International Trusteeship System," is comprised of Articles 75 through 85, inclusive.

17. U.N. Charter art. 73.

18. *Id.*, art. 75.

19. *Id.*, art. 77.

20. *Id.*, art. 81.

21. The full list of basic objectives of the Trusteeship System is contained in article 76.

22. U.N. Charter, art. 85.

23. Chapter XIII, entitled "The Trusteeship Council," consists of articles 86 through 91 of the Charter, inclusive. The functions and powers of the Council are outlined in article 87.

24. *U.N. Charter, art. 82.*

25. U.N. Charter, art. 83.

26. Green I, *supra* note 15, at 32.

27. A brief legislative history of the 1947 Agreement is provided in U.S. Dep't of State, *The United*

Micronesia is the only trust of the eleven which have been created which has been designated a "Strategic area".

28. 1947 Agreement, supra note 2, art. 5.

29. Id., art. 8.

30. Id., art. 13.

31. Id., art. 6.

32. Various remarks made by Mr. Austen, the United States Representative to the Security Council, during the United Nations debate over the 1947 Agreement indicate that there was some official recognition of this aspect of the Agreement. U.N. SCOR 407 (1947).

33. Both administrations were characterized by lack of funds and lack of interest. A brief review of the circumstances of this early stage of U.S. rule is contained in DeSmith, supra note 1, 133-138.

34. The islands themselves have a land mass of only some 716 square miles, and a population of 114,973 inhabitants. Outline of Conditions in the Trust Territory of the Pacific Islands, U.N. Doc. T/L.1191, at 1 (15 May 1975).

35. Although the economic and social fabric of the Territory was, comparatively, shredded at least as much as that of the defeated nations of Japan and Germany, its reconstruction did not receive a high priority because the islands were far behind the front lines of the "Cold War".

36. DeSmith, *supra* note 1, at 136.

37. The role of the military in the administration of the Trust Territory is detailed in McHenry, *supra* note 6, 53-86.

38. *Id.*, at 58-60.

39. *Id.*, at 60-62.

40. *Id.*, at 56-58.

41. A typical expression of the current military

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importance of Micronesia can be found in Miller,

"The United States and Oceania: New Dimensions
in the Cold War Refrain," 21 Nav. War Coll. Rev.

45 (1969). See also W. Louis, National Security
and International Trusteeship in the Pacific (1972).

42. G.A. Res. 1514, 15 U.N. GAOR Supp. 16, at 66,

U.N. Doc. A/4684 (1960) [hereinafter "G.A. Res.
1514"].

43. Report of the United Nations Visiting Mission to
the Trust Territory of the Pacific Islands, U.N.
Doc. T/1582 (1961).

44. For a thorough, albeit somewhat subjective,
analysis of the principal elements of this re-
examination of American policy towards Micronesia
see McHenry, *supra* note 6, at 11-24.

45. The general blue-print followed by each administra-
tion was a classified report by Anthony J. Solomon
to the National Security Council made in 1963.

McHenry, supra note 6, ^{at} 16. The political recommendations of the Solomon Report were made public when a copy came into the possession of a group of Micronesian nationalists. See J. Metelski, *Micronesia and Free Association: Can Federalism Save Them*, 5 Cal. West Int'l L.J. 162, 165 n.17 (1974) [hereinafter "Metelski"].

46. These programs took a number of forms, but, most visibly, they involved the influx into the territory of relatively huge numbers of Peace Corps volunteers who provided the manpower and leadership for this renewed activity. De Smith, supra note 1, ch. 7.
47. W. Price, *America's Paradise Lost*, 95 (1966).
48. An exhaustive analysis of the origins and subsequent history of the Congress through 1968 is contained in N. Meller, *The Congress of Micronesia* (1969).
49. Reports of the United Nations Visiting Missions

U.N. Doc. T/1628 (1964) and U.N. Doc. T/1658 (1967).

50. McHenry, *supra* note 6, at 108-16.

51. C. Heine, *Micronesia at the Corssroads*, 125-26 (1974)

Mr. Heine, a native of Micronesia, has been called the father of Micronesian nationalism. Metelski, *supra* note 45, at 171, n. 54.

52. McHenry, *supra* note 6, at 103-04. McHenry does an excellent job of conveying a sense of the confusion which characterized the United States' end of the negotiations. *Id.* at 94-108.

53. This statement is reported in a book by former Secretary of the Interior Walter Hickel. W. Hickel, *Who Owns America?* 208 (1971). Although it should be noted that Hickel and Kissinger were known to be in disagreement over the situation in Micronesia, the Micronesians themselves clearly perceive the United States' attitude towards the Trust Territory as including a large component of

disinterest. Heine, *supra* note 36, at 150-51.

54. Plebiscite Report, *supra* note 4, at 13.

55. Approximately 75% of the inhabitants of the Marianas are Chamorros, descendants of the indigenous Marianas people. *Id.* at 6. Their sense of cultural distinction from the rest of the inhabitants of the Trust Territory is reinforced by the fact that almost all Marianans are Catholic, unlike the bulk of the population elsewhere. Meller, *supra* note 33, at 280.

56. Plebiscite Report, *supra* note 4, at 7-8.

These circumstances resulted in more jobs for Marianan workers and more public works to benefit the population of the Marianas as a whole.

57. Green, Termination of the U.S. Pacific Islands Trusteeship, 9 *Texas Int'l L.J.* 175, 181 (1974) [hereinafter "Green II"].

58. McHenry, *supra* note 6, 135-36.

59. These factors made the separate talks especially appealing in so far as Pentagon officials were concerned. *Id.* at 136-37.
60. The course of the separate negotiations leading to the covenant is fully related in McHenry at 140-69.
61. *N.Y. Times*, February 16, 1975, §1, at 3, col. 1.
62. Plebiscite Report, *supra* note 4, at 41.
63. 121 Cong. Rec. 7117 (daily ed. July 21, 1975).
64. 122 Cong. Rec. 2256 (daily ed. Feb. 24, 1976).
65. *N.Y. Times*, March 25, 1976, at 1.
66. *The United States has indicated that it will abide by this timetable for establishment of the commonwealth. Digest of United States Practice in International Law 97 (1975) [hereinafter "Digest"]*.

67. For an overview of the issues raised by Marianas separatism, see R. Emerson, *Self-Determination Revisited in the Era of Decolonization* (1964).
68. G.A. Res. 1514, *supra* note 42, para. (7).
69. For a brief summary of the divisive forces on the Micronesian scene, see Metelski, *supra* note 45, 176-179.
70. U.N. Charter, art. 76. See text accompanying note 21, *supra*.
71. U.N. Charter, art. 76(b).
72. 1947 Agreement, *supra* note 2, art. 6(1).
73. Webster's Collegiate Dictionary (1973).
74. U.N. Charter, art. 76(b).
76. McHenry, *supra* note 6, at 135.
75. The special problems ^{concerning self-determination in} ~~the~~ small territories, including Micronesia, are reviewed in UNITAR,

Small States and Territories: Status and Prob-

lems (Series No. 3, 1973) [hereinafter "small

states"]. See also Franck + Hoffman, *The Right of Self-determination in Very Small Places*, 8 *N.Y.U. J. Int. L. + Pol.* 33 (1976).

77. This criticism has centered on the possibility that the outcome of the plebiscite was predetermined by both U.S. spending in the Marianas and the simple "yes/no" form of the plebiscite ballot. See, e.g., the editorial by William Safire entitled "A Destiny Not So Manifest": "...the people of the Marianas, who have become totally dependent on the U.S. defense establishment already, show good taste in their selection of a patron country." *N.Y. Times*, Feb. 13, 1975, at 33, col. 1; and the remarks of Senator Gary Hart, who led a brief floor fight to defeat approval of the Covenant: "In essence, the people of the Marianas were being asked to choose between commonwealth status, with some of the benefits of U.S. citizenship, and continued

trusteeship, with none of the rights of free citizens." 121 Cong. Rec. 10797 (June 17, 1975).

78. As recently as 1973, the Congress of Micronesia passed a resolution stating that its committee was the sole Micronesian authority for negotiations with the United States. This kind of official denial of the existence of separate negotiations obviously left the door open for the Marianians to link up again with the rest of Micronesia.

79. Plebiscite Report, supra note 4, at 41:

The People of the Northern Mariana Islands, in a well-organized and well-attended poll, voted by a majority of almost 80 per cent to become a commonwealth of the United States. There was no improper interference by the Administering Authority. The campaign was freely fought. The poll was free and seen to be free.

80. Trusteeship Agreement for the Territory of the Cameroons under British Administration, Approved by the General Assembly on 13 December 1946, 8 U.N.T.S. 119 (1946). For a brief overview of Cameroons precedent, see Green, Termination of the U.S. Pacific Islands Trusteeship, 9 Texas Int'l L.J. 175, at 198-199 (1974) [hereinafter "Green II"].
81. G.A. Res. 1350, 13 U.N. GAOR, U.N. Doc. A/4090, Add. 1 (1959).
82. Marston, Termination of Trusteeship, 18 Int'l & Comp. L.Q. 1, 40 (1969).
83. See generally, W. Johnson, The Cameroon Federation: Political Integration in a Fragmentary Society (1970).

84. *U.N. Charter art. 73 provides in relevant part:*

Members of the United Nations which have or assume responsibilities for the administration of territories whose people have not yet gained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost . . . the well-being of the inhabitants of these territories. . .

85. C. Toussaint, *The Trusteeship System of the United Nations* 135 (1956). This is still the most thorough analysis of the Trust system.

86. The alternate use of the two terms clearly indicates that a territory can have appropriate "self-government" even if its inhabitants exercise less than total control over all their political affairs. The Marianas assignment of the conduct of their foreign affairs to the United States is therefore not inconsistent with the assertion that they are self-governing.

87. Marianas Covenant, supra note 3, section 103.

88. Id., art. VIII.

89. *The Covenant provides in relevant part:*

. . . the Government of the Northern Mariana Islands, in view of the importance of the ownership of land for the culture and traditions of the people of the Mariana Islands, and in order to protect them against exploitation and to promote their economic advancement and self-sufficiency:

(a) will until twenty-five years after the termination of the Trusteeship Agreement, and may thereafter, regulate the alienation of permanent and long-term interests in real property so as to restrict the acquisition of such interests to persons of Northern Mariana Islands descent; . . .

Id., Sect. 805.

90. G.A. Res. 1514, supra note 42.

91. Id., at 66.

92. Id., para. (5):

Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the peoples of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom; . . .

93. The consensus seems to be that resolutions contribute to the development of customary international law, although they clearly do not represent international law per se. See Green II, *supra* note 80, at 44-49, for a discussion of relevant authorities.
94. U.N. Charter art. 83(1). This factor mitigates the inference for the Trust Territory which might otherwise be drawn from the United States' abstention on G.A. Res. 1514, and which is considered in *The New American Commonwealth*, *supra* note 11, at 395, n. 59.
95. McHenry, *supra* note 6, at 165-66.
96. See generally, De Smith, *supra* note 1, 46-48.
97. Cook Islands Constitution Act of 1964, 13 Eliz. 2, No. 69 41 (N.Z.) [reproduced in 2 A. Peaslee, *Constitutions of Nations* 944, 962 (3d rev. ed. 1966)].
98. G.A. Res. 2064, 20 U.N. GAOR

99. Small States, supra note 76, at 95-96. See note 109 infra.
100. G.A. Res. 1541, 15 U.N. GAOR , Supp. 16 at 29, U.N. Doc. A/4684 (1960) [hereinafter G.A. Res. 1541].
101. *The preamble to G.A. Res. 1541 provides:*

. . . A Non-Self-Governing Territory can be said to have reached a full measure of self-government by:

- (a) Emergence as a sovereign independent State;
- (b) Free association with an independent State; or
- (c) Integration with an independent State.

102. *The relevant definitions are:*

Principle VII:

(a) Free association should be the result of a free and voluntary choice by the peoples of the territory concerned . . . It should be one which respects the individuality and the cultural characteristics of the territory . . . and retains for the peoples of the territory which is associated with an Independent State the freedom to modify the status of that territory . . .

Principle VIII: Integration with a Independent State should be on the basis of complete equality between the peoples of the erstwhile Non-Self-Governing Territory and those of the independent country in which it is integrated. . . .

Principle IX: Integration should come about in the following circumstances:

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(a) The integrating territory should have attained an advanced stage of self-government with free political institutions. . . .

103. Marianas Covenant, supra note 3, art. I.
104. Id., Preamble.
105. Digest, supra note 66, at 104.
106. Marianas Covenant, supra note 3, art. III.
107. Charter of the Mariana Islands District Legislature, reprinted in Meller, supra note 33, at 417-420.
108. The Commission was established on May 18, 1972, by resolution No. 2-1972 of the Legislature. Plebiscite Report, supra note 4, at 16.
109. Small States, supra note 76, at 26-27. Britain never solicited U.N. supervision of the process by which the federation was created.
110. Toussaint, supra note 85, 134-35.
111. U.N. Charter art. 83(1) (relating to strategic areas); U.N. Charter art. 85(1) (relating to all other trust territories).

112. Toussaint, *supra* note 86, 134.
113. 1947 Agreement, *supra* note 2, art. 15.
114. These petitions have come from both individual and organizations, both within and without the Trust Territory. For instance, the International League for the Rights of Man lodged an official complaint against the United States' violation of its trusteeship. *N.Y. Times*, Dec. 1, 1975, at 3, col. 1.
115. It has been suggested that the ruling of the court in its advisory opinion on the International Status of South-West Africa [1950] I.C.J. 128 denies the possibility of unilateral termination of a trust by the administering authority. *De Smith*, *supra* note 1, 185 n. 24. The case actually has little precedential value because it involved consideration of a League of Nations Mandate rather than a United Nations trusteeship.

116. U.N. Charter art. 79.

117. Toussaint, *supra* note 86, 80-87.

118. *Id.*, 125-127.

119. See generally Chayes, Ehrlich and Lowenfeld,
International Law and Institutions

(1974).

120. Marianas Covenant, *supra* note 3, section 1002.

121. The only note of concern sounded by the U.N.

Mission observing the Marianas plebiscite related to the fact that in view of the unsettled political evolution of the rest of the Territory, "the voters were necessarily unclear about alternatives to commonwealth status which might eventually have become available." Plebiscite Report, *supra* note 4, 41. Giving the Marianas a chance to re-assess their position when the future of the rest of the Territory is finally decided would put this concern to rest.

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122. For an example of such questioning, see Mihaly, Tremors in the Western Pacific, 52 Foreign Affairs 839 (1974).

123. Negotiations between the United States and the representatives of the rest of Micronesia are still going on, albeit in a somewhat desultory fashion. The talks at this stage are complicated by the facts that the Marianas example has encouraged separatist agitation in other districts and that the Micronesians have taken a firmer stance in favor of complete independence in reaction to the United States' perceived "bad faith".