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October 2, 1986

MEMORANDUM FOR VADM. JOHN POINDEXTER  
THE WHITE HOUSE

On October 2, 1986, Senior Interagency Group no. 5 met under the chairmanship of State Department Counselor Edward Derwinski and adopted unanimously two documents dealing with the future political status of Micronesia: a revised version of NSDD 10 and a working paper dealing with a strategy for bringing about effective termination of the United Nations Trusteeship with respect to the Marshall Islands, the Federated States of Micronesia, and the Northern Mariana Islands. Those documents are attached hereto.

*Nicholas Platt*  
Nicholas Platt  
Executive Secretary

Declassified/Released on 9/6/95  
under provisions of E.O. 12958  
by D. Van Tassel, National Security Council  
(F87-249)

Attachments:

As stated

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SENIOR INTERAGENCY GROUP DECISION - MICRONESIA

Issue for Decision

What strategy we should pursue in order to bring into force the Compact of Free Association with the Marshall Islands and Federated States of Micronesia (FSM) and the Covenant with the Northern Mariana Islands (NMI) and to effect termination of the UN Trusteeship over these entities.

Essential Factors

On September 18, the Secretary of State approved in principle the implementation of the Compact of Free Association for the Marshall Islands (RMI) prior to termination of the UN trusteeship over the Trust Territory of the Pacific Islands (TTPI) if doing so was essential to continued U.S. access to the Kwajalein Missile Range (KMR). Although RMI President Kabua has agreed to at least a one-month extension of the KMR interim-use agreement to October 31, he did so only on the understanding from Ambassador Zeder that we will move immediately not only to compact implementation but to termination of the UN Trusteeship as well.

All the domestic legal requirements have been met for implementation of the three status agreements in question. Congress has also just approved the Palau Compact, but problems in conforming the compact to the Palau constitution remain to be sorted out, [REDACTED]

1.3(a)(5)

If all four entities were "ready to go," we could seek deletion of the entire TTPI item from the Security Council's agenda. [REDACTED]

1.3 (a)(5)

However, all entities are not ready for trusteeship termination.

We have therefore worked out a two-stage scenario for compact implementation and partial trusteeship termination, [REDACTED]

1.3 (a)(5)

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 1-3  
(a)(5)  
Our proposed scenario would proceed as follows:

--Ambassador Zeder reaches an agreement in the near future with RMI President Kabua and the President of the FSM to implement the RMI and FSM compacts on or about October 21, with the clear understanding that we intend to effect termination of the trusteeship within two weeks thereafter. (Implementing the Marianas Covenant does not require any new agreement.)

--Upon implementation, we immediately notify the UN Secretary-General that, pursuant to the Trusteeship Council's May 28 decision, we have brought into force new status agreements for the Marshall Islands, FSM, and Northern Marianas. We would add that Congress also has now approved the Palau Compact, which we also would intend to implement as soon as Palau has completed its constitutional procedures. We would ask that the SYG treat the notification as a communication from the administering authority and circulate it as an official document of the Security Council.

--It will then be up to the Security Council to react, or not, as the case may be. In order to negate our action, the Council would have to adopt a resolution disapproving implementation of the two compacts and the covenant. With the strong support of the South Pacific states, and the anti-colonial arguments heavily in our favor, we believe it unlikely the Soviets could round up the nine votes necessary to adopt such a resolution, which would, in any case, be subject to our veto.

--As soon as the Secretary-General has been notified of implementation, we begin discreet soundings among UNSC members concerning the prospects for our submitting a draft resolution under which the TTPI item on the Security Council agenda would be recast to pertain only to Palau. This resolution, we would argue, is procedural in nature and therefore not subject to the veto. Sustaining this position will require the full cooperation of the President of the Security Council. Since the United Kingdom succeeds the United Arab Emirates as UNSC President on November 1, we would take the resolution to the Council -- if we have the votes -- at that time. This date falls in the ten-day period within which the Justice Department will be required to certify to the Claims Court that the trusteeship has been terminated.

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-3-

--If we were sure we could secure nine votes for such a resolution, we would introduce it in the Council and have it adopted. If this procedural move succeeds in reducing the TTPI item to Palau, we would announce on or about November 1 that we regard ourselves as no longer bound by the Trusteeship Agreement with respect to the other three entities, and act accordingly in international law. With the international community, we would cite Trusteeship Council action and the UNSC agenda amendment as the basis for our reasoning and action in this regard.

--Should our best lobbying efforts fail to produce ironclad assurances of nine votes in favor of a procedural resolution, we would not risk defeat by introducing a resolution. Instead, we would issue a statement that the USG considers that all of the requirements for trusteeship termination had been met and that we considered that trusteeship therefore terminated as a matter of law on the date of implementation.

[REDACTED]

1.3  
(a)(5)

--In the event that the Soviet Union were able to muster sufficient SC support to pass a resolution that sought to negate our actions, we would veto, accepting the international criticism this would surely draw.

[REDACTED]

1.3  
(a)(5)

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-4-

Despite these significant risks, we have concluded that immediate compact implementation and some form of trusteeship termination for three of the four entities is the only avenue open to us to ensure continued access to KMR and to avoid a host of other serious problems that would result from continued temporizing or delay. Postponing implementation of the three finished compacts until the Palau problem is resolved, or implementing them without termination at about the same time, would create pressures, both internationally and domestically, that could severely undermine our carefully-wrought understandings with the Pacific Island entities.

We believe that for the above proposed approach to succeed, it will require, even with our allies, a high-stakes political campaign, in which the full support of the South Pacific states will be crucial. The issue is, in the final analysis, a political one, albeit with a heavy legal dimension. With a demonstration of sufficient political will, we believe such an effort stands a reasonable chance of success.

#### RECOMMENDATIONS

- 1) That the President's Special Representative be authorized to reach agreement immediately with the RMI and FSM on implementation on or about October 21, with de facto trusteeship termination to take place within two weeks thereafter.
- 2) That as soon as the RMI's concurrence has been obtained, and compact implementation has taken place, USUN inform the Secretary-General that the new status agreements for the RMI, NMI, and -- provided they agree -- the FSM are now in force.
- 3) That at the same time USUN proceed to seek support for the procedural resolution outlined above for deletion of the RMI, FSM, and NMI from the UNSC agenda item on TTPI, leaving only Palau, and that, if assurances of the necessary nine votes have been obtained, the resolution be introduced in the Security Council on or about November 1.

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-5-

4) That whether or not a procedural resolution is adopted in ten working days, i.e., on November 3, 1986 issue on announcement that the United States has fulfilled its obligations under the UN Trusteeship with respect to the three entities in question and that those entities are no longer subject to the Trusteeship.

Attachments:

Tab A - Walters' Telegram



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Consequences of Failing to Terminate Trust  
Upon Compact Implementation

- Trust termination upon Compact implementation is essential for the following reasons:
  - First, Justice must file briefs in defense of the transfer of jurisdiction for nuclear claims suits to the Marshalls 10 working days following Compact implementation.
  - If the Trust is still in effect, they feel we will lose and become vulnerable to \$5-\$9 billion in nuclear claims.
  - Secondly, trying to manage our relationship with the Micronesian States under two conflicting sets of rules will quickly become a nightmare.
  - Example: In the Compacts we've looked the other way concerning the declaration of 200 mile economic zones by the Micronesian States. What will happen when American Tuna Boat owners violate this and use the Trust as a defense?
  - Example: Under the Compacts the Micronesian States are responsible for conducting their own

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103